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WITNESS PROTECTION PROGRAM

HEARINGS

BEFORE THE

SUBCOMMITTEE ON ADMINISTRATIVE PRACTICE AND PROCEDURE

OF THE

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

NINETY-FIFTH CONGRESS

SECOND SESSION

ON

OVERSIGHT OF THE WITNESS PROTECTION PROGRAM

MARCH 20, 23, AND APRIL 14, 1978

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WITNESS PROTECTION PROGRAM

MONDAY, MARCH 20, 1978

U.S. SENATE,
SUBCOMMITTEE ON ADMINISTRATIVE PRACTICE AND
PROCEDURE OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:30 a.m., in room 6226, Dirksen Office Building, Hon. James Abourezk (chairman of the subcommittee) presiding.

Present: Senator Abourezk.

Staff present: Irene Emsellem, chief counsel and staff director; Diana Huffman, counsel; Robert Nichols, counsel; Alfred Regnery, minority counsel, office of Senator Laxalt; and Robert Lyon, minority counsel, office of Senator Thurmond.

Senator ABOUREZK. The hearings will come to order.

I am going to do something I rarely do, and that is read an opening statement. But I think it is necessary to set the background for these hearings.

OPENING STATEMENT OF SENATOR ABOUREZK

Beginning in 1954 with the creation within the Justice Department of the Organized Crime and Racketeering Section, the Federal Government undertook a major organized crime prosecution program. That program was intensified when in 1967 the strike force program was established to carry forward the responsibility for coordinating and supervising all government efforts directed against organized or syndicated criminal activity and racketeering. As part of this effort, in 1970 Congress authorized the Justice Department to protect and maintain Federal or State organized crime witnesses and their families from reprisals.[1] There was no doubt that the Government had to provide for the security of witnesses and potential witnesses in organized crime cases when their testimony would place them in jeopardy.

The program which has evolved is now known as the witness protection program. As of March 1, 1978, 2,436 witnesses and approximately 3,500 of their dependents have entered the program. The types of services provided cooperating witnesses vary from temporary protection, to relocation, establishing a new identity, and limited financial and employment assistance. The cost to the Government for this program was estimated to be $14 million last year alone.

[1] See secs. 501–504 of the Organized Crime Act of 1970, exhibit 1, p. 133 of the appendix.

Today, the Subcommittee on Administrative Practice and Procedure begins the first oversight hearings ever held on the program. These hearings are the culmination of a 9-month investigation by the subcommittee. The inquiry was prompted by complaints from witnesses, the press, and Justice Department and Marshals Service officials about the operation of the program, and by the awareness that the program has grown far beyond what was envisioned in 1970 without further congressional consideration of the policy issues which developed.

I think it is appropriate at this point to invite the attention of everybody interested to the fact that I knew nothing of the problems in this program until I was advised by Fred Graham of CBS news, who wrote a book called "The Alias Program."[1] Fred got interested in it somehow and came to me with the problems that had arisen in it. As we have gone through with our investigation, we found out that they are as bad or even worse than what Mr. Graham suspected. I think the committee and the country is indebted to Fred Graham for his interest in this and for calling the attention of the committee to it.

The Justice Department and Marshals Service cooperated fully with the subcommittee study, which included a review of hundreds of documents and interviews with Justice Department and Marshals Service officials, U.S. attorneys and their assistants, Strike Force Chiefs, and present and former witnesses.

The subcommittee analyzed the program since its inception, focusing particularly on established policies and procedures[2] governing the program and on complaints about the manner in which it actually operates. The subcommittee also reviewed allegations concerning security breaches, delays in furnishing proper documentation, the lack of meaningful job assistance, long-term subsistence payments to witnesses, the treatment of prisoner/witnesses, unfulfilled witness expectations, and the failure of the Government to deal with the human problems posed by the uprooting of families and wiping out of their past.

The investigation also considered the Government's responsibility to society when a witness is furnished a new identity and moved to a new community.

Let me stress that, despite criticisms leveled at the program, the need for a witness security program remains unquestioned. It is a vital weapon in the struggle against organized crime; indeed it is one of the Government's most successful tools in organized crime cases. It is not our intention here to try to eliminate the program. It is our intention, however, to bring about a number of administrative reforms within the Justice Department and the Marshals Service so that the witness and the Government receive the maximum benefit from the program. As such, a number of policy issues that never have been fully considered by Congress or the Justice Department must be resolved if the program is to operate smoothly.

Today, the subcommittee will explore how the program has operated in the past and the manner in which witnesses currently are

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[1] Graham, Fred, "The Alias Program," Little, Brown and Co., Boston, 1977.

[2] The current guidelines governing the program are contained in Justice Department Order OBD 2110.2, Jan. 10, 1975, and OBD 2110.2 CHG 2, Aug. 5, 1976. See exhibits 2 and 3, pp. 134 and 140 of the appendix.

handled. We will hear from four individuals who have dealt in various capacities with witnesses in the program.

I wish to point out that for obvious security reasons no protected witness will testify in open session. The subcommittee has, prior to these hearings, conducted executive session interviews with such witnesses. The information obtained through these interviews will be an integral part of these public proceedings.

Thursday's hearing will focus generally on the Justice Department policies and procedures that relate to the program as well as on the Justice Department's own review of the program undertaken last summer. Testifying then will be a panel composed of the Acting Deputy Attorney General and representatives from the U.S. Marshals Service, Criminal Division, and the Bureau of Prisons.

Our first witness will be Thomas C. Renner, a reporter with Newsday newspaper in Suffolk County, N.Y. He has dealt extensively with this program.

TESTIMONY OF THOMAS C. RENNER, REPORTER, NEWSDAY, LONG ISLAND, N.Y.

Mr. RENNER. Thank you, Mr. Chairman.

I would like at the outset to express my thanks to the committee and its staff for its many courtesies during the inquiry into the witness protection program. It is my hope that the subcommittee, by taking this action, may motivate urgently needed reforms in this program, thus preserving what many, many law enforcement officials consider to be the single most effective program against organized crime. I would also like to make it clear that the opinions I am expressing here are those of my own and not necessarily those of my newspaper.

Briefly, I would like to say that I have been a reporter with Newsday for 24 years and have investigated organized crime since 1966. Most recently I was a participant in the Arizona project investigating organized crime.

I first became an interested observer of the witness program in 1971, when, under some extreme security conditions, I met with Mr. Vincent Teresa, who was then the No. 1 witness in the country on organized crime. As a result of that meeting, I obtained a leave of absence from Newsday to write a book with Mr. Teresa. It was during that period I had a firsthand opportunity to observe the security measures taken by a select group of deputies including John Partington, Bud Warren, Ken Rensi, Jim Colasanto, and a number of others.

It was as a result of those observations and additional research that I later wrote a special feature on witness protection for Newsday in 1972. A copy of that article has been provided the subcommittee.[1]

In 1972 the program was very small. It was less than $5 million annually. But it became very clear to me at the outset that the program was going to expand rapidly because of the successes that were being achieved through the witnesses such as Teresa, Herbert

[1] See exhibit 4, p. 144 of the appendix.

Itkin, Edmund Graifer, Joseph Barboza, Michael Hellerman, and many others.

It was also during that period that I found that the men who protected those witnesses were deputies who clearly understood and cared about those they were protecting. They were street smart and displayed an ability to communicate with the crime figures they were protecting. In essence, though they lacked formal training, they were still professionals dealing with professionals.

Despite this cadre of street-wise specialists, it was clear to me that the vast majority of deputies assigned to protection details were largely untrained and unfamiliar with the techniques of witness protection. They were drawn from the four corners of the Nation. They were asked to handle some of the most sophisticated and clever criminals of the decade, men who turned against the underworld and were targets for professional assassins.

During the period that I became involved in this in the early stages, I discussed the program with many, many witnesses, deputies, prosecutors, and Federal agents. I found that none of the protection details ever had the benefit of organized crime intelligence information. None were ever provided with photographs and backgrounds on would-be assassins or underworld figures in the unfamiliar areas that they would have to operate in. In fact, on many occasions, deputies themselves relied on the street instincts and memories of the crime figures that they were protecting in those areas.

Teresa, Graifer, Gerald Festa, Vincent Insulo, and other witnesses I have talked to told me that on many occasions they recognized organized crime figures at airports and in buildings and so advised the deputies protecting them, allowing those deputies to take counter measures in security.

Initially I questioned this lack of training with the Director, Wayne Colburn. I was assured that steps were being taken to set up a special program to train deputies. In fact, in November of 1973, while I was working with the book, I wrote letters to both Mr. Colburn and Gerald Shur of the Justice Department requesting their help in researching the book. They agreed to help.

However, the then chief of the witness security, Mr. Jack Cameron, made it quite clear to me that he did not like the idea of a reporter nosing around. On several occasions in that year that followed, he and other deputies under his command expressed an immense dislike for witnesses. One deputy called witnesses "animals who should be chained and locked up." Another bitterly complained that "these hoods are getting more from the government than I do."

Mr. Cameron personally expressed his belief to me that witnesses, even while testifying, should be forced to earn a living. "They should be happy to get off the public dole, even if they have to dig ditches," he said.

This was hardly an example of the compassion and understanding I had been told by experts was necessary to deal with witnesses to keep them primed and ready for the ordeal of testifying against some of the Nation's most dangerous criminals. Yet these were the men who controlled witnesses' funding, who manipulated the lives of witnesses and their families, determining where and how they should live, and who established the procedures for documentation,

and who prepared the witnesses for life in the world of reality with straights. They were also the men who often rejected the proposals for improving the program, recommendations made by deputies who worked incredible hours to counsel, protect and emphathize with witnesses and their problems.

Typical of the recommendations that were discarded was a 2-week training program that was initiated at the U.S. marshals headquarters in the latter part of 1973 and the early part of 1974. It was during this program that deputies were being trained in organized crime. They were required to read major books on organized crime. They were involved in onsite penetration of safe houses. They even received a lecture from Mr. Teresa and instructions in techniques of dealing with witnesses.

It was my understanding that between 150 and 200 deputies passed through that training program until it was suddenly and without explanation scrapped.

Senator ABOUREZK. When was that terminated, Mr. Renner?

Mr. RENNER. It is my understanding it was terminated sometime in early March of 1974—perhaps February of 1974. It operated for approximately 3 months.

It was met with a great deal of—well, the best way I could express it is this. The deputies that took the program found that they had learned a great deal and were able to handle the witnesses better than they had been and understood some of the problems more than they did.

For some reason, which I have not been able to determine, the program was discarded. Now the deputies receive about 1 week's training. That training does not include organized crime. Nor does it include significant understanding of witness problems and witness protection or counseling.

I might point out at this juncture that, since 1971, there have been 14 separate security witness chiefs in charge of the program; yet only 3 of them remotely have real field experience in protection of witnesses. The vast majority have had no more than 1 week or 2 months in the field operational with witnesses.

One knowledgeable deputy with many years of experience pointed out to me that one of the basic problems was that the U.S. marshal of each district receives his appointment from the President, while the Director of the U.S. marshals receives his appointment from the Attorney General. He told me, "It's virtually impossible for the Director to tell a U.S. marshal what to do in his district. The marshal's commission is from the President, and that's a helluva lot more important than the Attorney General. In reality, the Director has no real power over any marshal. If a marshal wants to comply with a directive from the Director to supply men to a detail, he complies. If he doesn't, if he has a manpower shortage and heavy demands from the Federal judges he has to cater to, he either doesn't send all the men he's asked to, or he sends only one and that will be the man least experienced."

I found that to——

Senator ABOUREZK. Along that line, does it make sense to rely upon the marshals out in the field to operate this program?

Mr. RENNER. No, sir.

Senator ABOUREZK. Would it make more sense to have a special group of marshals specially trained in witness protection?

Mr. RENNER. I think the key to success in this program, if it is to operate in the future, is the formation of a highly specialized singular unit of 200 or 300 men who will do nothing but handle security of witnesses and who will be properly trained not only about witnesses but about organized crime.

Senator ABOUREZK. And it would help if they believed in the program.

Mr. RENNER. Absolutely essential. They have got to believe in the program. They have to believe in what they are doing. They have got to understand the needs of the program.

Among the many, many problems that I have seen over the years in the program, the lack of proper documentation is one. Teresa, Graifer, Irwin Nadborne, and a score of other witnesses have told me they have had to wait up to 3 years and more to receive such things as baptismal certificates, marriage licenses, birth certificates, or school records for their children. At best, what documentation they receive is haphazard. More often than not it is slipshod. As Nadborne told me, "The mob does in 30 minutes what it takes the marshals years to do, and they do it better."

Again, this goes to the heart of a specialized unit. I know in the early years of the program they had a man by the name of James Colasanto who had become a specialist in documentation. He did an exceptional job in documents. He was, again, moved out; and the documentation was handled by others. Mr. Teresa had to be redocumented after his cover was blown under his first identity. As recently as 4 months ago he had no more than a social security card for his entire family. When he asked for a marriage certificate the deputies who were in charge of him told him and his sons to go out and get married again; they weren't going to provide the documents. Furthermore, they took them down for drivers licenses, and everyone has to be fingerprinted. Something like this is not required.

Even more serious was the attitude of deputies I found assigned to some of the details. Both witnesses and deputies alike reported to me that many of the deputies assigned to their jobs dislike their assignments, were lax in security, ultimately more concerned with their own personal entertainment than the safety of witnesses.

I personally was at a safe house location with Mr. Teresa in Michigan in the latter part of 1973. I was interviewing him for the book. At that time we were left alone with one deputy in a backwoods area while four other deputies went off for almost 3½ hours. We had no idea where they could be reached. When I asked Teresa about it at the time, he said that this happens all the time when they change the details.

These were men that were just unfamiliar with the areas. The man in charge was away. He would show up during the day, but he could not work around the clock.

At best I found the protection being provided at that time, because it was drawn from all over the country, was haphazard. Certainly the men were not familiar with the details of the area.

I also received reports that some deputies gambled in high-stakes card and dice games with witnesses. There were others who took witnesses to high-visibility nightclubs and restaurants in areas where

they had no knowledge as to the ownership of the clubs or who frequented the clubs. Many nightclubs and many restaurants are controlled by organized crime figures. Bringing witnesses into them compromises their security very rapidly.

In one instance a prisoner-witness by the name of Louis Mastriani and Pasquale Lepera were located in the same apartment complex right outside of Washington. Mr. Mastriani was a social director at the apartment complex, arranging dates for himself and others and organizing parties with the deputies.

A particularly bizarre case came to my attention in New Jersey, where a former deputy admitted to me that he took risks with a rogue cop who was a key witness in major narcotics cases. At one party where he had taken this witness to visit a girlfriend the deputy got drunk at an engagement party and took a girl home dressed only in his bathing suit. En route he smashed his car into a parked vehicle and a house. When police took him into custody he was unable to produce the identification to show he was a deputy marshal detailed to protect a witness. To prove who he was, he actually called the witness and had the witness drive to police headquarters with his identification and bail him out.

I found security over the location of witnesses was dangerously loose. I have had witnesses call me and tell me what the location was of other witnesses because they heard it from deputies who were assigned to their details who were protecting the other witnesses.

This is, again, the problem of moving witnesses from one end of the country to another and not having them specifically assigned to a security detail.

Another problem is that the witnesses are not adequately funded. They are living on allowances established in 1971 without any real provisions for inflation. I know of many witnesses who have been working illegally to supplement their allowance while receiving subsistence for their families. There are many witnesses who have had their belongings and furniture destroyed or damaged in transit and were forced to settle for claims far below their value.

In the case of Gerald Festa, all of his furniture and belongings were literally stolen from his home when they were supposed to be protected by deputies.

In the case of Mr. Teresa, I know in one instance he had $30,000 of furniture in transit to one location and it literally went over a cliff. It was by the moving company, and he was forced to settle for $8,000 because he could not bring them to court. The deputies advised him against it.

In another instance not too long ago, more than $22,000 worth of his furniture and equipment were either damaged or disappeared in transit. He was advised by the marshals to wait; they would see what they could do to settle the problem. A year later they told him, "Why don't you file a complaint with the insurance company?" When he did do that, the insurance company said, "Well, why don't you go ahead and sue us; we know who you are. We can make some headlines this way."

When he complained to the deputies, they told him nothing could be done. As a result, he is out $22,000. These were materials that he bought as a result of the proceeds of a book he wrote.

I have been very concerned about this. At one point, I was seriously considering writing a book about the witness protection program. I decided against this; perhaps it was a bad journalistic decision at the time. But I decided against it because I felt I would do more damage to the program than I would do to improve the program.

Instead, I wrote a letter to—and, once again, something that I have never done in 24 years of journalism—the Department of Justice, to Mr. Gerald Shur. I believe the subcommittee has obtained a copy of that letter under subpena.[1] In it I outlined what I felt were the deficiencies of the program and what I felt were some of the problems. I also stated I would not proceed with the book because of damage I felt that might result.

Since March 1977, I have met with Assistant Attorney General Benjamin Civiletti and Mr. Shur to discuss the program. They advised me of a departmental investigation that was underway and would result in major changes. That report, to my knowledge, was due last November; it has still not been made public.[2] It has still not been implemented. In the meantime, I have completed two investigations of alleged corruption and witness abuses in the Marshals Service which resulted in a series of articles in Newsday in September and November 1977.[3]. I have since followed them up with daily stories since a grand jury was empaneled in New Jersey to focus on Federal investigations encompassing many of the charges we had reported on.

I would like to point out that, almost without exception, Federal agents, assistant U.S. attorneys, local attorneys, are all apprehensive at the way the program is now being run. They have been shaken by the broken promises to witnesses, the lack of proper security, the lack of a central operational group, the sometimes cavalier treatment of witnesses and their families, and the arbitrary decisions being made by those running the program.

Unfortunately, some have even said that they would be afraid to recommend the program to their witnesses.

I personally feel that the program is so vital in the fight against organized crime that, unless there is some clear action taken by the Department of Justice in the near future, the word is going to go out—in fact, the word has gone out to many potential witnesses—not to go in the program because they don't keep their promises, they don't take care of them.

I would be glad to answer any questions.

Senator ABOUREZK. Mr. Renner, first of all I want to express my thanks to you for your appearance; you have an obvious expertise in this particular program as a result of the years you have written about it.

As you know, it is a very difficult area. For example, the committee took testimony from some of the protected witnesses. We had to do it secretly. In fact, I did not even know the identities of the witnesses. I asked that they not identify themselves except for witness X, witness Y, and so on to make it difficult for anyone to track them down or trace their testimony.

[1] See exhibit 5, p. 149, of the appendix.
[2] A draft of the report was released for comments Mar. 22, 1978.
[3] See exhibits 6, 6a, 7, 7a and 7b, pp. 155, 157, 159, 162, and 163 of the appendix.

I was able during that set of hearings to obtain firsthand knowledge of the problems that occur with the witnesses themselves. You discussed a different aspect, and that is the training program, which the witnesses know nothing about.

One question comes to mind. There are some 2,500 witnesses now in the program and more will be admitted. Obviously, that is a very large number to handle. The program, according to my information, was designed to protect witnesses in only the most important cases in the country. You cannot include everybody. The Government will never have the resources or the personnel to do that.

Do you think there ought to be a policy restricting the admission of witnesses to only the most important cases? If you do bring somebody in, as you said, you have got to take care of them for the rest of their life in one way or another to make sure they continue to be safe.

Is the quality of protection being compromised because there are too many people in the program?

Mr. RENNER. I think it has been. I think that there has been a tendency, particularly in recent years and in drug cases, to bring in a vast number of people that perhaps would not be considered the most vital of witnesses under conditions of the extreme dangers of a Teresa or people of that nature.

I do not think the program properly examines witnesses to determine what the dangers really are to some of the witnesses involved. I think the program sometimes commits itself to promises that are far beyond what the capacity of the program is at that particular time.

I think there is a need certainly for a screening committee to go through each and every case very carefully and to sit down with the prosecutor and the witness and the attorney for the witness and really determine what the real needs are before you take him into the program.

Furthermore, once he is in the program, even when they are through testifying—I think one of the things I might point out is this. In a number of cases I have had witnesses call me and say, "I'm still testifying. I've got five more cases to testify, and they want to put me out on the street and tell me to get a job. How do I hold a job? How do I explain to my employer why I've got to go off for 3 weeks to testify in New York or Chicago? My boss will then know who I am or what I am."

Once out of the program, that does not, in my view, eliminate the responsibility of the U.S. Government to provide protection in the event that man's cover is blown. In one case in particular, Mr. Teresa, his cover was blown in El Paso, Tex. His name was on television—his reidentified name. The motel he owned was under claim by banks, who were going to claim back funding because of his false identification.

The Federal Government's attitude—particularly the chief of security—was, "He's no longer our responsibility."

Meanwhile, he is sitting in a home with his two sons with $100 between them, scared to death, and he is calling me because nobody wants to know.

In this instance, I called the Department of Justice and suggested that, if Mr. Teresa was as important a witness as they claimed he

was, perhaps they ought to provide protection and maybe we ought to write a story about the failure to provide protection for a man of that importance.

Senator ABOUREZK. We had testimony from protected witnesses who stated that, as soon as they finished testifying at trials, the Justice Department would come around with a release form——

Mr. RENNER. Yes.

Senator ABOUREZK [continuing]. Asking them to sign away any right to further protection. In other words, trying to relieve the Government of any responsibility to protect these people after the trials ended. I think in every case—we had a cross section of witnesses testify—the witnesses were asked to sign one kind of release form or another.[1]

In my view this is outrageous. People were led to believe they would be protected in return for their testimony. But after testifying they were dropped by the Government. I am not sure that this practice is prevalent throughout the program but——

Mr. RENNER. I think it is almost a universal operation: a witness is required to sign out of the program when they decide that he is no longer eligible for subsistence, for whatever reason they decide that.

Most recently, I can tell you, as a contact with Mr. Teresa, who, again, had to move out of a critical area because of danger to him. Before he moved, he was required to sign an agreement, after first discussing with the deputies and the U.S. marshals what he required—and that included 6 months of subsistence for him and his family at a new location and the payment of transportation fees, vehicles, and his furniture. He had asked for the right to go to public health to obtain necessary drugs because he is a very ill man and had in fact applied for disability under social security 8 months ago.

Not only have the U.S. marshals failed to process the disability request of his, which had been approved and certified by both Government and private physicians, but they forced him to sign an agreement in which he cannot obtain that health aid from the public health department. He had no choice. As he said, "I was in a motel. I no longer had my home. It was either sign it or you're on your own." So, he said, "I signed it; I just don't want anything more to do with it."

Senator ABOUREZK. I think you have covered everything we wanted to ask you about except for one area. That area is the security of the witnesses.

There have been accusations that some marshals sold the names and locations of witnesses to organized crime figures or through carelessness breached witnesses' security.

Do you have any information about this?

Mr. RENNER. I have been told—and, in fact, we wrote stories in connection with an investigation that is now underway in Newark[2]—that there were instances where the identities of witnesses and their locations, when they were supposed to appear before judicial authorities, were blown by selected deputies.

I would not say, nor would I like the meaning to be expressed, that this is a widespread thing. However, there is loose security among

[1] For discussion of the U.S. Marshals Service release form policy see pp. 72–76 of the hearing text.

[2] See exhibits 6, 6a, 7, 7a, and 7b, pp. 155, 157, 159, 162, and 163 of the appendix.

deputies when they are on details. They discuss their prior details in front of witnesses, who discuss their problems with other people. Thus the identity of witnesses is sometimes compromised by the witnesses themselves, who get it from the deputies.

In some instances there are allegations—and they are unproven, I might point out—that some deputy sold information. I know of no specific example where a deputy collected money. I do know of examples where a witness has claimed that their security was compromised by certain deputies out of the Newark office.

Senator ABOUREZK. We took testimony from one protected witness, a former member of organized crime, who has testified against his former colleagues. He said that he knows of one U.S. marshal who actually was on the payroll of organized crime.

Mr. RENNER. I think I know the witness you are talking about. That, I understand, is before a grand jury investigation which has been on an on-again, off-again investigation by the Department of Justice and is supposed to be on again this week.

Senator ABOUREZK. There is one other issue on which I would like you to comment. It appears from your own testimony and testimony that we have taken in executive session that witnesses are generally given very little instruction on how to build a new life under a new identity. They do not know how, for example, to keep a low profile, establish bank accounts, establish credit, or buy a house. They have no idea how to apply for a job with the limited background that they are given by the Justice Department. I wonder if you might comment on that problem.

Mr. RENNER. I think that is basically accurate, Senator. I know of no witness who has ever been properly backgrounded. In other words, when a witness was reidentified, he was not given a "legend" as to what his new identity meant: what schools his kids went to, anything about the area he was supposed to have lived in, certainly never any explanation on how to build credit. It is rather difficult for a witness to go out on a new identity with a social security and no record of any credit. You cannot walk into a bank and say that you don't have any credit references. In this day and age, everyone has credit references of some kind.

Furthermore, the deputies that now handle it are not deputies such as the ones that I became involved with in the early days who tried very consciously to help witnesses establish themselves in the areas where they worked. For example, I found that deputies such as John Partington, Ken Rensi, and Bud Warren made a special effort to help witnesses get established, to work with them. And these are deputies that are no longer assigned to the witness program. Yet they have more expertise than any deputy in the entire Service.

I do not understand why they are pigeonholed. They are pushed back, I guess, because they rock the boat too much. They point out deficiencies in the program. People at the top don't like to have those things pointed out.

They are the ones that the witnesses trust. Without exception, I have not had a witness yet tell me that a man like John Partington doesn't know what he's doing. But the problem has been that none of the witnesses that I have run into—and I have talked to probably 20 over the last 5 or 6 years—have ever been properly identified or

documented or given any expertise on how to deal with the area that they move to.

Senator ABOUREZK. Counsel has a question for you, Mr. Renner.

Ms. EMSELLEM. There has been a lot of criticism about the documentation program. How extensive a background do you think the Government should give a witness? And do you believe that there should be a difference among the different types of witnesses—someone who is heavily involved in criminal activity, someone who is on the periphery of organized crime, someone who is a victim witness, or someone who is a good citizen just helping the Government out and has no criminal involvement whatsoever?

Mr. RENNER. I think you have to separate categories, for one. I think the more important a witness is, the higher potential there is for him to be in danger. Therefore, there is the need for a much deeper documentation.

Certainly, at the very least, they should provide not just a social security card but the documents necessary for drivers' licenses, marriage licenses, baptismal certificates, and school records. It is pretty hard for a child to go into school when he doesn't have the proper documentation.

I think they are going to have to break down, though, what witnesses are entitled to in-depth redocumentation, what witnesses should have just peripheral documentation, what witnesses can be moved without documentation at all to a new area and just started with a new job.

Those on the fringes of organized crime certainly, I don't think, unless they are a particular important witness, are going to need a redocumentation when they move to a new area. But they certainly should get help in getting a new job and preparing for a new job.

Ms. EMSELLEM. You have talked about the program and its value. Your testimony, as I understand it, is that you think this is a very important program and that, with administrative program changes, it can work very effectively. Do you have any other specific recommendations that you think should be made to improve the program?

Mr. RENNER. No. 1, the training has to be revised entirely. First of all, there is the need for a specialized unit to handle witnesses. That specialized unit should be trained in-depth in both organized crime, in the documentation of witnesses, in the handling of witnesses, and in the counseling of witnesses and their families. There are a lot of very personal problems that become involved. Witnesses are very paranoid about their security. They have got to be reassured constantly and kept in a prime condition while they are testifying.

That training should also include the preparation of witnesses for jobs in the new communities. And they should be trained in those jobs.

I do not think that the U.S. Marshals Service now has a proper training program. I think that is an extremely vital part.

The other problem I see is that there is not proper intelligence provided to deputies providing security details in the areas they are provided those details in. For example, if you are moving a Vincent Teresa to New York City, certainly the deputies involved should have some idea as to the people they have to watch for in that area. I

know of no branch of the U.S. Marshals Service that has any intelligence capability and that is not dependent on the Department of Justice. That information is provided on a need-to-know basis by the Department of Justice. I have never been involved with any witness who has been involved with a detail who had learned of any background that was provided to deputies on potentially dangerous criminals that they had to face. In fact, they got it from the witnesses.

Ms. EMSELLEM. Do you feel that the Marshals Service is the proper agency in the Federal Government to handle this program?

Mr. RENNER. I have mixed emotions about this. But I think the marshals are the ones that started it.

The ones that I knew in the early days are still around; they certainly have the most expertise. I think, if they are properly trained, the marshals are perfectly capable of handling it. But, under the present conditions, unless there are changes, it may well need to go to some other department. I hope not.

I think that the marshals just have to have a considerable amount of reform within the Service and a unit that is not only specialized but is separated from all the functions of the other marshals; in other words, they cannot be bothered with handling court details. They can't be bothered with serving warrants. They can't be bothered with detailing subpenas. And they can't be superseded by the U.S. marshal in the individual districts in which they move.

They have got to be an entity unto themselves and responsible perhaps only to the Department of Justice, the Director, and the Congress as to their movements.

The way it is run now, it is haphazard, catch-as-catch-can—pull a deputy from Miami, pull a deputy from Newark, pull a deputy from Los Angeles, and they're handling a guy from New England. It's a helluva way to run a railroad.

Ms. EMSELLEM. Thank you.

Senator ABOUREZK. Minority counsel?

Mr. REGNERY. To your knowledge, has the breach in security you spoke of ever resulted in a witness having an attempt made on his life or killed?

Mr. RENNER. Killed, no; attempts, yes.

I know of no witness, while in the program, being killed. I know of probably eight or nine that have been killed after they were—quote—released from the program. There is a fine line that the Marshals Service draws on this.

I know, in Gerald Festa's case, an apparent tip to mob figures resulted in an attempt to kill him in Scranton. But, because of the expertise and experienced security chief that was handling that detail, that attempt on his life was forestalled. There have been attempts on others including Mr. Teresa. But, because of expertise provided to the deputies at the time, they were forestalled.

But, as to witnesses being killed, only after the marshals say they left the program such as Joe Barboza and a number of others. In each case, the marshals say that they compromised themselves by violating certain security procedures. I have no evidence to discount that.

Senator ABOUREZK. Mr. Renner, once again I want to express my thanks for your testimony. I think we have discussed everything that we needed to cover.

Mr. RENNER. Thank you, Mr. Chairman.

[The prepared statement of Mr. Renner follows:]

PREPARED STATEMENT OF THOMAS C. RENNER

Mr. Chairman, members of the Subcommittee on Administrative Practice and Procedure. I would like, at the outset, to express my thanks to the committee and its staff for the courtesy extended to me during the course of the committee's inquiry into the witness protection program. It is my hope that the subcommittee, by taking this action, may motivate urgently needed reforms in this program, thus preserving what many law enforcement officials contend is one of the most important weapons available in the fight against organized crime. I would also like to make it clear that whatever opinions I may express here are my own and not necessarily those of my newspaper or its staff.

Briefly, I would like to outline my background as a reporter. I have been employed as a reporter for Newsday for 24 years. Since 1966, my job has been to investigate and report solely on the activities of organized crime, its threat to Long Island communities and its national ramifications. More recently, I served for 7 months as an undercover reporter on the Arizona project, a unique journalistic endeavor by 26 reporters and editors of the Nation's media representing the Investigative Reporters & Editors (IRE). That project, headed by Newsday Suffolk Editor Robert Greene, was designed to expose corruption and organized crime growth in Arizona, completing the work that murdered Arizona reporter Don Bolles set out to do. I am additionally the author of three books about protected witnesses.

I first became an interested observer of witness protection in September 1971, when I met, under extreme security conditions, with New England mobster Vincent Teresa while he was protected by heavily armed deputies in a Rhode Island motel. As a result of that meeting, I later obtained a leave of absence from Newsday to write a book about Teresa's life. It was during that period that I had the opportunity to observe first hand the security measures taken to protect Teresa by a select group of deputies including John Partington, Bud Warren, Ken Renzi, James Colosanto and others. As a result of those observations and additional research I conducted following my return to Newsday, I wrote a special feature on witness protection for Newsday in July 1972.[1] A copy of that article accompanies this statement.

The program in 1972 was admittedly small, expending less than $5 million annually, but it became abundantly clear to me that it would grow rapidly because of the successes that were being achieved through the testimony of witnesses such as Teresa, Herbert Itkin, Edmund Graifer, Joseph Barboza, Michael Hellerman and others.

During that period I found that the men who protected those witnesses were deputies who clearly understood and cared about those they were protecting. They were street smart and displayed an ability to communicate with the crime figures they were protecting. In essence, though they lacked formal training, they were still professionals dealing with professionals.

Despite this cadre of streetwise specialists, it was clear to this outside observer that the vast majority of deputies assigned to protection details were untrained and largely unfamiliar with the techniques of witness protection. They were drawn from the four corners of the Nation to handle some of the most sophisticated and clever criminals of this decade, men who had turned against their underworld masters and were the targets of professional assassins. To my knowledge, and I discussed protection procedures with dozens of witnesses, deputies, prosecutors, and Federal agents, none of the protection details ever had the benefit of organized crime intelligence information; none were provided with photographs and backgrounds on would be assassins or underworld figures in the unfamiliar areas that they moved witnesses through; and, in fact, on many occasions deputies relied on the street instincts and memories of their witnesses to advise them on danger areas or crime figures known to be operating:

[1] See exhibit 4, p. 144 of the appendix.

in those areas. Teresa, Graifer, Gerald Festa, Vincent Insulo and other witnesses I have talked to told me that on many occasions they recognized hoodlums at airports and in buildings and so advised the deputies protecting them, allowing the deputies to take counter measures in security.

In questioning this lack of training and organized crime capability, I was assured by then Director Wayne Coburn that a special training program was to be initiated to familiarize deputies with the problems of protection and organized crime. There was even a proposal to use witnesses to help in the instruction of deputies and, in fact, on one occasion Teresa did lecture a group of deputies.

In November 1973, convinced that the program was of interest to the public, I wrote letters to both Director Coburn and Gerald Shur of the U.S. Department of Justice requesting their help in researching a book on the program. While both men agreed to help, as did Deputy Director William Hall, the then newly appointed security specialist chief, Jack Cameron, made it quite clear he did not like the idea of the project. Deputies who I had become acquainted with over the years warned me that Cameron had warned deputies not to discuss program problems with me. Mr. Cameron, a career service employee and lawyer with no credentials as a field security specialist, additionally displayed an open distaste for a number of the criminals he had to deal with. On several occasions in the year that followed, he and several deputies under his command expressed their dislike for witnesses. One deputy called witnesses "animals who should be chained and locked up," another bitterly complained that "these hoods are getting more from the government than I do." Mr. Cameron personally expressed his belief to me that witnesses, even while testifying, should be forced to earn a living. "They should be happy to get off the public dole, even if they have to dig ditches," he said.

This was hardly an example of the compassion and understanding I had been told by experts was necessary to deal with witnesses, to keep them primed and ready for the ordeal of testifying against some of the Nation's most dangerous mobsters. Yet these were the men who controlled witness funding, who manipulated the lives of witnesses and their families, determining where and how they should live, who established the procedures for documentation and who prepared witnesses for life in the world of straights. They were also the men who often rejected proposals for improving the program, recommendations made by deputies who worked incredible hours to counsel, protect and empathize with witnesses and their problems.

Typical of the recommendations that were discarded was a 2-week training program initiated at headquarters in Washington in the latter part of 1973 and the early part of 1974. Included in that program was a requirement to read five major books on organized crime, onsite penetration exercises at a safehouse, a lecture by Teresa and instructions in techniques of dealing with witnesses. Between 150 and 200 deputies passed through that training program until it was suddenly, without explanation scrapped. Today deputies receive 1 week training and virtually no instruction in organized crime, witness protection or witness counseling. At this juncture I think it is significant to note that since 1971 there have been 14 witness security chiefs, now called inspectors, and only 3 of these remotely had any experience as field witness security specialists.

Despite the opposition to my research, at least four experienced deputies and two U.S. marshals frankly conceded to me that the program lacked professionalism, that it was rife with confusion and that the whole structure of the Marshals Service worked against an effective program.

One knowledgeable deputy, with years of service behind him, pointed out that the U.S. marshals of each district were Presidential appointees while the Director was appointed by the Attorney General. "Its virtually impossible for the Director to tell a U.S. marshal what to do in his district. The marshal's commission is from the President and that's a hellava lot more important than the Attorney General. In reality, the Director has no real power over any marshal. If a marshal wants to comply with a directive from the Director to supply men to a detail, he complies. If he doesn't, if he has a manpower shortage and heavy demands from the Federal judges he has to cater to, he either doesn't send all the men he's asked to, or he sends only one and that will be the man least experienced." A U.S. marshal added: "Let's face it. The witness program just doesn't have the highest priority even though it should."

There were other problems, all of them serious, that I discovered. New identities that had been promised were not forthcoming with proper documentation.

Backup to documentation that was provided was almost always lacking and often amateurish, such as the consecutively numbered social security cards supplied to Gerald Zelmanowitz and his family. To this day, Vincent Teresa and his family have differing documents and identities, none of which were ever properly backed up.

Teresa, Graifter, Irwin Nadborne and other witnesses told me they had to wait up to 3 years or more to receive baptismal certificates, marriage licenses, birth certificates, or school records for their children. At best what documentation they received was haphazard. More often than not it was slipshod. As Nadborne told me: "The mob does in 30 minutes what it takes the marshals years to do and they do it better."

Of an even more serious nature was the attitudes reflected by some deputies assigned to details. Both witnesses and deputies alike reported to me that many deputies disliked their assignments, were lax in security, and were often more concerned with their personal entertainment than the safety of witnesses. I personally watched in amazement at a "safehouse" location in Michigan while three of four deputies assigned to Teresa and his family left the site to spend 3 hours eating and drinking at a location miles from where Teresa was located. Teresa wasn't surprised. He said it happened frequently when new deputies were assigned to the detail.

I received reports that still other deputies gambled in high stakes card and dice games with witnesses, losing and winning hundreds of dollars. There were others who took witnesses to high visibility nightclubs and restaurants in areas where they had no knowledge as to the ownership of the clubs or who frequented them. In one instance, prisoner/witness Louis Mastriani and Pasquale Lepera were located in the same apartment complex together and Mastriani acted as the "social director," arranging dates for himself and others, organizing parties with deputies acting as his helpers. In New Jersey, a former deputy told me he admittedly took risks in taking a rogue cop, who was a key witness in major narcotics cases, from a secured area to a New Jersey town to visit the witness' girlfriend. During one of those visits, the deputy got drunk at an engagement party and took a girl home dressed only in his bathing suit. Enroute he smashed his car into a parked vehicle and a house. When police took him into custody, he was unable to produce the identification to show he was a deputy marshal detailed to protect a witness. To prove he was who he said he actually called the witness and had him drive to police headquarters with his identification. The incident was hushed up.

I also found security over the location of witnesses was dangerously loose. At least four witnesses who had been in contact with me on various occasions called to tell me that deputies assigned to them had talked about other witnesses they protected, identifying them by their names and pinpointing the location of the witness. Luckily, all those witnesses have since been moved, but I continue to receive reports about breaches in security caused by loose talk among deputies in front of witnesses.

While I had expended considerable personal time and expense in researching the proposed book, I realized that if I continued, I would do more to damage the program and those dedicated to making it work than I would to further it. Journalistically, it was a bad decision for me to make. I did, however, pursue reporting on abuses through my newspaper. In October 1974, I wrote two major articles about witnesses and their problems, copies of which are attached to this statement.[1]

In the period that elapsed between October 1974, and March 1977, I was contacted by more and more witnesses, all of them bringing to my attention growing abuses and failures in a program that was by now expending more than $12 million annually and had processed some 2,300 witnesses.

I found that witnesses were not adequately funded, living on allowances established in 1971 without any provisions for inflation. Many witnesses were admittedly working illegally to supplement their allowance to provide for their families. Still other witnesses had their belongings and furniture lost, damaged or destroyed in transit and were forced to settle for claims far below their actual value. In the case of Gerald Festa, all his furniture and belongings were literally stolen from his home when they were supposed to be protected by deputies. There were, of course, exaggerations by witnesses, many of them

[1] See exhibits S, Sa, pp. 165 and 167 of the appendix.

paranoid about their security, who complained out of habit. However, I discovered enough valid complaints from both witnesses, deputies and other officials to cause me to do something I have never done in 24 years of reporting. I wrote to a Federal agency, the U.S. Department of Justice, detailing, at the request of Mr. Shur, what I felt was wrong in the program and what needed to be done to salvage it.

While I had requested confidentiality in writing the letter, a copy of that letter was transmitted to your subcommittee under subpena,[1] and, when I was notified that such was the case, I said that I had no objection to the action taken. Furthermore, the letter in no way inhibited me from doing my job in investigating and reporting on problems, abuses and alleged corruption in the Marshals Service.

Since March 1977, I have met with both Assistant Attorney General Benjamin Civiletti and Mr. Shur to discuss the program. They advised me of a Department investigation of the program that was underway and would result in major changes. That report, due last November, has still not been made public or implemented. In the meantime, I have completed two investigations of alleged corruption and witness abuses in the Marshals Service which resulted in a series of articles in Newsday in September and November 1977. They were followed by additional daily stories since a grand jury was impaneled in New Jersey to focus on a Federal investigation encompassing many of the charges we had reported on.

In the more than 6 years that I have written about and investigated the operation of the witness program, one central fact has remained constant. While the size of the program has mushroomed, improvements have been minimal. Personnel are juggled, management changes constantly, new concepts such as the Metro Squad are instituted to handle witnesses, and still deputies are largely untrained in organized crime and witness protection procedures. Many of those who in the early years demonstrated a unique ability to communicate and deal with witnesses, have been brushed aside, put out to pasture, buttonholed and relegated to individual "Siberias" where they can no longer rock the boat about witness problems.

Privately, many assistant U.S. attornies, former prosecutors, Federal agents as well as local county and city law officers have expressed shock and apprehension at the way the program is being run. They are shaken by the broken promises, the lack of proper security, the welfare-like funding, the cavalier treatment of witnesses and their families and the arbitrary decisions made by those running the program. Former Federal prosecutors have told me they would be afraid to recommend the program to potential witnesses, and some current prosecutors and agents have said that they have already encountered reluctance from witnesses who they want to enter the program. Of the more than 20 witnesses I have talked to in recent years, not one would tell a friend to enter the program unless and until changes are made for the better. They all admit that they have survived because of the program, but they also bitterly complain about the arbitrary and unfeeling decisions that are made at the headquarters level in spite of recommendations made on the behalf of the witnesses by deputy specialists.

Clearly, some decisive action to improve the program must be taken soon if it is to survive. There must be better, more equitable funding, more compassionate and efficient administration, tighter internal security, meaningful and useful documentation, a significant training program, better salaries for deputies handling the witnesses and a more uniform and cohesive criteria for accepting witnesses in the program. Witnesses and their families need to know what to expect, what they face and how they can obtain gainful employment as well as establish their own credit when they conclude testifying for the government and leave the program for a new life.

I am more than ever convinced that only through the formation of a highly specialized protection unit, without responsibility for riot control or court demands, will the program finally succeed. The unit must be manned by motivated, well-paid, highly trained deputies with expertise not only in protection and organized crime, but with dealing with the human element, the social and psychological problems of witnesses and their families. They must be divorced from the general operations of the marshals service, self-contained and self-

[1] See exhibit 5, p. 149 of the appendix.

controlled with separate funding, answerable to both the Director, the Department of Justice and the Congress. Without this specialization, without centralized control and procedure, without priority, the witness protection program is in danger of being compromised with the lives of witnesses hanging in the balance.

Senator ABOUREZK. The next witness is Rudolph Giuliani, a private attorney in New York City, formerly an assistant U.S. attorney in the Southern District of New York. He has had extensive experience from the prosecutor's point of view with the witness protection program.

I welcome you to the hearings. Thank you for coming to testify.

TESTIMONY OF RUDOLPH W. GIULIANI, ATTORNEY, NEW YORK, N.Y.

Mr. GIULIANI. Thank you, Mr. Chairman. It is a pleasure to be here.

My name is Rudolph Giuliani. I am presently a member of the law firm of Patterson, Belknap, Webb & Tyler of New York.

The witness protection program is a vital and necessary part of the fight against organized crime. Without such a program, law enforcement would be absolutely powerless to investigate and eventually prosecute those criminals who use fear as a major linchpin to hold together their criminal activities.

Like any other governmental program, there are organizational and human problems which reveal themselves as one gains experience with the program. My testimony is offered here this morning in the hope that it can illustrate some of these problems and assist in offering the committee suggestions for improvement. All of it, however, is premised on the simple fact that the witness protection program is absolutely vital to the effort of the Federal Government and State governments to fight organized crime.

Obviously, my views on this subject are, in large measure, determined by my experiences with the program. From 1970 to 1975 I was an assistant U.S. attorney in the Southern District of New York. At different times, I supervised what is known in that office as the official corruption unit, the narcotics unit, and then I served as executive assistant U.S. attorney with supervisory responsibility for the entire office.

Thereafter, from September of 1975 through February of 1977, I served as Associate Deputy Attorney General in the Department of Justice.

Thus, during my 7½ years with the Justice Department, I in effect had three different kinds of experiences with the witness protection program.

First as an assistant U.S. attorney using the program for witnesses who had worked in investigations and in trials that I personally conducted. Then as a supervisor for 2 years in the U.S. attorney's office handling problems that arose in relation to cases being investigated and prosecuted by other assistant U.S. attorneys. Finally as an official in the Justice Department for 19 months handling policy problems that arose in the implementation of this program.

The purpose of the witness protection program, as I see it, is to offer a prospective witness a way of living out the remainder of his

life in relative safety after he testifies. Most often, in order to achieve that objective, it is necessary to relocate the witness and his family and change their identities.

The first problem that emerges is that the program is, in the first instance, overpromised. The impression is created with the prospective witness that he and his family will be relocated, their names will be changed, employment will be found for him, and all things will go very smoothly. In fact, it never ever goes very smoothly. Obviously it is a very complicated process, and breakdowns invariably occur. Some of them are justifiable; some of them are totally unjustifiable.

The prospective witness, however, is too often not prepared for the snags that invariably will develop, even in the normal course of things. Beyond that, however, in many cases breakdowns occur which should not occur: The name is not changed on all relevant documents; housing is not obtained on time, so the witness and his family must remain in a motel room for weeks upon weeks upon weeks. Sometimes years go by without a witness finding employment. On some occasions, the marshals make little or no effort to find suitable employment.

Let me give you one case in point.

Several years ago—approximately 3 years ago—I supervised and later prosecuted a number of cases involving corruption within a federally funded program being operated by the city of New York. The investigation was based on work being done by a high-ranking official in the city administration who had decided to cooperate with the Federal Government. He decided to cooperate, frankly, because he was caught accepting bribes. He decided to cooperate on the premise that, when his cooperation was made known, he would be protected, his name would be changed, he and his family would be relocated to another part of the United States. I will refer to him as Mr. X.

Mr. X for 9 months wore a recording device. He went around the city of New York tape recording conversations with city officials and with businessmen who were paying bribes to obtain various government contracts. In the course of doing this, he also tape recorded conversations and "made cases" against several dangerous individuals. After the witness ended his period of operating as an undercover agent and after he had testified in the grand jury and when these people were about to be indicted, it was necessary to relocate him.

He was turned over the the Marshals Service. He and his five children and wife were moved out of their home and were put in a motel in one room. They remained in that condition for almost 2 months. During that period of time, the emotional upheaval that this man went through was absolutely amazing. The problems that were created for the assistant U.S. attorneys who were working on the case and for the agents who were working on the case and who had gained his confidence over a period of some 9 months were significant. On a number of occasions it was distinctly possible that he would decide not to cooperate, not to testify, and that all these cases that had involved the time and effort of so many agents and assistant U.S. attorneys would have been jeopardized over this situation.

When these problems were called to the attention of the relevant marshals, the response was that he was a baby, that he was a crybaby, that he had been coddled by the assistant U.S. attorneys and the agents that worked with him because we had obtained his cooperation, and that he and his five children and his wife could very easily stay in a motel room having only two beds.

When this witness was eventually relocated to the place where he was going to be permanently living, the marshals gave him little or no assistance in finding either a job or a home. He did both for himself. On several occasions, he traveled back to New York to testify. On such occasions he refused to have marshals protecting him because they had demonstrated to him that they were not competent to protect his life.

His cooperation over that 2-year period that led to the conviction of 13 individuals, most of whom were either public officials or significant crime figures, happened and continued despite the efforts of the U.S. Marshals Service.

Another example of the kind of problems that must be focused on and overcome involved a New York City detective who testified and was involved in a very extensive investigation of corruption within the Narcotics Enforcement Division of the New York City Police Department. This detective testified before a grand jury. He was debriefed over a long period of time by New York City detectives, Federal Drug Enforcement agents, and assistant U.S. attorneys.

When it came time to indict the individuals against whom he had testified and against whom corroboration had been found, there were some 25 detectives and several organized crime figures who were going to be indicted in a 1- or 2-day period. It was important to relocate this witness, to move him out of New York, to put him somewhere safe, on the day these indictments were returned because, when all these individuals found out they were indicted, his cooperation would become obvious.

I personally called the Marshals Service to see if we could arrange for his being brought into the program. I was told that he could not be accepted in the program because there had been no threat on his life; no one had threatened to kill him. I explained that no one had threatened to kill him because no one knew yet that he was going to cooperate against them. Two of the individuals against whom he was going to cooperate were reputed to be extremely dangerous. I suspected that, if that were correct, the minute that we revealed his cooperation, he would be threatened.

For a 4-day period when I was very busy working 20 hours a day putting together these cases, I had to spend a great part of my day arguing with the Marshals Service to get this man into the program, because no one had yet threatened to kill him. I resorted to offering to them that I would call one of the major figures of the investigation and that I would tell him that this man was going to cooperate and that in all likelihood this individual would go to jail and offer him the opportunity to make a threat so that I could report it to the marshals.

Believe it or not, the marshals were not convinced. The Drug Enforcement Administration provided six agents who worked on a

round-the-clock detail to protect this man during a 5- or 6-week period when these cases first became public. Finally, after sustained efforts and entreaties by the U.S. attorney, he was finally accepted into the program.

When he got into the program, he and his family were relocated. The marshals never found him a job. For a 2-year period he was unemployed. Eventually, employment was found for him by a DEA agent.

There is another aspect to the program that was not touched on before. I would like to spend a minute on it. That is the problem of protecting witnesses who are in jail.

There really are two types of witnesses that the assistant U.S. attorneys and agents deal with in trying to put together these cases. The first type are those who will remain out of jail during the time they cooperate and testify. They have not been convicted of a crime. They have not been sentenced. They may at some point have to plead guilty. They may be sentenced to jail. But, during the period of their cooperation and their testimony, they would—except for the program—be free.

The other group are the group of individuals who are already sentenced, usually to long prison terms, who decide to cooperate in an effort to reduce their sentences. Even if their sentences are reduced, most often they are still going to have to serve a period of time even after their cooperation is over with.

These individuals—and I think there is a fairly large number of them—have to be protected in the confines of a jail. In New York City and in several other places, when the safe house program was done away with, the Bureau of Prisons took over the responsibility for protecting these individuals. The solution that they offered in New York City was to house the prisoners in the same jail that would house the individuals against whom they were cooperating. Except they would establish a separate wing for those prisoners. This was a jail that had had eight jail breaks in a 2-year period, some due to corruption of the prison staff.

I can remember on one occasion sitting with a fairly significant organized crime figure who had just been arrested and was going to go to jail for a long period of time and was considering cooperating. His major problem in cooperating was his fear that he would be killed in jail. People are killed in jail just on the vaguest suspicion that they are cooperating. If that should ever be known, obviously he would be killed.

What could I offer him to protect him? What could the government do against this threat that would be posed to him in jail? All that I had to offer him was that I would put him back in the same jail that he had just come from, except I would move him to another wing; and that he could rely on the integrity of the prison guards, whom he claimed he had himself bribed on several occasions.

He sat there and laughed at me and told me that I was very naive. He never, in fact, cooperated.

In another situation I had a witness who was in jail. He had to come up on several occasions to testify at trial. At one of the more significant trials that he was going to testify at, he arrived in my

office absolutely terrified because he had been brought up from someplace in the South. It took about 3 days. They came up by car. They would stop at jails on the way. The marshals would leave him there for the night and they would go off and stay at a motel. They would pick him up and go a few more miles and put him in another jail that night. They finally got him to New York.

Unfortunately, in two of the three jails that he stayed in, he met individuals who knew that he was cooperating. In one case he was threatened. In another case, he was almost beaten. So, it took several weeks to regain his confidence.

One of the problems that I see with this that I think is most unfortunate, aside from the practical problem of getting witnesses to testify and the obstructions that this all creates, is the interference it causes in the rehabilitative process. From my experiences as a prosecutor, I thought that any number of people who had spent their entire life on the other side of the law in organized crime or in the area of corruption decide, initially for very practical, cynical reasons, to cooperate with the government. However, as time goes by and they work closely with assistant U.S. attorneys, FBI agents, DEA agents—who they find very different from the law enforcement officials they had dealt with, let's say, when they were young and developing this involvement in organized crime or corruption or whatever—a lot of them change their value system. They gain confidence in the people they are working with. They see a new way of life. They are told about this program. It is explained to them.

Finally they get in it. What they regard as firm representations are breached. They are told that their names are going to be changed; their names are not changed, or they are not changed on all the documents. Problems emerge. They are told they are going to be helped to find a job; no one finds a job for them.

They end up with the same cynical attitude that they began with.

Let me see if I can just touch on four or five problems and throw out some suggestions for what I believe are possible solutions.

No. 1, there is no doubt—and it is staff members of your committee that brought this to my attention, because I have not had experience with this program on a daily basis for 2 years—that the numbers of people admitted into this program are astounding. It is much, much larger than I recall when I had experience with it.

It says to me that it is impossible to do the job correctly if there is not something done about controlling the number of people who are taken into the program.

I think one way to control it is to put a quota on the number of times a particular U.S. attorney can use the program.

Senator ABOUREZK. Do you think it is better to use a quota system or to develop criteria on the kinds of cases in which the program should be used? You don't want to set a quota and have an attorney come up with a case in which a witness really is needed to testify but protection cannot be offered. Wouldn't it be better to have——

Mr. GIULIANI. I think it should be a combination of both.

The reason I do not think the criteria alone would solve the problem is that it is so easy to take the facts of a case and exaggerate them either way. I think, if the criteria were serious case, dangerous-

criminals, important witness, that could fit just a whole multitude of cases; and you would probably end up with something very close to the number you have right now.

Senator ABOUREZK. Do you think the program ought to be used at all in nonorganized crime cases, like drug or corruption prosecutions?

Mr. GIULIANI. Yes, Senator.

Senator ABOUREZK. Would you place any limits on the use of the program in nonorganized crime cases?

Mr. GIULIANI. No, I do not think it should be limited. I think that is something that should be looked at very carefully. Obviously in an organized crime case the danger is more provable and evident. But there are circumstances where I think it would be necessary even in nonorganized crime cases. It should not be strictly limited just to organized crime cases.

Senator ABOUREZK. Please continue.

Mr. GIULIANI. I also think that the suggestions and recommendations made by the prior witness are very well taken. Those selected to protect the witness should be specially trained to deal with witnesses. They should have had experience in law enforcement before. They should particularly have knowledge of the geographic area in which they are going to protect the witness.

The things that he was saying about people from one part of the country coming to another part of the country and trying to protect a witness and terrible, ridiculous things happening are absolutely true. I saw evidence of that.

It seems to me it is very, very important to establish a training program—No. 1. And, No. 2, to make sure that the individuals who are protecting a witness are knowledgeable about the area and about those individuals who would be dangerous to him.

Third, I also think it is important to consider very seriously the question of whether the U.S. Marshals Service should be responsible for this kind of program. There is one major lapse and failing. The failing is that the Marshals Service has no vested interest in the program. The Drug Enforcement Administration, the FBI, and the IRS have a vested interest; it is the case they made. It is the case they put together. They have developed a relationship with the witness. They need the witness. They are very, very solicitous and careful for his life because, among other things, they have to be.

There are marshals who have been involved in this program and, as the prior witness indicated, some of them have been remarkable. I certainly know John Partington. He is a remarkably talented and dedicated man. Others have also done a remarkable job, not only in just physically protecting the witness but assisting in the whole effort of getting the witness to cooperate, bringing the witness around and helping him to rehabilitate. But, in large measure, marshals are assigned who have absolutely no interest in the program; and that's the best of it. There are times when marshals are assigned who have racial or ethnic prejudices that create problems with the witness. There are marshals who know nothing about the area in which they are protecting the witness or the crimes that were involved.

I think it has to be seriously considered whether the Marshals Service should continue in this area. If it does continue, it certainly has to be restructured.

Personally, I think it would be more effective if the various law enforcement agencies that have a vested interest in this program and need it would contribute manpower to a special cadre that would carry out these functions.

Senator ABOUREZK. Rather than having separate protective services in each agency such as FBI and DEA, the agencies should contribute manpower to one central specialized service?

Mr. GIULIANI. Yes, Mr. Chairman. I think that would make more sense. It would also accomplish the purpose of seeing to it that the intelligence that they need to carry out their function would come to them.

No. 2, it would eliminate the one danger that I see in having an agent do this for his entire career. I do not think that is an effective way of managing law enforcement. I think you are better off with an agent who has had a wide variety of experience, experience of spending 4 or 5 years doing witness protection; having spent 4 or 5 years before that investigating crime; and maybe 4 or 5 years after that doing other things.

Senator ABOUREZK. I have one other question.

Should the Marshals Service have a veto over who is admitted in the program?

Mr. GIULIANI. No, I do not think so.

I think the determination of who is admitted is going to turn on knowing about what the cases are about, how dangerous the investigations are. The Marshals Service has no way of really adequately evaluating that. They do not know the organized crime figures involved. They do not know the witnesses involved. They do not know the cases.

That would have to be done, if it is going to be done effectively, by the Justice Department.

Senator ABOUREZK. By the attorneys who are prosecuting or supervising the prosecution of the case?

Mr. GIULIANI. And the Criminal Division of the Justice Department who oversees them.

If, in fact, it was a combined force with input from those law enforcement agencies that investigate crime, then it might make some sense to have them reviewing whether it is a dangerous enough case.

Senator ABOUREZK. Do you think that the program is being overused?

Mr. GIULIANI. I really do not know of my own knowledge that it is being overused. From the numbers that I have seen, I have to believe that it is being overused.

Senator ABOUREZK. Doesn't this overuse inevitably reduce the quality of the program itself, so far as training of the marshals and the ability of the Marshals Service to protect witnesses is concerned?

It seems to me that the program ought to be limited to the most important cases. Admittedly, if you accept witnesses from only the most important cases and make sure you do a good job of guaranteeing their safety, you are going to have some cases go by the board for lack of a witness.

Obviously, a choice must be made.

What do you think ought to be done in those cases?

Mr. GIULIANI. I agree with what you are saying, Mr. Chairman. I think, No. 1, the theory of a quota is an important one because, if the U.S. attorney is told, based on his prior statistics and the number of cases that he has, that he has to cut it in half, the number of times that he uses the program, and then he is given criteria that include danger, importance, et cetera, he will make the judgment and use it when he really needs it. He will not use part of his quota whenever it seems easy or facile to take advantage of the program.

One final problem that I would like to touch on for a moment are problems that are involved after a witness is relocated in the new community to whence he is relocated. Those problems include what do you tell the new employer about this individual that he is employing. This is something that the Marshals Service supposedly deals with. I frankly admit that I do not know what they do. Having had to do it with agents on a number of occasions for the Marshals Service when they did not do it, I can tell you what I did, if it's any guide, and what the agents that I worked with did.

Generally, the employment that was found was by an agent who knew someone in that community who had been in the past, and who was continuing to be, helpful to law enforcement. He would explain the general kind of crime that this individual had committed in the past so that the employer had at least some notion of the kind of individual he was employing and the kind of chance he was taking. He would explain to him also that this person had turned around; the person had spent the last year, year and a half dealing with this problem and straightening himself out; and he testified honestly. He would not tell him the person's actual name or where the person came from. But at least he gave him what I viewed as enough information so that the employer was not under the impression that he was hiring someone who had no prior problems of dishonesty, et cetera.

I think that is a problem that has emerged. I have read about it. I have never really seen situations where people in the program have returned to a life of crime, but it happens; and I am sure it will happen. There is a certain risk that has to be taken. But, in fairness, if someone is going to employ one of these individuals, they should be told something that puts them on notice that they are not employing just an ordinary citizen.

That is all I have to say in the way of prepared remarks except to reemphasize the fact that, despite the problems—and I guess I spent 90 percent of the time talking about problems—this program is absolutely vital. There are people now sitting in Federal penitentiaries, where they belong, for selling massive amounts of narcotics, for bribing public officials, who would still be doing it—when I say "individuals," I easily mean a hundred of them that I can personally testify to—if it were not for this program.

The individuals who made the cases against them never in a million years would have done it if they did not think that the Federal Government had a way of protecting them that was effective. To the extent that that program can be made more effective, I think we are going to increase our efforts in fighting organized crime. To the extent that it becomes ineffective or disappears, we are going to lose.

Senator ABOUREZK. We hope these oversight hearings will lead to vast improvements in the program. In fact, one of the people in the Justice Department responsible for this program is here in the audience listening to the testimony. We hope that he absorbs it like a sponge. The Justice Department will testify Thursday and at that time can defend how the program is being run.

I want to ask you about a couple of other areas that we have not yet discussed.

How did U.S. attorneys, in your experience, explain the protection program to witnesses? What kind of promises were made and were they kept?

Mr. GIULIANI. I have to take that in stages, Mr. Chairman.

When the program was new, I am not sure the assistant U.S. attorneys really understood all they could do or all they could not do. After there was some experience with the program, the practice was initiated of not really explaining the program in detail, but rather bringing a marshal in who would explain what the program could do.

I know of limited situations in which either the marshal or the assistant U.S. attorney or the agent promised things that were unrealistic and that could not be accomplished. But that is certainly not the cause of the problem.

The vast numbers of problems that I had to deal with and witnesses who claimed that things were promised to them that did not happen were claiming that things were promised that were very reasonable and were distinctly a part of the program. They were claiming that they did not get their identification on time; on time meaning a year, a year and a half. They claimed they were not helped in getting jobs that were promised to them.

They claimed they were not put in their house until 2, 3, 4, or 5 months. They claimed and were able to show that all their furniture was destroyed and that nothing was being done about it.

The problem came not from the fact that on occasion the program was overpromised, which happens; but, more often, the problem came from the fact that the promises that were made were breached. They were not getting what they were told they were going to be getting and what the program said they would be getting.

Senator ABOUREZK. Mr. Regnery?

Mr. REGNERY. Mr. Giuliani, could you elaborate a little bit on what you think the qualifications should be that a witness protection specialist should possess?

Mr. GIULIANI. No. 1, he should be an experienced law enforcement officer. He should be someone who has had experience in investigating crime before and has dealt with undercover witnesses, informants, knows the value of them, and knows how to treat them.

No. 2, he should be knowledgeable about the individuals against whom he is supposedly protecting these people. If an individual is testifying about figures in organized crime, he should have some knowledge of who the organized crime figures are in the area, what they look like, what they do. That can only be acquired on the street or by investigating crime. You can be taught that.

Finally, he should be a person who sees the value in this program. He should be a person who understands its value to law enforcement and its value to the individual.

Too often in the past—and probably this is responsible for 80 percent of what went wrong in the program—a large number of individuals were just brought in who had no interest in this program, no experience with it.

Mr. REGNERY. Thank you, Mr. Chairman.

Senator ABOUREZK. I think that is all the questions we have. You covered most areas thoroughly in your testimony.

May I express the thanks of the subcommittee for your appearance and your excellent testimony based on your experience with the program. Your comments will be of great assistance in the efforts to improve the program. Thank you very much.

Mr. GIULIANI. Thank you very much, Mr. Chairman, for the opportunity to be here.

Senator ABOUREZK. The next witness is Mr. Thomas J. O'Connor, executive director of the Prison Reform Task Force, the New York Society for Ethical Culture, New York City. Mr. O'Connor, welcome to the hearings.

TESTIMONY OF THOMAS J. O'CONNOR, EXECUTIVE DIRECTOR, PRISON REFORM TASK FORCE, NEW YORK SOCIETY FOR ETHICAL CULTURE, NEW YORK, N.Y.

Mr. O'CONNOR. Thank you, Mr. Chairman.

I have accepted the invitation to testify concerning my experience with the witness protection program because this program is, in my opinion, an important tool in the Government's efforts to fight organized crime. My testimony will center on four important issues:

A, the concept and the intent of the original legislation;

B, security of witnesses in both pre- and post-testimony status and their families;

C, the manner of confining Government witnesses; and

D, coordination of participating Government agencies.

At the end of my testimony I will have specific recommendations.

In an attempt to summarize my testimony regarding the intent of the original legislation, I think it is important to point out that in 1970, when Congress originally passed the Safe House Facilities Act, it instituted the Government witness protection program. Unfortunately, in 1975, the Marshals Service and the Federal Bureau of Prisons made an administrative decision to transfer most of the power from the marshals over to the Federal Bureau of Prisons where they would carry out the function of securing witnesses.

There was a court action taken in front of Judge Alexander Harvey II in the District of Maryland. In spite of many pleas to enjoin the transfer of administration, Judge Harvey decided that that was not appropriate and that it would be more fiscally and administratively sound to allow the transfer of power to take place. I obviously disagree with that, as is detailed in the summary.

I am going to skip to section B,[1] the security of witnesses in pre- and post-testimony status and their families.

[1] See entire statement at p. 37 of the hearing text.

The complaints regarding security violations are so extensive that I have chosen to present to the committee a list of those examples that I consider extraordinary.

One, the Metropolitan Correctional Center (MCC) in New York City has set aside an area of this institution designated for witnesses only. The windows of this building are made of a three-eighths of an inch thick unbreakable, polycarbonated plastic which is colorless and transparent. Although unbreakable, they are penetratable with a high-powered hunting rifle. The windows of the witness unit face an apartment dwelling approximately 150 yards away.

In my opinion, the approximately 30 witnesses housed in this area are in constant jeopardy. It should also be pointed out that Warden Taylor pinpointed their exact location to the press when John Ehrlichman of Watergate fame was housed in that facility. He did this when indicating that Mr. Ehrlichman would be housed in a different section of the facility because it would be more safe.

Two, the majority of witnesses housed at this facility still maintain their own name. The facility distributes a "room and location sheet" which lists the name, the number, and room number of each witness in the facility. These sheets are distributed to the commissary, the hospital, and the mailroom. In all three locations, general population inmates are on work assignments. Often these general population inmates are affiliated with or are themselves involved with organized crime and can determine the precise location of any witness.

Again, I have two recent copies which I have chosen not to submit as part of my testimony for obvious reasons but will supply them as evidence to the proper Senate staff person.

It should be pointed out that in many instances codefendants of witnesses are located in the same facility.

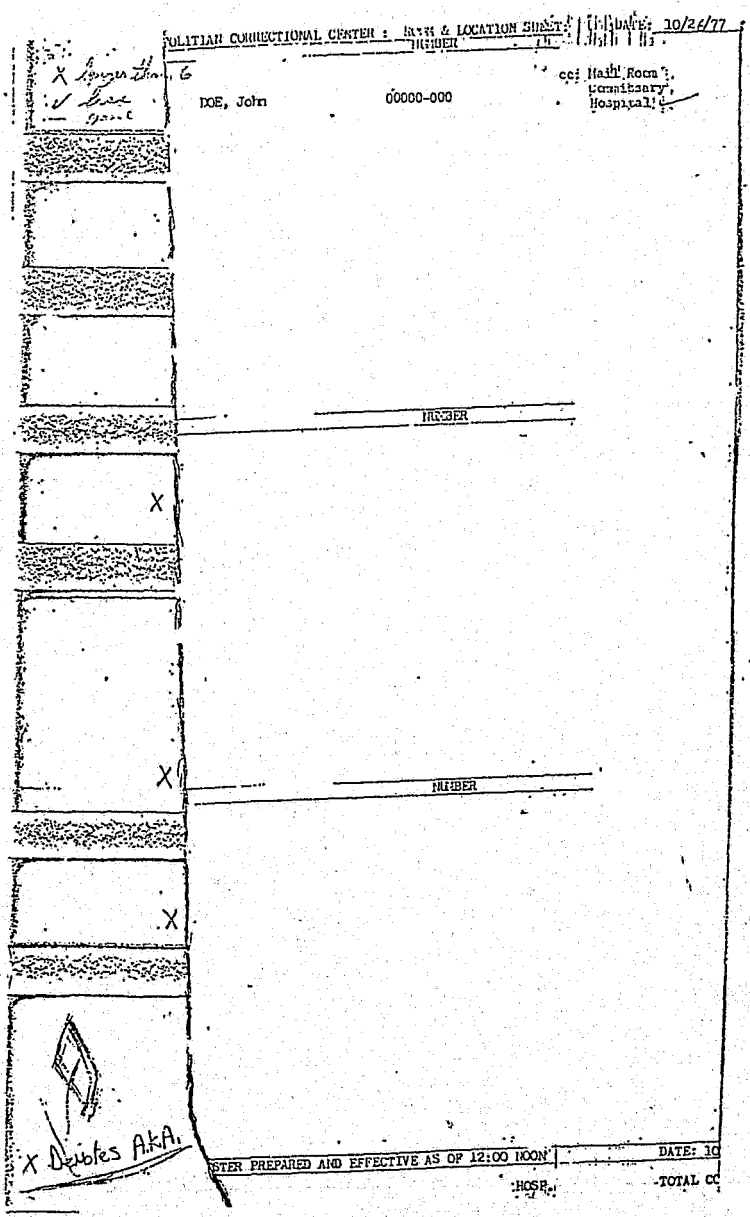
Senator ABOUREZK. Mr. O'Connor, if I could just interrupt you at this point, I want to put in the record a copy of that location sheet—sanitized, of course.

[Material follows:]

[Exhibit 9]

NY MCC Room and Location Sheet, October 26, 1977

NOTE: These documents were found in plain view on a table in the Witness Protection Unit of the New York Metropolitan Correction Center by Subcommittee staff. They list the names, prison identification numbers, wing designations, and on one document, the room numbers of all prisoners in the unit. For security reasons, the actual names and numbers have been deleted.



[Exhibit 9a]

NY MCC Room and Location Sheet, February 14, 1978

METROPOLITAN CORRECTIONAL CENTER — ROOM & LOCATION SHEET — DATE: 2-14-78

ROOM	NUMBER
John Doe	00000-000

ROOM	NUMBER

ROOM	NUMBER

ABOVE ROSTER PREPARED AND EFFECTIVE AS OF 12:00 NOON — DATE: 2-14-78

Senator ABOUREZK. The staff went to MCC to interview witnesses. These location sheets were laying around on the tables.

Mr. O'CONNOR. Yes.

Senator ABOUREZK. I think it is important to put this sort of thing in the record.

Mr. O'CONNOR. Thank you.

Three, it has been alleged that plastic explosives were found beneath the witness protection section following an escape of some organized crime persons while a Government witness who was directly involved in the case was a witness on that floor. When I brought this point to the attention of Mr. Quinlan and Ms. Stutley from the Federal Bureau of Prisons, they would not confirm or deny it occurred.

I might add that I presented a list of 16 specific complaints to the Federal Bureau of Prisons back in January. They said that they would immediately take action on the allegations that were being made. They still as yet have not gotten back to me with any kind of report at all.[1]

Four, it has been alleged that the picture of a Government witness who apparently testified against a very important organized crime figure had his picture posted in the witness floor control room while it was an insecure area while he was out on furlough.

Five, a Government witness was mistakenly removed because of similarity of name with another defendant at the Metropolitan Correctional Center to the Eastern District Court in Brooklyn and identified by correction personnel as a protected witness to other inmates being similarly transported. He was placed in a common bullpen in the Brooklyn Courthouse with other inmates and suffered nothing other than some verbal abuse.

It seems to me this situation could very well have been far more serious had other types of individuals been in the same bullpen. In spite of protests, he was returned to the Metropolitan Correctional Center with the understanding that he was to be placed in general population. This procedure was stopped accidentally by a correctional counselor from the special unit who recognized him on his way to general population and demanded he be returned to the proper unit. Obviously, we cannot always rely on luck as was the case here.

Six, there have been complaints of ground glass, pieces of metal, and other debris including spit found in the food of Government witnesses. In addition, it is alleged that a steward who assists in preparing and distributing food named Nick Avigoni was accused in the past of being affiliated with a member of organized crime. It was also alleged that when the *Mexican Connection* case was in progress, 4 persons were on the witness protection floor while 21 of their codefendants managed to get jobs working in the kitchen.

Seven, only 1 week ago, a witness being transported by U.S. marshals was forced to take the general population elevator at the marshal's insistence only to have the doors open on his codefendant's floor. Lo and behold, his codefendant happened to be standing there

[1] The subcommittee was furnished a copy of the Bureau of Prisons report on the situation at the Metropolitan Correctional Center in New York. See exhibit 10, p. 170, of the appendix. See exhibit 11, p. 176, of the appendix for the warden's response to that report.

and he lunged at the witness. Fortunately, the elevator door closed before there was a physical confrontation. I am told there is an unusual occurrence report at the institution that can substantiate this allegation.

The above, I think, clearly points out the inability of the Federal Bureau of Prisons to provide proper security for witnesses in their charge. However, the problem is further compounded in its inability to provide any sense of security for the families of witnesses who receive mail, telephone calls, and visit their loved ones.

I would hope that you would keep in mind as we go through this next list of example problems that secrecy is the key to security for relocated persons.

One, in just the past 2 weeks, a new procedure has been adopted at the institution which requires all visitors to the special witness floor to show identification at the security desk. It is my understanding that the Bureau of Prisons personnel manning this desk have no special qualification or security clearance to receive this kind of sensitive information.

Two, the wife of a government witness was allegedly approached by Correction Officer Gonzalez about the real name and identity of the person she was visiting. Correction Officer Gonzalez is allegedly under a court indictment for bribery and corruption. I would point out that at the time of this occurrence, Correction Officer Gonzalez was working at the security desk.

Three, that visitors to this special unit at the Metropolitan Correctional Center are often made to sit in the general visiting waiting area as long as 1 hour with other regular visitors. Occasionally, a Government witness visitor is subject to verbal abuse from a regular visitor there to visit with someone involved in the same case who the witness is testifying against.

Four, I am in receipt of complaints that the wife of a Government witness—whose name I can supply—allegedly disappeared leaving the Metropolitan Correctional Center facility following a visit with her husband. It is my understanding that the Government is investigating this alleged disappearance but have found no clues as to her whereabouts.

Five, mail from relocated families of witnesses is handled by general mailroom staff rather than special handling or through the Marshals Service. Again, I will remind you that general population inmates work in this area. Oftentimes they are in fact affiliated themselves with organized crime in one fashion or another.

Six, when using the telephone, institutional operators want telephone numbers even if the call is being made to relocated family members of Government witnesses. Again, this practice breaches security of persons that have new identities.

In closing the section on security, I feel it absolutely necessary to touch on another very important aspect of the witness program. When a witness has concluded testimony and is no longer in a position of importance to the Government, it seems that the attitude is that he can now be thrown to the wolves. Two recent situations can illustrate this point very dramatically.

A nationally known member of organized crime who turned informer helped to convict 11 high-ranking members of a New York

metropolitan area organized crime family. On three occasions following his testimony, the Government attempted to place him in a prison to serve out the sentence he himself had received. On two occasions, he was able to stop his own transfer by exposing to the news media what the Government was trying to do to him.

However, on September 12, 1977, this man was awakened at 4 in the morning and transferred by correction officers to a nearby State prison. He was not given any preparation for such a move in terms of his identity, a cover story, or anything else. He asked to make telephone calls but, because of the previous experience with him, they would not allow it and whisked him out of the institution.

Immediately upon his arrival at that State institution, his belongings were searched and the correction sergeant going through his legal papers immediately caught on to who he was and what the transfer was all about. He indicated to him that they had had hot cases in this prison before and they had been lucky in that no one had thus far been killed.

Following his registration, he met an inmate who was formerly a Federal Bureau of Prisons correctional staff member on the witness protection floor who is currently serving time in this State prison as a result of assisting an internationally known narcotics dealer escape from the Metropolitan Correctional Center. When he met this man, the inmate immediately called him by his true and proper name.

It is easy, I think, to see how quickly the word went out that a stool pigeon was now in the institution. For 3 weeks this man walked that prison with a homemade knife in fear for his life. Finally, through the assistance of the legal aid attorneys handling the *Wolfish* v. *Levy* writ, which was the inmate lawsuit against the Metropolitan Correctional Center, he was called back to give testimony in those proceedings. At that point, he brought his situation to me because he feared being shipped back to the same institution when his testimony was completed.

We thought at that time that we could get assistance from the U.S. attorney's office in the southern district since it seemed to me, at the time, that they had a very real stake in the functioning of this program. I met with Mr. Tendi, who is the No. 2 man in charge of the southern district U.S. Attorney's Office. At that meeting, I was accompanied by two attorneys, Mr. Dennis Lewitas and Mr. Ken Warner, with whom I have worked over the years.

We were prepared at that point to file papers in Federal court for an injunction on this man's transfer but felt at the time that the filing of papers would again bring adverse publicity to the program which we did not want and thought that we could negotiate a proper transfer and placement for this individual.

Since this is a public hearing, I will not quote Mr. Tendi's answer to our dilemma since four-letter words are not usually acceptable. But I can tell you that Mr. Tendi's attitude shocked me. As far as he was concerned, this man was his own worst problem and he could not care less what happened to him from this point on. He did, however, extend what he called a professional courtesy to the attorneys who were with me by calling the Federal Bureau of Prisons and asking that the witness' transfer be postponed for at least 5 days to

give the attorneys time to file papers in Federal court. Obviously the publicity meant nothing to him.

At this time I contacted the Federal Bureau of Prisons in Washington directly and through our efforts was able to insure that the witness would not be sent back to that institution and received assurances that the next placement would be carefully screened and coordinated.

The second example I would offer is a man who this very minute sits in a Lexington, Ky., prison, in jeopardy. This man testified in a large drug case. On the evening of March 1, I received a call from this witness who said he was in fear for his life; that they had just told him that his placement at Lexington, Ky., would result from him being transferred through the normal bureau transportation system.

Because of the hour of the evening that he called, I was unable to speak to anyone except a Lieutenant Porter at the Metropolitan Correctional Center, who confirmed that he would be transported in this manner and explained that this man had been taken off witness protection status and was now listed as a central monitoring case. The following morning when I spoke to his U.S. attorney, the attorney indicated that he had no idea why the man was removed from witness status and placed on central monitoring case status.

This situation did not remain a mystery very long, because when I spoke to Ms. Stutley in Washington she told me that they needed the space on the floor for another witness and had changed the status to expedite his transfer and open up the space. He was transferred with approximately 30 other population inmates to Petersburg. All of the inmates in transit knew that he came off the special witness protection floor.

Several days later he was again transported in a general population bus to Lexington, which is where he now sits with everyone knowing he was and is an informer. The U.S. attorney who has been in contact with the Bureau of Prisons and the Justice Department indicated to me this past week that he was writing a letter of protest to Washington for their failure to live up to their commitments.

Incidents like this and the previous example are what put witnesses on notice that the Government could not care less about their security once they have been effectively used.

I will try to summarize the manner of confining Government witnesses.

The fact is that when a witness is in the hands of the Federal Bureau of Prisons he serves a much harder term than the people he testified against. The reason for that is security risks that the Bureau would have if they allowed him into general population or allowed him the same privileges that are afforded people in general population.

I think I can clearly and quickly point out some of these problems for you.

One, it is alleged that the medical services provided to Government witnesses is different than it is for general population. While there are no complaints of a failure to respond to serious medical problems, the inmates tell me that for minor medical complaints they can only

see a doctor once a week while general population can be brought to sick call on a daily basis.

Two, while general population is allowed special events with regard to entertainment, the Government witnesses are not.

Three, because of the special category of Government witnesses, detainees and sentenced prisoners are confined and share all facilities—a practice constantly under scrutiny on all levels of criminal justice as being inappropriate.

Four, because of a failure to classify Government witnesses, we have a situation where we lump together strong, aggressive personalities who have committed serious criminal acts—often violent—and passive, nonaggressive personalities who have committed nonviolent offenses of one kind or another. A recent incident involving a witness who allegedly threatened to kill other witnesses confined with him is an example, I think, of the need to consider a classification system for witnesses under protection.

I think that the testimony I have given here can allow me to skip over the next section, which is the coordination of services.

There is no coordination of services. There has not been any coordination of services between law enforcement, the U.S. attorney's office, the Marshals Service, and the Federal Bureau of Prisons.

Therefore what I will do to summarize is that I will go directly to my recommendations.

One, I would strongly recommend that the original intent of Congress to open safe house facilities be immediately reinstituted and mandated.

Two, that the U.S. Marshals Service create a specially trained unit of security officers to carry out the functions of providing for the health, welfare, and security of all persons entering the program.

Three, since the Federal Bureau of Prisons plays an important role in the program because many witnesses themselves are ultimately convicted and given prison terms, I recommend that the Bureau of Prisons create a specially trained group of persons who have been carefully screened to do its job of providing for the health, welfare, and security of those in confinement and their visiting family members who have been relocated.

Four, that the Federal Bureau of Prisons set aside at least two secure facilities to be used exclusively by convicted Government witnesses. In doing so, the Federal Bureau of Prisons could then live up to its constitutional obligations to those in custody and better serve their charges with rehabilitative services.

Five, that a program be instituted whereby a Government witness can enter into an educational or vocational setting that would prepare him or her to carry forward a new lifestyle when a new identity for them has been established.

Six, that law enforcement agencies participating in the fight against organized crime be absolutely familiar with the total operation of the witness program so that it can make realistic promises to potential witnesses.

Seven, that special seminars be created and structured for all Government witnesses and their families upon entry to the program. These seminars should include such topics as security, rules and regulations pertaining to participation, new identities, and all that

it entails, new lifestyles, et cetera. At least then a witness would know and understand what his or her problems will be and how to deal with complaints.

Eight, that a special oversight panel be created and made known to every person entering the witness protection program. This oversight panel could then monitor the overall operation of the program and be available to correct immediately a situation that places a witness in jeopardy. This panel should have authority over the Federal Bureau of Prisons as well as the Marshals Service and have the capability of investigating complaints of corruption and breaches of security in the program. In addition, this panel would review the entire case history of anyone leaving the program to determine whether or not it was a proper termination.

I am sure that continuing recommendations from such a panel would insure ongoing quality services to the benefit of all concerned.

In concluding, obviously my testimony indicated many problems in the operation of this program. However, I stress the importance of shoring up this program because I recognize it as a valuable law enforcement tool. Any program as complex as this one will inherently have problems. As problems occur, they should be immediately corrected, rectified, and used as examples of how not to run the program.

It is necessary that we all recognize that we are attempting to eleminate a very rich and powerful organized system of criminal activity that preys on the American people. It must be eliminated, and the Government witness protection program and the Safe House Facilities Act properly implemented can bring us very near that goal.

Thank you.

Senator ABOUREZK. Thank you very much, Mr. O'Connor.

It appears from what I have heard so far in this set of hearings that what is needed is a Federal agency that can almost guarantee total anonymity for the witnesses and also make certain that they are kept inside of a safe area where no one can get to them and where they can't get out.

I wonder if you would agree with me that the most experienced Federal agency in that area might be the Bureau of Indian Affairs? Maybe we ought to turn the program over to them. [Laughter.]

Mr. O'CONNOR. Well, it certainly should be turned over to somebody who can operate it efficiently; that's for sure.

Senator ABOUREZK. I do not know if the Justice Department has thought of this; maybe they have. In any event, it ought to be brought up and put on the record. I would like to have your comment on it. It seems that, for example, nuclear storage facilities—at least the ones I know about—are located within an existing military facility. An example is Ellsworth Air Force Base in South Dakota. That's a SAC base. Within Ellsworth, there is another air base fenced off. Everybody on the air base is kept out of the fenced area which is where nuclear weapons are stored. I am sure there are many similar setups around the country.

Would a safe house inside a military installation be the best place to house families and to protect prisoner witnesses?

Mr. O'CONNOR. I think that the impression that has been given to the American people with regard to placing people in safe house facilities on military reservations comes from the case of Joe Valacci. Unfortunately, we are nowhere near putting people in that type of a safe environment.

In my own opinion, and in speaking to many of the witnesses—right now, I guess I am in contact with a dozen—all of them seem to indicate that that would be a very appropriate way of providing for security for them as well as visiting families and whatever. That is another area that I do not think we look at enough, the families.

The families are as vulnerable and as threatened as much as the witness himself. If they can snatch a child or a wife, they can almost preclude any additional testimony. So, it becomes very important to take it as a whole unit.

I think the military installation would be a very good idea, especially in the pretestimony stage.

Senator ABOUREZK. I appreciate your thorough testimony. We are very grateful for your appearance.

Mr. O'CONNOR. Thank you very much.

[The prepared statement of Mr. O'Connor follows:]

PREPARED STATEMENT OF THOMAS J. O'CONNOR

Mr. Chairman and distinguished Senators of the Subcommittee on Administrative Practice and Procedure.

I have accepted your invitation to testify concerning my experience with the witness protection program because this program is, in my opinion, an important tool in the Government's efforts to fight organized crime. My testimony will center on four important issues:

A. The Concept and The Intent of the Original Legislation.
B. Security of Witnesses in Both Pre and Post Testimony Status and Their Families.
C. The Manner of Confining Government Witnesses.
D. Coordination of Participating Government Agencies.

A. THE CONCEPT AND THE INTENT OF THE ORIGINAL LEGISLATION

In 1970 when Congress passed the Safe House Facilities Act it instituted the Government witness protection program. It did so based on pleas from the U.S. Attorney General's Office, U.S. Department of Justice and many people from varying law enforcement agencies. Congress, in its wisdom, recognized that organized crime had far-reaching tentacles that created a network of criminal activity from coast to coast. As a result of this established criminal powerbase, law enforcement agencies found it virtually impossible to encourage testimony from anyone against this organized structure. They related to Congress how, very often, when a person would agree to testify, whether it was a member of organized crime or a concerned citizen, they would either disappear, become involved in a fatal accident, or be outright murdered. As a result of this situation, the conviction rate against organized crime was very low. Since the passage of this legislation which created the witness protection program, the conviction rate of organized crime members has escalated dramatically. Unfortunately, the current operation of the program does not come anywhere near what Congress intended and unless something is done now to correct what is wrong with the program the entire concept will be undermined and Government law enforcement personnel will lose a very important weapon that gives them the ability to bring forward willing witnesses to testify.

Much of what is wrong with the program can be traced to an administrative decision between the U.S. Marshals Service and the Federal Bureau of Prisons. In 1975 the U.S. Marshals Service who was originally given the responsibility

for administering the program, turned most of the responsibility over to the Federal Bureau of Prisons who, in my estimation, was and is incapable of providing what is necessary in terms of health, safety, and welfare of participating witnesses. Judge Alexander Harvey II in the District of Maryland, apparently reviewed the changeover in administration in 1975 and thought at that time that it was fiscally and administratively sound and therefore proper not to enjoin the transfer of administration as long as the same provisions accorded witnesses in the original legislation was followed. Contingent with this transfer, was the closing of the safe house facilities. This immediately created some major problems for drug enforcement persons as can be illustrated in a letter to Judge Harvey dated March 4, 1975 by John W. Fallon, Regional Director of the U.S. Department of Justice, Drug Enforcement Administration (since this letter indicates a witness's security number and name. I have chosen not to submit this as an addendum to my testimony. However, I will submit it to the appropriate Senate staff person.) Judge Harvey apparently did not see the problems as expressed in Mr. Fallon's plea. In his letter, Mr. Fallon pointed out that the Government's Drug Enforcement Administration had convinced a man to voluntarily cooperate with the Government. As a result of his testimony, an indictment against 19 major narcotic violators had been returned in the Southern District of New York. This indictment identified numerous sources of supply and customers, many of whom are members of or associated with organized crime elements, within the New York metropolitan area. He explained that some were in custody and some were being sought but everyone involved knew who the informer was. To point out to this committee the seriousness with which Mr. Fallon viewed this situation, let me quote directly from his letter.

"At this time it is my earnest plea that you enjoin those members of the Department of Justice, responsible for the sustenance of the safe house facility to maintain these facilities. It is my calculated judgment, based on many years in law enforcement, that the dissolution of the safe house concept will place this witness as well as many other witnesses in great physical jeopardy.

"Additionally, the successful presentation of a massive narcotic conspiracy at the Southern District of New York is contingent to a large degree on the physical and psychological well-being of this witness and his wife. Unquestionably, he is a most essential witness in this case.

"The notification concerning the proposed dissolution of safe house facilities is undoubtedly having an adverse effect on this witness as well as many other witnesses under the program who are quite justifiably in fear for their lives.

"It is my firm conviction that the Government has a moral as well as legal obligation to provide this witness and his wife with adequate security and to conscientiously adhere to all commitments made to them in this regard."

In spite of the Director's letter, Judge Harvey did not enjoin the transfer of administration and since that time the witness protection program has gone strictly downhill in the hands of the Federal Bureau of Prisons.

I have interviewed many witnesses in the New York area, have reviewed innumerable complaints many of which I have been able to verify. Many of the complaints about the program can be directly attributed to insensitive bureaucratic attitude. Specifically, I mean when problems are presented administrators will look into it but changes do not occur. For instance, when Herman Goldfarb, a participant in the witness protection program complained publicly in Federal court last year alleging 200 violations of his security, Benjamin R. Civiletti, Assistant Attorney General in charge of the Criminal Division of the Justice Department, was quoted in the New York Times as saying, "The protection is excellent because nothing has happened to Mr. Goldfarb despite his claim of 200 errors. We must be doing something right." It seems to me that with 200 errors which Mr. Civiletti did not say, did not happen, the Justice Department is very lucky that Mr. Goldfarb is alive.

Larry S. Gibson, an Assistant Deputy Attorney General, who was in charge of a committee that was reviewing the witness protection program commented in the same article. "There appears to be a lot of complaints by participants about their new lives and about the security. That is one of the things the committee is looking into but one thing should be remembered: no one is preventing these people from leaving the program. They can return to their old lives if they really wanted to." I find Mr. Gibson's statement absurd. What about the organized crime people that witnesses have testified against? The

threat they pose would certainly prevent one from leaving the program. If these are typical of the kind of people we have running this program, it is no wonder to me that the program is in trouble.

Another example of administrators responsible for witnesses in terms of receiving and reviewing complaints is as follows. On January 12, 1978 I came to Washington and met with Mr. Michael Quinlan, Executive Assistant to the Director and Ms. Shirley Stutley who is in charge of the Bureau of Prisons' witness program. I outlined for them 16 specific complaints about the New York operation and was very courteously thanked and told how much they appreciated the input and that they would take immediate action. The immediate action was apparently their review because nothing as yet has changed and the problems are continuing.

Considering the current attitudes of Department of Justice administrators and the slipshod operation of the Bureau of Prisons, which I think the balance of my testimony will define, the overall program is in trouble. It is obvious that the administrative decision to close the safe house facilities and the Federal court's sanction of that decision aborted the orginal intent of Congress to create a viable tool for law enforcement agencies to fight organized crime.

In concluding this portion of my testimony, let me point out that I will make specific recommendations for this Subcommittee in my closing remarks.

B. SECURITY OF WITNESSES IN PRE AND POST TESTIMONY STATUS AND THEIR FAMILIES

The complaints regarding security violations are so extensive that I have choosen to present to the committee a list of those examples I consider extraordinary.

1. The Metropolitan Correctional Center in New York City has set aside an area of this institution designated for witnesses only. The windows of this building are made of a three-eighths of an inch thick unbreakable, polycarbonated plastic which is colorless and transparent. Although unbreakable, they are penetratable with a high-powered hunting rifle. The windows of the witness unit face an apartment dwelling approximately 150 yards away. In my opinion, the approximately 30 witnesses housed in this area are in constant jeopardy. It should also be pointed out that Warden Taylor pinpointed their exact location to the press when John Erlichman of Watergate fame was housed at that facility. He did this when indicating that Mr. Erlichman would be housed in a different section of the facility because it would be more safe.

2. The majority of witnesses housed at this facility still maintain their own name. The facility distributes a "room and location sheet" which lists the name, the number, and room number of each witness in the facility. These sheets are distributed to the commissary, the hospital, and the mail room. In all three locations, general population inmates are on work assignments. Often these general population inmates are affiliated with or are themselves involved with organized crime and can determine the precise location of any witness. (Again, I have two recent copies which I have choosen not to submit as part of my testimony for obvious reasons but will supply them as evidence to the proper Senate staff person.) It should be pointed out that in many instances codefendants of witnesses are located in the same facility.

3. It has been alleged that plastic explosives were found beneath the witness protection section following an escape of some organized crime persons while a government witness who was directly involved in the case was a witness on that floor. When I brought this point to the attention of Mr. Quinlan and Ms. Stutley, they would not confirm or deny it occurred.

4. It has been alleged that the picture of a government witness who apparently testified against a very important organized crime figure had his picture posted in the witness floor control room while it was an insecure area while he was out on furlough.

5. A government witness was mistakenly removed because of similarity of name with another defendant at the Metropolitan Correctional Center to the Eastern District Court in Brooklyn and identified by correction personnel as a protected witness to other inmates being similarly transported. He was placed in a common bullpen in the Brooklyn Courthouse with other inmates and suffered nothing other than some verbal abuse. It seems to me this situation could very well have been far more serious had other types of individuals been in the same bullpen. In spite of protests, he was returned to the Metropolitan

Correctional Center with the understanding that he was to be placed in general population. This procedure was stopped accidentally by a correctional counselor from the special unit who recognized him on his way to general population and demanded he be returned to the proper unit. Obviously, we cannot always rely on luck as was the case here.

6. There have been complaints of ground glass, pieces of metal, and other debris; including spit, found in the food of government witnesses. In addition, it is alleged that a steward who assists in preparing and distributing food named Nick Avigoni was accused in the past of being affiliated with a member of organized crime. It was also alleged that when the "Mexican Connection" case was in progress, 4 persons were on the witness protection floor while 21 of their codefendants managed to get jobs working in the kitchen.

7. Only 1 week ago, a witness being transported by U.S. marshals was forced to take the general population elevator at the marshal's insistence only to have the doors open on his codefendant's floor. Low and behold, his codefendant happened to be standing there and he lunged at the witness. Fortunately, the elevator door closed before there was a physical confrontation. I am told there is an unusual occurrence report at the institution that can substaniate this allegation.

The above, I think, clearly points out the inability of the Federal Bureau of Prisons to provide proper security for witnesses in their charge. However, the problem is further compounded in its inability to provide any sense of security for the families of witnesses who receive mail, telephone calls, and visit their loved ones.

I would hope that you would keep in mind as we go through this next list of example problems that *secrecy* is the *key to security* for *relocated persons.*

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Incidents like this and the previous example are what put witnesses on notice that the Government could not care less about their security once they have been effectively used.

C. MANNER OF CONFINING GOVERNMENT WITNESSES

The witness protection program being in the hands of the Federal Bureau of Prisons results in a form of confinement that is equal to being in disciplinary segregation. Because of security considerations, government witnesses do not enjoy the same rights and privileges as those persons who they have testified against. The result is that government witnesses serve much harder time than general population inmates. They live in a very restricted environment because of security reasons. It must be remembered in looking at the manner of confinement that even convicted inmates have certain constitutional guarantees which were clearly pointed out in the *Wolfish* vs. *Levy* writ. Judge Frankel from the Southern District of New York in rendering a decision on the *Wolfish* writ was very hard on the Federal Bureau of Prisons because of the overcrowded, close and oppressive confinement of general population inmates at this institution. Judge Kaufman from the Federal circuit court was not quite as severe but did uphold many of the changes instituted in Judge Frankel's opinion. I would point out that the writ was only intended to cover general population inmates and had nothing whatever to do with the government witnesses housed in the same facility. There are several points of real concern that must be made.

1. It is alleged that the medical services provided to government witnesses is different than it is for general population. While there are no complaints of a failure to respond to serious medical problems, the inmates tell me that for minor medical complaints they can only see a doctor once a week while general population can be brought to sick call on a daily basis.

2. While general population is allowed special events with regard to entertainment, the government witnesses are not.

3. Because of the special category of government witnesses, detainees and sentenced prisoners are confined and share all facilities. A practice constantly under scrutiny on all levels of criminal justice as being inappropriate.

4. Because of a failure to classify government witnesses, we have a situation where we lump together strong, aggressive personalities who have committed serious criminal acts—often violent—and passive, nonaggressive personalities who have committed nonviolent offenses of one kind or another. A recent incident involving a witness who allegedly threatened to kill other witnesses confined with him is an example, I think, of the need to consider a classification system for witnesses under protection.

In closing out this section of my testimony, it should be noted that the Federal Bureau of Prisons is even failing to provide constitutional privileges and guarantees to government witnesses in their care and custody. The close and oppressive confinement when matched against the other problems I have outlined leaves the witness program participants in such a state that I wonder how the law enforcement agencies are able to convice anyone to enter.

D. COORDINATION OF PARTICIPATING GOVERNMENT AGENCIES

It appears throughout all of the interviews I have conducted that the agencies involved in the witness protection program lack a sense of coordination. For instance, when a law enforcement agency is able to convince a person to testify, it is most often because they make certain promises to the individual involved. Once the case has been developed and forwarded to the U.S. attorney's office, it is then up to the U.S. attorney to carry on with the promises that have been made. Usually at this stage, the promises are somewhat changed and the witness is told what is realistic and what is unrealistic. The promises of security and safety is delegated to the U.S. marshals office. Several of the persons I have interviewed indicated that the marshals involved are very often lacking in the sense of security and that witnesses sneak in an out of so-called safe house facilities when used, at will. Others indicated that placements that have been made for them are in rooms rented in apartment houses or motels and are used over and over again to hide witnesses. In one instance in Charleston, W.Va., a witness told me that his wife was approached by the maid and asked what kind of case was she involved in. The witness himself was approached by the night

clerk who indicated he himself was an ex-con and knew the score, and for witnesses, they seemed like nice people. Other pointed questions were put to the witness by this man regarding what case he was involved in. When they were being transferred from this placement, the night clerk approached the marshal to say that he thought these government witnesses were very nice people and he was sorry to see them go at which time the marshal shook hands with him and left. In a previous placement of the same witness, he indicated that the place he was staying in Roanoke, Va. was owned by the marshal's brother. All of the interviews I have conducted indicated that the majority of the participating marshals were ill-equipped to provide proper security services. I have also received complaints of marshals who made sexual advances toward government witnesses' wives. There has, however, been incredible praise for three particular marshals. Two in the New York office and one upstate New York who all of the witnesses seemed to think take their job very seriously and are very security conscientious and try wherever possible to maintain the general health and welfare of participating witnesses. It is now, however, becoming a somewhat common practice to place pretestimony witnesses in confinement with the Bureau of Prisons. The problems that exist there I have already pointed out.

Coordination for this program and all of its services is supposed to take place in the U.S. Department of Justice in Washington. It seems to me that based on the innumerable problems that people are presenting to me that they are unable to coordinate any of the services that have been promised to these people by the law enforcement agencies. Some witnesses have even indicated that once they had started their participation in the program, they have become very select as to who they are willing to testify against. Meaning that when they enter the program they intend to tell all and to testify against all that they know. Once in the program, however, and seeing how the program is carried out, they try to save their own skins by testifying against persons who they believe have less power than some others because they fear for their life. This being the case, coordinated quality services become very important. The thrust of this program was to destroy the hierarchy of organized crime. Based on the above outlined, lack of services, it seems that witnesses are being frightened off from testifying against the real power people and prefer to throw the weight on the lower echelon. This situation can severely restrict law enforcement authorities from breaking the back of the organized crime structure in this country.

RECOMMENDATIONS

1. I would strongly recommend that the original intent of Congress to open safe house facilities be immediately reinstituted and mandated.

2. That the U.S. Marshals Service create a specially trained unit of security officers to carry out the functions of providing for the health, welfare, and security of all persons entering the program.

3. Since the Federal Bureau of Prisons plays an important role in the program because many witnesses themselves are ultimately convicted and given prison terms that it too create a specially trained group of persons who have been carefully screened to do its job of providing for the health, welfare, and security of those in confinement and their visiting family members who have been relocated.

4. That the Federal Bureau of Prisons set aside at least two secure facilities to be used exclusively by convicted government witnesses. In doing so the Federal Bureau of Prisons could then live up to its constitutional obligations to those in custody and better serve their charges with rehabilitative services.

5. That a program be instituted whereby a government witness can enter into an educational or vocational setting that would prepare him or her to carry forward a new lifestyle when a new identity for them has been established.

6. That law enforcement agencies participating in the fight against organized crime be absolutely familiar with the total operation of the witness program so that it can make realistic promises to potential witnesses.

7. That special seminars be created and structured for all government witnesses and their families upon entry to the program. These seminars should include such topics as security, rules and regulations pertaining to participation, new identities, and all that it entails, new lifestyles, etc. At least then, a witness would know and understand what his or her problems will be and how to deal with complaints.

8. That a special oversight panel be created and made known to every person entering the witness protection program. This oversight panel could then monitor the overall operation of the program and be available to correct immediately a situation that places a witness in jeopardy. This panel should have authority over the Federal Bureau of Prisons as well as the Marshals Service and have the capability of investigating complaints of corruption and breaches of security in the program. In addition, this panel would review the entire case history of anyone leaving the program to determine whether or not it was a proper termination. I am sure that continuing recommendations from such a panel would insure ongoing quality services to the benefit of all concerned.

CONCLUSION

Obviously my testimony indicated many problems in the operation of this program. However, I stress the importance of shoring up this program because I recognize it as a valuable law enforcement tool. Any program as complex as this one will inherently have problems. As problems occur, they should be immediately corrected, rectified, and used as examples of how not to run the program. It is necessary that we all recognize that we are attempting to eliminate a very rich and powerful organized system of criminal activity that preys on the American people. It must be eliminated and the Government witness protection program and the Safe House Facilities Act properly implemented can bring us very near that goal.

Senator ABOUREZK. The final witness today is John Partington, Inspector, U.S. Marshals Service in Rhode Island.

Mr. Partington is here pursuant to a subpena issued by the committee.

The reason we wanted his testimony is that he has had extensive experience within the Marshals Service and has the reputation of being one of the more progressive thinkers in the area of witness protection.

I would like to welcome you, Mr. Partington. Please feel free to testify.

TESTIMONY OF JOHN PARTINGTON, INSPECTOR, U.S. MARSHALS SERVICE, RHODE ISLAND

Mr. PARTINGTON. Thank you, Mr. Chairman.

I did not prepare a statement today. I thought perhaps just questions and answers off the top of my head would be more appropriate.

As you can tell by now, this is not a very popular program. Everybody is unhappy, starting with the principal himself. He is removed from his lifestyle of a big house, a big car, and that environment. The wife is unhappy: no more hairdresser and country clubs. The children: last year of high school, boy friends; they are unhappy. The deputy is unhappy coming from across the country and spending 2 weeks away from home; their wives are unhappy.

The director himself is unhappy with all the complaints on a daily basis. He has a lot of other work to do besides handling the witness program.

We are dealing with a situation where the whole program circles around the social aspect of our job.

I would like to open it up with questions. I do not just want to ramble on.

Senator ABOUREZK. First of all, Mr. Partington, I want to ask you the same question I have asked other witnesses. Do you believe the

program is overused? Do you think there are too many witnesses in it? Are they testifying about minor offenses? Does the quality of the protection decrease drastically as a result of this overuse?

Mr. PARTINGTON. I do.

I think that, when the program started, we had probably one or two witnesses. We had time to service them. We learned by our mistakes. We had input from the witnesses themselves; they became our teacher. There was input from the deputy marshals.

Then the demands on the Marshals Service became too great all at once. People who were running the rest of their lives had a place to go. The Marshals Service proved that they could keep them alive. I would get witness after witness telling me they watched very closely to see if a witness would in fact remain alive.

We went into the Northeast. The best illustration I could use would be that the U.S. attorney's strike force, attorneys, case agents; they sell the cars, and we have to service them. We are selling 75 cars a day. With 80 hours in a day, you couldn't service the cars.

I think it is hard to set a quota on the program.

If a witness' life hasn't been threatened verbally or in writing, he could not get into the program. This is ridiculous. If I'm going to kill somebody, I'm not going to call and tell him; I'm going to do it. That type of thing.

The demands on the Marshals Service became too outstanding. We did not grow with the program. We became like a short-order cook: pick two up in New York; pick two up in Providence; pick two up in Boston. We were just not able to service these people.

I think that, if you are talking about priority, organized crime, there is the capability of checking into where a man may be relocated—looking up records.

In general crime cases, such as DEA cases, cowboy type cases, they do not reach out. If the people are available, they'll kill them.

I think that we are talking about probably a category, put in separate categories. For example, organized crime should be placed high priority. DEA cases should then be looked at.

Training was mentioned here. Training, of course, is on the job. It is something you don't get out of books. I started with the first witness in 1967 with no guidelines. I realize then—again, you are dealing not just with the body; you are dealing with the mind. You've got to bring that mind into the courtroom. We could give it the attention each day—very sensitive, very delicate situation.

The man was confined 70 years to life in jail. Now find yourself with 16 Federal marshals. His wife under 24-hour a day schedule. His family. We could give him the attention he needed.

But the program grew; the strike force grew in size; but U.S. Marshals Service did not grow with the program.

I think that some kind of a quota should be set. Like I say, it is not up to me to decide, but somebody high in Justice. It is absolutely necessary.

Senator ABOUREZK. Mr. Partington, before I ask any additional questions, I want to clear up something about your testimony.

Some of your colleagues have admitted to my staff that, if you testify fully and completely before the committee, it virtually will

end your career with the Marshals Service. I do not know if that is true or not. That is what some of your colleagues believe.

It has happened before to people who have become dissatisfied with a government program in which they work. Ernie Fitzgerald is one example of a guy who was saved only by the massive amount of publicity he received. Otherwise, he would have been fired years ago for talking about cost overruns in the Defense Department.

I think, human nature being what it is, it is natural for any bureaucracy, including the Marshals Service, to try to protect itself from criticism.

I just want to say that I do not know what might happen to you and your career after testimony. I have no illusions; you could just clam up, even under a subpena. You could come here and say nothing. You could just say you think the program is running fine and probably would be in no jeopardy.

But if you are threatened by the Marshals Service, I think the committee would be very grateful if you would let us know. We can try to assist you personally. In other words, we are offering some witness protection ourselves.

Mr. PARTINGTON. No; there have been no direct threats.

It is a very awkward position to be in. I started with the program. It's a personal thing. I watched it grow. I see a lot of success stories, things that weren't discussed here today.

Many years ago when the program started in 1967 we had the children. Today two are attorneys. We have a doctor. There's the other side of the coin, too.

But, as far as direct threats, no.

It is sometimes very difficult to talk to so many people involved here. I am talking about U.S. marshals. I am talking about the deputies on the job. I am talking witnesses out there. It is a very awkward position to be in.

I think that recently in the New York area where I would say 75 percent of the workload comes out of. I was sent there by our director recently and set up a metro unit and save the Government probably close to $300,000. The unit is working. We have a good workload. The men are being trained. We have a good supervisor.

It was the Director's office who decided to reorganize New York and word came from someplace between the chief and the top to return me to Rhode Island and keep me there.

That's the part that's frightening. Not only for me; I'm talking about the young deputies coming into this program. It takes so much of your life. It's not an 8-hour-a-day job. My phone rings Thanksgiving, Christmas, weekends. It is an everlasting thing.

I became maybe overinvolved; I don't know. But I see the results, success stories. I hear about all the bad stories here today. Some are true; there's no question about that.

We can take a case, say a high organized crime case in New York City. He was relocated, say, in Butte, Mont. He doesn't understand about the chain of command. If the witness killed Cock Robin 10 times, the U.S. marshal could care less. He has the Marshals Service to run and his judges to service. He has everyday chores to do.

The witnesses, of course; they are demanding too.

You take yourself, Senator. When you moved from South Dakota to Washington under the best conditions, I am sure what you went through was very bizarre: finding a house here, the children, probably the proper schools, doctors, insurance. There are so many things involved. I am sure it took quite a while.

Our people are told in 5 minutes' time, "You are going to relocate in another part of the country." It's almost impossible. When you start off on the wrong foot, it's not going to come up right, no matter how you slice it.

These witnesses look at us like we're airline pilots. If we make a mistake, they all lose. The witnesses also feel that Government put men on the moon and thus think Uncle Sam can do anything.

It's not true. We make mistakes. We tell them that.

I think that the initial contact with these people is most important. In talking with them, you don't become their friend. They're not looking for friends. They're looking for people to help them, solve their problems, get them to the witness stand. The bottom line is to testify.

I think starting with day one, the problems, from the time they go to a hold area, to the point of relocation—by the time they get there they have already turned the corner; they can't go back home. Who can they turn to but to the good guys. You can't go back to the wise guys.

They do get confused. What's their way out? They sue. They go to the press. They write books. They find themselves in a squeeze. This happens when they are relocated and not serviced properly.

There are too many courts of appeal in this case. A man gets in trouble, is relocated, no documentation. He starts with his case agent. He passes on to the U.S. attorney. The U.S. attorney calls Mr. Shur's office. Mr. Shur calls our office, our director. He calls in the chief security. He calls back out to get it done.

This type thing. We're back where we started.

There is so much to discuss, and I have a time gap.

Senator ABOUREZK. There has been some testimony about the need for a training program for a specialized force. I think you can probably speak about that as well as anyone. I would like to hear your thoughts as to what kind of training program ought to be instituted.

Mr. PARTINGTON. First of all, you are not dealing with Billy Graham. You are talking with people who are professionals. They know their business. We should know our business.

Like I say, they became my best teachers as to how capable they are. When they would kill a cop. Important questions to me.

I can pass it on to people who work in my area to run details. I have run hundreds of details since 1967. I handled over 500 witnesses.

I think that a training program, again, should deal with the social aspect of our job. That's where you start: dealing with the mind. Extensive training.

There is lack of communication. I am talking about the FBI agents to the U.S. attorney. The should be trained, too; not just the Marshals Service.

These people are wired. They come forward. It is almost to a point where it is rehearsed. They all request basically the same

things, but we're running two different programs. One is main Justice. If a man's life is threatened, he is accepted into the program. Second, there is the Marshals Service. Our guidelines are very strict and most become unworkable cases. Then there is the case agent out there doing his job. He knows the work involved in developing an informant.

When I became a policeman many years ago, I was told that is the best line of information.

We today have a program that should be expanded. It should go into the States. I get more calls from State police, from local police wanting to hear about the program: how hoes it work? How can they use this in their community?

We do not sell his cars. We do not buy him a house. Certain things. Now he has a choice whether to come our way or not.

But we get to them too late with a document of understanding. After they've already turned over, they better go along with us. They have no choice.

Senator ABOUREZK. What specific training are security specialists given now?

Mr. PARTINGTON. I recently attended a 4- or 5-week seminar in Georgia.[1] He had an instructor there.

Going back to 1967, what we used to do—we don't do it that way any longer.

The instructors are not equipped to teach the program. They don't know the program. They've never been in the program. They are getting——

Senator ABOUREZK. People who never have worked with the program are teaching marshals how it should operate?

Mr. PARTINGTON. My feeling at the academy was that we were there to pass on our expertise to all new inspectors. I have seen many inspectors in this program which, as I say, is a very unpopular program. One is dead: heart attack, 35. Out of 14, there are probably 7 success stories. Two are marshals and the rest, because of this job, the pressure, are no longer in the service.

I went to this school. It was input type thing. You pass on information and kick it around. The instructor was there to learn too.

Maybe it's a start. Maybe if we pass on our mistakes and pass on our war stories, then we can develop the instructor to tell them what's out there.

But, to my knowledge, people—some of the people maybe had limited experience with security; I don't know. Maybe one or two details. But certainly not going into the family, the family problems, the documentation, everyday problems.

Senator ABOUREZK. Does the training program go beyond physical security? What about the fact that a marshal must be a social worker in addition to a specialist in physical security?

Mr. PARTINGTON. I have never been to our 13-week school; I don't know. I have never been there, Senator. I just know that the seminar I attended recently with new appointed security specialists. We cannot do all things.

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[1] See p. 80 of the hearing text for a discussion of that training seminar and exhibit 19, p. 81 of the appendix.

Senator ABOUREZK. Do you find that, because the program is overcrowded and because of the lack of training, the Justice Department, including the Marshals Service, is anxious to get witnesses out of the program and to have them sign releases as soon as their testimony is completed?

Mr. PARTINGTON. That is correct.

I find that, once they relocated in a temporary relocation, it is almost laughable. They work so hard to develop this principle—he is in our program probably a month or two and we are out with our papers to terminate him. I believe in a fair termination.

It was testified this morning. This man may not have even testified on a case yet, and we terminate him.

How do you terminate a man that has no documentation or limited documentation? These people, you know, just don't drop out of the sky.

You get to an area. The neighbors are curious. The employer certainly is curious. People ask questions. They should be told what to say. A background for employment, for example. Find an apartment house. "Where are you from?" "I can't tell you." References: "I can't tell you." Where did you work before: "I can't tell you." And that type of thing. Where do you start?

These are the things that we are talking in training that have got to be told in the relocated area. For example, we have many people in the Northeast, security specialist in the pickup area. But, unless you have proper documentation, you cannot get a job. If you cannot locate a job, the program does not work.

Senator ABOUREZK. How many people, to your knowledge, work in the documentation section in the Marshals Service?

Mr. PARTINGTON. Approximately two.

Senator ABOUREZK. Two people for 2,400 witnesses?

Mr. PARTINGTON. That is correct.

Senator ABOUREZK. That's hardly enough; is it?

Mr. PARTINGTON. Absolutely not.

You are talking about manpower. I am sure that—I learned a long time ago to work with the tools you have. That is what you have to do.

Where it backs up, it's not fair to the people coming into the program. They don't know these things; nor do the case agents, in fairness to them.

An assistant U.S. attorney I worked with a few cases testified earlier that a man coming in from Florida was placed in a jail. DEA agents handled him. The Marshals Service was not equipped. A verbal threat. Down the road who suffers by all this?

One hand doesn't know what the other hand is doing. There is a lack of communication between all departments.

For example, our documentation girl, she has to rely on social security people. They have a backlog of work, I'm sure. They don't just drop a pencil and pen and say we'll give it what you want.

We take documentation over right away, their identity. We take them to another area. Then they have no identity. If they are picked up by the police, there is no social security card, no drivers license, no identity.

Senator ABOUREZK. How many people work in headquarters on job assistance?

Mr. PARTINGTON. I would say one, maybe two; I believe we have two now.

Senator ABOUREZK. And that's not enough, it is?

Mr. PARTINGTON. Absolutely not.

I tell you this, Senator. I think that the Marshals Service has taken a few punches here today. I think they have taken an impossible program—an almost impossible program—and, under very trying conditions, have fulfilled the bottom line. We had not one person killed.

I think that is a plus for our service, too.

Senator ABOUREZK. Do you think that the Marshals Service takes this program seriously enough to try to make it work?

Mr. PARTINGTON. You are talking about life and death. The reason these people are in this program is because their lives have been threatened. You have deputies coming in from far away places who have no idea what organized crime is or what they are up against——

Senator ABOUREZK. Mr. Partington, I am talking about headquarters, not the field agents themselves. I am talking about the headquarters people.

The reason I asked that question is that I have been sitting here watching people in the room from the Marshals Service headquarters staff. They think it's funny every time you make a response to a question about how bad the program is. They've been sitting back there chuckling every time one of the other witnesses talks about the danger to some of the witnesses and how the Marshals Service lets things go by.

I am just curious to know whether they think the testimony is funny, or they just don't take the program seriously enough? Which is it?

Mr. PARTINGTON. Oh, I think they take the program seriously. We have men in this room that are very capable security men. In fact, I know one——

Senator ABOUREZK. With a great sense of humor. I have to say that.

If they take the program seriously, why do you believe they did not devote the necessary staff to run it?

Mr. PARTINGTON. I guess you will have to ask them, Senator.

Senator ABOUREZK. I will.

Do you believe there ought to be a specialized force? Do you believe, as one witness testified, that the manpower should be contributed by all the agencies involved such as the FBI, the DEA and so on?

Mr. PARTINGTON. No. I believe that the Marshals Service—we know our problems. We know the answer to the problems. We have capable people out there.

Senator ABOUREZK. What do you think ought to be done?

Mr. PARTINGTON. We just discussed—I say training. Get the right people in the right places. Not only depending on how many you have; it's getting the right people in the right place to do the job.

For example, starting in with the program, when a man is taken into this program, in main Justice, the reason they are accepted into

the program is because there has been a threat to their life. They have a memo in front of them that states that the man has had four or five major massive heart attacks. He has five children. His house has to be mortgaged.

That is the part I feel bad about. We really don't take time with these people. We hide them from their bills. That is not fair. It is not fair to the gardener or the milkman or people like that.

But the program is then approved because there is a threat. Then it comes to our department. We know that it is not a workable case. We spend all my time on workable cases. If I could have people passed down to us who are workable, then the program would be off the ground.

But this man will never work. He is not equipped to work. It is handed down to our level on our grade. We have lawyers in the Department of Justice. We have lawyers in our Marshals Service. We are out there making these decisions on legalities as well.

It is almost, like I say, in reverse. We are supposed to be the specialists. We are the ones before they are approved that should be looked at very closely; are they workable? And that is the problem. You are getting that threat. The Safe Streets Act says that any man whose life has been threatened has a right to be protected. That is very, very broad.

I think that you have got to have laws changed and have better guidelines. As soon as it is sent over from main Justice, their job is over. We are working the impossible case.

Ms. EMSELLEM. Isn't it the value of a person's testimony which should determine his entry into the program. As such aren't your most unworkable cases usually your most valuable witnesses?

Mr. PARTINGTON. Repeat that please.

Senator ABOUREZK. You said that, if it is an unworkable case, the witness ought to be discouraged from coming into the program. But, shouldn't it be the value of his testimony not how tough it is to take care of him that determines whether he is admitted?

Mr. PARTINGTON. I'm sorry; I did not mean exactly that. I meant to say that, if it is an unworkable case, then in Justice Department, there it should be decided: What in fact can be done with these people? What is fair? What is fair to them is fair to the Government.

Not to let them cross over into our service knowing that no way can you service these people.

I am saying that, if a man has been threatened whether he killed the President or killed a punk in the street. You can't just shy them off. You have a right, under the law, to be protected if you are going to give testimony.

I am saying on the level of the Department of Justice, this is where the breakdown occurs.

Senator ABOUREZK. When witnesses are first brought into the program, how is the program explained to them? Who explains it? Do you think the explanation is adequate? Is someone overpromising?

Mr. PARTINGTON. That word "promise" is not in my vocabulary.

I think that, when it starts, the case agents starting there—the FBI, DEA, what have you—being fair to them, they will make the remark that the marshal will take care of everything.

It goes to point two. The U.S. attorney is involved in the case. His concern is he is spending more of his time answering phone calls. He has problems with other witnesses that he can't get off the ground to do his present case. The U.S. attorneys should have an appointed assistant U.S. attorney who has full knowledge of the program. He should act as liaison between all agencies and witnesses.

I think this is where the breakdown is: from the U.S. attorney to Department of Justice. If we had a specialist sitting there to go over every item, then you stop most of your problems. And the witness would come into the program.

But everyone sees the goal line. Case agents want to make that case. U.S. attorneys want to prosecute. A score card. And we are stuck with what's left, with the problems.

That is where the program is not fair. It is not fair to the witness. It is not fair to the Marshals Service. We take what is left when it is all over, after all the headlines go by. We are stuck with this witness which should not have been taken into the program in the first place.

Senator ABOUREZK. I think we have covered every area that we wanted to cover with you, Mr. Partington.

I want to express my thanks for your coming to testify today. As I say, you were subpenaed. Only you know how fully a person can testify under those conditions.

Mr. PARTINGTON. Exactly.

Senator ABOUREZK. We are very grateful to you for coming to this hearing.

Mr. PARTINGTON. Thank you, Senator.

Senator ABOUREZK. The next hearing is Thursday at 9:30 a.m., in room 5110 of this building.

I would like to thank all witnesses for their appearance and their testimony.

The hearings will recess.

[Whereupon, at 11:55 a.m., the subcommittee was recessed to reconvene on Thursday, March 23, 1978.]

WITNESS PROTECTION PROGRAM

THURSDAY, MARCH 23, 1978

U.S. SENATE,
SUBCOMMITTEE ON ADMINISTRATIVE PRACTICE AND
PROCEDURE OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to recess, at 9:35 a.m., in room 5110, Dirksen Senate Office Building, Senator James Abourezk (chairman of the subcommittee) presiding.

Present: Senators Abourezk and Thurmond.

Staff present: Irene Emsellem, chief counsel and staff director; Diana Huffman, counsel; Robert Nichols, counsel; Robert Lyon, minority counsel, office of Senator Thurmond; and Alfred Regnery, minority counsel, office of Senator Laxalt.

Senator ABOUREZK. The hearing will come to order.

OPENING STATEMENT OF SENATOR ABOUREZK

Today, the Subcommittee on Administrative Practice and Procedure resumes its oversight hearings on the Justice Department's witness protection program.

At the first public hearing Monday, and during an executive session held earlier with several protected witnesses, the subcommittee heard numerous complaints about the operation of the program. However, I want to emphasize, that without exception, each witness also stressed the importance of the program. Time and again, witnesses told the subcommittee that without the witness program, organized crime prosecutions would be severely hampered and in some cases precluded. But the subcommittee was also told that extensive reforms were needed to improve the administration of the program.

Specifically, several witnesses testified that witness protection should be handled by a specially trained dedicated force within the Marshals Service or under a separate agency. Under current procedures, deputy U.S. marshals must serve process, transport prisoners, and guard courtrooms, in addition to protecting and servicing witnesses. With an average of two new witnesses being admitted to the program each day, many felt that the program should be the sole responsibility of those assigned to protect witnesses, with no outside duties.

In addition, several witnesses expressed concern about the poor quality of training provided marshals in connection with this program. For the most part, the training involves instruction in protective techniques. While this training is absolutely essential, phys-

ical security is only one aspect of the program. Protected witnesses also must be relocated, redocumented, given job assistance, and funded. Special skills are needed to carry out these functions and to help relocated families adjust to their new lives. But the subcommittee repeatedly was told that most marshals who handle witnesses have no training in these areas.

The plight of witnesses immediately after their relocation was described graphically to the subcommittee. One witness told of sleeping on the floor in a house with no furniture for several weeks. Another reported that all his furniture and belongings had been lost by the Marshals Service. And because of his participation in this program, he had to accept a settlement equal to less than one-third of the value of the lost property.

Numerous instances of delayed and inadequate documentation have also been brought to the subcommittee's attention. Without proper documentation, witnesses are unable to locate employment and, as a result, Government funding continues far longer than necessary. Several witnesses also claimed that few protected witnesses are given any meaningful job assistance by the Marshals Service.

Finally, the subcommittee heard testimony about security breaches within the program. Several protected witnesses related instances of arriving in the danger area and finding no marshals there to meet them. Witnesses testifying at the public hearing complained that the new names and locations of witnesses are often bandied about by deputies. Two witnesses spoke of the special security dangers faced by prisoner/witnesses housed on special floors of Federal prisons.

Today the subcommittee will explore these problems and some possible solutions with representatives of the Justice Department, U.S. Marshals Service, and the Bureau of Prisons.

In addition, the hearing will focus on several policy issues including the effect of the witness protection program on society and the question of whether a witness ever is "out of the program." Finally, the subcommittee wishes to discuss the findings and recommendations of the Justice Department's own review of the program.

Our first witness today is Hon. Mark W. Hannaford from the 34th Congressional District in California.

Congressman Hannaford, we appreciate your appearance, and we want to welcome you to the subcommittee.

TESTIMONY OF HON. MARK W. HANNAFORD, U.S. REPRESENTATIVE FROM THE STATE OF CALIFORNIA

Mr. HANNAFORD. Thank you, Mr. Chairman.

I appreciate this opportunity to appear before the subcommittee this morning. I am pleased that at least one arm of the Congress has determined to look into the apparent inept management by the Justice Department of what could be an invaluable tool in the fight against organized crime. Mr. Chairman and members of the subcommittee, let me say at the outset, I think we need a witness protection program. But we need a witness protection program that is properly administered and does a thorough job of supervising its charges. This subcommittee has already heard ample testimony that the Justice Department has failed at both tasks.

On October 22 of last year, a young man named Steven John Bovan was murdered in front of a popular restaurant in Newport Beach, Calif.[1] It was soon determined—although not without great effort on the part of area police departments—that both the victim and two of his alleged assailants had some previous or current involvement in the witness protection program. Local press outlets began to speculate that this incident was typical of others reported from around the country in recent months. Some persons were concluding that a concentration of these supposedly protected individuals was developing in southern California and that criminal elements were rekindling old friendships and renewing past alliances as a consequence.

I was skeptical at first, but a visit I arranged with a Justice Department official on November 30 drew such an immediate response that my doubts were allayed. I was informed on the same day that Justice would not permit additional witnesses to relocate into a seven-county area of California for a 1-year period.[2] Incidentally, Mr. Chairman, I would hope that that period would be extended.

Indeed, Associate Deputy Attorney General Larry Gibson freely admitted that there were more protected witnesses living in Los Angeles and Orange Counties than in any other section of the United States. The States of Florida and Arizona were suffering from a similar glut, although theirs was not as severe.

According to Gibson, it was not until 1974 that the Justice Department began steering its protected witnesses into new locations of its own choosing. Up until that time, witnesses and their families were free to select the placement of their new homesites. And even after 1974, witnesses were not prohibited from settling into areas having known concentrations of other protected witnesses.

Mr. Chairman, this lack of reasonable control on the part of the Justice Department has created some major problems for the witnesses themselves and for the residents of communities which are playing host to unknown numbers of these individuals, not all of whom are the cream of society.

First off, it is sheer folly to transport persons hundreds or even thousands of miles on the premise that they will be escaping their former business associates, only to place them in an environment in which they are almost certain to be seen and discovered by those they are seeking to avoid. Were I to be considered as a program participant, this would be my first and foremost concern. Relocated witnesses should not be given the option of bumping into each other—or possibly bumping each other off—at the local supermarket.

But just as important is the worry that many of the witnesses are choosing to "blow their own cover" by contacting others who are involved in the program or who still have ties to organized crime. The heretofore sloppy administration by the Justice Department would make it easy for a witness to receive a monthly stipend from the Federal Treasury while he or she reestablished criminal contacts, all under the sometimes watchful eye of the U.S. Marshals Service. While many of the witnesses, I am sure, are using wisely this golden

[1] See exhibit 12, p. 178 of the appendix.
[2] See exhibit 13, p. 179 of the appendix.

opportunity to make a new life for themselves, the temptation to return to a life of crime must be irresistible for some.

I have no concrete evidence to suggest that a "new Mafia" is constituting itself in California or in any other part of this country. I am saying, however, that lax policies with regard to the relocation of witnesses has created a condition which deserves much closer scrutiny than that which has been afforded it thus far.

Mr. Chairman, my most serious concern is for the law-abiding citizens who live in areas having a high density of protected witnesses. Because of the Federal Government's negligence, these persons now are beginning to suspect the identities and activities of some of their neighbors. And the behavior of some relocated witnesses, I might add, justifies their suspicions. There is the always present danger that real criminal characters seeking revenge on their associates turned informants will be stalking these otherwise peaceful communities, jeopardizing the safety of innocent bystanders.

I was somewhat disturbed, Mr. Chairman, when I received a copy of the Justice Department's report yesterday that there was a single one-paragraph mention of the excess concentration program to which I am testifying this morning. I would hope that they would give careful attention to this problem.

Senator ABOUREZK. Congressman, if I might interrupt you for a moment, let me say this. In our experience since we've gotten into this question, we have found that the Justice Department, like most bureaucracies, is doing its best to cover its own hael and will gloss over things, such as that and many other serious problems in this program. It will not accept criticism very readily.

Mr. HANNAFORD. I appreciate that comment, Mr. Chairman. I guess that's the reason that you and I are here, to see to it that they receive a fair share of such criticism.

This has caused somewhat strained relations between the local law enforcement agencies and the U.S. Marshals Service in my area. In the *Bovan* case which I mentioned earlier, the Marshals Service was extremely reluctant to assist the Newport Beach and Orange County police officers in their investigations. So, Mr. Chairman, I do not have the answers. I do hope that they do give more attention to this error in their ways and continue the moratorium. The monitoring should be done more carefully. I think they have admitted that they have been much too loose in monitoring. Of course, even if they discontinue sending witnesses into my district of southern California, the fact that you have a high concentration of them there constitutes a magnet to draw others to their past associates.

I thank you for the opportunity to appear before you this morning.

Senator ABOUREZK. We want to thank you very much for the testimony and for your appearance here. We appreciate it.

I think that you might remind some of your House colleagues of these severe problems. It would be helpful especially for those on the Judiciary Committee. Are you on the Judiciary Committee?

Mr. HANNAFORD. No; I am not. This came to my attention because of the fact that the incident occurred near my district.

Senator ABOUREZK. I see.

Well, we appreciate your testimony.

Mr. HANNAFORD. I appreciate the fine work that you and your staff are doing on this.

[The prepared statement of Representative Hannaford follows:]

PREPARED STATEMENT OF REPRESENTATIVE MARK W. HANNAFORD

Mr. Chairman, I appreciate this opportunity to appear before the subcommittee this morning. I am pleased that at least one arm of the Congress has determined to look into the apparent inept management by the Justice Department of what could be an invaluable tool in the fight against organized crime. Mr. Chairman and members of the subcommittee, let me say at the outset, I think we need a witness protection program. But we need a witness protection program that is properly administered and does a thorough job of supervising its charges. The subcommittee has already heard ample testimony that the Justice Department has failed at both tasks.

On October 22 of last year, a young man named Steven John Bovan was murdered in front of a popular restaurant in Newport Beach, Calif. It was soon determined—although not without great effort on the part of area police departments—that both the victim and two of his alleged assailants had some previous or current involvement in the witness protection program. Local press outlets began to speculate that this incident was typical of others reported from around the country in recent months. Some persons were concluding that a concentration of these supposedly protected individuals was developing in southern California and that criminal elements were rekindling old friendships and renewing past alliances as a consequence.

I was skeptical at first, but a visit I arranged with a Justice Department official on November 30 drew such an immediate response that my doubts were allayed. I was informed on the same day that Justice would not permit additional witnesses to relocate into a seven-county area of California for a 1-year period. Indeed, Associate Deputy Attorney General Larry Gibson freely admitted that there were more protected witnesses living in Los Angeles and Orange Counties than in any other section of the United States. The States of Florida and Arizona were suffering from a similar glut, although theirs was not as severe.

According to Gibson, it was not until 1974 that the Justice Department began steering its protected witnesses into new locations of its own choosing. Up until that time, witnesses and their families were free to select the placement of their new homesites. And even after 1974, witnesses were not prohibited from settling into areas having known concentrations of other protected witnesses.

Mr. Chairman, this lack of reasonable control on the part of the Justice Department has created some major problems for the witnesses themselves and for the residents of communities which are playing host to unknown numbers of these individuals, not all of whom are the cream of society. First off, it is sheer folly to transport persons hundreds or even thousands of miles on the premise that they will be escaping their former business associates, only to place them in an environment in which they are almost certain to be seen and discovered by those they are seeking to avoid. Were I to be considered as a program participant, this would be my first and foremost concern. Relocated witnesses should not be given the option of bumping into each other—or possibly bumping each other off—at the local supermarket.

But just as important is the worry that many of the witnesses are choosing to "blow their own cover" by contacting others who are involved in the program or who still have ties to organized crime. The heretofore sloppy administration by the Justice Department would make it easy for a witness to receive a monthly stipend from the Federal Treasury while he or she reestablished criminal contacts, all under the sometimes watchful eye of the U.S. Marshals Service. While many of the witnesses, I am sure, are using wisely this golden opportunity to make a new life for themselves, the temptation to return to a life of crime must be irresistible for some.

I have no concrete evidence to suggest that a "new Mafia" is constituting itself in California or in any other part of the country. I am saying, however, that lax policies with regard to the relocation of witnesses has created a

condition which deserves much closer scrutiny than that which has been afforded it thus far.

Mr. Chairman, my most serious concern is for the law-abiding citizens who live in areas having a high density of protected witnesses. Because of the Federal Government's negligence, these persons now are beginning to suspect the identities and activities of some of their neighbors. And the behavior of some relocated witnesses, I might add, justifies their suspicions. Too, there is the always-present danger that real criminal characters seeking revenge on their associates-turned-informants will be stalking these otherwise peaceful communities, jeopardizing the safety of innocent bystanders.

The announcement that protected witnesses will not be brought into southern California during the next year was a welcome concession from the Justice Department, but it cannot achieve the dispersal of those witnesses who are already residing there. Nor can it serve to repair the strained relations between local law enforcement agencies and the U.S. Marshals Service which, in the *Bovan* case I mentioned earlier, was extremely reluctant to assist Newport Beach and Orange County police officers in their investigation.

Mr. Chairman, I thank you once again for your courtesy. I obviously do not have the answers in this matter, but I certainly hope the Justice Department finds them soon.

Senator ABOUREZK. We thank you.

I would like to ask the Justice Department panel to come up to the witness table, please.

I would like to ask if you would all stand and be sworn?

Do all of you solemnly swear that the testimony you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

[Chorus of "I do's" by seven witnesses.]

TESTIMONY OF BENJAMIN R. CIVILETTI, ACTING DEPUTY ATTORNEY GENERAL; GERALD SHUR, ATTORNEY IN CHARGE, INTELLIGENCE AND SPECIAL SERVICES UNIT; WILLIAM E. HALL, DIRECTOR, U.S. MARSHALS SERVICE; ARTHUR DANIELS, CHIEF, WITNESS SECURITY DIVISION, U.S. MARSHALS SERVICE; JULIE P. DUBICK, GENERAL COUNSEL, U.S. MARSHALS SERVICE; NORMAN CARLSON, DIRECTOR, BUREAU OF PRISONS; AND SHIRLEY O. STUTELY, ADMINISTRATIVE OFFICER, POPULATION CONTROL BRANCH, BUREAU OF PRISONS

Senator ABOUREZK. Mr. Civiletti, do you have any particular order that you would like the witnesses to make their statements in?

Mr. CIVILETTI. We're at your pleasure, Mr. Chairman.

I do not have any prepared statement myself. Mr. Carlson has a prepared statement and Mr. Hall has a prepared statement.

If you would permit me, I would be glad to make some introductory remarks concerning the witness protection program and more particularly an overview, so to speak, of some of the balances that are struck within that program, and the need for improvements in the administration of the program, and how beneficial, I hope, the hearings that you are conducting will be in making those improvements.

Senator ABOUREZK. Mr. Civiletti, if it would be all right with you, then I would like to proceed in the following manner. We have the Marshals Service's prepared statement and have some questions prepared based on that statement. Beginning with the Marshals Service,

I would ask that everyone summarize their prepared testimony and then, of course, we would like to propound questions.

Mr. CIVILETTI. That's fine.

Mr. HALL. Mr. Chairman, I would like to thank the committee for inviting the Marshals Service to testify during these hearings on the Department of Justice witness protection program. The purpose of the witness protection program is to insure the life and safety of the witnesses and their families who are threatened because of the witnesses' cooperation with U.S. and organized crime prosecutions. The program provides its participants with physical security relocation and redocumentation, job assistance, medical care, and temporary financial service.

These functions and the organizational units of the Marshals Service which oversees the execution of these functions are described in detail in the written statement which I have previously submitted to the committee, and which I request be made a part of the record.[1]

I don't want to repeat the entirety of the statement, but I do wish to provide the committee with a brief analysis of the program's accomplishments to date.

First, we must never lose sight of the primary purpose of the program. The Marshals Service has done an exceptional job in securing the physical safety and protection of the witnesses. Clearly, security problems are extremely rare, contrary to allegations made by some program critics.

We are not, however, complacent about the documented lapses and are constantly endeavoring to improve our system.

However, we believe that the record of successes that we have compiled in this program demonstrates that the security program is sound. Problems have arisen in nonsecurity areas. We readily admit that.

Since becoming Director of the Marshals Service in May 1976, I have taken a number of steps to correct these deficiencies.

The two most important corrective actions were the addition of a substantial group of security specialists assigned full time to witness protection activities, and the overhaul of the witness security division at our headquarters.

Primarily, the Service has experienced difficulties in providing documentation on a timely basis and securing employment for witnesses. While documentation services have been hampered in the past, we are steadily improving our capability in this area.

At this point, I am confident that we can provide essential documentation needed by protected witnesses.

I feel that employment assistance must be provided by locally assigned personnel.

Accordingly, employment assistance will be vastly improved by the addition of the above-mentioned security field specialists.

On a related point, I would note that allegations of unsympathetic treatment of witnesses by Marshals Service personnel has been exaggerated. In fact, the Service receives more communications from witnesses praising marshals and their deputies than complaints about improper treatment.

[1] See p. 90 of the hearing text for the entire statement.

Unfortunately, the complainers have gathered the attention of the media while the good deeds of our personnel have largely gone unrecognized.

Anecdotal relations of experiences by witnesses do not prove an adequate basis for assessing the vitality of our program and our personnel. The only fair method is a survey of those in the program. We believe that our constant improvements in the program have borne fruit and the Department's review bears this out. Most witnesses responding to the Department's survey responded that the program was worthwhile, and that they would be willing to participate again. The surveys indicate that there are still difficulties in the program. We admit this, and we intend to address these problems in a sympathetic way.

I firmly believe that the program is fundamentally sound. This is due in large part to the active cooperation and support of the marshals and their deputies who have risked their lives to assure the protection of witnesses.

With their continued support and dedication, I am confident that will effect what we have started.

Thank you, Mr. Chairman.

Senator ABOUREZK. Do we have another statement from anyone on the panel before we get into questions?

Mr. CARLSON. Mr. Chairman, I have a prepared statement which I have submitted. With your permission, I would like to submit it for the record and briefly summarize, if I might.

Senator ABOUREZK. Certainly. Without objection, the statement will be entered in the record in its entirety.[1]

Mr. CARLSON. Senator Abourezk and Senator Thurmond, the Bureau of Prisons' involvement in the witness protection program began informally back in 1970. At that time, the Criminal Division in the Department of Justice asked us to provide supervision for a group of offenders who had testified in other criminal matters.

From the very beginning our involvement has only been with those who have been convicted of, or charged with, a Federal criminal offense. The more formal program was begun in the fall of 1974 when we opened the Metropolitan Correctional Center in San Diego. At that time, one housing unit was set aside specifically to handle some of the top witness protection cases we were then dealing with.

Since that time, we have opened two other units in Metropolitan Correctional Centers, one in Chicago and one in New York City.

At the present time, Senator, we have approximately 125 inmate witnesses under protection in the Bureau of Prisons. All of these cases have been referred to us by the Criminal Division and by the U.S. attorney's office in the respective districts. Following referrals, a determination is made by our staff as to where these offenders should be placed while in Federal custody. In reality we use three different means of separating and protecting these witnesses. The first is to assign some to the various Bureau of Prisons institutions across the country where we feel they will be safe or they will be secure during the service of their sentence. In addition, we contract with some State and local correctional facilities so that they are not handled in the Federal system, but rather are placed in a State prison

[1] See p. 98 of the hearing text for the entire statement.

system, or in some cases, in a local jail situation. Thirdly, we use the three Metropolitan Correctional Centers that do have safe-house units, as I have mentioned. There is one in San Diego, one in Chicago, and one in New York City.

Let me comment briefly on the Metropolitan Correctional Center units because I think those are the ones that have been of most interest to the committee. First of all, let me say that we attempt to provide as much freedom and privileges as we possibly can to those offenders who are assigned to these units. We obviously don't want to penalize them and discriminate against them simply because they are in a protected situation.

But by the same token, we do try to provide additional security, so we do have the problem of balancing between the two conflicts. On the one hand, we give them as much freedom and privileges as possible, and on the other hand providing as much security as we possibly can during the sentence that they are serving.

There have been some suggestions that we set aside a single institution and house all the witness protection cases in only one institution. We disagree with that notion for several reasons, Mr. Chairman.

First of all, it would geographically remove many inmates far from their families and be prohibitive in terms of family visitations.

Second, it would result in problems in terms of separating some of the witnesses from one another so that we would have some witnesses that could not be housed in the same institution as others.

Third, we think that one single institution would present a very serious security consideration or security problem because it would locate all of the witnesses at one single location, rather than the present system which does disperse them over a number of separate facilities.

That's a brief summary, Mr. Chairman, of my statement. I will be happy to answer any questions you or the committee might have.

Senator ABOUREZK. Permit me to interrupt for a moment. We had testimony at last week's hearing from a witness who said that in the Metro Center in New York, somebody had prepared a list of protected witnesses giving their names and which cells they were located in. The list apparently was Xeroxed and laying around all over the place. In fact, he handed us a copy showing cell numbers and where they would be located.[1]

Perhaps you would want to comment on that?

Mr. CARLSON. Mr. Chairman, I was not here when that witness testified. I believe, however, Mr. O'Connor is the witness. To my knowledge, and to our knowledge, he obtained that list from inmates on the unit. He was on the unit and talked to inmates, and to the best of our knowledge, that's where he obtained the lists. There are lists that are prepared by the staff, but those are carried only to the warden's office and the two other offices, and they are kept in a very secure-type facility.

Senator ABOUREZK. He testified that he had found it lying around on the tables.

In fact, I am informed that one of our committee investigators also found it lying around.

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[1] See discussion, p. 39 of the hearing text, and exhibits 9 and 9a, pp. 29 and 30 of the appendix.

Mr. CARLSON. Was that on the unit itself, or in other parts of the institution?

Senator ABOUREZK. It was in the unit.

Mr. CARLSON. I was not aware of that, frankly. We will look into that.

Senator ABOUREZK. I only raised that just to point up the difficulty in getting the government to admit that there might be the slightest thing wrong with the witness protection program.

I want to say this. For my own part, I'm not here and the subcommittee is not here—and I can speak for Senator Thurmond also—to try to embarrass anybody or to try and pin undue blame on anybody for anything. What we are trying to do is this. We see a severe problem in this program, and we are trying to straighten it out. We hope that you accept this in that spirit.

As politicians, we all try to avoid criticism as much as we can, to try to make ourselves look as good as we can. But being politicians is not serious business. What you're doing is serious business. We would hope that you might accept the criticisms that are levelled at you by other witnesses through this committee, and do what you can to try and straighten out the program rather than saying, "We didn't do anything wrong."

That kind of attitude eventually polarizes things and makes it difficult to institute changes.

Mr. CARLSON. I appreciate your comments, Senator, and I assure you we will take corrective action.

As I tried to point out in my summary, however, there is a balancing between providing the utmost security and, by the same token, providing the inmates with a reasonable degree of privilege and freedom. That's the conflict that we have inherent in any operation of this type. We are cognizant of the fact that there are some deficiencies. I will look into them personally.

Senator ABOUREZK. Mr. Carlson, I think it takes a bit of imagination on the part of the people who are running this program to figure out how to do both. Perhaps it takes a little more imagination than has been exercised in the past. There are probably places other than Metro Centers to keep protected witnesses.

It was suggested last week that perhaps bases—military bases—could be good places which are fairly secure. You could have another compound of sorts, or a safehouse within those confines. That is just one idea that I brought up last week. I am sure there are many, many other ideas that are better than that.

I would like to get into some questions now.

Excuse me, Senator Thurmond, do you have a statement you would like to make at this point?

OPENING STATEMENT OF SENATOR THURMOND

Senator THURMOND. Thank you, Mr. Chairman. I would like to make some brief comments about the subject of this hearing.

First of all, I want to express my appreciation to Congressman Hannaford and to the officials from the Department of Justice who are here today, for appearing before this subcommittee.

The witness protection program has emerged as one of the foremost weapons in the fight against organized crime and racketeering in America. My own career in the Senate has been concurrent with the

growth of governmental efforts toward an organized program of crime prosecution. From the 1954 creation of the Organized Crime Section in the Justice Department to today's oversight hearing, I have followed closely and with great interest the progress of our efforts in this area. The continuation of these efforts is, I think, essential. Obviously, faults in some of these programs will arise. Such is the case, it can be argued, in the one which we are presently considering. But I would add at this point that deficiencies can be expected in a program over which there has been no congressional oversight, and which involves literally thousands of people and millions of dollars.

The chairman of this subcommittee, Senator Abourezk, is to be commended for his extensive efforts in focusing on the problems which have arisen in the witness protection program.

Finally, I would like to take this opportunity to commend Mr. Gerald Shur, attorney-in-charge of the Intelligence and Special Services Unit of the Organized Crime and Racketeering Section of the Justice Department's Criminal Division, and Mr. William Hall, Director of the U.S. Marshals Service, for their continued efforts in a largely thankless task.

I want to point out some particular facts relative to the U.S. Marshals Service's contributions. First, it can be safely said that the bottom line objective of the program—providing safety for those individuals in danger of death or injury because of cooperation with the United States—has been accomplished. There is no direct evidence that any participant met his death due to a failure of marshal protection. Next, when polled, a vast majority of program participants expressed satisfaction with the security measures undertaken. Third, understaffing and monetary problems have plagued the documentation and employment efforts of the program. The situation has improved to a degree, but more help is needed. Finally, a major reorganization and reallocation of resources is absolutely necessary in order to iron out program inconsistencies.

It appears to me, after reviewing the testimony of all the witnesses, that one major objective that should be pursued by policymakers, both here and in the administration, is the improved education and training of program personnel. Whether these persons be marshals, or special witness protection experts, I think that the more that is done in this specific area, the better.

Dealing with these witnesses, their families, and their personal problems is possibly a task for one with a social science background. On the other hand, a crime investigation background is essential when working with broader program objectives.

It is my hope that a solution can be reached in the near future on this thorny issue, and I sincerely hope that this program continues successfully.

I see Mr. Civiletti here this morning. I want to thank him for his interest in this program.

Senator ABOUREZK. Thank you, Senator Thurmond.

Mr. Hall, in your written statement[1] you say that you feel strongly that some action must be taken to reduce the number of admissions. You say that you believe the program has grown much faster than the resources have. How would you go about limiting admissions,

[1] See p. 96 of the hearing text.

through a quota system, or would you establish other criteria for limitations?

Mr. HALL. Mr. Chairman, my understanding of the original intention of the program was that the witnesses taken into the program would be limited to those of significant concern to prosecutions involving organized crime. I think that we must restrict witnesses, in most instances, to that type of witness. Whether it be done by a quota system or by more selective screening, I do not have that answer. But I do feel that we must put a limitation upon the witnesses coming into the program.

I think to do otherwise would be self-defeating to the program. So I certainly agree that there must be some restriction.

Senator ABOUREZK. Have you perhaps been briefed on the testimony that has been given to this subcommittee in the last few days?

Mr. HALL. I have heard some briefings, but not in depth.

Senator ABOUREZK. While you say that the primary objective is to protect the lives of witnesses—and certainly nobody could argue with that—isn't the central thrust of this program to not only protect their lives but to convince witnesses—members of the organized crime families, and so on—that it is in their interest to participate in the program; that not only will their lives be protected, but they will be able to find some kind of employment, and their families will be reasonably secure. Would that be also part of it in your view?

Mr. HALL. Absolutely. If I might allude to a comment that was made earlier, I would like to say this.

I do not want it to be said that I do not feel that mistakes have been made in the program because I certainly agree that there have been mistakes. In some cases there were reasons for those mistakes. In others, perhaps, there were not.

I certainly subscribe to the view that these hearings and the report of the Justice Department and anything else that is meaningful and significant to improving these programs is certainly worthwhile.

But, insofar as your question is specifically concerned, of course, this is important. To bring witnesses into this program and to not offer them a new start and to be callous about their welfare, is certainly not our intention. I know it is not the intention of anyone associated with the program.

Senator ABOUREZK. Would that not be an important part of the program, that is, to make sure that they feel secure, not only in their lives but in their employment and their psychological well-being? I'm talking about after they have finished their testimony.

Mr. HALL. Absolutely.

Senator ABOUREZK. In that regard, I would have to say that the investigation of this program conducted by the staff of the subcommittee shows that the deputy marshals and marshals, who are involved out in the field, have done an excellent job in protecting the lives of the people. I don't think anybody can argue with that. I think they ought to be commended for it.

We see the problems arising with the headquarters staff, the people who are supposed to be taking care of documentation, and the people who are supposed to take care of job assessments, and things of that

nature. We find that one thing the marshals are trained for is protecting the lives of people. That is part of law enforcement work. But they are not trained to be sociologists. They are not trained to be documentation experts or case workers.

So, in the course of this investigation, we do not see really anything wrong with the way the lives are being protected directly, except that when you fail in documentation efforts, and you do not help these people get jobs and so on, then that, in essence, is a failure to protect these witnesses that you brought into the program. It is a failure in the respect that if it gets around, then people will say, "Well, I don't want to come into the program. If that's going to happen to me, then I don't want in it." Word gets around, as Congressman Hannaford has testified. Witnesses run into each other, they get together, and they talk. When they are concentrated in one or two or three areas, as it appears is the case, that inevitably will happen. So, you will find more and more difficulty with this problem.

I have to say that I kind of agree that the program is being overused. I think we have to have some kind of a limitation on it.

In your testimony you also said that you have added additional security specialists, and you've also added additional employment assistance people. Is that correct?

Mr. HALL. That is correct.

Senator ABOUREZK. How long have they been working?

Mr. HALL. They have not been working.

Senator ABOUREZK. You mean they are not added yet? Is that right?

Mr. HALL. Let me respond in this way.

At the inception of this program in the early 1970's, the approach taken by management of the service was to use the specialists concept, whereby people, dedicated to the program, would work full time to get the job done.

After several years, this concept was modified and changed, and the concept was changed to a generalist concept where almost all members of the service would participate in the workings of the program.

I feel that this was a mistake. I feel that it is necessary, in retrospect, to say that it does take a specialist to handle this type of problem. You cannot delegate it to all areas of the service, that is, people who would work part time in the program today, as you alluded to in your statement, I believe, change and work court security tomorrow, or some other facet of our program. So I think that it is necessary that we go back to some type of situation where the people working the program are dedicated to the program, and work, if not full time, almost full time, in the program. We are in the process of doing that.

We have presently advertised 71 positions throughout the United States. These positions, when they are filled, will be dedicated to the witness security program. This will be their primary function.[1]

Hopefully, this will alleviate much of the concern that we've heard expressed here. These people will be better enabled to procure jobs at a local level for the witnesses, and because they are working full time, they will be under close scrutiny by the headquarters staff as to their performance of their responsibilities.

[1] See discussion, pp. 67 and 114 of the hearing text.

Senator ABOUREZK. Mr. Hall, on page 15 of your prepared statement,[1] you say that there are six case managers assigned at the headquarters level. You also say that there are 71 security specialists in judicial districts around the country.

What you are saying now is that you have yet to hire these people. You have hired them, but they have not started work. Is that right?

Mr. HALL. The positions advertised are in the process of selection.

Senator ABOUREZK. You haven't filled them yet?

Mr. HALL. No. Not all of them.

Mr. Chairman, 26 positions have been filled and are on location.

Senator ABOUREZK. You say 71 are in existence.

Mr. HALL. Seventy-one positions are advertised.

Senator ABOUREZK. You don't say that in your statement.

Mr. HALL. The correct interpretation would be that 71 positions have been advertised or filled. Of the 71, 26 have been filled and are in place.

Senator ABOUREZK. Do you have any idea when the rest will be filled?

Mr. HALL. The closing of the advertisement was March 13, and the positions are now being graded, and the selections should be done within the next several weeks.

Senator ABOUREZK. I would like Mr. Civiletti to comment on this question. It is a policy question that I think he will have to deal with. This is the primary purpose that we had asked for Mr. Civiletti's appearance at this hearing, it is very important.

Mr. Hall, you have said just a few moments ago that you changed your views on whether there ought to be a specialized, dedicated, well-trained service dealing with witness security. I think it is fair to say that you used to think there should not be a specialized service but that it ought to be a general service drawn from marshals around the country. You now think that perhaps it would be a better idea to have a specialized trained service consisting of people who do nothing else but witness protection.

Is that your statement?

Mr. HALL. Let me make this observation.

When I say that the perspective has changed, I am speaking of the Service perspective. I personally have felt that the specialist concept probably is a better way, since our involvement with the program. It was not the view of the management, that is, the senior management, of the service at the time that the perspective was changed. They felt it should go to the generalist concept. There is still a great deal of diversity of opinion within our service as to whether or not this is correct. But I can say that I do feel that the specialist's concept is the correct answer.

Senator ABOUREZK. Mr. Daniels, what is your view of that?

Mr. DANIELS. Mr. Chairman, as you probably realized, I am a short timer in the witness program. However, during that period of time, I do feel that we need a specialist's concept. That is why I recommended a specialist's concept to Director Hall.

Senator ABOUREZK. Is that what is being set up now, or is that yet to come insofar as planning is concerned?

[1] See p. 94 of the hearing text.

Mr. DANIELS. That is what is being set up at the present time.

Senator ABOUREZK. You mean a specialized dedicated force that will do nothing but witness protection?

Mr. HALL. These 71 positions will be dedicated primarily to witness security.

Senator ABOUREZK. What do you mean by "primarily"?

Mr. HALL. If there is work to be done in the witness security area, this will be given the top priority by these positions.

Senator ABOUREZK. Will they do other work?

Mr. HALL. It is possible that if there should be a lapse in the workload for these 71 positions, they will be called upon to meet other responsibilities.

Senator ABOUREZK. The subcommittee staff's investigation has found that everybody who is involved in this program is hopelessly overworked as it is because of the tremendous caseload. You have 2,400 people that you are taking care of. You really do not have enough people right now to handle it.

Mr. HALL. I agree with that. I am not saying that I don't think they will be gainfully occupied full time, but neither do I want to say that if circumstances in the future change that I will be locked into the position where I could not use these people in other work if this situation changes.

Senator ABOUREZK. Let me ask this. How many deputy marshals do you have to use in this entire nationwide program right now? I'm talking about man-hours per month, or whatever way you've figured it out. I know you rotate them around so that you cannot say that one guy does the same thing all the time.

Mr. HALL. Approximately 178.

Senator ABOUREZK. People?

Mr. HALL. Yes.

Senator ABOUREZK. That would be full-time people if you counted them altogether?

Mr. HALL. That's not full time. That is workyears. If you take the workyears of all of the people in the Marshals Service, as applied to this specific program, the number of workyears should be greater than 178.

Senator ABOUREZK. Let me ask this a different way so I can understand what workyears means to you and to me.

If you had people working full time on this and doing nothing else, how many people would you be using in the witness protection program for 2,400 witnesses?

Mr. HALL. All I can give you is the same answer.

Senator ABOUREZK. You mean 178?

Mr. HALL. Yes.

Senator ABOUREZK. So then if you are going to have 71 specialists, security specialists, and 6 case managers working on it, you are about 100 people short.

Mr. HALL. There are others in the headquarters staff who are not included.

Senator ABOUREZK. How many?

Mr. DANIELS. Senator, at the headquarters staff, in addition to the six case managers, we have five resource analysts for documentation,

employment, movement of household goods, medical, and mail forwarding services.

Senator ABOUREZK. Is that six for each area or one for each area?

Mr. DANIELS. We have the six case managers for the entire program.

Senator ABOUREZK. Are they full time?

Mr. DANIELS. Yes, they are.

Senator ABOUREZK. Do you rotate new people in every so often?

Mr. DANIELS. At the present time, three of those positions have been filled on a permanent basis. The other three are now rotated on a 2-week basis and those advertisements have closed on March 3. They are now being graded and should be selected with three permanent people being added shortly.

Senator ABOUREZK. I want to be more specific in this area. You say you have six case managers.

Mr. DANIELS. Yes.

Senator ABOUREZK. You say three of them are being rotated. How often are they rotated?

Mr. DANIELS. Every 2 weeks.

Senator ABOUREZK. Where are they being rotated from?

Mr. DANIELS. From the 94 judicial districts.

Senator ABOUREZK. So different deputy marshals are coming in from the field offices to be case managers every 2 weeks. They don't know anything about the people in the program or their problems, and they have to find out about them. When the witnesses themselves call in for a case manager, they get a new one virtually every time they call, don't they?

Mr. DANIELS. Not necessarily, Senator. The people whom we have requested to come in are people who have worked in the program as contact deputy marshals in the district.

Senator ABOUREZK. But they are different every 2 weeks, aren't they?

Mr. DANIELS. Yes, they are.

Senator ABOUREZK. There is no way to guarantee that there is any continuity in this case manager program, is there?

Mr. DANIELS. In those three positions, that is correct.

Senator ABOUREZK. How long have you had the other three positions permanent?

Mr. DANIELS. When I came into the program on May 31, 1977, we had six case managers at that time. Some of them were replaced, and one individual, who was on board when I came aboard, is still there. The other two positions were filled last fall.

Senator ABOUREZK. They were per[illegible]nent as of last fall?

Mr. DANIELS. Yes.

Senator ABOUREZK. What month?

Mr. DANIELS. I would have to check my records, but I think it was in November of last year.

Senator ABOUREZK. After the investigation started by the Justice Department of your program, is that right?

Mr. DANIELS. That is true. However, in all fairness, the positions had been announced sometime prior to that.

Senator ABOUREZK. When you say that you had other specialists who were handling moving and documentation and so on, name the other areas they handled, please.

Mr. DANIELS. In documentation, the two people in that section handled the documentation.

Senator ABOUREZK. How many people do that?

Mr. DANIELS. Two.

Senator ABOUREZK. What is the other area that you have there?

Mr. DANIELS. Employment.

Senator ABOUREZK. How many there?

Mr. DANIELS. Two.

Senator ABOUREZK. What is another area?

Mr. DANIELS. There is one resources analyst who handles the movement of household goods and medical and mail forwarding services.

Senator ABOUREZK. Movement, medical, and mail forwarding is one person?

Mr. DANIELS. Yes.

Senator ABOUREZK. Who else?

Mr. DANIELS. That is it.

Senator ABOUREZK. That is five people.

Mr. DANIELS. Five people.

I might add, Senator, that in addition to those five people they are assisted by the field in the employment and, to a degree, in documentation.

Senator ABOUREZK. Who are the people in the field who assist them?

Mr. DANIELS. The contact deputy marshals in the districts.

Senator ABOUREZK. Those are the people who are totally untrained in that area? Is that right? You don't have any people who are trained in documentation, for example, out in the field, do you?

Mr. DANIELS. No, sir. We do not.

Senator ABOUREZK. Is anybody in headquarters trained in documentation?

Mr. DANIELS. The one lady who was in documentation when I took over had been there for some time. I do not know what her formal training is.

Senator ABOUREZK. So you have one person who may be trained, and you're not certain about that.

Mr. DANIELS. That's right.

The second documentation expert, if you want to call it that, came aboard recently, and she is receiving on-the-job training. However, she had worked with documentation prior to being selected.

Senator ABOUREZK. You could hardly call her an expert, is that correct?

Mr. DANIELS. That is correct.

Senator ABOUREZK. Do you believe that you ought to have people who are thoroughly trained in these areas to handle all the cases in order to avoid any major problems?

Mr. DANIELS. I would like to say, Senator, that the two people in documentation, in my estimation, are doing a very good job.

Senator ABOUREZK. Is that enough people do you think?

Mr. DANIELS. No, sir.

Senator ABOUREZK. How many people do you think you would need in documentation?

Mr. DANIELS. I have recommended that we have five people in documentation to handle the current workload.

Senator ABOUREZK. Was that recommendation accepted?

Mr. DANIELS. It has not been at this time.

Senator ABOUREZK. Why not?

Mr. HALL. I would like to respond to that.

Senator ABOUREZK. Please do.

Mr. HALL. Of course, I have been well aware of the fact that the Department of Justice had done an in-depth inquiry into the program. Naturally, I want to have the value of their recommendations before restructuring the program.

I have now the recommendations of the Department. I am fully prepared to implement the recommendations of that report. The report indicates that we need more documentation specialists. We will provide more documentation specialists.

Senator ABOUREZK. Say that again, please.

Mr. HALL. We are prepared to add documentation specialists.

Senator ABOUREZK. Do you have a backlog of documentation work right now?

Mr. HALL. Yes.

Senator ABOUREZK. How far back is it?

Mr. HALL. I don't know how far, but it is significant.

Senator ABOUREZK. So you believe you might need some additional people?

Mr. HALL. Of course we do.

Senator ABOUREZK. Do you intend to, perhaps, put them on?

Mr. HALL. Yes, I intend to.

Senator ABOUREZK. When would that be?

Mr. HALL. As soon as possible.

Senator ABOUREZK. When does that mean, tomorrow?

Mr. HALL. I received my final copy of the Department's report recommending it this week. I am now prepared to authorize an advertisement for these positions. As soon as the advertisements can be filled, they will be filled. It will be immediate.[1]

Senator ABOUREZK. I see.

Mr. Civiletti, the policy question I would like to ask you is this. It seems obvious to the subcommittee, and to me personally, that this program is totally understaffed at headquarters, and the staff that is in place at headquarters is totally undertrained for this kind of program. Furthermore there is absolutely no training for marshals out in the field for anything except law enforcement work which might include just direct protection of the witnesses' lives from physical attack.

Do you believe, as a matter of policy, that there ought to be, first of all, a dedicated force of marshals doing nothing but witness protection and working as caseworkers and as documentation specialist, et cetera, who are well trained and who are called upon to do nothing else in the Marshals Service, such as serving process and court security and so on?

What is your view on that as a matter of policy?

[1] See exhibit 26, p. 226, of the appendix, which outlines staff changes made subsequent to this hearing.

Mr. CIVILETTI. As a matter of policy, I think that the specialty of the training and the expertise of the individuals ought to follow the functions they are expected to perform. It does not seem to me that you need a deputy marshal trained in security work, and in protection, and in firepower, and in escapement routes, and things of that kind, in order to do the documentation, for example, or to do the headquarters employment work, or even to handle medical requirements of witnesses.

So I think that the specialization of the individuals ought to follow the function that they are being asked to perform.

With regard to field people, it seems to me that the marshals that are being asked to be either the security specialists or, if that is a new name for what was formerly the contact deputy marshals, then they ought to be fully trained because they are going to be called upon in the field, and they are the point of communication. They will be called upon to perform more than security to these individuals which requires all of the peacekeeping kind of talent and training that you need. They will also be called upon to have some employment skills, at least a basic knowledge and understanding of human problems as well as physical security problems.

So, those people probably ought to have the best training and the most all-around training, and they ought to stay in the program, if possible, or they ought to be asked to stay in the program for a sufficient period of time so that the benefits can be gained by their training and experience and it can flow into the program.

I do not know enough about the program. I have not studied the report to know, nor have I, based on the recommendations in the report, gone back to the Marshals Service for the practical impact on the deputy marshals of a permanent, absolute staff, let's say, forever.

I do not know whether the narrowness of the job would be such that the quality of the person willing to take the position would suffer, or whether some minimum period of commitment, let's say, 2 or 3 years, before rotation were to occur on a staggered basis, would be sufficient. I just do not know enough to make that judgment.

As a general policy, I think specialty training is needed, and I think a substantial commitment to the program, rather than a shuttling system, is the wiser course.

Senator ABOUREZK. I think you have put your finger on it. You don't have to put anybody in there forever. But I think you have to have somebody who is dedicated to this kind of work. When it is foisted off on field deputy marshals who have gone into the service for some other purpose, they don't like the program and do not do a very good job.

Mr. CIVILETTI. That is correct.

Senator ABOUREZK. You have to have people who know what they're getting into. You don't necessarily have to keep them in forever, as you said.

Let me bring up one other thing. I think Mr. Civiletti has to go soon, so I want to get to this particular question although I wasn't really ready to get to this now.

One of the things that we found in the hearings, that is, in the closed hearings that we had with the protective witnesses themselves,

was this: With each one of these witnesses we found that very soon after their testimony was completed, or very soon after they were relocated to a different place, even though there were security problems there and documentation problems—very serious ones—the Marshals Service came around with a release form. Prior to entering the program these people had been led to believe they would be helped by the Marshals Service as long as they needed help. Yet the Marshals Service quickly came around with the release forms asking witnesses to sign and release the government from responsibility for the program under the threat that the Marshals Service would withhold their monthly compensation if they did not sign.

It is a terrible thing. People are paranoid. They are very insecure. They are threatened. They feel that their families are threatened. That's why they went into this program in the first place.

To have somebody from the government come around and say, "We're going to abandon you now" is very frightening.

I wonder, as a matter of policy, Mr. Civiletti—and I would like to ask Mr. Hall to speak on this a little later if he wants to—but as a matter of policy should the government be doing this to people who have gone into the program for protection?

Mr. CIVILETTI. On the facts that you describe, no.

Senator ABOUREZK. How long do you believe the commitment ought to be for protection of these witnesses?

Mr. CIVILETTI. That gets to a difficult judgment. I do not know that there is a finite point that you could draw.

It seems to me, generally, that it must be basic in this program that there be a clear understanding what the government promises, and what the witness therefore expects. There should be a clear understanding as to what the witness promises, and that should be reduced to writing in a memorandum of understanding and be explained by lawyers as well as marshals.

Thereafter, with regard to subsistence, and with regard to employment, and with regard to termination of services, there comes a time when the commitment thereby reached has been fulfilled. That would be through grand jury proceedings and trial testimony on the witness' part, and he has given his true testimony.

For the government's part, you have documentation which has been provided and transfer and movement has been arranged, and subsistence has been provided, and several job opportunities, or whatever, have been provided. At that point, when there is no renewed threat or risk to change the facts entered into at the time of the agreement, the agreement would come to a stop. A person who is now living a new life, and is in a new community, no longer should abuse the program by being kept on subsistence, and the government should not abuse him by dragging him back into further inquiries as to what he has already fulfilled.

At that point, it seems to me, that there is an official ending of the obligations undertaken and contemplated by both the parties at the time that the program was begun for them.

However, if in the future there is some other development, some renewed risk to this individual, not caused by some conduct, and some additional threat to his family which is realistic, then, it seems to me,

not only would the witness protection program, but any other government operations that we participated in, that there exists an obligation to explore and investigate and undertake to determine whether that risk can be prevented.

However, we are not in the program, as I understand it, to provide social service for life, nor can we possibly provide, or be expected to provide that—and therefore I certainly hope we do not promise this—that we are providing perpetual security care for witnesses and their families for the rest of their days. But the time when that comes, the time when the mutual obligations have been fulfilled, depends on the particular facts of the case, and the continuing obligation on the part of the government is dependent upon new risks which have arisen because of the testimonial obligations which this witness has fulfilled.

But if the witness, for example, goes back himself into the fringes of crime in his new community, like bookmaking, or gambling, or some other operation, and creates new and independent risks, the Marshals Service is not there as his bodyguard in those activities. Nor, if the witness gets into disputes with his neighbors, as some people do, and threats are made, the Marshals Service is not there to protect him in that connection either.

It is only where, I would think, the new risks or new facts are derived from his testimonial obligations which he undertook and fulfilled, which would cause the Marshals Service then, and the Government then, and the Justice Department to trigger a continued or reassessment of what has been done or should be done.

Senator ABOUREZK. As a matter of principle, Mr. Civiletti, that is a good principle, but it is not being practiced in the present program, as we have found out.[1]

Let me give you a hypothetical case which, in fact, is an actual case. One of the protected witnesses we interviewed was not a member of organized crime. He was a citizen who uncovered a fraud scheme and reported it to the FBI. He was asked to participate in that scheme by the FBI. Later on he testified against the people who were later convicted. His life was threatened, and he was taken into the program. In effect, he was trying to be a good citizen.

Once in the program he got a job through the help of the marshal who was working with him in that area. The marshal went to his prospective employer and said, "Don't ask about his background." He could not document his background because he did not get the kind of documentation help he needed.

He held the job until the business where he worked changed owners. He and the new owner did not get along so he is now out of a job.

It was about the time he lost his job that the marshal came around with the release. This guy—and this happened a month or two ago—is frightened to death. He is frightened to death that he is going to be found out. When he tries to get another job—and he has tried—each time he is asked about his background, he cannot cover it. He cannot show documentation.

[1] See exhibit 14, p. 181 of the appendix for the Marshals Service explanation of its release form policy.

There were a number of things that happened like this. Take the social security number. He and his wife and kids were in a sequence, which is unrealistic.

Mr. CIVILETTI. I heard about that. I heard about the circumstances of the serial numbers of social security numbers that were issued, which seems to me to be incredibly dumb.

But with regard—I thought you were going to relate a different set of facts. With regard to the facts that you related, I assume that in that situation what he is really fearful of is discovery because of a failure to have proper documentation.

Senator ABOUREZK. That's right.

Mr. CIVILETTI. Rather than a renewed threat or telephone call or funny note, or one of those kinds of things.

Senator ABOUREZK. That's right.

Let me interrupt for a moment. The people who went to prison as a result of his testimony are now starting to be released from prison. He is living now not far from where they will be living when they are released.

Mr. CIVILETTI. Let me say two things regarding this.

One is that the documentation ought to be obtained, and obtained promptly. We will make another effort to get him a job or help him obtain a job based on proper documentation.

The second thing is that if he is living in what will become a high danger area because of the location of the felons who are being released, then he may be a candidate for second removal. We have relocated persons, to my understanding, in the past in the program where some untoward developments occurred which legitimately put those people in risk as a result of their participation in the evidence-giving function of the program. They have been relocated a second time.

You have to be careful, however, that it's not a ruse and a guy likes California so much so that he gets his preference there.

It seems to me that you ought to get one fresh start which would be documented well, and administered well, and with much understanding; the uprooting is a terrible thing under any circumstances. With the added anxiety and fear the people have because of their giving testimony and being under fear of harm or bodily injury or death to them and their families, it is a particular unsettling thing.

One fair chance with some sympathy and good documentation and an honest effort for employment, and subsistence until you get on your feet during the course of the testimony is what they should give.

Then, at the end of that—and hopefully everybody has fulfilled their obligations by then—then you are on your own to make a go of it unless you get a newly developed circumstance which puts you into new risks.

I think, myself, as a matter of principle that the Government would be well benefited if, within the first 4 months of the relocation, or 6 months, they concentrated their efforts not only on security during that period, but if they concentrated their efforts on documentation and employment that would be good.

With those two things satisfactorily resolved early on, the chances of a successful growth in the new community and becoming a useful

citizen improve immensely, as opposed to a person or family which has gone into a fragmented situation for 8 or 9 or 10 months.

Senator ABOUREZK. This particular witness has requested a second relocation and has been refused by the Marshals Service. When we talked with him, he was in a highly agitated state. He was having problems with his family. They were very psychologically disturbed about the whole question and very frightened.

I might say this. While you may have a point on the termination date for subsistence payments, there is a problem with regard to terminating protection services. The release form that is given witnesses shortly after their first relocation says that the release includes the end of protection services as well.

I do not know that you would agree that that ought to be the case. I deduce that from your earlier testimony.

But that is what the release says.

Mr. CIVILETTI. I do not know that the release is the right thing to do. It does not seem to me that it is the individual's choice anyway as to the protective services on why he should release. It is an honest good faith judgment that ought to be made by the Marshals Service pursuant to the agreements undertaken in the first place as to when the intensive protective services are terminated along with subsistence. So the individual doesn't have to release the marshals.

Senator ABOUREZK. The marshals are asking that though.

Mr. CIVILETTI. I would guess that the release said some other things. It released from "any obligations, contract, commitment, or understanding heretofore arrived at," or one of those blanket releases.

Senator ABOUREZK. I read the operative paragraphs.

It is suggested upon termination of protection of the witness, the U.S. Marshals Service obtain a release from further obligation in a form similar to the following.

This is a letter to me from Ms. Dubick.[1]

The undersigned forever releases the U.S. government or its agents from any further responsibility for protection or any disbursement of government funds in connection therewith from and after blank date. The undersigned further certifies that no other promise of protection for financial assistance by the U.S. government or its agents has been made and he understands that none will be forthcoming.

That's to be signed by the witness. If you would like to see it, I would be happy to have somebody hand it to you.

Mr. CIVILETTI. I am not terribly troubled by the release except for one part, and that is that it seems to me that there ought to be acknowledgment within the release of the right of the witness in the event of a derivative risk to seek the protection of the Marshals Service. That ought to be acknowledged in there.

But on the existing facts, at the time, there ought to be perhaps an understanding, which this amounts to, on the Government's part that they are not calling on this witness for further obligations, and on the witness' part that he is relocated and he has been given job opportunities and has received subsistence and that he has not been under any fear or danger and he releases the Government from any continuing obligation. I should understand that, with the exception that I mentioned.

[1] See exhibit 14, p. 181 of the appendix, for entire letter.

Senator ABOUREZK. Do you not think it might be more beneficial to the Government of the United States and to the witnesses if there were some sort of agreement in writing in advance of the entry of the witness into this protection program which would say the things that you intend to say?

Mr. CIVILETTI. Absolutely; yes.

Senator ABOUREZK. And have that agreement explained in simple layman's terms to those people who are not lawyers.

Mr. CIVILETTI. Yes; I think that is essential to any meaningful successful witness security program. There should be an understanding. I think the memorandum of understanding was revised in 1977.[1] It was designed to do that. Unfortunately, when we try to sit down and put everything in language, it gets away from what you and I would try to put in layman's terms and in simple terms so that it could be readily understood. So, in addition to the document, there probably ought to be a confidential booklet which would continue to explain or describe the program in some fashion and that the witness could have, at least for a short time before he destroyed it to prevent detection or inadvertently leaving it about, so that he and his wife could understand and read it at leisure. This would help them understand the program.

But the memorandum of understanding, or the agreement up front, so to speak, is the basic fabric of the program. People ought not to be coerced or be induced into the program except for the provisions and careful explanations of those terms and understandings.

Senator ABOUREZK. Would that not preclude the need for a release form in any event; that is, if it were adequately explained and if there were an agreement signed at the outset? Under the agreement it said that under certain conditions the subsistence payments would stop and so on. However, a physical security protection program would be available if it were derivative from the original testimony. This would be available forever.

Mr. CIVILETTI. It might be.

I don't know. I have to think about whether a mutual release would be appropriate. I don't like the one-way release myself. There perhaps could be a mutual release. The Government could release the witness from obligations and the witness could release the Government, except for the things we have discussed already.

Senator ABOUREZK. Of course, once the testimony is given, the witness has no further obligation in any event. He or she has fulfilled their obligation.

Mr. CIVILETTI. I do not know that the prosecutors tell the witness at any particular point during the course of the investigations, for instance, where he has extensive knowledge: "You testify in one or two places, and that's it." I think they say: "You agree to testify that to the extent of your knowledge when needed by the Government in grand juries and trials," and therefore I think there is a lingering uncertainty in the witness' mind that ought to be clarified as soon as possible. He should be formally notified that his obligation has been completed. That is not easy to determine by the prosecutor or the witness all the time.

Senator ABOUREZK. May I summarize your position as follows? Please correct me if I'm wrong. You believe there ought to be a dedi-

[1] See exhibit 29, p. 230 of the appendix.

cated service of people who volunteer for this program with a tenure of service to be determined by the Justice Department on a reasonable basis. You believe that the training program ought to be thorough and adequate to handle all segments of this program, such as physical protection, documentation, moving, job help, et cetera, et cetera; that is, everything that might be needed to make it run smoothly or as smoothly as possible. And you believe—I don't know if you spoke to this or not, but do you believe that there ought to be some admission limitation to major cases rather than bringing everybody in?

Mr. CIVILETTI. Yes, sir.

Senator ABOUREZK. Do you think there ought to be adequate funding for this specialized service?

Mr. CIVILETTI. Yes, sir. My only quarrel with your good summary of the things that I do believe in, and would hope to be able to implement within these principles which you have stated, and also the recommendations of the report, is this. You use the term or adjective "volunteer." I think they ought to be willing; that is, the people who are the employees and who are devoted to the program ought to be willing and they ought not to be brought in against their will. But "volunteer," I am not sure of that.

Senator ABOUREZK. We don't disagree. They should be interested in the program.

Mr. CIVILETTI. Yes.

Senator ABOUREZK. Can we expect then that this particular policy would be implemented within a very short time in the Justice Department?

Mr. CIVILETTI. I have learned a few things since I've been in the Government for a year and several months. I have not learned many, perhaps, but one of the few things that I have learned is this. What I expect is a "very short time" turns out, when I see all the rules and regulations and red tape, to be what I would consider to be quite a medium time. So I waffle on the answer to that specific question. I will try and do it as soon as possible.

The report is on[illegible] have asked for what I think is a long time but others tell me it's [illegible]rt time, for responses to the recommendations in the report. I h[illegible]sked for 40 days for people to respond within that time to the rec[illegible]iendations.

Certainly the policy behind what you have summarized, I would think, could be adopted very quickly.

The implementation of that policy may take some time.

Senator ABOUREZK. May I rephrase the question?

Can we expect that you will begin the process of adopting this policy immediately?

Mr. CIVILETTI. Yes, sir.

Senator ABOUREZK. Your budget request for the coming fiscal year [1] virtually cuts the program in half insofar as funding is concerned. Were you aware of that?

Mr. CIVILETTI. No, sir.

Senator ABOUREZK. I made a mistake. I want to give you the exact figures, so let me look at this for just a moment.

[1] See exhibits 15 and 16, pp. 184 and 187 of the appendix for the authorization request for fiscal year 1979 for Justice Department fees and expenses for witnesses and for the Marshals Service witness protection activities.

Mr. CIVILETTI. In 1977 it was six and six. Direct cost was $6 million, and service costs were $6 million, roughly, I think, Mr. Chairman.

Senator ABOUREZK. The mistake I make was on the amount of funding itself. What you are doing is cutting the funding by $673,000. Your figure for this year was $5,383,000, and you've proposed cutting $673,000 from that for the coming fiscal year.

Have you requested that half the number of witnesses be admitted, based on that funding figure?

Mr. CIVILETTI. I was going to ask whether the cost cut, or anticipated cut, was in indirect, I mean it is a direct support cost, or was it in the indirect service cost?

I could see the wisdom of anticipating for fiscal year 1979 the adoption of a policy of more careful admissions in the most serious cases, and therefore a kind of drop would be there.

I do not see the wisdom, with the long way we have to go in improving what we do, a reduction in the indirect costs of personnel.

Senator ABOUREZK. One of the points I would want to make is this. Apparently you base this cut, and this figure, on the draft report which the Department of Justice has completed. Yet, the draft report is just that. It is a draft and it has not yet been adopted. But you base your budget figure on that.

It seems to me to be a bit premature to have any kind of a cut. Perhaps even an increase in an appropriation might be better than cutting it at this point, until you see what you might need.

You might discover, as you get into the program, that you need to spend more money on specialists and training programs. I am talking about a thorough training program. You do not have that now. That would make costs considerably more.

So, it would seem to me that that was a mistake in judgment if Justice really intends to go into this program thoroughly, that is, more thoroughly than you have to this point.

Mr. CIVILETTI. I have no comment since I have no depth of knowledge about the cut. I have no comment on your observation, since I have no knowledge or depth of knowledge about the $300,000 cut.

Senator ABOUREZK. That's $600,000.

Mr. CIVILETTI. I do not know, for instance, if the Department of Justice might well have said, "We need a certain increase," and then when challenged on the figures and our anticipated directions in the program, fiscal analysts may not have said, "Indeed you ought to have a significant reduction." I do not know those factors.

Senator ABOUREZK. Maybe Mr. Hall could tell us.

Mr. HALL. It is my understanding that the cuts that you are alluding to, Senator, do have in mind a reduction or a capping of the number of witnesses coming into the program.

As far as the Marshals Service is concerned, I do not believe we have asked for any reduction. We are holding with what we have the previous fiscal year. We feel we do have, already, the resources to do the training which I would like to discuss later on.

Senator ABOUREZK. You have adequate money?

Mr. HALL. Yes, we will have adequate money to do the training.

Senator ABOUREZK. Mr. Civiletti, I think we have explored thoroughly everything that you and I were able to explore. If you have to move on, we thank you for your appearance.

Mr. CIVILETTI. Thank you, Mr. Chairman. It was a pleasure to appear here.

Senator ABOUREZK. I thank you.

Mr. Hall, did you want to discuss the training program in more detail?

Mr. HALL. We have had a general discussion on it; I think it would be appropriate if I gave you my thoughts on the training.

Senator ABOUREZK. Please do.

Mr. HALL. With the change from the generalist concept to the specialist concept, I feel that, of course, we are going to have to change our whole perspective on training.

In the past, we tried to give all people who were associated with the program general training.[1] With the coming of specialization, we are going to have to do in-depth training of these people who are dedicated to the program. I propose to do that.

We have just completed a short orientation period for the 26 people who have just come into the program. That is all that it is. It is an orientation program. We propose to have more of that.

But, if we are going to have specialists and call them that and let them act as such, then, of course, we're going to have to give them specialized training. I propose to do that just as soon as possible.

Ms. HUFFMAN. You alluded to the fact that you had the orientation; I think the subcommittee staff was told that it was the training. It is our understanding that there is a minimum amount of time spent on such things as how you document witnesses and how they adjust to their new life. Are you now saying that the 1-week course they went through in Georgia was not their training, and if so, when will their extensive training take place?

Mr. HALL. This, in my view, is an orientation for the 26 people who have just come into the program in the specialist concept. Blended with this were people who have been in the program for a good many years. I do not consider this in any measure—and I hope no one from my service has told you this—that this purports to be the final training. That's not so.

Ms. HUFFMAN. When will the final training take place, and what will they do? What will it include?

Mr. HALL. I hope that it would include in-depth training in all facets of their responsibility. I would hope that it could be done in this fiscal year.

Ms. HUFFMAN. Could you be more specific?

Mr. HALL. I understand that when the entire 71 people have been brought aboard, that the in-depth training will take place. It is presently scheduled for October. Hopefully, we can move it forward.

Ms. HUFFMAN. What will the curriculum be, specifically?

Mr. HALL. I cannot tell you at this time because the curriculum is not ready.

Ms. HUFFMAN. It has not been set at all?

Mr. HALL. No.

Ms. HUFFMAN. Would you forward that to the subcommittee when it is set?

Mr. HALL. Of course.

[1] See exhibit 17, p. 191 of the appendix for curriculum of U.S. Marshals Service basic training program.

Senator ABOUREZK. Without objection, the record will remain open to receive this information.[1]

Ms. EMSELLEM. No manual has been established as yet, has it?

Mr. DANIELS. Is that in regard to training?

Ms. EMSELLEM. Yes.

Mr. DANIELS. No manual has been set and none has been prepared. We were waiting, like most everybody else, for the departmental report before we set policy guidelines as such, and published orders for the people who would be working in the division.

Ms. EMSELLEM. It seems a bit unusual that you have documented a need for more people, you have brought some people on since October and November, and yet you keep saying that you are going to wait for the departmental report before you revise your procedures.

Isn't it a bit inconsistent to identify a need and yet do nothing until the departmental report comes out, especially when the draft report's recommendations reinforce your own findings.

Mr. DANIELS. I did not say that we were not going to do anything. We did have a brief training period or orientation period, whichever you wish to call it. I specified, myself, that we should have only 1 week. I did it for a reason.

When I came into the program, we had seven specialists throughout the country. There was an urgent need for more specialists.

As soon as those additional people came on board, I wanted to give them some training. In the process of bringing new witnesses into the program and getting them relocated and in security, we had a need there. I felt that 1 week would be sufficient to get these people out into their areas of responsibility and start bringing the program back up.

It was not the intent of myself nor of the Marshals Service to say that that was their training.

Ms. EMSELLEM. What did that week's training consist of?

Mr. DANIELS. It consisted of orientation for the people who had never worked in the program, of how to bring a witness into the program, sitting down with the witness' family and completing a memorandum of understanding and securing employment background information, and so on. We taught them how to relocate the witness from the danger area and provide security for the witness and his family.

Ms. EMSELLEM. Did you have any kind of a program manual for that week's training?

Mr. DANIELS. The training division had a curricula. I did not see the entire curriculum.

Ms. EMSELLEM. The curriculum we saw devoted very little time to anything other than physical security. Was it anything more than that?

Mr. DANIELS. I did not participate in the training.

Ms. EMSELLEM. On the basis of that 1-week training, you now have 71 specialists in the country?

Mr. DANIELS. No ma'am. That was for the 26 people.

Ms. EMSELLEM. I see.

Senator ABOUREZK. I have before me the training agenda. I have not seen this before, but let me run through it.

[1] See exhibit 18, p. 204 of the appendix.

SCHEDULE AND CURRICULUM FOR USMS ORIENTATION OF WITNESS SECURITY SPECIALISTS, JANUARY 16–20, 1978

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
8:30-9:00	7:30-8:30	7:30-8:30	7:30-8:30	7:30-8:30
Registration Room C-2	Group A Interviewing P/E	Group B Interviewing P/E	Group C Interviewing P/E	Human Relations
9:00-10:30	8:30-9:30	8:30-9:30	8:30-10:30	9:30-11:30
Introduction and Course Objectives	Personal Security Techniques	Surveillance and Counter Surveillance	Driving Techniques	Hostage Negotiation
10:30-12:30	9:30-11:30	9:30-11:30	10:30-12:30	11:30-12:30
Interviewing	Defensive Tactics	Defensive Tactics	Profile of a Witness	Legal
12:30-1:30	11:30-12:30	11:30-12:30	12:30-1:30	12:30-1:30
Lunch	Personal Security Techniques	Surveillance and Counter Surveillance	Lunch	Lunch
1:30-3:30	12:30-1:30	12:30-1:30	1:30-3:30	1:30-3:30
Firearms	Lunch	Lunch	Firearms	Firearms
3:30-5:30	1:30-3:30	1:30-3:30	3:30-5:30	3:30-4:00
Emergency Medical Treatment	Firearms	Firearms	Emergency Medical Treatment	Course Critique
	3:30-5:30	3:30-5:30		4:00
	Emergency Medical Treatment	Emergency Medical Treatment		Graduation
7:00 p.m.	7:00 p.m.	7:00 p.m.	7:00 p.m.	
Discussion	Discussion	Discussion	Discussion	

We have a 5-day training program with introduction and course objectives, and firearms, and emergency medical treatment, and discussions in the evening.

You have interviewing, and personal security techniques, and defensive tactics, and personal security techniques, and firearms, and emergency medical treatment, and discussions.

You have interviewing, surveillance, and countersurveillance, defensive tactics, surveillance and countersurveillance, firearms, and emergency medical treatment.

You have interviewing, driving techniques, profile of a witness, firearms, emergency medical treatment, and discussion.

On Friday you have 2 hours of human relations, 2 hours of hostage negotiations, 1 hour of legal, more firearms, and then a course critique, and then graduation.

If you depend on this to make your specialist, a witness security specialist, my guess is that he is probably not going to be a specialist after that course in anything except firearms.

Mr. HALL. I do not disagree with the observation at all, Senator. That was not the intention of the program. We have not purported to be that.

I agree that these people are going to have to be highly trained in the areas of your concern, and in the concern of this report. I propose to do it. But I have not said, in any measure, purports to do that.

Ms. HUFFMAN. In regards to that training, who is going to be training them? My understanding was that the people who trained down in Georgia had minimal, if any, experience in handling witnesses. Do you intend to use the witness security specialists who have been in the program for 5 or 6 years to train new people, and if not, why not?

Mr. HALL. We have tried both ways in our training programs in the past, using field people to do the training and using professional people to do the training.

Our experience has been that professional trainers do a better job than the field people, just as an experienced trial lawyer does not necessarily make a good law professor, so neither does a law professor necessarily make a good trial lawyer.

What I propose to do is to assure that the wealth of experience by our field specialists, the people who have been in the program since its inception, work closely together with our professional trainers, to put together the proper package.

I also envision that we are going to have to go outside of the Marshals Service to get some expertise in such areas as documentation, and so on. We do not have all of the experience necessary to make this program what we want it to be.

So what I'm saying, in response to your question, is that I propose to use the experience of the field people and the experience of those outside the Marshals Service, working with our professional trainers who will then present the course of instruction.

Senator ABOUREZK. Mr. Hall, let me ask you a question in all seriousness. Do you think this program ought to remain under the jurisdiction of the Marshals Service? If you make it a specialized program it could be put anywhere in the Department of Justice and run separately, or whatever. What is your honest and personal view?

Mr. HALL. I sincerely believe it should remain with the Marshals Service. I'd like to digress for a moment.

Senator ABOUREZK. I accept that. I just wanted to hear your view. I don't argue with that at all.

Second, the suggestion was made last week by people who had been interested in this program that it might be better to have other agencies who are interested in testimony from protected witnesses, like DEA and FBI, and so on, contribute manpower to the specialized service, even if it is run by the Marshals Service.[1] What is your view of that?

Mr. HALL. My reaction to that is one of concern. It is primarily because I think that one of the reasons the Marshals Service was originally asked to take this program is that we have no vested interest other than that of doing the job with the witnesses. If you have FBI agents, which is an investigative agency, or DEA contributing manpower, then they do have a vested interest in the testimony of the witnesses.

The most important reason is this: We have no self-serving interest other than, hopefully, to do a good job for the program.

Senator ABOUREZK. The argument used for that particular contribution to the program was just that. Those agencies had an interest in it and would be more interested in doing the things that were necessary for these witnesses.

Mr. HALL. Of course that is part of the problem. We have experienced situations where people do have a vested interest, and probably not out of intention but out of a zealousness to get the job done. They do promise these people things that we cannot legally come up with.

[1] See p. 23 of the hearing text.

Senator ABOUREZK. Who would that be, a U.S. attorney?

Mr. HALL. Yes.

Senator ABOUREZK. I think that is a little different, because in that case a U.S. attorney would be very interested in doing anything to get the guy to testify.

Mr. HALL. But you are saying that agents from the DEA or FBI should come in and participate.

Senator ABOUREZK. I am not saying that. I am asking for your view on that.

Mr. HALL. Yes, hypothetical.

For that reason I don't think it would be good. I think if it were an FBI case or a DEA case, or any other Federal agency's case, which had an investigative interest, I think it would taint the relationship that we presently have.

Senator ABOUREZK. Even if the DEA person, for example, were to come in for a 2- or 3-year period and then go back to DEA later on, and he had no knowledge of how DEA was interested in this particular case except that he was assigned to protect the witness or work out documentation or whatever?

Mr. HALL. I'm afraid it would not work out.

Senator ABOUREZK. You think there would be a conflict of interest still?

Mr. HALL. Yes.

Senator ABOUREZK. I accept that. I just wanted your view.

Let me ask some questions now of Mr. Shur of the Justice Department on the admissions criteria[1] and the procedure for admission.

Do you feel, as the Marshals Service does, Mr. Shur, that there ought to be some action taken to reduce the number of admissions?

Mr. SHUR. I think there ought to be closer supervision of the admissions. One of the proposals in the Department's draft report suggests that there be created a centralized unit in the Criminal Division to review all requests for admissions into the witness protection program to insure that the same standards are applied throughout the division. I think that would give us an effective method of policing to make sure that the case is important.

Senator ABOUREZK. Do you think the admissions ought to be restricted to major organized crime cases?

Mr. SHUR. I would not use that term. I think they ought to be restricted to those cases which we might characterize as major in that the defendants, themselves, are major figures. Additionally, I think those cases where we think the convicted defendant might lead us to a more significant figure in organized crime should also be admitted.

Senator ABOUREZK. That which would easily be defined as major, I suppose?

Mr. SHUR. Yes.

Senator ABOUREZK. You have people in the witness protection program now, who are involved in the State court cases, that you are protecting.

Mr. SHUR. Yes, we are protecting something like 100 people, I suppose, or a little over 100 people for the States.

[1] For existing criteria see OBM 2110.2, exhibit 2, p. 134 of the appendix.

Senator ABOUREZK. Do you think you ought to continue that as a matter of policy?

Mr. SHUR. I think it's a good thing that we do. We watch it closely. A good example, I think, would be in the State of California where we have protected a good many witnesses in connection with two major syndicates which the State has been fighting. If we were not to protect them, the State would have to deal with the problem themselves. We find the district attorneys do not have the funds. The States sometimes, because of size, do not have the geographic area to handle an effective relocation.

Senator ABOUREZK. What about a case I know of where State officials were taking payoffs, and so on, and somebody testified against them? That is not necessarily organized crime. It was a payoff to State officials by contractors.

Mr. SHUR. The view we have is to view organized crime broadly. The Judiciary Committee in its report on S. 1437 [1] suggests that we can construe it even broader than we have been doing. We look at the witness protection program in terms of high-priority cases; and public corruption happens to be one of those, and organized crime, of course, is one, and narcotics is a high priority.

Senator ABOUREZK. How would you limit the number of people? Would you do it by quota, or the kind of case, or what?

Mr. SHUR. Not by number. I have a problem with that.

Senator ABOUREZK. Why?

Mr. SHUR. If someone calls up—such as an assistant U.S. attorney who may tell us he has a loan shark victim in his office and he is about to be murdered if he goes outside, and we have to say we have 19 or 20 already—I think we cannot do that.

The limitation has to come by insuring that the quality of the case is really there. I think that is the way it will come about. You can focus in on the priority areas that we have established.

Senator ABOUREZK. I would refer to the committee report out of the Justice Department, that is, the draft report. It recommends that admission to the program be limited to around 20 witnesses per month. Were you aware of that?

Mr. SHUR. Yes.

Senator ABOUREZK. You disagree with that?

Mr. SHUR. That is correct.

Senator ABOUREZK. Do you think the Marshals Service ought to have the right of veto over entry of a witness into the program or should they have no say in admissions at all?

Mr. SHUR. I think they should be able to come back and say that the witness is presenting a major problem. I think the ultimate decision as to whether the witness comes into the program or not, should be made by the Criminal Division and the Assistant Attorney General, who has to make that judgment as to the significance of the case in the community. I think the Marshals Service is not capable of doing that. It is not their training.

There certainly is an appeal procedure which they can exercise. It is suggested even in the draft proposal that there be a review

[1] See exhibit 20, p. 214 of the appendix for those sections of S. 1437 dealing with protected witnesses.

committee appointed and that the Deputy Attorney General's office would review any such disagreements.

Senator ABOUREZK. In other words, you are saying that they should not have veto, but they should have a voice. Is that right?

Mr. SHUR. I think they should be able to come back and express their concerns, and indeed they have come to us. They present the problems, and they suggest we should rethink it, and we do so.

Senator ABOUREZK. Does that particular policy prevail now?

Mr. SHUR. We do it on a case-by-case basis.

Senator ABOUREZK. So you don't have a specific policy on that?

Mr. SHUR. That's true, but it is in the draft proposal.

Senator ABOUREZK. If you wanted to continue to use the witness protection program for cases other than organized crime cases, I think you are aware that legislation restricts it to organized crime. Do you intend to sponsor, or to have sponsored, legislation up here to expand the program to other kinds of cases?

Mr. SHUR. As I mentioned, the Judiciary Committee report suggests that it be expanded to other areas. That is, into other more significant cases. I forget the language in S. 1437,[1] but that certainly was the intent of the committee.

Senator ABOUREZK. Do you support that particular legislation?

Mr. SHUR. To very significant cases. I don't want to leave the impression that we should pick up witnesses in every case, and certainly not from cases that are not significant. We have to be highly selective, I think.

Senator ABOUREZK. The marshals, of course, have said that the program is an important one. They feel that way. They tell the marshals out in the field that the witness protection program has a high priority. Yet the budget request for fiscal year 1979 ranks the witness security program seventh out of eight in importance of the Marshals Service program.[2] Were you aware of that?

Mr. SHUR. I have heard that the ranking was low. I have no idea what that means. It could be low and still be a significant sum of money. To the Criminal Division, it is a very significant program.

Senator ABOUREZK. Yes, I would think so.

Mr. SHUR. Ranking itself does not mean much to me.

Senator ABOUREZK. Do you think that there ought to be some higher priority placed on it by the headquarters of the Marshals Service so that field marshals would feel that it is more significant than it is?

Mr. SHUR. I think everybody dealing with this program ought to realize they are dealing with human lives. It is a very complex problem. I think it demands a high priority from all of us.

Senator ABOUREZK. I understand that if you take a percentage of the total Marshals Service budget, it is about—that is the witness security program—is about 7½ percent of the total budget for fiscal year 1979.[3] That would indicate a very low priority in itself, it would seem to me.

Mr. SHUR. I have total ignorance on budget matters, I cop out on that one.

Senator ABOUREZK. Ms. Emsellem?

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[1] See exhibit 20, p. 214 of the appendix.
[2] See exhibit 21, p. 215 of the appendix.
[3] See exhibit 16, p. 187 of the appendix for 1979 budget request.

Ms. EMSELLEM. Mr. Shur, you've spent a great deal of time dealing with witness problems because there is no grievance procedure either in the Marshals Service or the Justice Department for witnesses with complaints or problems. In the past when witnesses have tried to reach the Justice Department or when they have tried to reach the Marshals Service's headquarters, or when they have tried to arrange meetings, their phone calls were not returned, they were not contacted by marshals. All these documentation problems are building on themselves because there is no one there to solve the problems.

What is your suggestion for a grievance procedure? There is one in the report.

Mr. SHUR. There is one in the draft report, yes.

I think there must be an appeal process for the witnesses which would be logically built into the Marshals Service so that if he feels he is not being treated fairly by his security specialist, then he can appeal the decision.

Ms. EMSELLEM. At the present time we are aware of a great number of problem cases. The subcommittee is contacted almost daily with problems. We are trying not to operate as an advocate for any one individual who is in the program or who is having problems, but rather we are trying to establish a procedure to handle problems.

The difficulty is getting anyone to focus on these problem cases and it is compounded by the fact that new people are coming into the program every day. I would like to also address this question to the Marshals Service.

Should there be a separate group of people in the Justice Department to deal with past problems that have built up over this 8-year period? In such a way, witnesses who are now coming into the program will not be hampered by the backlog and hopefully will not face the same frustrations and problems in documentation and relocation that the people in the past did.

Mr. SHUR. Let me take issue with one portion of your question, if I may.

The people are focusing on the problems. When we receive telephone calls, we focus on the problem.

I think the problem is not whether the appropriate attention is paid, but whether or not the right solution is reached. We are focusing on that problem. We have to discover what the right solutions are. The draft report certainly goes in that direction to provide mechanisms for that.

We have raised here today the central problems of the program.

Should there be a crash effort? I think so, yes. But that is the manpower problem that I cannot comment on.

Mr. HALL. I do not take exception to what Mr. Shur said. I think the draft report does propose a solution that will accommodate the situation that you and I are concerned about. We are fully prepared to support that.

I do think that while we do not have a formal process at this time, nevertheless, witnesses have never been recalcitrant to contact Mr. Shur's office if they took an exception to a judgment we've made. We have had continuing communication with Mr. Shur's office. While granted, that leaves something to be desired, hopefully, the process

that is set forth in the proposed recommendations, when implemented, would take care of that. I trust it will.

Ms. EMSELLEM. In one case, we were contacted last July by a relocated witness who for over a year was unable to get a professional certificate and birth certificates and school records for his children. As of January, although we had contacted the Department, and they had contacted the Department, and their attorneys had contacted the Department there are still problems. They are now contemplating suing the Government. The professional certificate has never come through. When they finally got the birth certificates, for their two children, one of the certificates had the real name of the mother which was different from the family's new name on the other certificate.

Mr. HALL. May I respond to this? I think it is very important to say what I am about to say.

The Marshals Service does not make the documents for these witnesses. They are not something that we manufacture in some room. All of the documents that we provide, be it birth certificates, or professional certificates, are all authentic except that the names have been changed.

We do not have, and we cannot compel the cooperation of agencies or institutions that are required to provide these documents.

In other words, we cannot go to a State and say, "You must give us a birth certificate for witness Jones." If they choose not to cooperate with us, then we have to try to reach it by some other solution. This is a very difficult process.

Often the results are not within our power to obtain. I am not saying we are not without sin in this area. Of course, we have made errors. Of course, there have been delays. Hopefully, we can address that problem.

But I do think it is important for the committee to know that often these things are beyond our grasp. We cannot force people to give us documentation that we require, or would like to have.

Ms. EMSELLEM. In this situation you have someone who was willing to give you documentation, but it was done badly and wrong.

Mr. HALL. That's possible. I don't know the case you are alluding to. I'm sure there have been circumstances like that. I'm not saying that there have not.

Ms. EMSELLEM. One of the protected witnesses who testified in the executive session of the subcommittee, said that he was encouraged by the Marshals Service to take an examination to become a real estate agent. When his fingerprints had to be checked for his license they were flagged and he could not be licensed. He was then relocated to a second area and again encouraged to take the same examination which he did. He passed it and his prints were sent up again, this time through the Marshals Service. The fingerprints were held for 7 months by the Marshals Service, and then they informed the witness that "We cannot get you a license."

This was the same individual, and the same set of circumstances, the second time. Why didn't anyone in the Marshals Service realize that there was a problem with the prints. Why was this man encouraged to go through the study course for the second time, when at the end he could not be licensed and be gainfully employed?

Mr. HALL. That is obviously a matter of concern. It is obviously something that should not happen. Hopefully, with the assistance that we are providing, or hope to provide, we can keep this type of thing from happening in the future.

Mr. Daniels might want to respond to this because I know he has been working on this.

Mr. DANIELS. I would like to respond. I think I can identify the specific case that you refer to.

I'm not aware that the fingerprints were held by the Marshals Service for any lengthy period of time. We did assist this individual by going to the particular State realtors committee, board, or whatever. We did not withhold from them his criminal record. This might have some bearing on why they refused to grant him a real estate license. I do not think it would be fair for us to withhold that information.

Ms. EMSELLEM. Was that the first or second time that you went to the board?

Mr. DANIELS. I'm only familiar with the one time, and that is where the individual is now relocated.

Ms. EMSELLEM. I guess that is the second time.

Mr. HALL. Let me say this.

Senator ABOUREZK. The point is, why hold his fingerprints up there for 7 months before you let him off the hook?

Mr. DANIELS. Senator, when the fingerprints are taken, they are taken in the field by a deputy marshal or a specialist. They should be submitted directly to our documentation section and go from there to the FBI. There's no reason at all to hold them.

Senator ABOUREZK. For the 7-month period?

Mr. DANIELS. Yes.

Senator ABOUREZK. That is the point we are trying to make.

Mr. HALL. We agree with that.

Senator ABOUREZK. So, what this really points up, that is, this whole line of questioning, is this. Unless you have enough people to do the job, and enough people who know what they are doing, you are going to continue having these problems. You keep saying that you have been lucky so far, nobody has been killed. But that is what it amounts to—luck.

We heard testimony and, in fact, one witness told us that if the Government were as well organized as organized crime, then you would have a powerful Government here. The fact is, he said, is that it is not. Organized crime is much better organized than the U.S. Government. That is probably true.

The point is this: I think you are really going to have to face these problems of adequate training and a specialized service force.

Because of the time limitation operating in the Senate, we have to adjourn in a moment. I want to give minority counsel a chance to ask some questions. But, we will set another morning for hearings and it will be a short hearing to cover some additional questions we can't get to today.

Under the rules of the Senate, we have to quit within a few moments because of the Panama Canal debate.

We would like to ask you to come back. We want to explore more thoroughly some of this.

I want also to say before I turn this over to minority counsel that we're going to come back later this year, after a sufficient amount of time has passed, for a progress report from the Marshals Service and the Justice Department, on this new system that you are setting up. We would like to suggest that to you.

Mr. HALL. We look forward to it.

Senator ABOUREZK. Mr. Regnery.

Mr. REGNERY. This is addressed to Mr. Shur.

In light of the discussion you had with Senator Abourezk, regarding the funding that you said you didn't know anything about, the priorities given to the program by the Marshals Service, and in light of your experience over that 6 or 7 years with this program, are you satisfied that it is getting enough priority from both the Justice Department and the Marshals Service, or do you think there ought to be more funds allocated to the program? Should there be more people, and should it be expanded?

Mr. SHUR. I cannot speak to the issue of funds. But am I satisfied that it is being considered properly? Absolutely. As your staff knows, we have been critics of the program. Many of us have written paper after paper critical of the work that is being done.

We are now getting the response of the Deputy Attorney General's office that has not occurred since I have been with the program, since its inception. It is being seriously looked at by the U.S. Senate. We think it is a healthy thing. We have Mr. Hall's statements with regard to increase in manpower. This is a sharp increase. This will certainly make progress in that area. So, I'm optimistic.

I suppose if I could borrow a statement of the Senator, "We will all look back a few months from today to see if it really meant anything." I certainly hope it does.

I would like to make another point if I may digress a bit.

We speak about problems that are really there. No one at this table is suggesting that the problems do not really exist. But I do think that those people who are contemplating becoming witnesses should understand that there are over 2,000 people living happily and that even with these problems, there is a dedicated effort being made to make sure they can walk in the street in peace, and they can live and not have to look over their shoulder. I would not want the word to go out that 2,400 people are unhappy. It isn't so.

It's in terms of 10s, not in terms of 100's, of people who are unhappy.

Ms. EMSELLEM. I think that it is a fair statement to make that when the program operates, it operates fairly well; but when there are problems, they seem to mushroom. Witnesses have been really successfully located, but the problems appear to grow once you're faced with the first obstacle. No one seems to address problems and really deal with them. Problems are allowed to grow and get progressively worse in each case.

Mr. SHUR. I think all the things you have mentioned today are correctable. I think they are difficult. I think we are dealing with people who are in a difficult circumstance, with traumatic experiences. Many of the people have not led legitimate lives. Many do want to lead lives as legitimate citizens. Some don't. But, I think the basic

problems we speak about are problems that can be addressed and have to be corrected. I don't think we have an alternative.

Senator ABOUREZK. That's all we can have today. I want to thank all the witnesses for their testimony and for their appearance. We'll set another date very shortly.

The hearings are adjourned.

[The prepared statements of Mr. Hall and Mr. Carlson follow:]

PREPARED STATEMENT OF WILLIAM E. HALL

I would like to thank the subcommittee for affording the Marshals Service an opportunity to present its position on the Department of Justice witness protection program and the participation of the Service in this program. Recently there has been a great deal of comment both within and without the Department of Justice on the activities of the Marshals Service with respect to the Department's witness protection program. While some of the criticism leveled at the Marshals Service on account of its participation in the program is justified, much of the criticism is unfounded or is exaggerated. We appreciate the opportunity to set forth in this forum our views of what we have accomplished since commencing our participation in this program in March of 1971.

The primary purpose of the witness protection program is to keep witnesses alive. It has other functions which support this goal. However, the ultimate test of its effectiveness will not be found in necessary job placement, or the mental state of a witness. The bottom line is physical survival of the witness and his family. The Marshals Service has done a very effective job of keeping witnesses alive. No witness has been assassinated while under the actual physical protection of the Service. The Marshals Service has not always performed to its potential in the relocation, documentation and job assistance provided to witnesses. Nevertheless, it is important that a sense of perspective be maintained about this program. While job assistance and other services are important, they pale into insignificance when compared to our primary responsibility—protecting the witness and his family from assassination.

I. INTRODUCTION AND BACKGROUND

Initially, let me provide the subcommittee with an explanation of the background and development of the witness protection program in the Marshals Service.

Importantly, the Marshals Service commenced its participation in this program at a time of major expansion in the activities of the Marshals Service in a number of law enforcement programs. During late 1970 and early 1971, the Marshals Service was tasked with the responsibility of providing security in the antiair piracy program, was given additional resources to provide a major expansion of court security facilities at over 400 locations where the judiciary of the United States holds court sessions and developed a special operations group, a rapid reaction force which provides an immediate Federal response in confrontation situations when requested by the Attorney General.

Thus, at the time the Marshals Service began to develop its participation in the witness protection program, the resources and capacities of the Service were being strained to the maximum in order to provide expanded support and program development in other areas. During the late 1960's and early 1970's, the manpower of the Service increased two-fold, but at the same time, the demands for Marshals Service resources were expanded considerably more than that.

Yet, the Service lacked an adequate number of experienced managerial personnel at headquarters, and it lacked adequate equipment, training, and facilities.

Despite all these difficulties, the Marshals Service has always had a strong background in security matters. The traditional role of the Marshals Service, in large part, has been to assure the security of the judiciary and the Federal judicial system. The Marshals Service has long provided physical protection to Federal judges whose lives were in danger on account of their activities on the bench. This is a function which the Marshals Service has always performed extremely well, despite the fact that it had inadequate resources to accomplish

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this mission. Thus, even with its limitations, the Marshals Service was a natural choice to assume the role of protecting witnesses whose lives are in danger because of cooperation with Federal criminal prosecutions. The role of the Marshals Service in judicial security was simply expanded when the Marshals Service assumed greater responsibility under the witness protection program. This mission was not fundamentally different from the Service's oldest and most important responsibilities.

Although the Marshals Service was a natural choice for the security aspects of the witness protection program, in all candor, it was not well prepared for assuming the other responsibilities of the program that is, documentation, job assistance, psychological counseling and the like. But I would note that no other law enforcement agency in the Federal Government was adequately prepared to provide these kinds of services either.

Initially, the Marshals Service structured its program around the acquisition of safehouses, as the key element in the protection of witnesses. However, the use of safehouses for witnesses, a concept borrowed from the intelligence services of the United States, was not well suited to the realities of protecting individuals testifying in organized crime prosecutions. First, the security of the safehouses was often suspect. Despite the best efforts of the Marshals Service, the safehouse locations frequently became known, because of disclosure of witnesses located in them. The safehouse in many respects resembled a prison because of the need to confine the movements of those who were living in those quarters. This aspect of the program was particularly unappealing for individuals who were not in custody. The constant contact in the safehouses between individuals who were awaiting testimony led to numerous security breaches as the individuals exchanged information on their backgrounds. Finally, safehouses were extremely expensive to operate.

Because of these disabilities, the safehouse program was gradually abandoned until the last safehouse was closed in June of 1975.

The Service then began to relocate witnesses in a two step process, first to a temporary location and then to the final destination. However, the strain of two moves was frequently too great and the Service evolved to its present system, in which witnesses are moved immediately to a permanent site. The site is selected by the U.S. Marshals Service and the witness based on security, job availability and the personal preference of the witness.

II. THE PROTECTION PROCESS

In order to assist the subcommittee's understanding of the nature of the problems which exist in witness protection and the actions that the Service has taken to remedy these difficulties, I would like to describe what happens when a witness enters the program.

The witness protection process starts, insofar as the Marshals Service is concerned, when an Assistant Attorney General approves the entry of a witness into the program. There are two basic methods for entering a witness into the program. Ordinarily a witness is admitted pursuant to a written approval from the legal division involved in a prosecution, normally the Criminal Division. However, there is provision for emergency approval of entry into the program on the basis of an oral request from an Assistant Attorney General or his designee. It is expected, however, that the oral request would be followed by a written approval.

After the Marshals Service has received notification that a witness has been approved for entry, the Marshals Service assigns the witness to a case management official at the headquarters of the Marshals Service. A case management officer has overall responsibility for coordinating the provision of services by all elements of the U.S. Marshals Service to the witness and making appropriate security arrangements for the witness' return to the "danger area." The case manager will then instruct a security specialist to make contact with the witness and explain the program to the witness.

A security specialist will then contact the witness and provide the witness with a memorandum of understanding which contains a comprehensive statement of what the witness can expect from the U.S. Marshals Service. Additionally, the security specialist will interview the witness to obtain information on his background, including employment history, medical history, education, and other information needed by the Marshals Service to provide protection and

other services to the witness and his family. The security specialist will also make an initial determination of the needs of the witness and his family for documentation, housing, medical care, movement of household goods, shipment of vehicles, and other property.

Finally, the security specialist will make an initial assessment of the witness' background with a view to determining what his employment prospects are.

The security specialist will then institute a request for designation of a relocation area from headquarters, which area will be selected by the witness and the Marshals Service. After the relocation area is chosen, the security specialist will make whatever arrangements are necessary to transport the witness and all of his belongings to the relocation area.

In some cases, an individual will need immediate protection. In that instance the witness and his family will be temporarily relocated and his personal belongings will be placed in temporary storage, pending transportation to the area of permanent relocation.

After all of the arrangements have been made, the witness is then relocated to the permanent site. The Marshals Service provides security while the witness or his agent supervises the packing and loading of his goods by the movers.

At the site of permanent relocation, a deputy marshal will be assigned to the witness and will be the witness' primary point of contact with the U.S. Marshals Service. This individual will be responsible for obtaining services which are necessarily provided only at the local level, such as a driver's license, housing, routine medical care and other services which cannot be provided by the headquarters.

In the relocated area, the witness will be provided with the appropriate documentation. Typically, this involves provision of legal name change, a driver's license, and a social security card. It may also involve, in appropriate cases, the provision of professional licenses, birth certificate, school records, medical records, passport, religious records, Department of Defense and Veterans Administration records and other necessary records or documents.

Aliens who have entered the country illegally, but are admitted into the program, will be provided no documentation whatsoever. The Marshals Service will attempt to assist them in obtaining resident alien status from the Immigration and Naturalization Service in accordance with that agency's rules. A resident alien may be given documentation appropriate to one who is in that status.

All documents provided these witnesses are not forgeries; they are genuine documents issued by legitimate sources. Further they are all "backstopped," which is to say that the original documents with supporting materials are on file at the source of issuance.

Once in the relocated area, the witness will be given assistance in finding employment. The assistance provided will be that appropriate to the capacities of the witness. Unfortunately, most witnesses enter the program with little or no marketable job skills in legitimate enterprises. Many of these individuals are professional criminals who have never developed legitimate job skills.

In this regard it is important to understand that under current Department of Justice regulations, the witness has primary responsibility for obtaining his own employment. The Marshals Service will attempt to assist a witness in obtaining employment, and has, in fact, obtained jobs for many witnesses.

The Marshals Service provides job assistance in two ways. First, there is an employment section at the headquarters office which coordinates placement of witnesses nationally. The employment section establishes a job bank consisting of known vacancies for employment obtained from information supplied by State and local employment agencies. Additionally the Marshals Service establishes sources of potential employment through continuing contacts with Federal, State, and local agencies, and employers and unions who have agreed to assist the United States in placing witnesses in positions for which they are qualified.

With respect to credit, and other financial matters, under Department of Justice regulations the U.S. Marshals Service cannot give credit references to relocated witnesses.

Finally, the witness will be paid a monthly tax free subsistence allowance which is set on a sliding scale according to the number of dependants and the location in which the witness resides. Funding is set at a higher rate when the witness is in temporary quarters to provide the witness with an adjustment for the higher cost of motel or hotel residence. Allowances are based on Bureau of Labor Statistics cost of living data and are adjusted annually. The most recent

adjustment occurred in August 1977, and was based on data published by the Bureau of Labor Statistics in April 1977.

Under current Department of Justice regulations, subsistence may be terminated 120 days after entry or 60 days after the witness' last court appearance, whichever is later. However, subsistence can also be terminated for appropriate cause. If a witness violates security instructions such as by leaving a relocated area, if the witness commits a crime, if the witness fails to look for employment or fails to cooperate with the Marshals Service in an employment search, or of course, fails to cooperate with the criminal investigation which brought him into program, the witness may expect his funding to be terminated. Additionally, funding is reduced dollar for dollar by a witness' outside income. When a witness is relocated, he may leave behind unpaid debts or other obligations to innocent creditors. The Marshals Service is not unmindful of its obligation to these individuals. In the early stages of the program, the Department took the position that the security of the witness was paramount. However, the Marshals Service recognized the unfairness of such a posture and has evolved a position in which maximum pressure is brought to bear on the witness to satisfy his obligations, while bearing in mind that a witness who enters the program frequently has little or no resources to satisfy these obligations.

The Marshals Service proceeds from the assumption that the witness has an obligation to satisfy all of his just debts. At the same time, the witness has a right to expect that the Marshals Service will not improperly compromise his security. In order to achieve a balance between these two competing interests, the Marshals Service initially attempts to resolve debt problems informally. The witness is requested to reach an informal adjustment with the creditor, and, where necessary, the creditor is advised by the Marshals Service of the need for forbearance in immediate enforcement of the obligation because of the witness' special situation. Fortunately, most creditors are understanding and are willing to provide the witness with an ample and a fair opportunity to meet his obligations over a period of time. However, there are witnesses who are intractable and will take no action to resolve a debt problem. In that case, the Marshals Service will assist creditors who wish to initiate legal proceedings, which leads to the next area of discussion, litigation involving witnesses and third parties.

When a witness is sued, the Marshals Service agrees to serve process on behalf of the litigant seeking to obtain jurisdiction over the relocated witness. The Marshals Service does this by making personal service on the witness and providing the litigant and the Clerk of the Court where the controversy is pending with what is known as a "blind return." A blind return is simply a statement indicating the time, date, and manner of service, with a notation that evidence of other aspects of service will be provided should the witness contest the accuracy of the statements made in the return. To date production of such evidence has never become necessary.

In the event that a witness refuses to honor a judgment obtained pursuant to litigation initiated over him, the Marshals Service would be willing to disclose his location to a litigant in order to afford the litigant with an opportunity to satisfy his claim. However, the Marshals Service would insist that a number of precautions be taken to protect the legitimate security interest of the witness. Not the least of these precautions would be an appropriate investigation of the party attempting to enforce a legal obligation against the witness. We are well aware that attempts may be made to use the civil litigation process purely to compromise the security of the witness. If information discloses that the creditor has contacts with individuals who pose a threat to the witness, no action will be taken to assist the creditor.

Finally, the Marshals Service is aware and concerned about the actions of those witnesses who return to a life of crime after entering the program. The witness protection program is not a haven for criminals who wish to manipulate the Government into protecting them from the consequences of their criminal acts. The United States has no right to and does not attempt to foreclose the right of States and localities to enforce their laws against witnesses. However, we do insist that these same States and localities take whatever actions are necessary to protect the legitimate security needs of the witness. If a State and locality cannot assure a witness' security while he is incarcerated, the United States will assume custody over the witness on behalf of the State and locality so that the witness can serve the term of imprisonment or remain in custody

pending completion of proceedings without fear for his safety. The Marshals Service does inquire into attempts to prosecute witnesses to determine whether they are bonafide criminal charges or merely a ruse to obtain the witness' new identity and location.

III. STRUCTURE OF THE WITNESS PROTECTION PROGRAM

Having outlined the functions involved in protecting a witness under the program, I would like to describe briefly the structure of the witness protection program in the Marshals Service. The witness protection program in the Marshals Service is headed by the Chief of the Witness Security Division who reports directly to the Deputy Director of the Marshals Service who in turn reports to me. The Chief of the Witness Security Division is assisted by two Assistant Chiefs, one for operations and one for administration. The Operations Chief supervises the activities of the Marshals Service in providing security to witnesses. The Assistant Chief for Administration, provides supervision and direction to the Documentation Section, the Medical and Household Goods Movement Section and the Employment Section. There are six "case managers" assigned at the headquarters level. Additionally, there are 71 security specialists in judicial districts around the country. Twenty-six of these security specialists report directly to the headquarters, the remaining 45 report to the U.S. marshal of the respective districts. There may be other deputy U.S. marshals assigned to assist the security specialists in districts which do not have an assigned specialist or where the workload is too great for one security specialist.

Under the current structure of the Marshals Service, sections in the Witness Security Division are responsible for developing primary expertise in the matters related to their responsibilities. They are expected to resolve unusual problems which cannot be handled on a day-to-day basis by field personnel. Furthermore, they develop contacts with national organizations and State organizations which are necessary in order to provide the services which witnesses require.

Case managers are responsible for coordinating the provision of services to witnesses nationally and providing follow-up in particular cases to assure that all required actions are completed as quickly as possible. The security specialist is responsible for provision of entry services, including explanation of the program to the witness, and handling day-to-day problems which may arise.

IV. EVALUATION

Having discussed the overall function and structure of the program, I would like to share my evaluation of the program with the committee. As the committee performs its evaluation and screens the episodic difficulties experienced by a few witnesses in the program, it should never lose sight of the fact that the program has provided services to thousands of individuals. The true success of the program cannot be measured solely by the anecdotes of a limited number of individuals. A comprehensive survey of the program's accomplishments is the only fair method of assessing what it has achieved.

First of all, it must always be borne in mind that the primary purpose of the witness protection program is to keep people alive. Every person in the United States has an obligation to cooperate with prosecutorial agencies. What the witness protection program seeks to provide is safety for those individuals who are in danger of death or serious bodily injury because of cooperation with the United States. When measured against this objective, the witness protection program in general, and the performance of the Marshals Service in particular, has been a resounding success. There is no direct evidence establishing that any of the deaths of individuals who were program participants have been caused by a failure of the Marshals Service to adequately protect the participants. In fact, if one assumes that deaths which occurred under the most suspicious circumstances are attributable to system failures, it would appear that only four deaths were caused by the failure of system to protect a witness. When viewed against the fact that over 6,000 witnesses and dependants have entered the program since the Marshals Service first began its participation, it is apparent that of the security portion of the program has been extraordinarily successful.

The record demonstrates that a protected witness has little to fear, if he follows the instructions given to him by the Marshals Service. The greatest threat to a witness in the program is his own self-destructive tendencies. Any

contention that witnesses survive because of dumb luck and their own abilities is shere nonsense. Anyone who has observed witnesses first-hand in security situations recognizes that the Marshals Service often keeps them alive in spite of their best efforts to undo everything that the Marshals Service has put into place. Frequently, they will disclose their identities as protected witnesses in relocated areas. They will revisit the "danger zone" without the approval or protection of the Marshals Service. They will contact friends and relatives and disclose their new relocated area, addresses and identities. In some cases, they will even attempt to recommence criminal careers with individuals who are connected to the persons they have testified against.

The success of the security aspect of the program is due to the dedication and hard work of the hundreds of U.S. marshals and their deputies who have risked their lives to protect endangered witnesses.

Notably, the committee need not rely on my conclusions in this regard. The Interdepartmental Committee to Review the Witness Protection Program conducted a random survey of present program participants. Only 13 percent of those replying responded negatively to the question "Have adequate measures been taken to protect you and your family?" While the Marshals Service would like to see a response in which no one indicated their dissatisfaction with the security measures of the Service, it is highly unlikely that they will ever occur. Clearly, if there were widespread security breakdowns, the response to that question would have been considerably different. Thus, it would appear the vast majority of witnesses concur in our own assessment of our security measures. The shipment of household goods has in recent years been an extremely successful aspect of the program. There have been some complaints of damaged shipments of household goods, but such complaints are inevitable. The Marshals Service does monitor complaints from witnesses with regard to movers. When necessary we will terminate the use of the mover who fails to provide adequate service to the witness. Recently, we have discontinued the use of a mover in part because of his poor record of satisfactory claim adjustment.

Many of the complaints voiced by witnesses with regard to shipment of household goods stem from the fact that in the early days of the program, the U.S. Marshals Service frequently did not have total responsibility for moving the witness. Other law enforcement agencies undertook this responsibility for particular witnesses. Delays in effecting the move ensued during which the opportunity for damage and theft of the witness' belongings increased. In recent years, the Marshals Service has insisted that it have total responsibility for the witness or none at all, and as a result, allegations of damage or loss of property have been substantially reduced. Additionally, the Marshals Service now insists that a witness or his agent be present to sign a bill of lading or an inventory when the goods are picked up. This too has reduced complaints that not all the witness' belongings were shipped.

Documentation was a severe problem in the program's initial stages, because the Service lacked an adequate number of legitimate resources to provide documentation.

As noted above, documentation currently furnished by the Marshals Service must be genuine. It must be able to withstand close scrutiny. In the early stages of the program, adequate documentation was not provided to witnesses.

However, this problem has largely been remedied. We now have resources capable of providing us with all essential documentation needed to establish a completely secure new identity. We do recognize, as we have explained to the committee staff, that we still have a problem with respect to one particular kind of document for individuals who come from a particular location in the country. We expect this problem will be resolved in the near future. Additionally, the U.S. Marshals Service has incurred considerable difficulty in obtaining professional licenses, marriage certificates, and post high school educational records. Some sources have recently become unavailable. These sources have cited the program's adverse publicity as the major reason for discontinuing their services. Delays in procuring documentation will, however, continue for the immediate future. The Marshals Service does not produce documentation itself; it must rely on other agencies to produce it. Because of our need for absolute security, there are a limited number of people with whom we deal in an agency. This places restrictions on the capacity of these agencies to respond quickly to our requests. The Service has increased the staffing of the documentation section, and, if it is deemed necessary to add more staff to the documentation

section in the future, we will do so. I would point out that at present there is a substantial backlog of processing of documentation requests, because a large number of past witnesses have requested issuance of documents or correction of defective documents issued to them in the earlier stages of the program. Consequently, there is a current overload in the documentation section. However, when this interim backlog is resolved, we anticipate that we will be able to meet the needs of witnesses on a timely basis.

A second major and at this point, unresolved, problem is employment for witnesses.

Initially, it should be noted that the Marshals Service has never had a primary responsibility for providing employment to witnesses in the program. The current regulation establishing the Department's guidelines for the program makes it clear that the witness has primary responsibility for obtaining employment within 120 days of entry into the program. The Marshals Service attempts to provide assistance where necessary, but it is not required to produce a job opportunity before terminating a witness' participation in the program.

It must be recognized by the committee that the employment problem is an extraordinary difficult one to resolve. There are literally thousands of individuals in the United States who are well qualified with highest moral character and integrity who have been unemployed for lengthy periods of time. These individuals have a considerable amount of skill, talent, and ability, yet the best resources of the Federal, State, and local governments have not been able to find them employment. Programs have been directed for years at trying to place exconvicts and disadvantaged individuals in employment. These programs have expended millions of dollars and engaged the resources of hundreds of thousands of individuals. Such programs have largely failed to provide employment opportunities for their clients.

Program participants are almost exclusively from unfavorable and/or criminal backgrounds. In almost every case, they have no marketable skills. Their skills are the kind one acquires in a lifetime of crime. Where the Marshals Service is able to find employment opportunities for an individual who lacks employment skills, the job is frequently one which provides only moderate income. When an individual is accustomed to earning a substantial tax free income in organized crime, the adjustment to the life of a clerk making less than $12,000 a year, for example, is one which the individual is frequently unprepared to make. Nevertheless, the Marshals Service has redoubled its efforts in this area.

Although a Department of Justice Office of Internal Audit Report in 1976 recommended that the employment section of the Witness Security Division be given primary responsibility for job development, the Marshals Service feels this approach is an impractical solution to the problem.

It is simply impossible to develop a national set of job openings in which we can place most witnesses. The number of witnesses currently entering the program is substantial and we do not believe that a headquarters based employment agency can create jobs in the numerous locations where witnesses are relocated. Job development must be locally centered. We anticipate that the four-fold increase in the number of security specialists in the field will give us a capacity for job development that we have not had in the past.

The major problem facing the witness protection program at this point in time is the lack of resources. This is a two-fold problem since the Marshals Service could better serve witnesses, if there were fewer witnesses in the program. No one can view the explosive growth in the witness protection program since the inception of our participation in March of 1971, without raising questions as to whether the program has simply expanded too far. The Marshals Service feels strongly that some action must be taken to reduce the number of witnesses entering the program.

Another major problem in the U.S. Marshals Service has been inadequate data. Because of the inability of the Marshals Service in the past to obtain accurate and timely workload data from the field, the Service has not been able to portray adequately the need for additional resources. This point was highlighted in the Department of Justice Internal Audit Report on the witness program conducted in 1976.

Since that date of the report, the Marshals Service has established a new automated management information system. This system was implemented in January of 1977 and we expect to receive our first set of workloads statistics within the next few days. This set of statistics will better enable the Marshals

Service and the Department to make judgments about the additional resources necessary to satisfy our requirements.

The final aspect of the program which I would like to discuss is the problem of witness satisfaction. Initially, I would note that the problem of witness satisfaction is not an overwhelming one. Contrary to some attempts to portray witnesses as being almost universally disgruntled with the activities of the Marshals Service, the survey conducted by the intradepartmental committee on the witness protection program has demonstrated that most witnesses are satisfied with their treatment. Ninety percent of those current participants responding to the survey conducted by the intradepartmental committee responded that the program was worthwhile. Importantly, 70 percent of those individuals who were surveyed and responded, indicated that if they could make a decision on whether or not to enter the program again, knowing what they know now, they would still enter the witness protection program. We recognize that this figure is perhaps lower than it should be and there are a number of actions which can be taken to remedy this problem.

First of all, some effort must be undertaken by the Department to adequately orient case agents and sponsoring attorneys on what the program can and cannot do. Time and again, witnesses have complained that extravagant promises were made to them by sponsoring attorneys and case agents, which were never fulfilled by the Marshals Service because the Service could not do so under departmental regulations. In almost every case, the Marshals Service has found that the case agents and attorneys denied making such representations. Regardless of whether the witness is misadvised or not, many witnesses clearly enter the program with exaggerated hopes. If a witness enters the program with higher expectations than he can be possibly accorded, even if the Marshals Service satisfactorily performs all of its obligations, the witness will still be unsatisfied. Better communication with the witness at entry is the answer. Thus, we believe that the Marshals Service must brief the witness on what to expect from the program prior to his admission into the program. In several instances where we have had the opportunity to do this, the witness has decided not to enter the program. Such a result is far better than having a frustrated witness.

The Marshals Service believes that its recently implemented comprehensive memorandum of understanding will go a long way to reducing complaints about expectations not being fulfilled. With better preentry briefing, we are confident witness satisfaction will be dramatically increased.

In conclusion, I would acknowledge that administration of this program has involved a trial and error learning process. Since becoming Director, I have taken a number of steps to correct deficiencies where they exist.

First of all, the Marshals Service has quadrupled the number of security specialists in the field. This action alone will go a long way to assuring that witnesses receive necessary services on a timely basis. A complete changeover of personnel within the headquarters of our Witness Security Division was completed less than 1 year ago. Individuals within the Witness Security Division who were not producing were reassigned to other positions and new personnel were brought into the program. Administrative aspects of the program were completely restructured under the leadership of Arthur Daniels who is currently the Chief of the Division. We have added additional staff to the headquarters, and we will add more if the recent augmentation proves to be inadequate. Additional equipment has been provided to the Witness Security Division in the areas of transportation, weaponry, and communications; more is on order, and will be provided as soon as it is available.

The Marshals Service recognizes that more comprehensive policy statements should be issued within the Service; however, we believe it is necessary to await the final approval of the intradepartmental committee report on the witness protection program before proceeding with additional regulatory changes.

Additionally, as I previously noted, the Marshals Service has undertaken to establish a new automated management information system and has levied a reporting requirement on all elements of the Witness Security Division to provide the Service management with the most up-to-date information possible on the activities of Witness Security within the Marshals Service. This information will give the Service a better capacity to forecast workload requirements in the future, and a sounder basis for the Department and the Congress to make

determinations on the resource requirements of the Service in connection with its budget presentations.

The Marshals Service has placed considerably greater emphasis on job placement. We have seen improvement in this area already; the Marshals Service is better able to provide employment opportunities than it has at any point, and we expect to see continued improvement in the future.

Finally, I believe there has been inappropriate criticism of the role played by the U.S. marshals in connection with the witness protection program. I have, in the past, indicated the high respect that I have for all the U.S. marshals currently in the Service. A review of their individual employment histories reveals, by and large, a wealth of qualifying managerial experience in high level law enforcement positions. Inevitably, there will be disputes between U.S. marshals and staff members over the appropriate priorities to be accorded to our different programs. In a given district at a given time, there will be competing priorities for available manpower. It is my belief that the manager in the field is best able to make a reasoned judgment about the resources which should be committed to a particular program at a particular point in time. The witness protection program is not the only program in the Marshals Service which has literal life or death implications for the individuals involved. Additionally, there are requirements levied on the marshal by U.S. district courts which must be satisfied without regard, at times, to other competing priorities. Some complaints about lack of support from marshals stem from the fact that the marshal has more work than men available to perform the assigned tasks and must balance competing priorities within the limit of his resources.

In closing, I would note that the last year has seen a major improvement in the quality of witness protection services. The witness protection program in the Marshals Service is providing more and better services to witnesses than at any other point in the history of the program. We recognize the need to achieve still more in this area and I can assure the committee that the Marshals Service will undertake whatever efforts are necessary and within our means to insure the welfare of each witness who enters the program.

PREPARED STATEMENT OF NORMAN A. CARLSON

Mr. Chairman, and members of the subcommittee, I appreciate the opportunity to appear before you today to discuss the Federal prison system's role in the handling of Department of Justice witness protection cases.

Since the beginning of the witness protection program in 1970 the Bureau of Prisons, in conjunction with the Organized Crime Section of the Criminal Division, has monitored the institutional assignments and other activities of offenders in the program. Since the fall of 1974, with the opening of the metropolitan correctional center in San Diego, Calif., we have established separate areas within three Federal institutions for persons placed in this program by the Department of Justice.

Currently there are some 125 witness protection cases being monitored by the Population Management Branch of the Community Programs and Correctional Standards Division of the Bureau of Prisons. Placement in the program is by referral by the Organized Crime Section to the Population Management Branch. Depending upon the degree of security required, institution assignment is made either to one of the three Metropolitan Correctional Centers operated by the Bureau of Prisons in New York, San Diego, and Chicago; or to other Federal or, in some cases, State institutions. Approximately 45 of the 125 witness protection cases currently being monitored by the Bureau of Prisons are housed in the witness protection units of the three Metropolitan Correctional Centers.

The majority of the offenders being monitored by the Bureau of Prisons are already convicted and are serving either Federal or State terms. The Organized Crime Section, in making a referral to the Bureau of Prisons for institutional placement, provides information concerning the reason for the offender's placement in the program and a list of persons from whom the witness must be separated. If the prisoner is under significant threat to his safety, he will be placed in one of the three Metropolitan Correctional Centers' secure areas. If the separation needs can be met by placement in a Federal institution or in a State facility under contract, these arrangements will be made. Every effort is made to keep offenders in the program as close to their families as possible.

During the pendency of grand jury or other court appearances, offenders in the witness protection program are kept in the three Metropolitan Correctional Centers. Every movement out of the secure area must be personally approved by the warden. In addition, all decisions regarding transfer, furlough, escorted trips, halfway house placement, and production on court writ of habeas corpus, are coordinated with the Population Management Branch of the Bureau of Prisons and the Organized Crime Section of the Department.

In some cases, a change of identity is required to insure that the offender's protection is safeguarded. Name changes are accomplished in approximately 10 percent of all cases referred to us for participation in the program.

In addition to the 125 or so participants in the Department of Justice witness protection program, there are 300–400 offenders in Bureau of Prisons' custody who have been identified by Federal prosecutors as having testified or otherwise cooperated with the government and thus require separation from certain other Federal prisoners. The Bureau of Prisons monitors these cases in Washington also, as well as the approximately 1,000 offenders they testified against. This is to assure that the parties are not placed in the same correctional facility during their incarceration.

Individuals housed in the witness protection units of the Metropolitan Correctional Centers are provided additional security safeguards. They do not have contact with other nonwitness protection offenders, only experienced staff are assigned to the units, and food served in the unit is selected at random by a staff member from food prepared for the general population. Visits are conducted at other than regular visiting times to avoid contact with other offenders' families and are held in the witness protection unit.

Individuals in the witness protection units of the three Metropolitan Correctional Centers are given essentially the same opportunities for participation in programs such as educational, recreation, access to law and reading libraries, and religious programs, as are other offenders in other parts of the institution. In addition, members of the medical staff visit the units on a regular basis.

All offenders placed in the witness protection program are transported by U.S. marshals rather than Bureau of Prisons' buses to avoid any contact with offenders from who they need to be separated.

Some have suggested the establishment of a separate institution for witness protection cases. We oppose such an institution on several grounds, primarily because of the need to separate many of the offenders within the program from other people in the program; secondly, the Bureau of Prisons attempts to keep offenders as close to their families and residences as possible. Placement of all witness protection offenders in one location would limit our ability to keep offenders close to their families. In addition, placement of government witnesses in one location could create a potential security threat to that institution.

Mr. Chairman, that concludes my prepared remarks. I would be pleased to answer any questions you or your subcommittee members might have.

[Whereupon at 11:35 a.m., the subcommittee was adjourned.]

[Subsequent to the hearing the subcommittee sent written questions to the Bureau of Prisons. Those questions and answers are set out below.]

[Exhibit 22]

Subcommittee Questions Regarding Witness/Prisoners and Bureau of Prison Responses

U.S. Senate,
Committee on the Judiciary,
Subcommittee on Administrative Practice and Procedure,
Washington, D.C., April 10, 1978.

Mr. Norman A. Carlson,
Director, Bureau of Prisons, Department of Justice,
HOLC Building, Washington, D.C.

Dear Mr. Carlson: Thank you for your testimony before the Subcommittee on Administrative Practice and Procedure on March 23 concerning the Justice Department's witness protection program.

Because of the Panama Canal Treaty debate on the Senate floor at that time we were unable to complete questioning of government witnesses. Thus I have

called another day of hearings for Friday, April 10, 1978, to complete the subcommittee's questioning of Justice Department officials about this program.

Rather than ask you to appear on Friday, April 10, I am forwarding the enclosed set of written questions from subcommittee members. These questions and your written responses will then be inserted into the printed record of the hearings.

To enable us to meet our deadlines for the printed hearing record, please send your written replies to these questions to the subcommittee by April 21, 1978. Your response should be addressed to Ms. Irene Emsellem, chief counsel and staff director, Subcommittee on Administrative Practice and Procedure, room 162, Russell Senate Office Building.

Sincerely,

JAMES ABOUREZK,
Chairman.

U.S. DEPARTMENT OF JUSTICE,
BUREAU OF PRISONS,
Washington, D.C., April 20, 1978.

MS. IRENE EMSELLEM,
Chief Counsel and Staff Director, Subcommittee on Administrative Practice and Procedure, Washington, D.C.

DEAR MS. EMSELLEM: Pursuant to Senator James Abourezk's correspondence of April 10, 1978, we are submitting responses to the questions attached thereto.

We appreciate the committee's interest in matters of mutual concern. Please feel free to contact us again if we can provide you further information or assistance in your investigation.

Sincerely,

NORMAN A. CARLSON,
Director.

QUESTIONS FOR BUREAU OF PRISONS

The following questions concern the MCC facility in New York City.

Question 1. The windows of the visitors area in the witness protection unit of the New York MCC face an apartment dwelling located across the street. The subcommittee received testimony that these windows are not bulletproof. Is this true? If so, does this constitute a security risk for prisoner/witnesses who frequent the visiting area? Why or why not?

Answer 1. The configuration of the New York MCC is such that the nearest adjacent building with a view of the multipurpose windows is 400 feet away.

The polycarbonate glazing material used in the windows will withstand penetration from all handguns and can only be penetrated by a high-powered rifle at a distance of 15 to 50 feet. It is unlikely that a shot from a rifle at an angle to the glazing material would ever find its intended target.

Question 2. The subcommittee obtained a copy of a "Room and Location Sheet" for prisoners in the witness protection unit of the New York MCC.[1] *The face of this document indicates that copies are distributed to the mailroom, the commissary, and the hospital where general population prisoners have ready access to them. Since virtually all of the prisoner/witnesses at MCC still are using their real names, wide distribution of this is an obvious security risk.*

(a) What is the current distribution of the room and location sheet for the witness protection unit?

Answer (a) Only one such list is now being used and it is kept in the unit for the unit officer's use only. Commissary requests are handled by staff members and only initials and numbers are indicated on the commissary slip.

(b) How is mail handled for prisoner/witnesses? Do general population prisoners have access to prisoner/witness mail?

Answer (b) At the present time, mail for this unit is being handled through the institution's mailroom by staff only. No inmates have access to prisoner/

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[1] See exhibits 9 and 9a, pp. 28 and 30 of the hearing text.

witness mail. Recently a meeting with the warden and representatives of the Marshals Service was held and an arrangement is being instituted to have prisoner/witness' mail handled through the U.S. marshal's office. This procedure will become effective as soon as the Marshals Service is able to complete the details involved.

(c) Do the commissary and hospital units need to know the real name of prisoner/witnesses?

Answer (c) The commissary is no longer receiving prisoner/witness names, only initials and numbers. The hospital is no longer being furnished a list of prisoner/witnesses.

Question 3. The subcommittee received testimony on March 20, 1978, concerning the following incidents which allegedly involved security breaches. Please provide the following information about each incident: has the Bureau investigated the incident?; what were the results of the investigation?; and what has been done to correct any mistakes or errors which occurred?

(a) Plastic explosives were found beneath the witness protection unit door after the escape of the Stassi brothers from the general population section of MCC.

Answer (a) Warden Thomas was assigned to the New York MCC at the time of the attempted escape of the Stassi brothers. He, therefore, contacted former Warden Taylor who indicated that a report was received that the Stassi brothers were going to attempt an escape from the MCC. During that time an alleged attorney for the brothers was apprehended in the MCC lobby with a 9 millimeter clip containing a full load of ammunition. The report of explosives being found beneath the witness protection unit is unfounded.

(b) A government witness was mistaken for another person and removed from the witness protection unit, taken to the Brooklyn District Court and detained in an area with ordinary prisoners.

Answer (b) The MCC staff is unable to identify the specific incident of a mistaken witness, inasmuch as names of the individuals involved were not provided.

(c) Pieces of glass and other foreign objects were found in the food of witness/prisoners.

Answer (c) In the fall of last year a situation existed at the MCC where metal was reported to have been found in the food. It was discovered that this was the result of a faulty can opener. Glass particles were also reported to have been found in food. This was a result of a bad shipment of sugar. Both of these incidents were not localized to the witness security unit and were corrected. In a separate incident where it was reported that glass was found in food on the unit is believed to have been planted by an inmate on the unit who has been a constant troublemaker.

(d) Correction Officer Gonzalez used the real name of a witness in speaking with a witness' wife who was visiting MCC. Allegedly the officer was serving on the admission desk while under indictment for bribery.

Answer (d) We are unable to comment on this question inasmuch as the subject officer, Mr. Gonzalez, has been convicted and is serving time in a State facility for bribery and corruption. Mr. Gonzalez is unavailable for comments and our records do not show a documentation of the incident.

(e) The wife of a prisoner/witness disappeared following a visit to her husband in the MCC facility.

Answer (e) Our records reveal that Mrs. Joseph Boriello was at the New York MCC on one occasion only, September 3, 1976, during which time she received her husband's clothing. A signed property receipt documents this transaction. Mr. Boriello was confined at the MCC New York from August 23, 1976 through January 27, 1977, when he was released by court order.

The Bureau of Prisons is unaware of the circumstances surrounding Mrs. Boriello's disappearance. An investigation as to her disappearance is not a matter that would be handled by the Bureau of Prisons.

Question 4. Have all the recommendations made by Shirley Stutely concerning the New York MCC facility in a memorandum dated January 25, 1978,[1] been implemented? If any have not been followed, please explain which ones and why not?

Answer 4. All recommendations made by Shirley Stutely concerning the New York MCC in a memorandum dated January 25, 1978 have been implemented.

Question 5. Has there been cases in which prisoner/witnesses could have been transferred to other prisons (either Federal or State) from New York MCC without clearance from Bureau of Prisoners headquarters? If so, please briefly describe the instances. What corrective action has been taken?

Answer 5. There is a possibility that a prisoner/witness could have been transferred to another Federal or State institution from the New York MCC without clearance from Bureau of Prisons headquarters. However, this would have been prior to implementation of procedures by which these cases require clearance by Population Management Branch, Washington, D.C., before acceptance or discharge from the witness security unit. Since the implementation of this procedure in March of this year, no witness has been accepted or released from the unit without clearance from the Central Office, Bureau of Prisons.

POLICY STATEMENT QUESTIONS

The following series of questions concern the draft Bureau of Prisons policy statement regarding witness protection units and other general policy matters.

[The draft policy statement is set out below:]

[Exhibit 23]

BUREAU OF PRISONS DRAFT POLICY STATEMENT ON WITNESS PROTECTION UNITS, MARCH 1978 [2]

1. *Purpose.*—To establish operational standards for the witness protection units at the Metropolitan Correctional Centers (MCC's) in the Bureau of Prisons (BOP).

2. *Directives Affected.*—The following order and policies are referenced:

A. Department of Justice (DOJ) Order OBD 2110:2 (1-10-75), *Witness Protection and Maintenance Policy and Procedures.*

B. PS 2211.1A (5-29-75) *Release of Records.*

C. PS 7300.1A (3-16-72) *Correspondence Regulations.*

D. PS 7300.4A (4-24-72) *Visiting Regulations.*

E. PS 7300.12D (3-19-76) *Furloughs.*

F. PS 7300.63A (7-18-74) *Educational Goals, Program Definitions, and Guidelines.*

G. PS 7300.65 (5-15-72) *Designation of Institutions for Commitment of Federal Prisoners.*

H. PS 7900.45 (11-20-73) *Offender Files; Security and Use Procedures.*

I. PS 7900.53A (12-1-77) *Central Inmate Monitoring System.*

3. *Background.*—Title V, Public Law 91-452, authorizes the Attorney General to provide for the protection of government witnesses and their families. Primary responsibility for the witness protection program has been delegated to the U.S. Marshals Service (USMS) by the above-referenced DOJ order.

Although the USMS has historically provided protective facilities (safehouses) for the protection of government witnesses, the BOP is currently providing this service in our MCC's, and other BOP facilities.

Although the witness protection program is directed toward maintaining the safety of individuals who are cooperating in legal proceedings against persons alleged to have participated in an organized criminal activity, the BOP has found it necessary to provide the same type of protection to certain other inmates who are not included in the DOJ program.

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[1] See exhibit 10, p. 29 of the appendix.

[2] A revised draft policy statement was issued Apr. 20, 1978. See exhibit 23a, p. 107 of the hearing text.

It is necessary to provide additional security measures for individuals housed in the witness protection units because of the need to protect their identity or to provide for the safety of inmates or witnesses who are providing testimony or sensitive information that affects the criminal justice system.

4. *Definitions.*—Because of the several different categories of inmates that may require confinement to the witness protection unit, the following definitions will apply:

A. *Witness Protection Cases*—Those individuals who have been requested by the Department of Justice for confinement in a witness protection unit and are so designated by BOP Population Management Branch.

B. *BOP Protection Cases*—Inmates designated for confinement in a witness protection unit by the BOP Population Management Branch. These inmates have not been referred by the Department of Justice as part of the witness protection program.

5. *Request and Approval for Inclusion Into the Witness Protection Unit.*—Normally, requests for protection of those individuals described in 4.A of this policy shall be made by the appropriate U.S. attorney to the Assistant Attorney General of the concerned division. If approved, the Director of the BOP will be contacted in writing by the Assistant Attorney General. The BOP will make appropriate designations to the USMS.

Other cases described in 4.B of this policy will be approved for confinement in the witness protection units by the BOP Population Management Branch. These cases may be offenders who have provided information to correctional officials and safe placement elsewhere has been unsuccessful.

All inmates assigned to the witness protection unit must also be included in the Central Inmate Monitoring System (CIMS). All individuals placed in or removed from the witness protection unit, other than with a proper writ, USMS remand, or court order, must be approved by the BOP Population Management Branch. If emergency movement is required during normal working hours, Population Management should be notified by phone and/or teletype. During other than regular working hours, the Bureau duty officer should be contacted.

6. *Security Procedures.*—Because of threats that may be made to the safety of inmates housed in the witness protection unit, staff should insure that high security measures are adhered to at all times for that particular unit. The unit(s) will be inaccessible to all other inmates. Additional security will be required in several areas enumerated in this policy statement. The following is not all-inclusive, but outlines certain security precautions that are minimum standards to be implemented. Other precautions may be necessary to conform with particular institutional operations.

A. *Commitment and Release*—Precautionary procedures should be implemented to assure that witness protection cases are isolated from other inmates and visitors during the committing process. This may require coordination with the transporting officer and appropriate institutional staff.

B. *Identification*—When requested by the DOJ,, it may be necessary to change the identity of an individual designated for the witness protection unit. These name changes will be coordinated by the BOP Population Management Branch and the designated institution will be notified by that branch. The following standards will apply:

1. Witness protection cases that require a change of identity will be approved by the DOJ and accountability of identity information will be maintained by BOP Population Management and the warden of the designated institution.

2. When a change of identity is approved, all references to the individual's case will be made in accordance with the new name. However, in order to accurately gather needed information, a cross-reference file will be maintained by BOP Population Management that lists all identity change cases, their true name, and any aliases. Only the warden or his designee is authorized to maintain a local cross-reference file, apart from the files of the general institution population. Strict record security is required, limiting access only to the warden or his designate(s).

3. The witness protection inmate will be booked or committed under the name supplied by the BOP Population Management Branch in their teletype authorizing acceptance at that facility. No reference will be made to the prior identity unless authorized by the warden. Freedom of information requests for information relative to a prior identity will not be released. Only appropriate information relating to the new identity will be released.

C. *Admission and Orientation*—A program should be provided to inmates assigned to the witness protection unit to assure the participants are fully aware of the security offered and their responsibilities that may be unique to the unit.

D. *Inmate Movement*—Written procedures should be made available to the appropriate staff to insure the orderly and safe movement of inmates assigned to the witness protection unit. Under no circumstances will inmates assigned to the witness protection unit come into contact with general population inmates.

E. *Unit Staff*—Staff assigned to support the witness protection unit should be carefully selected by the warden. Access to the unit by other staff not regularly assigned, should be only with the approval of the warden or his designate(s). A log will be kept and signed by all persons visiting the unit.

1. Correctional Officers—Only experienced officers (nonprobation) should be assigned to the witness protection unit, and the post will be manned on a 24-hour per day, 7-day per week basis. The witness protection unit should not be used as a training post.

2. Unit Manager—It is recommended that the chief correctional supervisor act in this capacity and be responsible for advising the warden of the unit operation.

3. Case Manager—Although the unit may not require the full-time service of a case manager, one case manager should be assigned to service the unit.

4. Correctional Counselor—One correctional counselor should be assigned to provide services for the witness protection unit.

5. Other Staff—All other staff should be available to the unit on an as-needed basis. Other staff who may visit the unit will do so only with the approval of the warden or his designate(s).

F. *Inmate Discipline*—Inmates assigned to the witness protection units will be required to abide by the rules and regulations of the institution. The witness protection cases have the same rights and responsibilities as the members of the general population. Although witness protection cases may be placed in administrative detention or disciplinary segregation, caution and prudence should prevail by not placing the individual in a situation that would jeopardize his safety. BOP Population Management may be contacted for a possible designation to another institution.

G. *Visiting*—Those individuals who are participants in the DOJ witness protection program (4.A) will be allowed visitors approved only by the USMS and the Warden of the institution.

To insure appropriate identification of visitors, the inmate will provide a picture of the proposed visitor for the institution. The prospective visitor, inmate, U.S. Marshal (DOJ cases only), and warden will sign the back of the picture signifying approval. The pictures will be maintained in the visiting file. The visiting file will be maintained in a secure area apart from the visiting files of other inmates.

Visiting will be conducted in a secure area, insuring that witness protection cases and their visitors do not come into contact with the inmates of the general population or their visitors while inside the institution. This may require separate visiting hours.

H. *Food Service*—Food for this unit will be prepared and served in a way to assure that it will not be adulterated. Food distributed to the unit will be selected on a random basis from the food that is to be served to the general population and handled only by a staff member. Food may be handled by a witness protection inmate only after it has been delivered to the unit, but strict security measures must be taken to assure that general population inmates do not have access to the food consumed in the witness protection unit.

I. *Medical Services*—Medical services for witness protection cases will be the same as for the general population. However, it is necessary for these cases to receive medical services in a manner that will assure their safety from inmates of the general population. Emergency medical removal from the institution of those inmates in the witness protection program (4.A.), requires prompt notification of the U.S. Marshals Service.

J. *Commissary*—Commissary deliveries to the witness protection unit will be in a manner that assures the safety of the unit members. Inmates of the general population should not have knowledge of the delivery schedule. Only a staff member is authorized to order and deliver commissary to this unit.

K. *Recreation*—Inmates assigned to the witness protection units will be allowed recreation periods consistent with all security requirements. However,

witness protection inmates may not come into contact with general population inmates during recreation periods. For those institutions that can provide safe rooftop recreation, care must be taken to provide for elevator and rooftop security, and a staff member will always supervise the recreation periods.

L. *Education*—Inmates assigned to the witness protection units will not normally participate in structured educational programs at the MCC due to the need to separate them from members of the general population. However, this does not preclude witness protection inmates from being allowed access to certain educational resources consistent with the security procedures outlined in this policy statement. Approved correspondence courses may be utilized, but educational consultants from the community will not be allowed in the witness protection unit. Witness protection cases described in 4.A will be advised of assistance that may be received through their individual agreements with the U.S. Marshals Service and institutional staff will assist the inmates to the extent possible concerning specific educational requests.

M. *Furloughs and Trips*—Generally, inmates in the witness protection units will not be considered for furloughs or trips to the community. In those exceptional cases that may arise, the court, U.S. attorney, U.S. Marshals Service, Population Management Branch, and other appropriate agencies will be contacted prior to a decision.

N. *Contact with the Media*—Normally, media contact will not be authorized for inmates in the witness protection unit. The warden, however, may determine that an interview request is appropriate and contact the U.S. Marshals Service for clearance for those who are participants in the witness protection program (4.A). Other cases in the unit may be approved unilaterally by the warden if the interview would not jeopardize the safety of any individual in the unit. Any approved interview should not be conducted in the unit.

O. *Mail*—Inmates assigned to the witness protection unit will be allowed mail privileges in accordance with current policy statement. Mail drops coordinated through the U.S. Marshals Service will be utilized for DOJ cases (4.A) where individual circumstances warrant. For example, an inmate may wish the correspondence be mailed from a location other than the institution.

7. *Post-release supervision.*—Those inmates described in 4.B above will be released in accordance with established release procedures. Those who are participants in the DOJ witness protection program (4.A) are normally released to the U.S. Marshals Service. Because these releases may be relocated, post-release supervision will be coordinated by the U.S. Marshals Service and the appropriate U.S. probation office. The releasing institution should notify both the U.S. probation office from the sentencing district and the U.S. Marshals Service office in Washington, D.C.

NORMAN A. CARLSON,
Director, Bureau of Prisons.

QUESTIONS

Question 1. When will the draft policy statement on witness protection units be effective?

Answer 1. The draft policy statement on witness security units will become effective after review, and approval by the Bureau of Prisons executive staff at their next meeting in May 1978. Copies should be available for distribution no later than June 1, 1978. However, we are presently operating our units in accordance with the procedures outlined in the policy statement.

Question 2. How will compliance with this policy statement be ensured?

Answer 2. Compliance with this policy statement will be ensured through onsite observation during field audits and institutional visits by central and regional office staff.

Question 3. Has the Bureau of Prisons ever used jails or stockade facilities on military bases for housing nonmilitary Federal prisoners? The subcommittee heard testimony that such facilities are often underutilized and would make excellent facilities for housing prisoners in the witness protection program. What is your evaluation of this suggestion?

Answer 3. During fiscal year 1977, BOP seriously pursued and is continuing to pursue the option of using excess, underutilized or unoccupied military facilities for housing Federal prisoners. Explorations to date indicate that the Department of Defense plans to redistribute their penal populations in a more

economical manner. Any residual space that might become available for BOP to use will be considered. However, such space may prove uneconomical if it lacks sufficient capacity to justify the per capita operating costs that would be required.

The Bureau of Prisons opposes the utilization of any facility for the sole purpose of housing prisoner/witnesses because of the need to separate many of the offenders within the program from other persons in the program; secondly, we attempt to keep offenders as close to their families and residences as possible. Placement of all witness protection offenders in one location would limit our ability to keep offenders close to their families. In addition, placement of prisoner/witnesses in one location could create a potential security threat to that institution.

Question 4. Does the Bureau of Prisons make any attempt to separate detainees from sentenced prisoners in the witness protection unit? Do you attempt to separate violent from passive persons in the unit? Why or why not?

Answer 4. The Bureau of Prisons currently does not separate detainees from sentenced inmates in the witness security units. This is a very unique and secure unit and to separate cases within the unit would require additional witness security units within the same facility. Similarly, we do not separate the violent from the passive, unless circumstances warrant such action. Should overt behavior dictate separation, the aggressor inmate may be transferred to another witness security unit in another institution or placed in administrative detention until the transfer can be effected to an appropriate relocation.

Question 5. The draft policy statement does not address the subject of transferring prisoner/witnesses from MCC facilities to other Federal or State facilities. In light of the difficulties recently encountered by the Bureau in transferring one prisoner/witness from the New York MCC written guidelines would seem appropriate on this subject. Will the Bureau of Prisons consider adding a section to the policy statement concerning prisoner transfers to other prison facilities?

Answer 5. Policy Statement, page 5, item B, Transfers, Release, and Discharge addresses the transfers of prisoner/witnesses to other prison facilities.

Question 6. Who decides when an MCC prisoner/witness will be moved to another prison facility? Upon what criteria is this decision made?

Answer 6. The Bureau of Prisons in coordination with the Criminal Division and the U.S. Marshals Service determines the feasibility and advisability of transferring a prisoner/witness to another prison location. The criteria used in making the decision are:

Are there persons in the population of the proposed facility that would pose a threat to the well-being of the witness.

Does the proposed facility offer a meaningful program to assist the prisoner witness an opportunity to serve his term in a humane manner as well as not be threatened.

Accessibility to family without breach of security.

Question 7. How is the relocation facility chosen?

Answer 7. The prime concern in choosing a relocation facility for a prisoner/witness is the ensurance that there is no threat to his well-being at that institution. Other considerations are oulined in Item 5. (b) (1).

Question 8. What are the responsibilities of the Bureau of Prisons and of the Marshals Service respectively concerning redocumentation and briefing and orientation of the prisoner/witness prior to transfer?

Answer 8. The U.S. Marshals Service is responsible for briefing and orientation of prisoner/witnesses requiring redocumentation. The Bureau of Prisons is responsible for counseling with the prisoner/witness to determine the extent of his concerns, problems, or other matters envisioned concerning the proposed move. Should there be any apprehension posed by the prisoner/witness the situation will be referred to the Population Management Branch for coordination with the Criminal Division and/or USMS.

Question 9. Is the Marshals Service always responsible for transporting a prisoner/witness to a new facility?

Answer 9. The U.S. Marshals Service is responsible for the transportation of all witness security cases. Population Management, Criminal Division and USMS will coordinate all transfers of witness security cases in or out of the witness security units, regular Bureau of Prisons institutions or State facilities.

Question 10. Who is responsible for ensuring that the new facility does not house anyone who might be a threat to the prisoner/witness? How is this accomplished?

Answer 10. The Bureau of Prisons in coordination with the Criminal Division and the U.S. Marshals Service is responsible for ensuring that the relocated facility does not house anyone who might be a threat to the prisoner/witness.

How accomplished: When either the U.S. Marshals Service, Criminal Division, or the Bureau of Prisons is alerted to the need to transfer a prisoner/witness to another location each agency is consulted and a decision is reached between them as to an appropriate relocation to meet the security need of the individual case.

[Exhibit 23a]

Revised Bureau of Prisons Draft Policy Statement on Witness Protection Units, April 20, 1978

1. *Purpose.*—To establish operations standards for the witness security units at the Metropolitan Correctional Centers (MCC's) in the Bureau of Prisons (BOP). The standards will also be applicable, in part, to those BOP institutions housing witness security cases.

2. *Directives Affected.*—The following order and policies are referenced:

A. Department of Justice (DOJ) Order OBD 2110.2 (1/10/75), *Witness Protection and Maintenance Policy and Procedures.*

B. PS 2211.1A (5/29/75) *Release of Records.*

C. PS 7300.1A (3/16/72) *Correspondence Regulations.*

D. PS 7300.4A (4/24/72) *Visiting Regulations.*

E. PS 7300.12D (3/19/76) *Furloughs.*

F. PS 7300.63A (7/18/74) *Educational Goals, Program Definitions and Guidelines.*

G. PS 7300.65 (5/15/72) *Designation of Institutions for Commitment of Federal Prisoners.*

H. PS 7900.45 (11/20/73) *Offender Files; Security and Use Procedures.*

I. PS 7900.53A (12/1/77) *Central Inmate Monitoring System.*

J. PS 7300.53A (11/9/77) *Procedures for Releasing Inmates to U.S. Marshals and State Law Enforcement Officers.*

K. PS 1220.1C (1/17/77) *Contacts with the News Media.*

L. PS 42110 (3/3/75) *Inmate Information System.*

3. *Background.*—Public Law 91.452 authorizes the Attorney General to provide for the security of actual and potential Government witnesses who are placed in jeopardy because they assist in criminal proceedings. The Department of Justice fulfills this responsibility through the witness security program. Responsibility for the program currently rests with the Assistant Attorneys General of the Department's Legal Divisions and with the U.S. Marshals Service. A witness is admitted into the program upon the approval of an Assistant Attorney General of one of the legal divisions. Security measures for the witness then are undertaken by the U.S. Marshals Service.

Although the U.S. Marshals Service has historically provided protective facilities (safehouses) for the protection of government witnesses, the BOP is currently assisting in providing this service in our MCC's, and other BOP facilities.

Although the witness security program is directed toward maintaining the safety of individuals who have or who are cooperating in legal proceedings against persons alleged to have participated in large scale criminal activity, the BOP has found it necessary to provide the same type of protection to certain other inmates who are not included in the witness security program.

It is necessary to provide additional security measures for individuals housed in the witness security unit because of the need to protect their identity or to provide for the safety of inmates or witnesses who are providing testimony or sensitive information that affects the criminal justice system.

4. *Definitions.*—

A. Two different categories of inmates and/or witnesses will be confined in the witness security unit. The following definitions will apply:

(1) *Witness security cases*—Extremely sensitive sentenced and unsentenced witnesses referred by the Criminal Division designated for confinement in a witness security unit.

(2) *BOP security cases*—Inmates designated for confinement in a witness security unit by the BOP Population Management Branch. These inmates have not been referred by the Criminal Division as part of the witness security program.

B. Witnesses assigned to other than witness security units are defined as:

(1) *Regular institution placement*—Those prisoner/witness cases referred by the Criminal Division who can be safely placed initially or transferred from a witness security unit to a regular institution.

(2) *Contractual placement*—Those prisoner/witness cases referred by the Criminal Division who cannot be safely placed initially in a witness security unit or a regular institution will be referred to State agencies for possible placement on a contractual basis. Also, those witnesses requiring transfer from a witness security unit for greater protection.

Note: All witness security cases, no matter where confined, will be included in the Central Inmate Monitoring System and categorized as Category D (see PS 7900.53, CIMS).

5. *Request and Approval for Inclusion Into the Witness Security Unit.*—Requests for protection of those individuals described in A.1 of this policy shall be made by the appropriate Assistant Attorney General of the concerned legal division. If approved, the Director of the BOP will be contacted in writing by the Assistant Attorney General, Criminal Division. The BOP will assign witness to appropriate institution and notify the U.S. Marshals Service so that arrangements can be made for delivery to that facility.

BOP security cases in A.2 of this policy will be approved for confinement in the witness security units by the Assistant Director, Community Program and Correctional Standards Division. These cases may be offenders who have provided information to correctional officials and safe placement elsewhere has been unsuccessful.

6. *Security Procedures.*—The warden or his designee will be the liaison with the Population Management Branch in the operation of the witness security units and/or witness security cases. Because of threats that may be made to the safety of inmates housed in the witness security unit and/or the regular institution, staff should insure that high security measures are adhered to at all times for that particular unit or witness. The witness security unit will be inaccessible to all other inmates. Additional security will be required in several areas enumerated in this policy statement.

A. *Commitment*—Precautionary procedures should be implemented to assure that witness security cases are isolated from other inmates and visitors during the committing process. This may require coordination with the transporting officer and appropriate institutional staff (also see paragraph T).

B. *Transfers, Release, and Discharge* (also see paragraph T).

(1) *Transfers*—

a. All individuals placed in or removed from the witness security unit and/or institution must be approved by the BOP Population Management Branch. If emergency movement is required during normal working hours, Population Management should be notified by phone and/or teletype. During other than regular working hours, the Bureau of Prisons duty officer will contact Population Management or Criminal Division staff for clearance.

b. Transfers from the witness security unit to a regular or State institution are to be coordinated through Population Management, Criminal Division, and the U.S. Marshals Service to ensure that the population at the proposed institution does not pose a threat to the witness.

c. Briefing and Orientation—Prior to transfer to another witness security unit, regular BOP institution, or State facility, the witness security cases will be counselled by the appropriate case manager to determine the extent of concerns, problems or other matters envisioned by the witness concerning the move. In cases requiring redocumentation, assistance will be requested by the U.S. Marshals Service and referral for coordination should be made to Population Management.

(2) *Communication*—Requesting approval for transfers or other type movements, except for BOP security cases, are to be sent via teletype or memo to the Population Management Branch with an information copy to: Gerald Shur, Attorney-in-Charge (Teletype code: JCRIM) Intelligence and Special Services Unit, Criminal Division.

(3) *Transportation*—

a. The U.S. Marshals Service is responsible for the transportation of all witness security cases.

b. Population Management and the warden will coordinate arrangements for transfer in and out of BOP protection cases (A.2) handled in the witness security units.

(4) *Community placements*—Population Management, Criminal Division, and the U.S. Marshals Service witness security unit, Washington, D.C., will coordinate all transfers of witness security cases (A.1) in or out of the witness security units, regular BOP institutions, or State facilities. Referrals for placement at Federal and/or contract community centers must be coordinated through Population Management prior to contacting community treatment centers in view of the precautionary measures which may be necessary in effecting supervision by the U.S. Probation Office in the relocation of this witness.

(5) *Release on writ*—Release to law enforcement officials for legal proceedings i.e. writ, debriefing, court order, or detainers must be made to Population Management Branch for appropriate coordination with Criminal Division and U.S. Marshals Service.

Procedures outlined in PS 7300.53A (Procedures for Releasing Inmates to U.S. Marshals and State Law Enforcement Officers) are to be exercised when a witness security case is released to a law enforcement officer. Particular emphasis is to be given by the institution to providing names, register numbers, and locations on BP administrative form 193 of persons from whom the witness is to be separated while in transit and while temporarily housed in BOP facilities, the D.C. jail, or non-Federal facilities.

(6) *Furloughs and trips*—Generally, inmates in the witness security unit will not be considered for furloughs or escorted trips to the community. In those exceptional cases that may arise, Population Management Branch will coordinate the request with the Criminal Division, U.S. Marshals Service and/or other appropriate agencies (also see paragraph T).

(7) *Post-release Supervision*—Witness security cases (A.1) are usually relocated, thereby requiring coordination with the U.S. Marshals Service and the U.S. Probation Office. Population Management Branch is to be notified in advance of anticipated releases (parole, mandatory release, furlough, transfer, court order, etc.) of witness security cases in witness security units or regular institutions.

BOP security cases (A.2) will be released in accordance with established release procedures.

C. *Classification data*—The Population Management Branch is responsible for furnishing to the institution background information on witness security cases. In view of the sensitivity of the data regarding these cases, there may be a limitation on dissemination of information received by the Population Management Branch. All requests for additional information must be coordinated through the Population Management Branch. Contact with other sources is not authorized.

D. *Identification*—

(1) Witness security cases that require a change of identity will be approved by the U.S. Marshals Service and accountability of identity information will be maintained by BOP Population Management and the warden of the designated institution.

(2) Normally, name changes will not be authorized for individuals presently confined in BOP facilities. When a change of identity is approved, by U.S. Marshals Service, all references to the individual's case will be made in accordance with the new name. However, in order to accurately gather needed information, a cross-reference file will be maintained by BOP Population Management that lists all identity change cases, their true name, and any aliases. Only the warden or his designee is authorized to maintain a local cross-reference file, apart from the files of the general institution population. Strict record security is required, limiting access only to the warden or his designee(s).

(3) The witness security inmate will be booked or committed under the name supplied by the BOP Population Management Branch in their teletype authorizing acceptance at that facility. No reference will be made to the prior identity

unless authorized by the Warden. Freedom of information requests for information relative to a prior identity *will not be released.* Only appropriate information relating to the new identity will be released.

E. *Admission and orientation*—A program should be provided to inmates assigned to the witness security unit to assure the participants are fully aware of the security offered and their responsibilities that may be unique to the unit or institution.

F. *Institution movement*—Written procedures should be made available to the appropriate staff to insure the orderly and safe movement of inmates assigned to the witness security unit. *Under no circumstances* will inmates assigned to the witness security unit come into contact with general population inmates.

G. *Unit staff*—Staff assigned to support the witness security unit should be carefully selected by the warden. Access to the unit by other staff not regularly assigned, should be only with the approval of the warden or his designee(s). A log will be kept and signed by all persons visiting the unit.

(1) Correctional Officers—Only experienced officers (nonprobation) should be assigned to the witness security unit, and the post will be manned on a 24-hour per day, 7-day per week basis. The witness security unit should not be used as a training post.

(2) Unit Manager—It is recommended that the chief correctional supervisor act in this capacity and be responsible for advising the warden of the unit operation.

(3) Case Manager—Although the unit may not require the full-time service of a case manager, one case manager should be assigned to service the unit on a regular basis.

(4) Correctional Counselor—One correctional counselor should be assigned to provide services for the witness security unit.

(5) Other Staff—All other staff should be available to the unit on an as-needed basis. Other staff who may visit the unit will do so only with the approval of the warden or his designate(s).

H. *Inmate discipline*—Inmates assigned to the witness security unit will be required to abide by the rules and regulations of the institution. The witness security cases have the same rights and responsibilities as the members of the general population. Although witness security cases may be placed in administrative detention or disciplinary segregation, caution and prudence should prevail by not placing the individual in a situation that would jeopardize his safety. BOP Population Management may be contacted for a possible designation to another institution.

I. *Visiting*—Those individuals who are participants in the witness security program (A.1) will be allowed visitors approved only by the U.S. Marshals Service and the warden of the institution.

To insure appropriate identification of visitors, the inmate will provide a picture of the proposed visitor for the institution. The prospective visitor, inmate, U.S. Marshall (witness security cases only), and warden will sign the back of the picture signifying approval. The pictures will be maintained in the visiting file. The visiting file will be maintained in a secure area apart from the visiting files of other inmates.

Visiting will be conducted in a secure area, insuring that witness security cases and their visitors do not come into contact with the inmates of the general population or their visitors while inside the institution. This may require separate visiting hours and/or days.

J. *Attorney consultation*—Inmates assigned to the witness security unit will be required to advise the institution of the name and address of their attorney(s). Proper identification must be presented to appropriate institutional staff before the visit commences, as visiting room pictures are not required of attorneys.

K. *Food service*—Food for this unit will be prepared and served in a way to ensure that it will not be adulterated. Food distributed to the unit will be selected on a random basis from the food that is to be served to the general population and handled only by a staff member. Food may be handled by a witness security inmate only after it has been delivered to the unit, but strict security measures must be taken to assure that general population inmates do not have access to the food consumed in the witness security unit.

L. *Medical services*—Medical services for the witness security cases will be the same as for the general population. However, it is necessary for these cases to receive medical services in a manner that will ensure their safety from inmates of the general population. Emergency medical removal from the institution of those inmates in the witness security program (A.1), requires prompt notification to Population Management for coordination with the U.S. Marshals Service. During other than regular working hours, the Bureau duty officer should be contacted (also see paragraph T).

M. *Commissary*—Commissary deliveries to the witness security unit will be in a manner that ensures the safety of the unit members. Inmates of the general population should not have knowledge of the delivery schedule. Only a staff member is authorized to handle orders and make deliveries of commissary items to this unit.

N. *Work Assignments*—Wherever possible, provisions should be made to have witnesses involved in work assignments on the unit (also see paragraph T).

O. *Recreation*—Inmates assigned to the witness security unit will be allowed recreation periods consistent with all security requirements. However, witness security inmates may not come into contact with general population inmates during recreation periods. For those institutions that can provide safe rooftop recreation, care must be taken to provide for elevator and rooftop security, and a staff member will always supervise the recreation periods.

P. *Education*—Inmates assigned to the witness security unit will not normally participate in structured educational programs at the MCC due to the need to separate them from members of the general population. However, this does not preclude witness security inmates from being allowed access to certain educational resources consistent with the security procedures outlined in this policy statement. Approved correspondence courses may be utilized, but educational consultants from the community will not be allowed in the witness security unit. Witness security cases described in A.1 will be advised of assistance that may be received through their individual agreements with the U.S. Marshals Service and institutional staff will assist the inmates to the extent possible concerning specific educational requests (also see paragraph T).

Q. *Contact with the Media*—Normally, media contact will not be authorized for inmates in the witness security unit. The warden, however, may determine that an interview request is appropriate and contact the Population Management Branch for clearance for those who are participants in the witness security program (A.1). BOP security cases in the unit may be approved by the warden in accordance with PS 1220.1C (Contacts With News Media) and providing the interview would not jeopardize the safety of any individual in the unit. Any approved interview should be conducted in the unit visiting room.

R. *Mail*—Inmates assigned to the witness security unit will be allowed mail privileges in accordance with current policy applicable to BOP offenders in general. Mail drops coordinated through the U.S. Marshals Service will be utilized for witness security cases (A.1) where individual circumstances warrant. For example, a witness may wish the correspondence be mailed and received from a location other than the institution.

S. *Parole hearings*—Population Management Branch is to be notified in advance of parole eligibility date and scheduled hearings in order that precautionary measures may be coordinated, if necessary.

T. *Submission of BP-Forms*—Submission of BP forms is required for inmates in witness security units as follows. In no cae shall inmates be allowed to prepare, key, or have access to BP-forms or printed lists of such forms. (Special procedures are available from institution Data Coordinators to assist where inmate staff normally keys these forms.)

(1) *All Witness Security Unit Cases* shall be included in the institution count and the CMC System.

a. *BP-1, Commitment Data, and BP-2, Discharge Data*—

(1) Original handwritten copy for use in SYCOR keying by Administrative System Manager (ASM) or Records Officer (RO) staff.[1]

(2) Original SYCOR printed form to ASM or RO locked file.

b. *BP-3, Population Data*—

(1) Witness security unit cases will be included in the BP-3 count.

[1] After keying and printing of official SYCOR form, the original handwritten copy will be destroyed.

(2) Original SYCOR printed form to ASM or RO locked file.
c. *BP-12, CMC Principal, and BP-13, CMC Separatee—*
(1) Original handwritten copy for use in SYCOR keying by CMC Coordinator.[1]
(2) Original SYCOR printed form to Inmate Central File.
(2) *Sentenced Witness Security Cases—*
a. *BP-5, Sentence Data—*
(1) Original handwritten copy for use in SYCOR keying by ASM or RO staff.[1]
(2) Original SYCOR printed form to Judgement and Commitment File.
(3) Copy SYCOR printed form to Inmate Central File.
(4) Copy SYCOR printed form to inmate.
(5) Copy SYCOR printed form to Parole Board inmate file transmitted in a manner to assure confidentiality.
b. The following BP-Forms are *not* required for Witness Security Cases.
(1) BP-6 Social Data.
(2) BP-6.1 Inmate Program Plan.
(3) BP-6.2 Inmate Program Completion.
(4) BP-7 Education Data.
(5) BP-8 Medical Data.
(6) BP-96 Industrial Employment.

NORMAN A. CARLSON,
Director, Bureau of Prisons.

[1] See footnote p. 111.

WITNESS PROTECTION PROGRAM

FRIDAY, APRIL 14, 1978

U.S. SENATE,
SUBCOMMITTEE ON ADMINISTRATIVE PRACTICE AND
PROCEDURE OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to recess, at 9:33 a.m., in room S-126, Capitol Building, Hon. James Abourezk (chairman of the subcommittee) presiding.

Present: Senator Abourezk.

Staff present: Irene Emsellem, chief counsel and staff director; Diana Huffman, counsel; Robert Nichols, counsel; Alfred Regnery, minority counsel, office of Senator Laxalt; and Robert Lyon, minority counsel, office of Senator Thurmond.

OPENING STATEMENT OF SENATOR ABOUREZK

Today the Administrative Practice and Procedure Subcommittee concludes its public hearings on the Justice Department's witness protection program.

This hearing is a continuation of the subcommittee's March 23 session which focused on the policies goveraing the program and the operational problems that have plagued the program since its inception.

The subcommittee has heard previous testimony from protected witnesses and others familiar with the program that a dedicated force of people specially trained in witness protection and answerable only to the Marshals Service headquarters should run the program. Today the subcommittee will explore that suggestion with the Marshals Service.

In addition, the subcommittee will consider the impact of the program on society. Specifically, we will consider the special problems posed for creditors of protected witnesses. They often are unable to collect legitimate debts because they cannot locate the witness, and the Government in the past has refused to assist them.

We also will explore the difficulties that arise when children are relocated with only one parent and the other parent is not told where the children have been relocated.

Finally, the subcommittee will focus its attention on the continuing illegal activity of witnesses and what responsibility the Government has when a witness commits a crime after entering the program.

A staff report based on the information gathered during the subcommittee's own investigation and these hearings will be issued in several weeks.

The witnesses at today's hearing will be:

William E. Hall, Director of the Marshal Service;

Arthur Daniels, Chief of the Witness Security Division in the Marshals Service;

Julie P. Dubick, General Counsel for the U.S. Marshals Service; and

Gerald Shur of the Criminal Division in the Justice Department.

I would like to welcome all of you back. Thank you very much for appearing.

TESTIMONY OF WILLIAM E. HALL, DIRECTOR; ARTHUR DANIELS, CHIEF, WITNESS SECURITY DIVISION; AND JULIE P. DUBICK, GENERAL COUNSEL, U.S. MARSHALS SERVICE; AND GERALD SHUR, ATTORNEY IN CHARGE, INTELLIGENCE AND SPECIAL SERVICES UNIT, ORGANIZED CRIME AND RACKETEERING SECTION, CRIMINAL DIVISION, JUSTICE DEPARTMENT

Senator ABOUREZK. Mr. Daniels, a frequent criticism of the program at an earlier hearing was that local U.S. marshals have often frustrated the operation of the witness protection program in their district.

I would like to ask if this problem has been solved by having the current witness security specialist report directly to you, and, if so, has this arrangement proven to be workable and satisfactory?

Mr. DANIELS. Senator, as you know, the witness security people that we now have are answerable to my office. In my opinion, it has proven satisfactory.

Ms. HUFFMAN. Will the new ones that you are hiring report to you also?

Mr. DANIELS. No.

As I explained before when I was here, the announcements that are out, when those positions are filled, about 44 or 45 of them will report to the marshal. The balance, which I believe is 27, will report to my office.

Ms. HUFFMAN. Why was that distinction made?

Mr. DANIELS. I think Mr. Hall could answer that better than I.

Mr. HALL. Senator, I feel that the U.S. marshal is an integral part of the U.S. Marshals Service chain of command. They are the senior management officers in the 94 districts.

I think to systematically bypass them in this responsibility would be contrary to the intent of Congress, if you will.

I think as long as the marshal is the senior management officer in the district, we have to use him in this capacity.

I have confidence in the marshals and feel that they can be an effective and vital part of this program. I think it is necessary that we make them an effective and vital part of the program. If we bypass them, I think it would diminish the enthusiasm that they have.

As you know, we are going to have to devote a large number of manpower resources to this program. To do this, and to bring them into the management spectrum, I think is the way to handle it.

Senator ABOUREZK. There is no specific law that Congress has passed saying a specialist would have to report directly to the marshals in the field, is there?

Mr. HALL. No; there is no specific law.

Senator ABOUREZK. In fact, the only congressional intent you ever heard probably came from this subcommittee unless you have heard from other subcommittees.

Mr. HALL. I have heard from other Senators on specific instances where marshals have felt, not necessarily in this program but in other areas, where marshals have felt for one reason or another they are being bypassed in the operation of the Service generally.

Senator ABOUREZK. But not in the witness protection program.

Mr. HALL. No.

Senator ABOUREZK. I would submit, Mr. Hall, that it is not the intention of Congress to require that sort of reporting to the local marshal.

I think what we are going to have to do at some point is pass some legislation giving specific direction for that kind of a policy.

But we have had enough testimony and our investigation has disclosed that it is probably not the best way to operate this kind of a specialized program. You may not agree with that but marshals in the field, we have found, are not all that interested in witness protection. I think we discussed that at the last hearing.

Mr. HALL. Historically, there may be some justification for some marshals having indicated a lack of interest or enthusiasm. I'm the first to agree with that.

I don't have that sense now. Seventy-five percent of the marshals are new. They have just come in with this administration. I find most of them are enthusiastic about this. I have met with all of them in 1-day seminars throughout the country, and I have stressed the importance of this program. I find no lack of enthusiasm for this program. I don't think we can tolerate a lack of enthusiasm in the program.

If I should find that is taking place, then I will be the first to say that changes are necessary and actions must be taken. But I don't see it at the present time.

Senator ABOUREZK. Mr. Hall, you agreed at the last hearing that there ought to be a dedicated force.

Mr. HALL. Yes.

Senator ABOUREZK. How can you have a dedicated force when the members of the force report to local U.S. marshals who have other things for the force to do?

Mr. HALL. The job description of the people in this program is going to be clearly defined. The marshal is going to know that the primary responsibility, before any other function, is the witness security program. That is the way it is designed to operate.

I'm just not going to let it happen to the contract.

Ms. EMSELLEM. But they are going to have other duties.

Mr. HALL. Not if there are witness security duties to perform.

Ms. HUFFMAN. Could you explain to us on what basis you decided that 44 should report to a local marshal and 27 shouldn't?

Mr. HALL. We looked at the districts throughout the United States, and we felt that these 44 districts could justify a full-time witness security specialist.

In other words, the workload there was such that we could say for certain that the workload in this program should be able to justify a full-time position.

In not all districts can we say that.

So these 44 that are dedicated to this program and working for the marshal we feel comfortable will be working full time in the witness security program.

But all we are saying is that should this judgment prove to be incorrect in the future, should a temporary circumstance take place where there should not be a workload requirement that is full time, that we don't want to have our deputies tell us they are not going to do any other type of work because that is all they are supposed to do.

I can say comfortably in the 44 districts that the workload should be far sufficient enough to justify full-time work.

Ms. EMSELLEM. The 44 you say are full-time witness protection people?

Mr. HALL. That's correct.

Ms. EMSELLEM. Reporting to whom? I thought they reported to the marshal.

Mr. HALL. That's correct.

Ms. EMSELLEM. And the 26 are reporting to——

Mr. HALL. To Mr. Daniels.

Ms. EMSELLEM. But the 26 are the ones who would have other responsibilities?

Mr. HALL. No. The 26 would be exclusively full time, because they are to work throughout the United States in areas where there are witness security requirements.

There are many districts in the country which do not have sufficient workload to justify a full-time witness security specialist in those districts.

These will service those districts.

Ms. EMSELLEM. If I understand you correctly, you have 44 districts that can justify a full-time person working in nothing but witness security.

Mr. HALL. That's correct.

Ms. EMSELLEM. But they will report to the marshal.

Mr. HALL. That's correct.

Ms. EMSELLEM. And the other districts that cannot support a full-time person will have the 26 who will be traveling teams of witness security specialists.

Mr. HALL. That is correct.

Ms. EMSELLEM. If both teams are doing nothing but witness security, why would one have to report to the marshal and one to Mr. Daniels?

Mr. HALL. I feel where you have and can justify a full-time position in a district that it would be incorrect for me to bypass that U.S. marshal.

I think that we are saying that in 44 districts we feel comfortable that there will be a need for a full-time position in that district.

Because of this, I feel that the marshal in the district should be made a part of this program and utilize his management skills and responsibilities in this program.

Ms. EMSELLEM. If their function is going to be full-time witness security, how can you have a coordination of function and any kind of uniformity if in 44 districts the U.S. marshals are going to control what is going on and in the rest of the districts headquarters is going to control it?

Mr. HALL. The marshal is not going to control what is going on. He is going to take his guidance from the Director's office. But he is the senior manager in that district, and we feel we should make him a part of the management effort in this program.

He is not going to be independently working, according to the concepts that he sees. We are going to be furnishing that marshal the same guidance that the other marshals are given.

In one case, you have a marshal that is being added to the management spectrum and in the other case a specialist will work through the marshals in the field where there is not the need for a full-time position.

Ms. HUFFMAN. Do you agree with that division of the line of authority, Mr. Daniels?

Mr. DANIELS. That's a very difficult question to ask the program manager who is guided by the director of the Marshals Service.

To be quite candid, the Director and I do have a difference of opinion as to that concept.

Ms. HUFFMAN. Could you amplify on why you feel it is not a good concept?

Mr. DANIELS. I feel we have a national program, and a national program can be served best by the people working in the program who are answerable to one office rather than several offices.

Senator ABOUREZK. It seems to me to make more sense that way.

Mr. HALL. I find no fault with Mr. Daniels' support of the other concept. He is entitled to his opinion.

But I feel that based on my experience in the Service it is necessary to make the marshal a part of this program where we can.

As long as there is no specific guidance to the contrary, I feel I have to utilize the marshal wherever I can.

If we utilize a dedicated force, bypassing the marshal, in witness security, why not then a dedicated force bypassing the marshal in other areas of our responsibility such as court security or warrants or civil disturbances?

That's why I feel that as long as we have a marshal in our system of organization we must utilize him.

Senator ABOUREZK. I know it is a rhetorical question, but I would like to respond to it.

Witness security happens to be the only really specialized area you have that requires full-time specialists. We have seen what happens when part-time specialists are used, and that's what we are trying to correct.

As policymakers here in Congress we see the program policies of the past have been totally insufficient. We would just like to change the direction. If we have to do it by legislation, that is fine; but it would seem to me that the concern raised by this committee—and I think other committee members, while not here, would probably see it the same way——

Mr. HALL. I agree. We have to go to a specialist concept, and that's what we are doing.

Before this committee even convened, we had changed the direction of the Service from a generalist concept, which I believe I testified to, to a specialist concept.

I feel these positions are dedicated to this program, and I have no quarrel with that definition. My only concern is that I don't want to be locked into the situation where, if circumstances should change, even for a few days, I would be in a posture of not being able to use all of the manpower that is allotted to me.

Senator ABOUREZK. I think there is a difference there, Mr. Hall.

If it's a dedicated service and all of the marshals report to the Director in the Washington office—which seems to make more sense from a managerial standpoint—if they are needed for some other duty out in the field, there is nothing wrong with them being assigned by the central office to some other duty.

The point is that if you have a local marshal—who may or may not agree with the witness protection program and thinks it is a pain in the neck—running the show out there and telling those people what they should and should not do, I think it is going to suffer. I think it is going to continue to suffer.

Mr. HALL. Please understand it is not that I am diametrically opposed to the concept you're talking about. I'm not. It is just that I am working under my understanding of the system that the Marshals Service is operating under.

If I am suffering under an illusion and my superiors tell me that I am, I will be delighted to work under the same setup that you alluded to.

Senator ABOUREZK. Mr. Shur, have you found that the marshals in the field have sometimes frustrated the operation of the witness protection program?

Mr. SHUR. We have had complaints of that.

If I can intrude into this whole conversation about a dedicated service—I suppose I have been intruding into this program too much.

Senator ABOUREZK. We would like to hear your view.

Mr. SHUR. I have concerns with that.

I recommended a dedicated force a very, very long time back. I'm not sure, however, that Mr. Hall's proposal shouldn't be tried.

What is key to me is: Is the marshal going to be responsive? I am not concerned about the security specialist reporting to the marshal; I am concerned with whether or not the marshals themselves are responsive to the needs of the witnesses in the field.

If the marshal is truly responsive, the witness is better served because the marshal is on the scene and has a larger staff available to assist the witness.

Senator ABOUREZK. You wouldn't need a dedicated force if that were the case.

Mr. SHUR. That's right; if he's responsive.

Perhaps the key to it is a very brief conversation that I had with Mr. Civiletti one day. We were talking about another matter and I said to him that I had just heard that a U.S. marshal was concerned about having witnesses in his area. Mr. Civiletti said: That's unacceptable.

I think if the U.S. marshals understand what Mr. Civiletti's views are and what Mr. Hall's views are, I think that they either have to be responsive or answerable to Mr. Civiletti and Mr. Hall.

If that doesn't work, I think then we would have to move into a very specialized force.

As I say, I originally proposed that.

Senator ABOUREZK. The other method already has been tried. I agree with you; I'm willing to try anything once.

Mr. SHUR. I don't think it has been really tried in that sense. I don't think there has really been the support out of the Deputy Attorney General and the Attorney General's offices as far as direction to the U.S. Marshals Service with respect to this program.

I think the Deputy Attorney General and the Attorney General have to make it clear to the U.S. marshals that they are answerable to the Director of the Marshals Service with respect to this program.

Senator ABOUREZK. Are there still marshal's districts which refuse to take witnesses?

Mr. SHUR. There was one I had mentioned to Mr. Civiletti, and he said that was unacceptable. I don't know if that is still the case now.

Mr. HALL. I don't know of a district.

Senator ABOUREZK. So there are none now you are saying.

Mr. HALL. No.

Senator ABOUREZK. How long ago was that refusal?

Mr. SHUR. That would have been several weeks or 2 months.

Senator ABOUREZK. That is fairly recent though.

Mr. HALL. The only incident that I know of with this group of marshals is that several months ago we did have one marshal that Mr. Daniels reported to me seemed to be recalcitrant in accepting the witness.

I wrote him a very strong letter and told him that he must support the program or I was going to report him to the Attorney General. I was prepared to do so.

Senator ABOUREZK. And what happened?

Mr. HALL. He took the witness.

Senator ABOUREZK. But obviously, this fellow, whomever he is, is not going to be very happy doing this kind of work even though he really is directly ordered to.

Mr. HALL. I think it was a learning process for him. He was fairly new. [Laughter.]

He'll take him; he'll take him.

Mr. SHUR. Senator, I think if the marshal understands that the Attorney General and the Deputy Attorney General and the Director are committed, it is something I think we ought to try.

I repeat: I was the one who suggested a dedicated force to begin with. I think it has to be given a try.

If it does work, it will work better than a dedicated force where you are limited to a number of men; and then if you call upon the marshals for additional assistance, they are not going to turn you down.

If they are involved and they understand the rules and what they are supposed to do, it could work better.

Senator ABOUREZK. What about the location of all these new people?

It seems from the location chart [1] that we have that they are all going into the pickup areas and not into the relocation areas. Isn't there a need for documents people and specialists of that nature in the relocation areas to help witnesses with a new identity and a new home?

[1] See exhibit 24, p. 215 of the appendix.

Mr. DANIELS. At the relocation area, I think it is necessary that we have the specialist who can assist the individual with the social security card, driver's license, automobile registration, and that type of documentation.

I feel the more sophisticated documentation, like birth certificates and school records and so forth, should come through the headquarters office.

Senator ABOUREZK. But you haven't really put any of your new specialists into those relocation areas to take care of documentation have you?

Mr. DANIELS. Not at this time we have not.

Senator ABOUREZK. Do you intend to?

Mr. DANIELS. Yes, sir.

Senator ABOUREZK. The last time we had a hearing, you only had one or two people working in documentation nationally. I certainly hope you have beefed that up.

Mr. HALL. I've done better than that. I've created a separate division to take care of all of the past documentation.

Senator ABOUREZK. How many people?

Mr. HALL. We have five people in there.

Senator ABOUREZK. Full time in documentation?

Mr. HALL. Yes.

Senator ABOUREZK. Experts or are they learning?

Mr. HALL. They are as competent a people as I have. One is a former Assistant Director. The others are what I consider my best people from other programs whom I have actually taken out of other areas.

Senator ABOUREZK. With or without experience?

Mr. HALL. We have taken one of Mr. Daniels' experienced people in this particular area, and he is working in there. The chief of this acting division was formerly in security.

Senator ABOUREZK. So you don't have anybody who is an expert in documentation; you're just training them in documentation?

Mr. HALL. There aren't that many experts in documentation.

Senator ABOUREZK. My question is, are the ones you have put in there experts in documentation?

Mr. HALL. No; I don't think they are experts in documentation.

Senator ABOUREZK. Have you got an expert who can train them?

Mr. HALL. We have the best that we have in there training with them—working at the same time with them; yes.

That's correct isn't it?

Mr. DANIELS. That's true.

Senator ABOUREZK. On the creditors issue, I would like to cite one case. There are a number of cases of this nature.

There was an automobile accident which took place in Kentucky, and I'm sure you are aware of the case.

It was an accident with a protected witness who showed the plaintiff a driver's license that was phony. When the plaintiff went to track down the defendant, a protected witness, the driver's license address led him right to the Marshals Service, and the Marshals Service said: We don't know anything about this guy. We have no idea who he is.

And the fellow is still sitting in Kentucky waiting for the money that is owed him as a result of the accident. He has been unable to find him. The Marshals Service has obstructed locating this witness.

So here we have an American citizen who innocently gets smashed into by a protected witness, and that witness is protected from even paying a just bill, or a just claim, by the Marshals Service.

Now I would like to hear your comments on that. I don't think you would agree with that kind of a concept. I would like to hear what you might have to say about it and how it might be corrected.

Mr. DANIELS. I have reviewed the particular case that you speak of, and that did happen some time ago, prior to my coming into the witness program. I am totally sympathetic to the victim of that particular accident.

However, I can assure you that today we do not issue, or have issued, phony driver's licenses; and we do assist creditors in every way possible.

When it comes to our attention that the witness owes a debt, we put the witness on notice and ask him to satisfy this debt. If it is not satisfied and it is reduced to litigation, we go forth and serve process on the witness.

Furthermore, if it is reduced to a judgment, then we assist the creditor with collection of the debt, if it is collectible.

Ms. HUFFMAN. Mr. Stoffel still is waiting. What about the people who had the misfortune to be involved in these kinds of situations before the new policy was adopted?

Apparently, no one as yet has helped Mr. Stoffel.

Mr. DANIELS. It is my understanding that a lawsuit was filed.

Ms. HUFFMAN. A lawsuit was filed after intervention from Senator Huddleston; however, the judge—probably correctly—said blind service of process was not appropriate in Kentucky—that there was no authority for it. There may be authority under the new criminal code, but there is no authority now.

So I don't think that is a satisfactory answer.

The judge has said it is not proper, and that man's attorney has said the judge is correct. Still the U.S. Government will make no effort at all to help this man collect. Do you feel that is really fair?

Mr. DANIELS. It is not fair, and perhaps our legal counsel, Ms. Dubick, could address that.

Ms. DUBICK. I think Art has adequately outlined our policy in handling creditor problems.

Senator ABOUREZK. Have you done it in this case?

Ms. DUBICK. As far as I know, from reviewing the file in this case, we did in fact turn over an address so that they could serve process.

The first address turned out to be not up to date. It was as up to date as we had. We then assisted in serving process again.

It is a problem we are not in a position to handle.

Now there may be some type of administrative process that we can work through were a claim filed. That approach has not been taken yet.

We have gone into litigation, and we have assisted the plaintiff in every way that we can through the legal process to serve process and have this resolved by the courts.

Ms. HUFFMAN. It has been 4 years. It seems to me that now maybe is the time to start an administrative process. He has been waiting 4 years.

Do you know where the protected witness is?

Ms. DUBICK. That I don't know.

Mr. DANIELS. I could not answer that.

Senator ABOUREZK. But you can find out?

Mr. DANIELS. Yes, sir.

Ms. HUFFMAN. Presumably, if you know where he is, some sort of administrative process could be begun after 4 years. Don't you think 4 years' time is a bit long?

Mr. DANIELS. Much too long.

Ms. HUFFMAN. I wonder if you would check into that for the subcommittee?

My understanding is that he has attempted to do something administratively under the Tort Claims Act and has gotten nowhere; so I think maybe he does need some help.

Mr. SHUR. May I add something to that which might help?

Working with a member of Senator Huddleston's staff, an amendment was introduced to S. 1437,[1] which has passed the Senate, and it deals directly with the question.

It says if the Attorney General determines that the relocated witness has not made reasonable efforts to comply with the provisions of the judgment the Attorney General may, in his discretion, after weighing the danger to the witness, disclose the identity and location of that person to the plaintiff entitled to recovery pursuant to the judgment.

It goes right to the issue I think.

Senator ABOUREZK. That amendment is not law yet though.

Mr. SHUR. That's right, but perhaps the spirit is set forth there.

Senator ABOUREZK. In child custody cases, our inquiry has shown that an unrelocated parent who has tried to locate children of a divorced spouse who has been relocated is unable to find them.[2] They have been unable to find out what their new names are or their location.

I wonder if you might be able to comment on what kind of guidelines you have in that regard, or plan to put into effect in the future?

Mr. DANIELS. If I might respond to that—there have been many cases where children come into the program with one parent. We do not change those children's names without the consent of both parents, at least at this time and since I have been in the program.

We have had several instances where the parent who is not in the program attempts to locate the children. We have not given out the address for obvious reasons.

In some instances we have agreed to take those children to a mutual location for visitation purposes with the parent not in the program.

Ms. HUFFMAN. Is it fair to say then that in a situation like this the parent would be told before the relocation takes place? There would not be a Leonhard situation again where the kids disappear without their father knowing that the yare going to disappear? [3]

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[1] See exhibit 20, p. 214 of the appendix.
[2] See supplemental statement of Salvatore Martoche, exhibit 25, p. 217 of the appendix.
[3] See exhibit 25, p. 217 of the appendix.

You say you don't change the names without consent. Is it still a policy that children of one parent could be moved and the parent would never know what happened?

Mr. DANIELS. They could be moved, and the parent would not know until such time as a name change was proposed.

Senator ABOUREZK. So the unrelocated parent conceivably could never find where his or her children had gone once the new move had taken place?

Mr. DANIELS. That is correct.

Senator ABOUREZK. Do you have anything that you intend to do about that—notification to the parent somehow of where the children are so they can visit them?

Mr. DANIELS. I think this would be a very grave security breach if we notified the parent who is not in the program that his children are now living in a certain relocated area. If he has the address—he or she—then that would be, in my opinion, a security breach.

Senator ABOUREZK. Then there is no way to handle it; you just have to keep them in the dark?

Mr. HALL. You would have to certainly work to secure some accommodations so the rights of the other party are protected. I don't think we would ever want to be in a posture of telling one parent: We have relocated your children; you are just out of luck forever.

I think that would be horrible.

Senator ABOUREZK. What have you done about that?

Mr. HALL. I don't know that there is a problem right now. If there is——

Ms. HUFFMAN. There has been in the past.

Mr. HALL. I'm sure there has in the past, but I think as far as the present is concerned——

Ms. HUFFMAN. That's why I raise the issue, so that someone now would not be put in the program, be relocated, and the parent not know.

Mr. HALL. They must have access to the children.

Ms. HUFFMAN. And that is the Marshals Service policy?

Mr. HALL. Certainly.

It doesn't necessarily mean that we would tell them where they are. It means that we should make them available if the circumstances are proper.

Senator ABOUREZK. That is your new policy?

Mr. HALL. Absolutely.

Ms. EMSELLEM. Mr. Daniels, you said that the parent would not be notified that the children are relocated until such time as there is a name change. At that time he or she would become aware that the children were in the program.

Is there anything wrong with informing the parent immediately after the children are relocated that their children have been relocated but you cannot disclose the area? This would avoid frantic months of trying to find out what happened to the children, as has occurred after a parent has walked into an empty house or one where the occupants had moved.

Mr. DANIELS. That would be no problem at all.

Ms. EMSELLEM. Would you incorporate that into your new policy?

Mr. DANIELS. Yes.

Mr. HALL. Certainly.

Senator ABOUREZK. With regard to criminal activity of a protected witness, the subcommittee staff was told by an inspector that soon after he was assigned in California he received an intelligence report from the Orange County police that three protected witnesses who were involved in a murder case in Congressman Hannaford's district [1] had gotten together and were engaged in other illegal activities. Are you aware of that? Has it been reported to you?

Mr. DANIELS. It has been reported to us.

I would like to say for the record that those people allegedly involved in that murder who had been charged with that weren't relocated to that area by the Marshals Service. They were terminated from the funding process at some other location within the country and somehow migrated to Orange County without our knowledge.

Ms. HUFFMAN. The staff was told that at least one of the witnesses was on subsistence when he was in California, that all three of them had not been terminated, and that the inspector had reported the information several times to headquarters expecting that headquarters would do something, only to find nothing was done.

Of course 4 or 5 months later they allegedly committed a murder.

Mr. DANIELS. If that is correct, I was not aware of it.

Ms. HUFFMAN. Could you check your files to make sure what memos were sent? It was an Inspector McPherson who said he sent several memos and a cassette of a conversation he had with one of the three witnesses.

It was his understanding that at least one was still receiving subsistence.

So theoretically one still was under Marshals Service control.

Mr. DANIELS. OK.

Ms. HUFFMAN. We have a few questions on subsistence.

Mr. HALL. We are trying to get an answer for you now.

[Pause.]

Mr. DANIELS. I would like to clarify one thing.

One of the people who was charged in the Orange County murder was the son of a protected witness. He was not the protected witness.

Ms. EMSELLEM. I think the issue being raised about this case is not whether the people were relocated there or still on subsistence or not, but that the inspector in California had notified headquarters that three people who had been involved with the program, and one presumably still in the program, had gotten together and were engaged in some kind of illegal activity. Evidently that information went into a vacuum at headquarters. Nothing was ever done; this information was never checked out, and no attempt was made to see what was going on in that situation.

Whether they were placed there by the marshals or had migrated there on their own is not the issue.

Mr. HALL. I can assure the committee that we will look into this. And if any remedial action is indicated, it will be taken and you will be advised of our findings.

Mr. SHUR. It is the policy of the Criminal Division and the Marshals Service that upon receipt of information of a crime being com-

[1] See exhibit 12, p. 178 of the appendix and discussion, p. 55 of the hearing text.

mitted by a relocated witness, it is investigated, be it Federal or State.

We make it very clear to the relocated witnesses that their cases are not going to be "fixed" which is what it amounts to if we were not to investigate those cases.

Senator ABOUREZK. Perhaps not fixed but, in some cases, if it is an embarrassment to the Justice Department, that prosecution is not fully pursued. Is that the case?

Mr. SHUR. No. In fact, I have been accused by one witness—I think your staff has been told by one witness—that I was a very emotional individual because I advised a U.S. attorney that he could prosecute the individual if he committed a crime.

And he was prosecuted, and he was convicted.

I think the survey that was conducted by the Department's committee that reviewed the program indicated 12 to 15 percent of those who came into the program did wind up being charged with a crime.

It is our policy to have those cases worked by the investigative agencies.

We in no way stop the investigation; in fact, we help it.

Ms. HUFFMAN. Do you keep any records of how many protected witnesses commit crimes after entering the program?

Mr. SHUR. No. The best we have is that survey.

Ms. HUFFMAN. Does the Marshals Service?

Mr. DANIELS. No; we do not.

Mr. SHUR. It is proposed in the Department's draft report that that kind of record be kept, as I recall.

Ms. HUFFMAN. Do you think it is a good idea to keep that?

Mr. SHUR. I think it is absolutely necessary. I think we have to measure the impact on the community.

Ms. EMSELLEM. What is the policy of the Marshals Service in cases involving the arrest of a relocated witness, or their involvement in some further criminal activity?

There have been charges in the California situation that the Marshals Service did not cooperate initially with the local law enforcement authorities who were trying to find out who these people were and what their backgrounds were. It eventually came out that they were protected witnesses.

There was a case in Texas where the defendants, who were in the witness program, were relocated after they were indicted for bank fraud.

Mr. HALL. The Marshals Service feels that we must cooperate with the local law enforcement, and we must, at the same time, try to protect the identity of our witnesses when that is indicated.

The incident you are talking about really brought it to our attention that we were not doing all that we should do in this particular area.

I think, that now, we are properly cooperating with all the law enforcement situations like that which you are alluding to.

Mr. SHUR. We have established a procedure with the FBI where stops are placed on the names and fingerprints of relocated witnesses. And when any of them are arrested, we are notified of that arrest. An instruction goes back to the FBI to send an agent to explain the background of that individual to the investigating agency if he is arrested

under his new name. If arrested under his old name, the request is responded to as in the usual case.

Ms. EMSELLEM. Is there any attempt made on the part of the government to conduct an investigation of the charges against the individual, if they are State charges?

Mr. SHUR. No. We leave that as a responsibility of local law enforcement. What we try to do is monitor the investigation. Otherwise, you would run into a very awkward situation where we are out there investigating city crimes and State crimes, and we shouldn't be doing that.

We have confidence in local law enforcement; and, at the same time, we are careful that the information about the relocated witness is divulged to a responsible official in that law enforcement agency. And we monitor the investigation.

Ms. EMSELLEM. Is there any attempt to intercede in the placement of witnesses who are to be incarcerated—for example, to determine which prison facilities they will be located in?

Mr. SHUR. We deal directly with the Bureau of Prisons on that.

Ms. EMSELLEM. No. I am asking if it is a local or State charge, do you intervene in the decision of whether the defendant would be placed in a State prison or somewhere else?

Mr. SHUR. We have taken State prisoner witnesses who have been convicted on local charges who have been relocated into the Federal prison system.

Ms. EMSELLEM. I think we're talking about two different situations.

The protected witness is charged, convicted, and then going to be placed in a State prison for violating a State law. If he is a protected witness, do you then take him into the Federal prison system or not?

Mr. SHUR. Yes.

Ms. EMSELLEM. You do?

Mr. SHUR. Yes.

Not always. I would say most of the time.

And the "not always" really goes to the issue of whether or not the State feels they can keep him alive in the prison system.

Senator ABOUREZK. We have a couple of other questions from the staff.

Ms. HUFFMAN. On subsistence, maybe Mr. Daniels can answer this best. What is the length of time in which a witness receives subsistence?

Mr. DANIELS. At the present time, 12 months.

Ms. HUFFMAN. Has it been increasing or decreasing?

Mr. DANIELS. Increasing.

Ms. HUFFMAN. Why has it been increasing?

Mr. DANIELS. I don't know if I can adequately answer that question, except that the witnesses seem to be testifying for a longer period of time.

It would not be advantageous to try to get them employment and off the program when they would be absent from their employment for extended periods and could not retain employment.

Ms. HUFFMAN. I think the guidelines[1] say 120 days is the ideal time in which to get someone off subsistence. You are not even close

[1] See exhibit 2, p. 134 of the appendix.

to that. Do you think that's an unrealistic guideline, or that you just aren't finding jobs quick enough. Why can't you come closer to meeting that guideline?

Mr. DANIELS. I think the 120 days is unrealistic, given the type of court cases that are now involved.

Ms. HUFFMAN. Have you given thought to changing the regulations or to asking the Department of Justice to change the regulations to reflect that view?

Mr. DANIELS. I don't really regard 120 days as being a hard and fast regulation. It is more of a guideline, and I would like to keep it at 120 days because that encourages the witness to help himself, rather than to rely on the Government.

Ms. HUFFMAN. In the past, several of the marshals in the field have said to us that a witness is terminated from subsistence only to have a U.S. attorney or someone from the Justice Department intercede and get him back on subsistence. Has that been a particular problem for you?

Mr. DANIELS. Quite frankly, it has.

Ms. HUFFMAN. Mr. Shur, is that done often; and, if so, why?

Mr. SHUR. Yes. We do intercede where we feel that the relocated witness has not received adequate employment help.

I don't think that subsistence ought to be tied to testimony at all.

I think the subsistence has to be geared to the availability of the individual's work capability, since he may have delays because of a trial.

However, I think we can't wait until the trial is completed before the witness goes to work. It presents enormous burdens for him staying at home. It presents a great cost to the Government.

I think that the purpose in giving subsistence is to help the man survive until he works.

So we intercede where we feel that the man has not been adequately offered employment.

Oftentimes, he has been offered employment and he backs away. He doesn't want the job. Oftentimes, he has not been offered the employment he should have.

Ms. HUFFMAN. Has there been too much intervention by the Justice Department which has made it very difficult on the Marshals Service?

Mr. SHUR. Unquestionably, I'm a meddler. I admit that. [Laughter.]

You ask me if I meddle too much—no, I don't think I meddle too much. Mr. Hall, I think, has pretty much invited me to meddle here and there. Some of the people may feel I intervene too much, but if I see something wrong I speak out.

Ms. HUFFMAN. One more question.

The Justice Department report recommends that something be done to help witnesses with their credit rating. It doesn't say specifically what. I think the quote is that the Marshals Service could, and should, be undertaking more aggressive measures on behalf of protected witnesses to protect their credit standings.

What is your current policy on that, and what is your reaction to that recommendation? Are there any specific things that you feel you can do?

Mr. HALL. We were discussing that, and I think that what we need to do is to come to some accord where we can give the witness the same credit standing that he had before he came to the program if it is possible.

For instance, if he had an American Express card, perhaps we can secure him that same type of credit accommodation.

There may be some reluctance on the part of the lending agencies to do that, when we tell them we are changing a name. But, nevertheless, I think we should make an effort to improve that.

We do agree that is a problem that we should try to work out.

Ms. HUFFMAN. What is the policy now? You provide nothing for——

Mr. DANIELS. Currently, that is precluded.

I would like to see something similar to what we are doing for people in the employment area. We are now getting employment backgrounds and supplying that to the prospective employer. I think we should be doing the same thing with regard to credit.

Ms. HUFFMAN. You mentioned earlier that you put people on in the documentation section to try and clear up the past problems.

There are other longstanding witness grievances that involve employment promises, lost furniture and so forth. Have you put on a special section to deal with past problems, so that you are able to cope with the current people without getting behind on them because you are worrying about somebody from 3 years ago? Have you thought of doing that, or have you done that?

Mr. HALL. We have not put on a special section to cover that problem, no.

Ms. HUFFMAN. How do you ever hope to get rid of the backlog of problems that you hear about and the subcommittee hears about and Mr. Shur hears about?

Mr. HALL. I feel that the answer, of course, is to try and dedicate as many resources as I have available to do that; and that's what I am prepared to do.

Ms. HUFFMAN. Would you be willing to add more people fairly quickly to solve some of these problems?

Mr. HALL. If that is what it is going to take to do it, I am willing to do it.

Ms. HUFFMAN. I think the subcommittee would be interested in knowing about any people that you do add.

Mr. HALL. I have taken certain initiatives since our meeting several weeks ago, and I would like to give you a copy of these initiatives if you would like.[1]

While I don't propose that to be any panacea for all of the problems of the Service, nevertheless I think that they do reflect certain positive steps in the right direction.

We are prepared to do whatever else is necessary to protect the program.

Senator ABOUREZK. Minority counsel?

Mr. REGNERY. I have a couple of questions regarding felony convictions or arrests of witnesses in the program. I don't know which one of you could answer best.

[1] See exhibit 26, p. 226 of the appendix.

Am I correct in understanding that there is an ongoing attempt in the event of an arrest or conviction to protect the witness?

Mr. SHUR. Protect him from what?

Mr. REGNERY. To protect his security and to protect his identity from before he came into the program.

Mr. SHUR. When he is arrested, the law enforcement authority that arrests him is notified who he really is. And they are asked to be circumspect about how they handle the information so that his name is not freely disclosed about the investigative agency.

We've been doing that for several years; and as far as I know, no witness—I think I can positively state that no witness has been harmed as a result of that practice.

Mr. REGNERY. If somebody were convicted of a felony, I assume the court would make a presentencing investigation. Would they have access to all of the man's records before he came into the program to determine what kind of a sentence he should be given?

Mr. SHUR. They certainly should. I don't see how the courts could properly sentence an individual without knowing his full background.

Mr. REGNERY. So they would sentence both on the identity of the man as he is now plus who he was before?

Mr. SHUR. That's correct.

In some instances, the defendants have been tried in their new names and the court has been made aware of the entire background and determines the sentence based upon the entire background but issues the sentence in the new name. This serves the interests of justice and it serves the interests of the security of the witness.

Mr. REGNERY. Generally, have you been able to determine whether —or have you even tried—people who come into the program have had any type of rehabilitation generally? I suppose most of these are people, or many of them are anyway, who have been living lives of crime to a rather vast extent before they came into the program.

Is there any evidence that once they have been reidentified are they straightening their lives out? Are they living productive lives being responsible members of society, or are they continuing to live the life of crime that they may have led before?

Mr. SHUR. If the sampling was accurate and the 12 to 15 percent rate of recidivism is accurate, then I think we have a very excellent record. In other words, I think the Marshals Service in that sense has done a remarkable job.

My guess is that the figure will probably go higher. I think it will remain lower than the rate of recidivism we will find for any prison system in that there are several compelling reasons why the person should not commit a crime again, one of which is that he is dependent upon the Federal Government to save his life and he knows that the Government has come about and assisted him.

He has a job. He's been removed from the area where he committed the crimes and been removed from his former criminal associates.

Many things have been done in the witness relocation program that sociologists and social workers would recommend be done.

So I think the rate of recidivism will be lower than that of a prison system.

Mr. REGNERY. Are you saying then that there is actually a policy on the part of the Marshals Service to help these people with rehabili-

tation? Do you provide social workers and other people that might be able to counsel them in that sort of thing?

Mr. SHUR. That is in the draft proposal. It is suggested that there be social workers. I don't think they exist now.

Mr. HALL. No; they do not.

In fact, I really question—that's one of the few items in the draft report that I question. I feel if we are going to have professional social workers in this program, I think they should be responsible to Mr. Shur's operation as opposed to ours.

Mr. REGNERY. Do you think there should be a provision for social workers in the program?

Mr. HALL. The draft reports have indicated they should.

Mr. REGNERY. What is your feeling?

Mr. HALL. It is difficult for me to assess that. This is an area that is outside of my competence. I am willing to support the committee's recommendation.

It seems to me it would be a thing better operated from the Department of Justice.

The idea of social workers working in close accord with the law enforcement people is really a unique concept, and I don't know that I am prepared to accept that in the agency—not because I have any reluctance to it, but I wonder if it would work.

I think it might work better in the Department of Justice.

Ms. HUFFMAN. It is a unique program, I think is one answer.

Mr. HALL. Certainly.

Ms. HUFFMAN. But if these problems arise in the field with witnesses whose basic contact is with the witness security specialist, I'm not sure I understand why the social worker shouldn't be in the Marshals Service.

Mr. HALL. I think that they should have a cadre, if we are going to go to this concept, perhaps in Mr. Shur's operation.

If we get a report of a problem, we could refer this to Mr. Shur.

You have checks and balances there.

If we have social workers, or whatever you call them, in the Marshals Service, I'm afraid that we would get into the old catch-22 type of situation where we would be self-serving.

If there is a problem significant enough to have a social worker called in, I think perhaps it should be from someone outside the Marshals Service so they would have a fresh perspective and not be operating under any constraints that the Marshals Service people would be.

Because perhaps the problem is going to come from within the Marshals Service. And if that's the problem, I think it would be better and have more impact if someone from Mr. Shur's operation said: Bill, you have a problem in California with this witness and our people say you have a problem and it is your fault and you need to do thus and so about it.

I think it would be much more effective that way.

Ms. HUFFMAN. Do you have a comment on that, Mr. Shur?

Mr. SHUR. I have a comment on everything. [Laughter.]

I disagree. I think the social worker ought to be in the Marshals Service. I think that when the families are relocated, they suffer certain traumas.

I think it would be useful to have an individual teamed up with the expert in protection, that individual being expert in how to deal with the family's problems. I think that would be helpful.

Mr. HALL. You're talking about two things. You're talking about trauma in a relocation. That's one thing. We should hope that our people can be trained to deal with this type of problem. I don't consider the significance of a rehabilitated type of program, which I think is getting outside the realm of our capabilities.

I think we have to distinguish between minor problems and significant problems.

Mr. REGNERY. Let me ask one other question of Mr. Daniels regarding creditors.

You outlined generally what the policy is of the Service, I guess, regarding protection of creditors. Are there any written standards or are there any regulations or anything else that you have formulated with regard to that?

Mr. DANIELS. There is no written standard at this point. We do intend to put something into our written orders concerning the witness program.

Mr. REGNERY. Do you have any timetable for doing that?

Mr. DANIELS. No, sir; we do not. As soon as possible.

Ms. HUFFMAN. It is explained to the witness though when he enters the program through the memo of understanding [1] is it not?

Mr. DANIELS. It certainly is.

Ms. HUFFMAN. And it is in writing at that point.

Mr. DANIELS. It is in writing.

Ms. EMSELLEM. I have two things.

First of all, could you give us an approximate time when you will have the information on creditors and on the situation in California?

Mr. HALL. Forthwith.

If we have a problem, we will contact you and tell you we have a problem, but I assume we can get it to you.

Ms. EMSELLEM. Next, I would like to clarify a situation reported in the press recently. I think it has been unfairly reported that the situation involves your program.

There are recent press accounts describing nine murders in the Atlanta Federal Penitentiary.[2] Some of the news accounts imply that the murdered prisoners, or at least some of them, were in the witness protection program.

It is our understanding that none of the nine were.

Mr. HALL. That is our understanding also.

Mr. DANIELS. That's correct.

Mr. SHUR. That's correct.

Mr. HALL. We have been concerned, and are working on a crash basis since our last meeting, to get these positions rated and filled.

Also, we have spent a great deal of time in putting together the training program which I know you are interested in. We would like to submit to you next week our proposed training program, and we would solicit any recommendations that you or your staff might care to make about this proposed training program.[3]

[1] See exhibit 20, p. 230 of the appendix.
[2] See exhibits 27 and 28, p. 228 of the appendix.
[3] See exhibit 18, p. 204 of the appendix and see discussion, p. 79 of the hearing text.

Mr. DANIELS. Since we last met, which has been less than 1 month, we have had 75 people placed in the program, which I think is a large number when you take into account the limited resources.

Senator ABOUREZK. About two a day.

Mr. DANIELS. Yes, sir.

Senator ABOUREZK. Do you need extra money?

Mr. DANIELS. We need extra manpower.

Senator ABOUREZK. Do you have the money to hire the manpower?

Mr. DANIELS. I think we have a limit on the number of positions that can be hired within the Marshals Service.

Senator ABOUREZK. If you need 100 extra people, for example, do you have the money to hire the extra people that you need?

Mr. HALL. We don't have those resources at this time. We have had meetings this week to talk about money and positions, and we are concerned about it.

Senator ABOUREZK. We would be very happy to help with that—anything to make it work. We are happy to provide whatever is necessary.

Mr. HALL. Thank you very much. We may be calling upon you for assistance.

Senator ABOUREZK. We volunteer.

I want to express my thanks to all of you here from Justice for your responsiveness. I think you are genuinely interested in trying to make everything work right.

We appreciate it very much. I think our goals are about the same; it is just the methods we disagree on sometimes.

I appreciate your appearance and your testimony.

The hearing is adjourned.

[Whereupon, at 10:27 a.m., the hearing adjourned.]

APPENDIX

[Exhibit 1]

ORGANIZED CRIME CONTROL ACT OF 1970
18 U.S.C. 1961 NOTE

The organized Crime Control Act of 1970 went into effect October 15, 1970. Title V., sections 501-504 pertained to the protection of witnesses. Those sections provided:

SEC. 501. The Attorney General of the United States is authorized to provide for the security of Government witnesses, potential Government witnesses, and the families of Government witnesses and potential witnesses in legal proceedings against any person alleged to have participated in an organized criminal activity.

SEC. 502. The Attorney General of the United States is authorized to rent, purchase, modify or remodel protected housing facilities and to otherwise offer to provide for the health, safety, and welfare of witnesses and persons intended to be called as Government witnesses, and the families of witnesses and persons intended to be called as Government witnesses in legal proceedings instituted against any person alleged to have participated in an organized criminal activity whenever, in his judgment testimony from, or a willingness to testify by, such a witness would place his life or person, or the life or person of a member of his family or household in jeopardy. Any person availing himself of such an offer by the Attorney General to use such facilities may continue to use such facilities for as long as the Attorney General determines the jeopardy to his life or person continues.

SEC. 503. As used in this title, "Government" means the United States, any State, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, any political subdivision, or any department agency, or instrumentality thereof. The offer of facilities to witnesses may be conditioned by the Attorney General upon reimbursement in whole or in part to the United States by any State or any political subdivision or any department, agency, or instrumentality thereof the cost of maintaining and protecting such witnesses.

SEC. 504. There is hereby authorized to be appropriated from time to time such funds as are necessary to carry out the provisions of this title.

[Exhibit 2]

JUSTICE DEPARTMENT ORDER OBD 2110.2, JANUARY 10, 1975 [1]

United States
Department of Justice

Order

OBD 2110.2

January 10, 1975

Subject: WITNESS PROTECTION AND MAINTENANCE POLICY AND PROCEDURES

1. PURPOSE. This Order prescribes the procedure for establishing a person as a protected witness and places with the United States Marshals Service the responsibility for the security and maintenance of witnesses and their dependents.

2. SCOPE. This Order applies to all organizations within the Department of Justice.

3. CANCELLATION. Memo No. 734, dated March 15, 1971, and Memo No. 792, dated January 29, 1974.

4. EFFECTIVE DATE. The provisions of this Order are effective ten days after the date of this order.

5. AUTHORITY.

   a. Title 28 USC 524 Provides Authority to Use Appropriations of the Department of Justice for the payment of ". . .Compensation and expenses of witnesses and informants, all at the rates authorized or approved by the Attorney General or the Assistant Attorney General for Administration. . ."

   b. Title V of Public Law 91-452 Authorizes the Attorney General to provide for the security of Government witnesses and potential Government witnesses, and members of their families whose life or person is placed in jeopardy by virtue of being a witness or intended witness in legal proceedings against any person alleged to have participated in an organized criminal activity.

6. CONDITIONS FOR PROTECTION.

   a. The Protection of a Witness and Members of a Witness' Family in a Federal criminal proceeding is a local or state police matter to be handled by those authorities. Exceptions to this policy will be allowed only upon the finding of the Assistant Attorney General of the concerned division that the proposed witness meets all of the following conditions:

Distribution: OBD/H-1; BUR/H-1; OBD/F-1; BUR/USM/F-1

Initiated by: Office of Management & Finance, Operations Support Staff, Accounting Section

[1] At the request of the Justice Department, minor deletions have been made from the order for security reasons.

(1) The person is a qualifying witness in a specific case in process or during or after a grand jury proceeding.

(2) Evidence in possession indicates that the life of the witness and/or that of a member of the witness' family or household is in immediate jeopardy, and

(3) Evidence in possession indicates it would be advantageous to the Federal interest for the Department to protect the witness and/or a family or household member.

b. Reimbursement in Whole or in Part by the Local or State Government may be a condition required by the Assistant Attorney General of the concerned division to the offer of protection or technical assistance by this Department as provided in the Organized Crime Control Act. If so conditioned, the terms of the agreement shall be transmitted to the U. S. Marshals Service in writing by the concerned division.

7. REQUESTS FOR AND APPROVAL OF PROTECTION.

a. Requests for Protection of a Witness shall be made by a U. S. Attorney, by an Assistant U. S. Attorney through the U. S. Attorney or by a Division Attorney, transmitted by memorandum, to the Assistant Attorney General of the concerned division and shall be marked "Confidential." The request will include the following information:

(1) Name, address, date and place of birth, FBI or police numbers of witness.

(2) Information and/or evidence to be supplied by the witness. (Involvement of witness in the crime).

(3) Importance of case; name and importance of prospective defendant(s).

(4) All other cases, federal or state, where the witness' testimony may be required.

(5) The names of individuals for whom witness protection has previously been approved in connection with the same case; also, the names of any other individuals connected with this case likely to be placed under the Witness Protection Program.

(6) Realistic estimate of the completion date of the trial(s).

(7) Degree of threat, including names of those who may threaten or harm the witness. Report from investigative agency substantiating the threat to the witness must be attached.

(8) Number of family and/or household members to be authorized funding (name, age, relationship).

(9) Assets and liabilities (property, loans, alimony, support payments, mortgages, bank accounts, pensions or other income, etc.).

(10) Medical problems.

(11) Employment data (education, job skills, past employment, and employability of family and/or household members).

(12) Whether witness is receiving or expects to receive money from other state or federal agencies and, if so, how much.

(13) If witness is incarcerated, when can release be reasonably anticipated.

b. The Assistant Attorney General in Charge of the Concerned Division, or his designee, shall determine which persons meet the criteria for protection. He will then forward his approval by memorandum to the Director, U. S. Marshals Service, in duplicate, with copies to the Assistant Attorney General for Administration and to the office originating the request. The memorandum and attachments, marked "Confidential," will include items 1 through 13 of the above information to enable the U. S. Marshals Service to plan for the protection and maintenance of the witness. Prior to the arrival of the confidential memorandum, the Witness Security Division may initiate protection and maintenance of a witness upon receipt of oral authorization from the concerned division. This authorization should be given three workdays prior to the scheduled "pickup" of the witness.

c. In Emergencies, the Assistant Attorney General of a Concerned Division, or his designee, is authorized to orally request protection and maintenance by the U. S. Marshals Service for a period not to exceed 72 hours. Such authorizations shall be documented in accordance with the other provisions of this order within three working days following the request.

d. Investigative Agents and Attorneys are not Authorized to make representations to witnesses regarding funding, protection or relocation. Neither are they authorized to make representations to prisoner/witnesses regarding where they will be housed. These matters are for decision by authorized representatives of the U. S. Marshals Service only. Representations or agreements made without authorization will not be honored by the U. S. Marshals Service.

8. PROTECTIVE SERVICES. The U. S. Marshals Service will be responsible for the protection and maintenance of those persons designated as protected witnesses. The Witness Security Division, U. S. Marshals Service, will supervise the protection of witnesses and/or their family and household members.

a. Personal Security. Whether the witness is furnished protection or relocation to a place of safety is a matter solely within the judgment of the U. S. Marshals Service. The witness will normally be relocated to a place of safety, given a new identity and assisted in securing housing and employment in order to become self-sufficient.

Personal security will be furnished to the witness on a 24-hour basis at such times as it is necessary for him to return to the place of danger to testify in court or converse with government attorneys in connection with preparation for trial, or at any other time when deemed necessary by the U. S. Marshals Service.

b. Prisoner/Witnesses may be removed from the general prison population and kept in institutions where they are subject to minimal contact with other prisoners, or may be moved to institutions where they may be safely kept in the general population. Extremely sensitive prisoner/witnesses may be held in secure site confinement facilities established and operated by the U. S. Marshals Service at its discretion.

c. Initial Protective Maintenance Arrangements should be made by U. S. Marshals Service personnel in the presence of the U. S. Attorney or his representative and a representative of the investigative agency involved. Where Strike Force witnesses are involved, the Strike Force Attorney or his representative should participate. The U. S. Marshals Service will prepare and maintain records of the arrangements made.

d. Documentation will not normally be undertaken without a legal name change. Due to costs and time requirements, only that documentation absolutely essential will be issued and such issuance will be at the discretion of the U. S. Marshals Service. Bank references, credit cards, credit references and histories will NOT be provided.

9. APPEARANCE OF WITNESS FOR TRIAL OR PRETRIAL CONFERENCE. All contact with protected or relocated witnesses will be made through the U. S. Marshals Service. Attorneys should make requests for the appearance of a witness at least five workdays in advance.

10. DUAL PAYMENTS PROHIBITED. If, at the time of pretrial conferences or court appearances, the costs for travel, room rental, and subsistence for funded protected witnesses are being funded by the Witness Support Section, U. S. Marshals Service, no "Witness Certificate" fees should be issued to the witness. If such fees are paid, there shall be a reduction in the travel and subsistence payments by the U. S. Marshals Service. A witness appearing on behalf of a State government shall be paid by the State at the State rate, and a reduction shall be made in the travel and subsistence payments by the U. S. Marshals Service. Unfunded protected witnesses are entitled to receive all the statutory witness fees, with appropriate adjustments if the witness's travel and/or subsistence expenses are paid by the government.

11. MAINTENANCE SERVICES. The U. S. Marshals Service will have sole authority to arrange for the maintenance of those persons designated as protected witnesses and their family and/or household members. Maintenance expenses are payable from the appropriation "Fees and Expenses of Witnesses." The Witness Support Section, U. S. Marshals Service, will supervise the administration of maintenance activities.

Acquisition of gainful employment within 120 days of acceptance into the program is the responsibility of the protected witness. Job assistance, when necessary, will be provided by the Witness Security Division of the U. S. Marshals Service, but will be limited to assisting the protected person in locating one reasonable job opportunity. If this job is refused, maintenance may be terminated immediately. If a reasonable job opportunity cannot be developed within 60 days following the last court appearance, maintenance may be terminated.

12. MAINTENANCE GUIDELINES. The maintenance guidelines for protected witnesses are set forth in Appendix 1 of this order. This appendix is being distributed only to those offices actually involved in the authorization and control of expenses of maintenance. Investigative agents and attorneys are not authorized to make any commitments regarding maintenance levels to prospective witnesses. Witnesses who are able to support themselves and their family and/or household members will not be furnished maintenance.

The U. S. Marshals Service will make every effort to determine that protected persons pay bills for which the Department is furnishing funds and that witnesses return property provided by the Government. If necessary, final payments will be withheld until all debts are cleared and loaned property recovered.

13. FISCAL RESPONSIBILITIES.

a. U. S. Marshals Service.

(1) Administers Protected Witness Program funds within maintenance guidelines for appropriation 15 0311, Fees and Expenses of Witnesses, including:

(a) Establishment of obligations for the expenses of protected witnesses.

(b) Authorization and disbursement of protected witness advances.

(c) Accounts control and maintenance of confidential records.

(d) Certification of payments for protected witnesses.

(2) Collates statistical data for Protected Witness Program.

(3) Prepares and produces reports regarding protected witness funding.

b. Accounting Section, Operations Support Staff, Office of Management and Finance.

(1) The recording of obligations for protected witnesses.

(2) The recording of expenditures for protected witnesses.

(3) The scheduling of payments for protected witnesses.

GLEN E. POMMERENING
Assistant Attorney General
for Administration

[Exhibit 3]

JUSTICE DEPARTMENT ORDER OBD 2110.2 CHG 2, AUGUST 26, 1977

United States
Department of Justice

Attachment 22 /48

Change

OBD 2110.2 CHG 2

LIMITED OFFICIAL USE

Cancellation Date:

Subject: WITNESS PROTECTION AND MAINTENANCE POLICY AND PROCEDURES.

1. PURPOSE. This change establishes new levels of maintenance for protected witnesses and their dependents, increases the authorized limits of moving expenses to $9,500 per relocation, deletes the one year limitation on expenses for mail cover, and increases the authorized limits of job assistance expenses to $500.

2. EFFECTIVE DATE. The guidelines are effective on the approval date.

PAGE CONTROL CHART

Remove Pages	Dated	Insert Pages	Dated
Appendix 1		Appendix 1	
1 and 2	April 5, 1976	1 and 2	

KEVIN D. ROONEY
Assistant Attorney General
for Administration

Distribution: Special by Initiator

Initiated by: Office of Management and Finance
Financial Management Staff
Accounting Operations Group

LIMITED OFFICIAL USE

SUBJECT: MAINTENANCE GUIDELINES FOR PROTECTED WITNESSES.

1. PURPOSE. Establishes guidelines for the expenses of Protected Witnesses within which the Director, U.S. Marshals Service, or his designee, is hereby delegated the authority to authorize and control continuing maintenance and other specified payments.

* 2. EFFECTIVE DATE. The guidelines are effective on the approval date. *

3. APPROPRIATION CHARGEABLE.

a. Expenses of Witness Maintenance, Travel and Relocation are chargeable to Appropriation 15_0311, Fees and Expenses of Witnesses.

b. Expenses of the U.S. Marshals Service incurred in the performance of its duties must be charged to Appropriation 15_0322, Salaries and Expenses, U.S. Attorneys and Marshals.

4. CONTINUING MAINTENANCE. The Director, U.S. Marshals Service, or his designee, may authorize continuing payments for maintenance at rates not to exceed the limits established in the following schedule:

Number of Persons	Per Day Rate	Per Month Rate
1 to 3	$37.00	$1,108.00
4	39.00	1,170.00
5	41.00	1,233.00
6	43.00	1,296.00
7	45.00	1,359.00
8	47.00	1,422.00
9	49.00	1,485.00 *

Maintenance levels will be established according to:

a. The needs of the witness and his family and/or household members.

b. The cost-of-living in the area where the witness is located.

c. The independent income of the witness and/or household members. *

5. EMERGENCY AND TEMPORARY MAINTENANCE AND PROTECTION. Emergency maintenance may be authorized by the Director, U.S. Marshals Service, or his designee, in hotels and motels for a period not to exceed 30 days. Temporary maintenance may be authorized by the Director, U.S. Marshals Service, or his designee, for attendance at pretrial conferences and trials.

a. Room rates are authorized at actual cost at as reasonable rates as possible, not to exceed $30.00 per single room per day, and not to exceed $35.00 per double room per day, maximum of three rooms.

b. Meals and incidentals are authorized at a rate not to exceed $15.00 per day for the first person in a family, $12.00 per day for the second person, $8.00 per day for the third person, and $6.00 per day for each additional person, with the total amount authorized per family per day not to exceed $59.00 per day.

6. EXPENSES NOT UNDER THE MAINTENANCE ALLOWANCE. The following listed expenses are not included in the limitation of continuing maintenance allowances, and may be authorized by the Director, U.S. Marshals Service, or his designee, within certain limitations:

a. Travel. Travel of protected witnesses and their household members at rates not to exceed the rates established for government employees.

b. Major Medical and Dental Treatment. Necessary major medical and dental treatment may be authorized. Normal day-to-day medical and dental expenses will be paid from Continuing Maintenance Allowances in accordance with Protected Witness Rate Schedules upon receipt of bills. Elective and cosmetic medical and dental treatment will not be undertaken. Public Health Service facilities will be utilized whenever possible.

c. Moving Expenses. Movement in accordance with the methods that are consistent with the safety of the witness are authorized, not to exceed $9,500.00 per relocation. *

d. One-Time Expenses Incidental to Relocation. One-time expenses up to a maximum of $1,500.00 incidental to relocation, including but not limited to, security deposit fees for housing, utilities, furniture, and necessary miscellaneous household items and clothing.

e. Mail Cover. Expenses for mail cover and forwarding services may be authorized. *

f. Documentation. Expenses for documentation may be authorized as necessary, not to exceed $1,000.00 per household.

g. Job Assistance. When appropriate, job assistance costing less than $500.00 may be authorized, but will be limited to assisting the protected witness in locating one reasonable job opportunity. *

7. ITEMS NOT PART OF NORMAL MAINTENANCE OR SPECIFICALLY LISTED. Items not part of the normal maintenance or specifically listed, or in excess of the stated limitations, must be submitted to the Assistant Attorney General for Administration for approval.

[Exhibit 4]

FEDERAL AGENTS WITH A MISSION, WITNESS SURVIVAL

[From Newsday, July 14, 1972]

(By Tom Renner)

A sleek luxury yacht cruised slowly off the craggy rocks of Thatcher's Island, Massachusetts, methodically circling the old Coast Guard light station. From the yacht, two men scanned the desolate island with high-powered binoculars, occasionally caressing telescopic rifles lying on the mahogany deck.

"It's suicide . . . just plain suicide," mumbled Maurice (Pro) Lerner as he watched heavily armed, fatigue-garbed deputy U.S. marshals patrol the island's perimeters. Lerner, a handsome, former professional baseball player turned mob assassin, peered through binoculars, shaking his head in disgust at the scene. At his side, Vincent (Big Vinnie) Teresa, a millionaire swindler and aide to New England crime boss Raymond Patriarca, studied the island, searching for an approach to its rocky shores.

The cold, windswept island looked impregnable from the yacht. The only boat-landing was too small for their yacht and was dangerous even for a small craft that had to land on its underwater wooden pad under power to avoid being dashed against the rocks on either side. The lighthouse and the two wooden structures that served as living quarters sat in a hollow surrounded by jagged rocks, like candles in the middle of a pie. Amid the rocks a violent struggle for survival of the fittest was waged constantly between insects, rats, snakes and diving seagulls.

It was such a scene that frustrated Lerner and Teresa. "Patriarca had sent us to the island . . . Pro Lerner, another guy whose name I can't remember and myself . . . to case the area, to find a way to get on the island," Teresa recalled. "It was September, 1967, and our job was to hit Joe Barboza, a stone killer for the mob who'd become a federal witness. The place as a fortress. An army couldn't have gotten through. We had wet suits and oxygen tanks for an underwater attack and we had high-powered, scoped rifles and explosives. They were all useless. The marshals were everywhere. Pro decided it would be suicide to attempt anything, even at night with a wet suit. We never did spot Barboza."

On the island, deputy U.S. Marshal John Partington, a specialist in the protection of federal witnesses, was well-prepared for Lerner and Teresa. He had been tipped by the FBI that Patriarca's killers would try to reach Barboza by boat. "When we spotted the boat, I put on a show of force," Partington said. "We had 16 deputies for round-the-clock shifts on the island and I used most of them at that moment to walk posts along the rocks with rifles. The idea was to make them [the killers] believe we had an army on the island. We identified the boat as the Living End, a luxury yacht owned by Teresa, but no arrests could be made because they weren't committing a crime by cruising around the island."

Life on the less-than-half-a-mile-long patch of rock off the coast of Gloucester was monotonous, trying and, at times, dangerous. Part of the danger stemmed from Barboza himself, a vicious mob assassin with a Neanderthal appearance and a violent temper that was legion in mob circles.

"When he really got angry, he would froth at the corners of his mouth . . . his eyes would flash and it was a signal that he was losing control," Partington said. "After one argument, he told me once he'd calmed down: 'John . . . if you ever see me like that again, get out of the room. When I'm like that I'd kill even you.' The way he said it made me a believer." On another occasion, when a German Shepherd guard dog growled at Barboza, the powerfully built assassin hoisted the snarling animal into the air and bit him. The dog was Barboza's loyal companion thereafter.

Barboza, an associate of the New England mob, was the chief suspect in 25 mob slayings, but in 1967 he was the prize witness against Patriarca, his underboss Henry Tameleo and half a dozen other important mob figures. He had been turned into a federal witness by FBI agents while serving time for violation of parole at the Walpole State Prison. The agents had convinced him, correctly according to Teresa, that Patriarca had planned to assassinate him whether he talked or not.

Protecting a man of Barboza's reputation and personality was tension-packed and difficult, but on its success hinged the entire federal government's assault

against the Patriarca crime family. If deputy marshals could keep Barboza alive . . . and the late FBI Director J. Edgar Hoover checked daily on their progress . . . then other mob witnesses might be developed and the mob's effectiveness in New England crushed.

"We were there as much to protect against an assault by the mob as a possible escape by Barboza," Partington said. "He was still a state prisoner and he hated the idea of being an informer. It was against everything he'd been taught and we knew he would have done anything to escape from both us and the mob." The first day on the island, Barboza tested Partington's discipline and authority.

"I had told Barboza that he could not go beyond a line of rocks surrounding the buildings on the island," Partington said. "He decided to go beyond the rocks. 'Take your carbine and stuff . . .' he shouted to me. We faced off. There were words. But we reached an understanding. He knew then that the marshals were running the detail, not him." The test was crucial.

The island attempt on Barboza, who remained under federal protection for 16 months, wasn't the only one by Lerner or the mob. A month after the island episode, the marshals were forced by newspaper publicity to move Barboza from the island to Gloucester quarters leased on the $500,000 Dolliver's Neck estate owned by multimillionaire John Babock Howard.

The estate was almost as remote as the island, but far more comfortable for Barboza, his wife and child, and the deputies. Barboza and his family lived in one of two duplexes used as servants quarters on the estate. His marshal-protectors lived in the other. The outer perimeters surrounding the duplexes were patrolled by deputies and guard dogs around the clock. Beyond the clearing was a dense forest.

"We found out about the estate and Pro was sent to try and hit Barboza," Teresa said. "It was raining the day he made the attempt. He got to within 1,000 feet of the duplexes and lay in the woods for six hours, watching, waiting for some sign of Barboza. All that time he had a scoped-rifle trained on the compound. Nothing happened. Barboza never came out. Lerner said he couldn't get off a shot and that if he had he'd have been killed himself. We figured if Lerner couldn't get to him, nobody could."

Protecting Barboza from the mob is one thing, but living with a man of his violent temperament 24 hours a day is another.

"No one will ever understand how difficult it is to cage a man like that and keep him in a proper frame of mind so that he will be a good witness at a trial," Partington said. "We'd talk 10, 12 hours a day. Joe was a highly intelligent person. He wrote poetry, he was well-read, he was handy and he liked gardening and was good at it. He'd play for hours on end with his 3-year-old daughter, explaining to her how important good manners were. She was content. She had 16 uncles [deputy marshals] as friends and playmates. On Hallowe'en, she'd dress up in a costume and trick-or-treat with all of us."

However, for Barboza, who was used to the excitement of life on the streets, the boredom was agonizing.

"He loved his wife, he idolized his daughter, but being cooped up 24 hours a day with them was too much," Partington said. "Most men don't spend eight hours a day with their families. That and 16 deputies following you around. Sooner or later, everyone gets on each other's nerves and tempers flare." What the deputies learned with Barboza, however, were techniques in the psychological handling of witnesses, as well as the day-to-day protection of witnesses—techniques and experience that later were to become invaluable.

The answer, according to Ted Harrington, commander of the New England Federal Strike Force, has been the development of a witness-protection program under the 1970 Organized Crime Control Act of Sen. John McClellan (D-Ark.), chairman of a Senate rackets subcommittee. More then $5,000,000 annually is now spent to protect more than 90 witnesses daily. The program has not been without problems.

The marshals' biggest problem outside the compound was in the movement of Barboza to and from courts. There, explained Reis Kash, deputy marshal in charge of the new national witness protection program, the mob had the government at a disadvantage. It knew in advance through the news media and attorneys when a witness was coming, and had time to plan, to case a location for an assassination attempt. Such a task was assigned by the Patriarca mob to one of the nation's top armored truck robbers, John (Red) Kelley.

"We had to use a variety of techniques and disguises to move Joe in and out of federal courts for trials," Partington said. "Joe isn't easy to disguise facially. He has that Neanderthal look about him . . . a genuine, tough hoodlum look. There were times we dressed him like a deputy and dressed a deputy to look like him. Other times we'd come in with a caravan of cars with sirens blaring and, on one occasion, we came to the courthouse three days early and slept there until the trial began."

The constant juggling of techniques of movement is what finally discouraged Kelley, a master of detail and planning for criminal enterprises. The marshals learned later from a mob informant that Kelley went to Patriarca to tell him that it was impossible to get Barboza at the courthouse. Kelley had checked every exit and entrance, every hallway, room, floor and elevator of the federal building, as well as all the street approaches, before abandoning hope of devising a plan to kill Barboza.

Harrington said that by keeping Barboza alive the marshals convinced other witnesses they could break the mob code for silence and live. "Without Barboza, we would never have had Kelley or Teresa become witnesses nor would the others who have talked turned," Harrington said. "Kelley told me many times that he would never have become a witness without the success of the Barboza project."

To Harrington, organized crime has a character of its own. "Its bosses are insulated from the actual criminal act they order," he explained. "To convict the bosses, we must get a witness linking the major figure with the act. He must be a close associate of a major figure and willing to defect. When he does, he's violated the code of silence and his life is automatically in jeopardy. He knows the mob will move heaven and earth to reach him and he needs assurance that he and his family can be insulated from that threat."

The protection program is headed by the associate director of the U.S. Marshal Service, William Hall, but the man who runs the day-to-day operation is Kash. Barboza, now serving a jail term in California for manslaughter, was a prisoner-witness at the time he was a federal witness. Today, prisoner witnesses are only one of three categories of witnesses whom federal marshals have to protect. The other categories are satellite witnesses, persons living under different identities in private homes in communities across the U.S., and protective-custody witnesses, largely those not under arrest or on parole who can leave federal custody whenever they desire.

Manpower for the protection of all witnesses is drawn from the ranks of the more than 2,300 deputies of the U.S. Marshals Service under the command of Director Wayne B. Colburn. The deputies are drawn on a rotating basis for details and are given limited training in witness protection. The task of running details of protection, however, falls to one of 10 security specialists, men with long police experience who have passed a grueling, 80-hour advanced training program in physical and personal security.

Each of the specialists, according to Kash, is required to set up a detail with the number of men needed. He must evaluate the type of coverage and facilities necessary to protect a particular witness. "We try to match the deputies for each witness to his personality," Kash explained. "For example, black deputies are assigned to black ghetto areas because whites would stand out like sore thumbs."

In theory, matching deputies to witnesses has important advantages, but in practice it does not always work. "What is vital for deputies to understand," explained a safehouse deputy, "is that these people are human beings. They have to be treated as human beings no matter what their background is. Their lives are on the line when they talk. You have to give them more than dirt." He recalled that one political appointee at a high level of the marshals service considered mob informers as "animals who should be treated like animals . . . no favors, understanding or compassion."

Despite the efforts to screen deputies and provide peace of mind to witnesses, there still are problems that arise on details that protection experts cannot foresee or prevent.

One such problem, a federal source disclosed, involved the recent protection of Joseph Luparelli, a self-confessed member of an assassination squad that reportedly murdered Joseph (Crazy Joe) Gallo in Umberto's Clam House on Mulberry Street, New York City, last April. Fearing he would be killed by members of the assassin squad he had worked with, Luparelli fled from a prearranged mob

hideout and turned himself in to the FBI in California, where he told agents the story of Gallo's murder and begged for federal protection. Luparelli's story was relayed to New York City police who, at first, did not believe the tale. He then was flown to the New York area where he was questioned by city detectives and FBI agents and placed under the protective security of the marshals service.

Questioned and requestioned, shaken by publicity resulting from a news leak about his becoming an informer, Luparelli began to crack. Federal sources said that he became despondent and moody, fearing for his own personal safety, as well as that of his family, which also was placed under protective custody. The sources said Luparelli's anxiety became so intense that he attempted suicide by slashing his wrists.

A similar psychological problem almost caused a Frenchman, who was a key witness in an international heroin smuggling case, to commit suicide. The witness was despondent over separation from his wife. The marshals could not permit conjugal visits at the safehouse where the Frenchman was held because there were other witnesses to contend with there. Instead, they arranged to fly his wife from France to the U.S. to talk with him. The visit paid off. The Frenchman became a highly effective witness for tht Federal Bureau of Narcotics and Dangerous Drugs.

Kash said that, in effect, deputies become social directors, health specialists, gymnasts, fishing advisers, father confessors and gourmet cooks to witnesses. "The important thing is that they keep these witnesses mentally prepared for the ordeal ahead of them," he said. "They [witnesses] get uptight about three or four days before they testify. If you have a good team on the detail, the mind of the witness is kept off the events ahead and he goes into the trial without mental fatigue."

A key part of the program is the safehouse, defensible living quarters that can house from five to 20 witnesses depending on the location, the need and the practicality. Today, the marshals service maintains from 12 to 20 safehouses throughout the nation on a day-to-day basis, and more are planned. Each site is chosen under a criteria that includes: (1) is it secure and close to an area of heavy operations (2) is it defensible and (3) can it handle enough people to make it economically feasible to operate. Leases are obtained for the locations under cover. Once obtained, the location is turned into an armed camp.

One safehouse inspected by a reporter under cover of darkness was located in New England. To approach it, the reporter was taken at night down a long, winding backwoods road. Few houses were in the vicinity. From the road, the safehouse looked like a farm-equipment business with farm machines strategically placed throughout the five-acre, fenced-in area. Entrance to the property was picked up immediately on closed-circuit television. The sole open entrance to the house was protected by the peering eye of a TV camera, and electronic sensors guarded every heavily screened window, while an armed guard was stationed at the door.

The interior was equally imposing. A TV camera was trained on a third-floor skylight to protect against the possibility of a rooftop entry through a steel-screened roof window. A heavy, steel door, separating sleeping quarters from the staircase, guarded the entrance to second-floor bedrooms. On the ground floor was a large, comfortaple witness interrogation room, where prosecutors and agents could talk privately with witnesses. Adjoining it, was the control center with its space-aged electronic panels and screens that a deputy watched at all times. The panel lit up like a flashing computer, and alarms sounded loudly when outside electronic devices, planted throughout the five-acre area, were tripped by intruders. In the kitchen, witnesses prepared their own food bought by pooling their $5 daily subsistence allowance. On the second floor, dormitory-sized bedrooms, with three beds to a room, were ready for occupancy. Nearby, was a recreation room with television, books, pool tables and athletic equipment.

Life at a safehouse, while comfortable and secure, can be trying for a witness. Boredom is the greatest enemy, and there is no liquor or women. One safehouse deputy recalled a witness who decided that he would rather face the mob than the restrictions placed on his life at a safehouse. "His partner has his head blown off in Buffalo," he said. "When he arrived, he asked a deputy to get his bottle out of his bag. The deputy told him he'd better finish it because it was the last drink he'd have after reaching the safehouse. No drinks are permitted here. It's too dangerous. When he saw the safehouse and realized booze was out, he

demanded to leave. Since he was in protective custody and not a prisoner, we had no alternative. He signed a release and left."

There have been instances where safehouses became hothouses because of mob intelligence. Last May, a safehouse at an abandoned military installation on Staten Island had to be evacuated and witnesses reassigned to other safehouses because of a plot to kill French witness Roger Preiss.

Preiss, a key figure in a multimillion-dollar heroin smuggling ring based in France, testified against convicted dope smuggler Louis Cirillo. Federal authorities then disclosed that Cirillo had hired convicted bank robber Joseph Bux to kill Preiss. They said that Cirillo had provided him with $5,000 and a map to the safehouse. Narcotics agents, however, closed in and arrested Bux en route to the safehouse. His plan, they said, was to bomb the safehouse, killing whoever was inside. In a trial following his conviction for selling narcotics, Cirillo was acquitted in the plot to kill Preiss although Bux maintained he had been hired by Cirillo.

Kash said that the movement of witnesses often causes problems. One such case involved Teresa, a 300-pound mobster. Kash said that while Teresa is cooperative, he also is something of a practical joker and that causes problems. In late March, Teresa and a deputy were aboard a commercial flight to New England when Teresa, to relieve the boredom, remarked to a stewardess as she walked by: "The weather's lousy here . . . I wonder what it's like in Havana." The stewardess panicked, ran to the cockpit and told the pilot they had a potential hijacker on board. Teresa and his deputy had to do a lot of fast talking to prevent the pilot from alerting the FBI to make an arrest on landing.

Witness protection doesn't end with the trial appearance. Once a witness has completed his commitment to the state or federal government, the marshals service has to provide him with a new identity, a new way of life. To accomplish this, the service has stolen a page from the Central Intelligence Agency by establishing a documentation section headed by deputy James Colasanto.

"We call in the witness for an interview and go into every facet of his life . . . when and where he was married, where his children were born and when, everything about his and his family's life," Colasanto said. Then begins the task of providing a "factual background" under which the witness and his family can live and identify. New family names blending with his ethnic background are used. New Social Security cards, car registrations, driver's licenses, work backgrounds, birth and marriage certificates are prepared.

Each prepared document is backstopped legally so that any inquiring agency will come up only with the witness's new identity. Marshals are sent to home areas of witnesses to replace birth certificates, medical records, driver's licenses and Social Security cards with new records reflecting the same information, but a different name. The school records of children are handled differently. They are sent from their former school to the marshals service and then transferred to one of several "safe schools" that work closely with federal authorities. The names on the records are then switched, but no other portion of the child's record is altered, such as grades, subjects taken or class standing.

"There is nothing phony about any of the records we provide except the name," Colasanto said. "Everything is authentic including changes in insurance and medical records. We will not, however, provide credit references. The witness has to establish a credit rating under his new name."

On rare occasions, the marshals arrange for plastic surgery and other physical alterations. They also retrain mob witnesses for new types of jobs. Once all this is done, they help the witnesses establish themselves in new communities. "We help them get a job to fit their skills," Colasanto said. "We don't reward a witness for his testimony, but we do try and move him toward a normal way of life under different but decent standards." Cooperating in this program are more than 150 corporations. Most witnesses become truck drivers, laborers, carpenters, construction specialists or mechanics because they can't qualify for anything else, but some have become computer analysts and business executives. At least one former stock swindler is now legitimately wealthy and a respected member of his community where he operates his own business.

Occasionally, a witness reverts to criminal life. Barboza was one. In July, 1970, he was arrested in Massachusetts on a gun charge after threatening a motorist, and his probation was revoked. While in prison, a Santa Rosa, Calif., grand jury indicted him for murder. He pleaded guilty to second-degree murder and now is serving a five-year-to-life prison term in isolation.

To Harrington of the New England Federal Strike Force, the witness-protection program is "the single most important effort we have in the organized crime fight." It is men like Teresa, however, who perhaps best sum up the value of the 2-year-old program.

"Because of what they're doing," Teresa said, "a lot of other people in the mob will talk. Keeping guys like me alive is the best weapon they've ever come up with to fight the mob."

[Exhibit 5]

LETTER FROM THOMAS C. RENNER TO GERALD SHUR, MARCH 14, 1977

DEAR JERRY: As you know, two years ago I embarked on a project whose sole aim was to document a book on the Witness Protection Program. I did, in fact, spend more than three months of a leave of absence in research . . . talking to deputies, witnesses, prosecutors and federal agents. The end result of that research caper, which cost me three months salary, travel expenses and considerable time and effort, was a painful decision to, at least temporarily, shelve the effort.

Quite candidly, my original plan to write the book was based on my belief that the witness program was saving lives, rehabilitating criminals and hitting organized crime where it hurt the most. It took me less than three months to realize that if I wrote a book based on what I had learned, I would do more to damage the program than help it. In good conscience, I felt I could not bring myself to damage what I considered to be one of the most effective tools developed to combat organized crime simply to turn a quick buck for myself or anyone else.

Instead of peddling a book, I wrote several articles for my newspaper, Newsday, detailing the problems of witnesses and some of the inefficiency of the U.S. Marshals Service in handling the witness program. My hope was that those articles might help turn the program around, making it more efficient and effective. I was wrong.

Since those articles, I have kept in close touch with the program through a number of witnesses and federal agents to see if there would be any improvement, any change in the policies and procedures that bog it down in a sea of red tape, misstatements of fact, misrepresentations, misunderstandings and costly inefficiency. While there have been some changes, largely through personnel reshuffling, new duty nomenclatures and new policy memorandums, the fact is the program is still mishandled, poorly administered, rife with security leaks and suspected corruption, as well as inefficient.

Because I believe the program can still be salvaged, and because we have known each other for a number of years and have mutual respect (though we agree to disagree on a number of occasions) for each other, I am writing the following in hopes that I can contribute in some small way toward saving the program rather than destroying it through the printed word. I consider the following essential in turning the program around and making it fly as a successful anti-organized crime weapon:

1. SPECIAL PROTECTION UNIT

Under current program procedures, there are "protection specialists" assigned to various areas to help witnesses relocate and start a new life. The Specialists theoretically are "experts" in protection procedures. Alas, they are too few, assigned to too many with too little experience and training.

What is needed are more and better trained specialists with wider powers superseding those of district marshals when it comes to the handling of witnesses throughout the country. The alternatives are a highly specialized unit of 200 to 300 men whose sole duty is the protection and care of witnesses and answerable only to a special administrative wing of the Department of Justice; or the removal of protection responsibilities from the U.S. Marshals Service and the reassignment of that duty to a more viable, better trained agency such as the FBI.

In its present form, with inefficient administrators who are largely political appointees rather than trained protection specialists, the witness program is

destined for disaster and scandal. It is nothing short of a miracle now that there has not been widespread murder or disclosure of witnesses' identities. There is already, however, word in the underworld that the government (marshals) fail to live up to their word and desert witnesses without proper reidentification and protection.

2. TRAINING

a. There is a need for a specialized school, perhaps similar in nature to the FBI Academy, at which witness protection specialists are intensively trained in: (1) organized crime, its assassination techniques and methods to be used to thwart those techniques. In this instance, witnesses themselves, who were members of organized crime, should be used as paid training consultants and speakers to teach protection specialists in street level o/c operations and techniques: (2) intelligence procedures and debriefing (of witnesses) techniques. Most witnesses are questioned about crimes they were involved in, but seldom debriefed on their knowledge of organized crime operations. Such material would prove invaluable in the protection of witnesses and the prevention of other crimes; (3) a basic understanding in psychology and particularly in the handling of people and their problems (being firm when necessary, compassionate and understanding when required); (4) in relocation, documentation of witnesses and geographics of mob inter-relationships.

b. There is also a need for a viable job training program for both witnesses and their family members. That training should include an indoctrination in the problems of living under a new identity, in maintaining a low profile, in learning how (without providing it) to establish a credit rating, in budgeting federal funding for essentials such as food, utilities, rents, mortgages, cars etc. Other than the indoctrination, witnesses should be provided training, where possible, commensurate with their mental learning capabilities. For example a car agency manager, should not be trained to handle a bulldozer or other heavy equipment; a carpenter should not be trained in accounting. Witnesses should be taught to use the capabilities they have in acquiring jobs and should be directed toward such jobs. Where they have no particular capability, they should be trained in a vocation commensurate with their skills and intelligence or provided on the job training in general industry or federal departments such as agriculture, commerce, interior, defense, building maintenance, etc., etc. Family members, including wives and children, should also, where practical, be given job training so they can become self-sufficient and not a public welfare charge should something happen to the witness.

3. FUNDING

a. There is an immediate need for a reevaluation of the witness funding program. The $1,080 figure as a maximum for a family is unrealistic in an inflationary economy. A $1,080 might be sufficient in North Carolina or Iowa, but it would be insufficient in Long Island, San Diego or Seattle. The figure should be increased, perhaps to $1,200 maximum, with provisions for cost of living increases based on utility, medical, rental and food index increases. It could be scaled down for lower income areas with lower living costs. The figure should also increase according to the number of people in a family, decreasing if fewer than four and increasing if more than four.

b. Responsibility for funding the witnesses should be delegated and controlled by one central unit and then constantly monitored and audited to see that it is handled properly. Witnesses, for the purpose of audits, should be coded to prevent identification and security leaks.

All U.S. Marshals should be eliminated from the funding process, except under severe emergency conditions. They should have no responsibility at all in the distribution of checks or even in the knowledge of the whereabouts of witnesses within their territory except when their aid is needed for the immediate protection of a witness. U.S. Marshals, it should be remembered, are political appointees, subject to the pressures of politics often influenced and dominated by organized crime. He has no background, training or understanding about the handling of witnesses and should not be aware of their presence except on an emergency need-to-know basis. Funding should be direct through a special unit in Washington.

4. ADMINISTRATION

a. The administration of witness protection is the heart of the inefficiency and ineffectiveness today. It is here that funding bogs down, that documentation fails, that witnesses' problems are ignored, that security leaks proliferate and it is here that stupidity appears to be at a premium. Those administering the program, for the most part (there are exceptions), don't give a damn. I've heard deputies complain about the amount witnesses are paid, others call witnesses animals, still others ignore calls for help and advise. What is desparately needed is a complete reorganization of administration. All those now in administration, with few exceptions, should be transferred to other duties or the entire administration of the program should be transferred to a special trained unit within the Department of Justice.

b. All personnel involved in administering the witness program should be trained in witness protection and in the handling of witnesses with a humane approach, not as though they were social vampires and society's dregs. There is far too much of the "welfare syndrome" in the handling of witnesses by marshals service administration personnel, and there are too many layers of bureaucracy present to make its administration workable and efficient.

5. SECURITY

a. There is an urgent need for a tightening of security on the location of witnesses. Deputies protecting witnesses frequently talk among themselves and before other witnesses about the problems and locations of witnesses they've handled in the past. They not only identify witnesses by name, but they pinpoint the location of those witnesses. This endangers the safety of witnesses and gives other witnesses pause to think about their own security and the incompetency of the deputies they are dealing with. Severe penalties, if not immediate dismissal, should be imposed upon deputies who talk about witnesses who have been under their protection or whose whereabouts and identity they are privy to. There is more loose talk among deputies about witnesses than any agency in the federal establishment.

6. DOCUMENTATION

a. There is an immediate need to create and efficiently operate a witness documentation section that immediately provides witnesses with birth certificates, social security cards, drivers licenses, school records, passports (where permissable), baptismal certificates etc. Frequently witnesses wait for months and even years before receiving documentation under their assumed names and even then that documentation is not backstopped and protected nor is the witness briefed about the area he is supposed to have come from, the people he supposedly knows, the schools his kids went to, the churches they attended. The current documentation program is the worst I've ever seen. As a reporter, with friends in law enforcement, I could document and relocate a witness quicker and more efficiently than the marshals can and that's not saying much. For example: in the case of Vincent Teresa, he was never properly documented under the name of Conti and never given a background to fall back on if he were questioned by people in the new area he lived in. When that identity was blown and he was given a new name, neither he nor his wife were given birth certificates for more than a year; one of his sons had identification only under the name of Conti; when he asked for a marriage certificate in his new name, he was told by a U.S. Marshal to get married again; his daughter had no school records to fall back on when applying for a job nor did his sons; none had drivers licenses for the state in which they were living. The identical problems Teresa faced for more than a year were reported to me by nearly a dozen other witnesses.

Moreover, not one witness has ever received any instruction in how to establish bank accounts, build a credit rating (without being given it by the government), applying for travel or gas cards, car or home improvement loans or working their way up to mortgage applications. In one instance, when a witness applied for a mortgage and used the U.S. Government as his employer, the marshals in Washington told the bank (which turned out to be mob controlled) that their applicant was a witness living under a different identity. Sheer insanity.

7. CLAIMS AND LOSSES

a. There is a need to establish a special unit for quick followup on damage claims and losses resulting from the movement of witnesses. This is currently handled with a cavalier, who-gives-a-damn attitude by the marshals service. If a witness is picked up for protection and the terms of that protection are the packaging and shipping of his worldly goods, the marshals should be responsible for any and all losses and the witnesses should not be blackmailed into accepting a payment for far less than the value of his goods.

b. The government appears to use primarily only one truck mover (Allied) for witnesses and their care in packaging and shipment is often shoddy. I have personally seen furniture worth thousands of dollars systematically smashed or damaged and ridiculously low offers for replacement. Had it been my furniture, I'd have sued their pants off and won easily, but witnesses can't turn to the courts without fear of exposure and the marshals service does nothing to protect their interests. It leads to an overwhelming suspicion, particularly with the size of claim settlements, that here is a kickback racket going on within the marshals service. In one instance a man with more than $50,000 in belongings was made to settle for $16,000 . . . take it or leave it; in another instance, damages totaling more than $25,000 were settled for $5,000, take it or leave it; and in still another instance $21,000 in furniture was lost or damaged in transit and other articles (including a tractor) were never packed or shipped as required. It is quite apparent that the mover is patently aware that he faces no crackdown in paying on claims from the marshals service and knows that he is not accountable for losses because he is dealing with witnesses and who-the-hell-cares.

c. Stringent controls should be established in the rental of furniture and other goods for witnesses by deputies. Too often witnesses are required to sign documents for rentals without any explanation to the witnesses of what they are signing for. When one witness complained that he never got the goods he signed for, he was told by a deputy: "what do you care what it cost . . . the government's paying for it." Similar answers were given to other witnesses who said they could rent furniture and goods cheaper and of better quality. There have been mounting complaints and high suspicions among witnesses that certain deputies are receiving kickbacks or pocketing government funds that were channeled for witness rentals. One witness (Teresa) is still having $50 a month deducted from his government check for rented goods he never received. When he complained (to Tatum) he was told to mind his business . . . it wasn't out of his pocket. The trouble was it was . . . that was $50 his family could have used.

d. To prevent abuses, a series of roving inspectors should be trained and turned loose to check on deputies' operations and witnesses' funding through direct contact with the witnesses—an internal security operation to see that funding is adequate for the witnesses in the areas they are in and that the government is receiving (through the witnesses) that which it is paying for. Witness claims and losses, as well as funding should be audited and monitored and witnesses should be questioned about what they actually receive, not what the district marshals office claims they have received. I personally suspect there is widespread kickbacks if not outright thievery in the program because of its secrecy nature.

e. There should be help provided for witnesses in transferring their assets when they are forced to move because of exposure. For example, a witness who has a car and has made payments on that car, should not be forced to leave that car behind, losing all the funds he has put into it. Either a method of moving the car to a new area should be devised, or the witness should be reimbursed for whatever assets value he had in that car. The same is true for other goods or even homes or condominiums. The witness should not be financially penalized because of a security-required move. This can be handled through mortgaging agencies by the government.

8. WITNESS PROTECTION

a. Witnesses should be provided with far better security, airport protection, court protection, safehouse facilities etc., when they are required to travel.

Protection at present is very loose and, in my opinion, it is nothing short of a miracle that witnesses haven't been killed enroute to testifying. In one instance, a witness arrived in Philadelphia and wasn't met by deputies who told him to drive to Newark alone because they had no one to spare. In another instance, a witness arrived at Kennedy Airport and only one deputy arrived to take him to the Southern District Courthouse. There are literally dozens of examples of incompetence, inefficiency and gross negligence of witness protection procedures. Too often witnesses travel from one area to another without a vestige of protection either at the airports or train terminals where they must leave from or arrive at. When they are required to stay in "hot" areas while testifying, not only is protection loose, but deputies take the witnesses to lush restaurants where there is high visibility and absolutely no security; deputies drink on duty, date women, go to whore houses with witnesses and break the most basic of regulations in security protection. This all reverts to the core of a lack of proper training of deputies and enforcement of penalties for breaches in security and protection.

b. Witnesses and their families should be properly briefed (they never are) on the dangers they face in the areas they are relocated in; on how to act and keep low profiles in those areas; on how to blend into communities they now live in; on how to participate in community activities without inviting unnecessary exposure; on how to apply for jobs, federal job training or vocational education in areas they live in.

c. There should be an end to all personal business transactions (loans, business connections etc) between deputies and the witnesses they protect, as well as deputies and their business friends and the witnesses they protect. I know of instances where deputies borrowed money from witnesses and witnesses borrowed money from deputies. I know of instances where deputies helped business friends sell or rent homes and/or businesses to witnesses that the deputies were protecting. This is a blatant conflict of interest and places the witness in an untenable situation where he is subconsciously, if not consciously squeezed into a home or business situation he may not want but feels he has to take because of the deputy he depends on for protection. Business contacts, job opportunities, loans etc should be handled through a central unit of the protection service by qualified personnel trained in this work and not by deputies trying to make points with witnesses, business friends, relatives or personal profit.

9. CRITERIAS

a. There should be a firm criteria that is established and followed for who promises what to witnesses. What is promised should be established in writing and signed by the witnesses and the attorney or deputy making that promise. It should then be lived up to without equivocation.

b. There should be a standard fee paid for terminating witnesses, not one sum for one and another for someone else. If a Vinnie Teresa receives $2,000, why should a Mike Hellerman receive $5,000 or a Herb Itkin $60,000. The termination fee should be standardized, like mustering out pay, and perhaps limited to say three months support in a lump sum payment.

c. On arrests of witnesses under their new identities, a careful check should be made into the viability of the case before exposing the witness's identity. In one instance, a completely phoney charge was lodged in an upstate New York community against Teresa by a crooked judge under investigation through a sheriff's office that the judge counseled. A fugitive from justice warrant was issued by the FBI, yet Teresa had been moved from the jurisdiction by the marshals and was not a fugitive nor was the initial charge even legitimate. The judge was, in fact, under investigation by state police and the district attorney's office for dealing with the mob and Teresa had been previously questioned about that and cleared. Yet he was arrested, his identity blown by deputies who took him from his home in handcuffs and only the wisdom of a judge prevented him from being tossed in a federal cellblock where he would have been killed. While there is a need to pursue witnesses who violate the law, special provisions should be made not to blow their identity until all facts have been checked out and then, if there is a viable case, they should be placed in secure cells where they aren't faced with the threat of assassination.

d. There is a need for better intelligence in relocating witnesses. The deputies selecting sites should familiarize themselves with the o/c dangers of that area, check with the witnesses on their knowledge of that area and dangers they may be aware of. There is also a need for intelligence on the needs and qualifications and physical makeup of a witness. A witness with asthma, for example, should not be sent to a damp climate such as Seattle; or a witness with specific medical needs should be in an area where those medical needs can be met; or a witness with a Brooklynese street lingo shouldn't be placed in a deep south small town where he stands out like a sore thumb.

10. MISCELLANEOUS

a. Prevent situations where more than one witness is located in the same community or development. I.E. in Virginia, Lou Mastriani and Lepera were in the same restaurants at the same time with different teams of deputies and there were a half dozen witnesses located within a mile radius of each other.

b. Either eliminate marshals as protection specialists or eliminate their jobs as political patronage plums.

c. Institute severe penalties or dismissal of deputies who gamble with, whore with or booze with witnesses, or golf, play tennis, go clubbing while they are charged with the protection of a witness

d. Require followup by deputies and Washington main office on witness documentation, public health appointments, job interviews, loss and damage complaints, funding problems, protection in transient.

11. COMMENTS FROM OTHER AGENTS

a. From an FBI agent: "Let's face it. You're dealing with a very poorly handled, mismanaged witness program handled by untrained deputies incapable of handling the job. They have no interest; they lack personal interest or compassion in dealing with human beings, their families and their lives. The marshals are too busy trying to be Dick Tracey's while failing miserably at their primary assignment . . . protecting witnesses."

b. From a former prosecutor: "Its incredibly inefficient. They handle witnesses as if they were numbers instead of human beings. They forget that each witness is different, with different problems and values. They aren't all animals, or killers or punks or jerks. They're human beings who are scared to death and who depend on us to live up to our word." Adds another: "What's happening in the witness program is absolutely atrocious. They're not getting witnesses decent employment; they're cutting them off without the help they need; they give them documentation that's not worth the paper it's written on; they give them lousy protection and no sense of security. All that needn't be. The government's got thousands of different jobs available in the federal establishment . . . in the parks department, agriculture, you name it. They can train these people, give them a chance at a new life, but they don't. It's a tragedy. This is a very, very important tool in fighting organized crime, but it's going down the drain."

There is more that could be said Jerry, and the comments against the program and its failures are innumerable and from a divergent as well as intelligent group. There is, in my opinion, a need for a drastic shakeup in the entire program, a cleaning of house from top to bottom and a need for a new and better attitude toward witnesses and their problems. Without change, the word will spread, and there will be no witnesses to protect.

This is written with no ulterior motives in mind other than to see changes that will help witnesses and help in the fight against organized crime. I'm concerned, but I'm also tired of seeing the whip approach by journalists that I have to work with who would rather destroy than correct and improve. I believe in cooperation with government as long as it does not seek to cover up its mistakes while refusing to make improvements. Where government chooses to ignore what is wrong, cover it up and do nothing to correct error, they then must expect the wrath of the journalist who has a responsibility to the public. I am, therefore, exercising my responsibility by informing you of the errors and mistakes so that they might be corrected before taking an alternative route which I believe would be not only distasteful, but destructive, failing to accomplish what is needed for the good of the witnesses and the public ultimately.

[Exhibit 6]

PROBE OF U.S. MARSHALS UNCOVERS CORRUPTION

[From Newsday, Sept. 11, 1977]

(First of two parts)

(By Tom Renner)

A year-long secret investigation of corruption within the U.S. Marshals Service has uncovered evidence of mob payoffs, extortion, loansharking, narcotics traffic and theft by U.S. marshals and their deputies from New Jersey to California.

Initiated at the request of William Hall, director of the marshals service, the investigation, Newsday has learned, has been conducted by a special team of FBI agents and the Office of Professional Responsibility of the U.S. Department of Justice.

The probe has resulted in more than a dozen forced resignations by U.S. marshals and deputies in Miami, Fla.; Phoenix, Ariz.; Houston, Texas, and Newark, N.J. and one indictment—on embezzlement and drug-dealing charges—of a deputy in Grand Rapids, Mich. Federal sources said other indictments are expected but that they will not necessarily involve all those who have resigned.

They denied that the acceptance of resignations from personnel before prosecution was designed to avoid scandal in the federal witness protection program, which the marshals oversee.

The existence of the secret investigation was confirmed by Hall and by Michael E. Shaheen Jr., director of the Office of Professional Responsibility. But neither man would comment on the scope of the probe or the allegations involved. "I cannot, as a matter of policy, make comments about ongoing investigations," Hall said when asked about specific cases involving marshals' offices in Newark and other areas.

Asked why prosecutions had not preceded the resignations under fire of marshals and deputies since he took over as director a year and a half ago, Hall said: "I don't make the judgments on prosecution. That's up to the Department of Justice and U.S. attorneys. But whenever I have allegations of misconduct that are accurate, I will purge the service of those people who are not doing what they should do." Shaheen said, "I will confirm there is an investigation under way, but that's all I can say."

There are 94 marshals and more than 1,800 deputy marshals in the United States. Their primary duties are the transporting of federal witnesses, the serving of subpoenas, the protection of federal courtrooms and handling of details for the federal courts as well as riot control. In addition, since 1970, the marshals service has been charged with administration of the witness protection program.

Under it, witnesses who have testified against organized crime figures on trial at state and federal levels are provided with new identities and are relocated at the direction of the U.S. Justice Department. One investigation source called the program "the single most effective weapon the U.S. Department of Justice has in fighting both white-collar and organized crime."

The investigation of corruption within the marshals service and the witness protection program has found evidence that:

Members of the Carlo Gambino and Vito Genovese crime families have infiltrated the marshal's office in Newark, the prime target of the investigation. Mob members allegedly paid deputies for favors including the sharing of information on the movements of protected witnesses and special privileges for mob figures held prisoner.

A former Newark deputy marshal, Leonard Stacey, was involved with government witnesses who organized two phony cocaine transactions in Orange County, Calif., and who then took the money from prospective buyers for the undelivered cocaine. No indictments have yet resulted from those cases although they are more than a year old. Stacey resigned last September while the investigation was under way.

Stacey, while working for FBI agents after his resignation, conspired with a former Miami deputy marshal, Roger Gibson, to arrange the sale of 2 to 10 pounds of cocaine at a price of $18,000 a pound. Gibson, who was forced to

resign, had been under investigation for using persons in the witness protection program to transport narcotics.

The former U.S. marshal in Phoenix, Pat Madrid, misused his office to deal in Indian jewelry, failed to keep adequate records and associated with a major convicted narcotics trafficker. Madrid resigned under fire last year after two separate FBI investigations into his activities.

Investigations in Houston have already resulted in the resignations of two deputies, and there are investigations of misconduct under way in Brooklyn, where not only deputies but several protected witnesses have been questioned by the FBI, according to federal sources.

The Newark phase of the investigation has already resulted in the resignation of Marshal Carl E. Hirshman, who was replaced by Edward Scheu, former chief deputy for Scranton, Pa. Hirshman could not be reached for comment and Scheu referred all inquiries to the marshals service headquarters in Washington.

The Newark investigation, federal sources said, involves the relationship between Teddy Riviella, 49, of Newark, convicted fence of the Philadelphia crime family of Angelo Bruno, and several deputies who vacationed at Riviella's lodge in Maine. Investigators also are probing the relationship of Riviella and a deputy who reportedly received a $3,000 payoff from Riviella while he was a policeman. Federal investigators reportedly have statements from former mob members and protected witnesses concerning Riviella and several deputies, and photographs of the deputies with mob figures and at the lodge.

Bruno crime family captain Anthony Caponigro received favors from deputies while Hirshman was boss of the Newark marshal's office, federal sources said. The sources said that while Caponigro was being held in a federal detention cell in Newark he was allowed to have visitors and that deputies held a party with him in his cell.

The sources said one witness, a former deputy, has confirmed that deputies in Newark "received envelopes [payoffs]" from mob figures who wanted special treatment while they were in the Metropolitan Correctional Center in New York.

The sources said that the special favors cost mob figures as much as $3,000 a week and that payoffs were made both to deputies in Newark and an important figure in the center who arranged to have the mob prisoners remain there—where they could have visitors—for as long as six months, rather than be transferred to federal penitentiaries.

Until his death, one of the key figures in the probe was former chief deputy Angelo Bove, whom witnesses and some deputies described as at the center of payoffs and corrupt practices in the Newark office.

Bove, who was transferred last year to the Eastern District of the federal courts, which covers Brooklyn, Queens, Staten Island and Long Island, while he was under investigation, died in February of cancer. He reportedly had direct contact with Vito Genovese crime captain Ruggiero (the Boot) Boiardo and Caponigro.

A federal source close to Bove said that the former deputy twice took money from defendants that had been seized in connection with their criminal cases. "They [deputies] took a Cuban prisoner who had been grabbed with money in a bolita game," the source said. "Bove took over the case, the money disappeared and there was no entry of money seized in the books.

"On another case," the source said, "a courier for Nicholas Ratenni [jailed Genovese family captain of Westchester] was stopped at the airport with $72,000 in cash. The courier belted Bove and was charged with assault. The case was dropped and when the money was accounted for $8,000 was missing. The next month Bove bought a new car and paid cash."

The source said that attempts to have Bove dumped as a deputy, including a recommendation by a marshal inspection team, failed. He was finally transferred to the Eastern District.

To a former witness familiar with the political organization in Hudson County, where Newark is located, the corruption investigation of the Newark marshal's office came as no surprise.

"Hirshman and his predecessor, Anthony Greski [who also resigned in 1972], both got their jobs from John V. Kenny [former Democratic boss of Hudson County]," the former witness said. "Kenny before he died dealt with a lot of mob people like Angelo [Gyp] DeCarlo [deceased Genovese crime captain] and Joseph [Bayonne Joe] Zicarelli [jailed Joseph Bonanno family captain]. The marshals were his errand-boys.

"Every deputy appointed had to be approved by Kenny and he used them to rifle files of the U.S. attorney's office, tip us [politicians] about subpoenas so we could get potential witnesses or indictment targets out of town, and carry payoff envelopes. In fact, Kenny often used the marshal's office to transact business. The place was totally corrupt."

[Exhibit 6a]

MARSHALS REPORTEDLY TIPPED MOB TO PROTECTED WITNESSES

[From Newsday, Sept. 12, 1977]

(Second of two parts)

(By Tom Renner)

A year-long FBI investigation of corruption within the U.S. Marshals Service has included a probe of allegations that the identities and locations of protected witnesses were tipped to the mob by several deputy marshals in Newark. Attempts have been made on the lives of at least two witnesses, but no one has admitted that any witness in the program actually was killed.

In New Jersey, the most ambitious attempt to kill a witness was made on Gerald (Chicken) Festa, who worked for Frank (the Bear) Basto and other members of the Carlo Gambino crime family organization run by Joseph Paterno in Newark. Festa, whose testimony has resulted in the conviction of more than 40 mob figures on state and federal charges, is considered by federal authorities to be the single most important witness in New Jersey.

Festa was taken into the federal witness protection program, supervised by U.S. marshals, on Feb. 7, 1974, while he was in prison. Against the orders of FBI agents who were guarding him, he was brought for questioning by Newark Deputy Marshal Angelo Bove from a Pennsylvania state prison to the Somerset County Jail instead of the office of the Newark organized crime strike force.

At the jail, Bove, federal sources said, allowed photographs to be taken of Festa in street clothes. The sources said the pictures were then distributed to members of the mob who had been unaware until then that Festa was a protected witness.

When the FBI learned Festa was in Somerset County, it transferred him immediately to Newark, then to Brooklyn and later to the Nassau County Jail. But Festa and agents found he was expected in Nassau and moved him again.

While Festa was being moved, his home in Newark, its furniture and some jewelry, all worth an estimated $250,000, were supposed to be under the protection of deputy marshals from both the Newark and New York areas. They weren't. When movers came to transfer Festa's belongings to a secret location where his family was under protection, they found the house stripped, according to federal sources. None of the goods was ever returned and Festa has been only partly compensated for the loss of his property.

In April, Festa, free from jail because of his cooperation with the government, was living in Rhode Island with his family, according to sources close to the investigation. He and his son were out walking one day when he spotted a New Jersey hit man and three of his associates.

Festa and his son hid in bushes until they passed by and then ran home to call the FBI and the marshals, the sources said. Within hours he and his family were moved again, but not before a station wagon with the suspected killer and his friends pulled up in front of Festa's home. The only people who knew where Festa was hidden were deputy marshals, the sources said.

Several months later another attempt was made on Festa's life. Scheduled to testify at a state hearing in Dunmore, Pa., deputy marshal protection specialists headed by Edward Scheu, then chief deputy marshal for Scranton, learned that there would be an attempt to kill Festa from a rooftop as Festa entered the courthouse.

The mob knew the exact time Festa was due to arrive, Federal investigators learned later, because the mob had been tipped to Festa's movements. The only ones who had known Festa's schedule were deputies in the Newark marshal's office and those in Scranton, federal sources said.

The Scranton detail controlled by Scheu assigned sharpshooters to guard all rooftop areas and all entrances, permitting Festa to arrive unscathed.

Later, according to the sources, federal authorities learned from the man assigned to kill Festa, Raymond Freda, a Paterno mob enforcer who became a witness, that both Freda and another man had been tipped by Newark deputies to the exact time and location of Festa's arrival.

Although the evidence that witnesses' whereabouts were being revealed to mobsters was an important facet of the investigation, the probe also has uncovered evidence of mob payoffs, extortion, loansharking, narcotics traffic and theft in the service. The probe, initiated at the request of Marshals Service Director William Hall and conducted by a team of agents from the FBI and the Department of Justice, has resulted in more than a dozen forced resignations—and one indictment—of U.S. marshals and deputies in several cities.

A key figure in the phase of the investigation focusing on drugs and theft has been a former Newark deputy, Leonard Stacey. Until Sept. 11, 1976, when he resigned, Stacey had been a supervising deputy at Newark despite a record of complaints that included allegations of assaults on police officers, attempts to elude Pennsylvania state police who tried to stop him for speeding while transporting a prisoner, and disorderly conduct.

Federal authorities said he was appointed to his post by Carl E. Hirshman, former U.S. marshal for Newark, and had been protected by Bove until Bove was transferred last year.

Before Stacey quit as a deputy he was involved in an incident in August, 1976, in California, involving protected witnesses living in the Orange County area.

According to a West Coast police intelligence source, Stacey joined with four witnesses, Barry Lipsky, Alfonso Bossi, Joseph D'Agostino and Anthony Manfredonia, all formerly connected with organized crime, in a scheme to receive $7,000 from a prospective narcotics dealer for cocaine they had no intention of delivering. All of the witnesses lived in Orange County.

When the dealer failed to come up with the money, Stacey and his friends found him and stripped him of $10,000. Another victim was taken for more than $8,000 in a similar scheme, according to the source.

After Stacey resigned, he was used by the FBI to set up a deal with another deputy, Roger Gibson, who had been transferred from Newark to the U.S. marshal's office in Miami.

Gibson, a federal source said, had been under investigation on the suspicion that he was trafficking in narcotics and had used the movement of witnesses as a protective cover.

According to the source, Stacey was engaged to take part in a multi-pound cocaine deal in which Gibson was to arrange to supply cocaine to Stacey for $18,000 a pound.

The deal fell through, but Gibson was ordered to resign by U.S. Marshal Donald D. Forsht, who threatened to order Gibson's removal for conduct unbecoming an officer. Gibson has never been formally charged with a crime but his case is still under investigation.

While Gibson was never charged, Deputy Marshal James W. Baskin, 45, of Grand Rapids, Mich., was indicted Aug. 10 on five counts of embezzlement and one count of distributing marijuana. Assistant U.S. Attorney Hugh Brenneman Jr. said that a federal grand jury had charged Baskin with diverting funds totaling $5,000 from five protected witnesses. Until his indictment, Baskin was a candidate for the western Michigan U.S. marshal's post.

In Arizona, U.S. Marshal Pat Madrid was asked to resign in July, 1976, by Marshals Service Director Hall. Hall would not say why he asked Madrid to resign and Madrid denied any wrongdoing, but federal sources said that Madrid had been the target of several FBI investigations.

One investigation centered on Madrid's relationship with Jose Jesus Urias, a South Phoenix businessman who the U.S. Drug Enforcement Administration described as a major heroin trafficker.

In 1970, Urias won a mistrial on a heroin possession charge after Madrid, his brother Roy, and two judges testified for him. Shortly after the trial, a deed to Urias' cabin near Herber, Ariz., was transferred to Roy Madrid's ownership, sources said. Marshal Pat Madrid had testified that Urias was one of his informers and he later denied that the land transfer involved him.

Madrid, however, was also under investigation for selling Indian jewelry, some of it confiscated evidence from his office in the federal building. Madrid has denied ever selling jewelry.

Federal sources have disclosed that the FBI investigation has also involved complaints in Brooklyn, Houston, Seattle, San Francisco, and Washington, D.C., where irregularities involving deputies and protected witnesses have been reported by witnesses themselves and by deputies concerned with preserving the integrity of their service.

The complaints involve kickbacks from furniture movers, rental agencies, and other agencies that witnesses must deal with because the marshals service requires that the witnesses deal only with firms approved by the service.

One witness complained that he had to rent identical furniture from the same company at two radically different prices. When he expressed concern that the government was paying too much, he was told to mind his own business since the money wasn't coming out of his pocket.

Still other complaints involve the loss of witnesses' valuables supposedly under the protection of deputies, association with known criminals by deputies, and, in one instance, a U.S. marshal whose son became involved in narcotics traffic.

At stake, a source close to the investigation said, is "the very survival of the witness program. Unless this mess is cleaned up . . . unless witnesses can be sure of their safety in the hands of the men who are charged with protecting them, the entire program could fold. That would be tragic. The witness program is right now the single most effective weapon the U.S. Department of Justice has in fighting both white collar and organized crime."

[Exhibit 7]

"Favors" Among U.S. Marshals

[From Newsday, Nov. 14, 1977]

(First of two parts)

(By Tom Renner)

Federal investigators have uncovered evidence that deputy U.S. marshals were systematically paid to provide favors to mob figures and protected witnesses who wanted to gamble, have sex, use drugs or meet with associates while in prison. One former deputy told investigators the system was so lucrative that he once was ordered by his supervisor to kill another deputy who had tried unsuccessfully for three years to expose corruption in the Newark, N.J. marshal's office.

The latest disclosures grow out of a year-long investigation of the U.S. Marshals Service by the FBI and the Justice Department. Newsday articles in September revealed that more than a dozen U.S. marshals and deputies suspected of corruption have resigned rather than face grand jury prosecution. The stories detailed allegations that the identities and locations of protected witnesses were tipped to organized crime by several deputy marshals.

Federal authorities promised in September that a grand jury investigation of the alleged corruption would be launched. No such grand jury has been convened, not one witness has been subpoenaed to testify in the case and a planned revamping of the federal witness protection program operated by the marshals has failed to take place, Newsday has learned. But sources close to the investigation predicted that evidence would be presented to a grand jury before January.

The sources noted that much of the alleged wrongdoing no longer can be prosecuted because the statute of limitations has run out. But those sources said disciplinary and administrative action could be taken against deputies, possibly resulting in dismissal or resignation. Justice Department officials and William Hall, director of the marshals service who said he requested the FBI investigation, have refused to comment on the investigation.

The new information centers on the Newark marshal's office. Investigators have found that:

- Mobsters brought to the Metropolitan Correctional Center in Manhattan to appear in court or before grand juries have been allowed to remain in the center, although courts have ordered them transferred to federal prison.
- The files on 10 protected witnesses that had been kept in a marshal's file in the Newark Strike Force office have disappeared. Taped interviews with former

mob enforcer Raymond Freda in which he identifies Newark deputies who told crime figures in the Vito Genovese, Carlo Gambino and Angelo Bruno families of the movements of Gerald (Chicken Delight) Festa, also have mysteriously disappeared from the files of the Marshals Service's internal affairs office. Freda has been identified by federal sources as having attempted on three occasions to kill Festa, a protected witness who has testified against more than 40 mob figures. Freda, now a protected federal witness himself, reportedly told authorities he had been tipped to Festa's movements by deputies in Newark. Other records have disappeared from the Newark office and so have 10 firearms that were being held as evidence.

- Mob figures, including Anthony (Tony Pro) Provenzano, a Vito Genovese crime captain, and Frank Dasti, a member of the Frank Cotroni crime family of Montreal, were given special treatment by Newark deputies.
- At least five protected witnesses and a former deputy have provided information on payoffs made to more than 20 deputies for providing prostitutes, drugs, extended tours and privileges in the Metropolitan Correction Center for prisoners and protected witnesses and for acting as runners for their bets.
- Hoodlums have been tipped to warrants for their arrests.

One of the witnesses who has told federal investigators about systematic payoffs, other forms of corruption in the Newark marshal's office and the attempted murder of a Newark deputy is Leon Stacey, a former deputy who resigned in September, 1976. Stacey has admitted to participating in two phony cocaine transactions in Orange County, Calif., with protected government witnesses who beat and nearly killed small-time narcotics dealers before stripping them of more than $15,000. Stacey and his confederates agreed to become witnesses in the FBI investigation of marshal service corruption and as a result were never charged in the cases.

In interviews with Newsday, Stacey disclosed that for more than 40 consecutive weeks he delivered envelopes containing money to former supervising Newark Deputy Angelo Bove, now dead. He said he was assigned by Bove to pick up the envelopes from one of two employees of the Metropolitan Correctional Center. He said the money represented Bove's share, and that of another official in the Newark marshal's office, of money collected from prisoners in return for being kept in the correctional center instead of being returned, as they should have been, to federal prisons in Atlanta or Lewisburg, Pa.

"Every Friday [in 1974] I was assigned to pick up prisoners to bring to Newark [for court appearances or other reasons]," Stacey said. "A guard named Edward Gonzalez would bring them down. I'd sign a receipt for them. Before I left either Gonzalez or his partner, a guy who worked in the records section of the MCC [correctional center], would hand me an envelope to give to Bove. One day I opened the envelope and there was $200 in cash. I said to myself: 'Have I been a patsy? Have I been delivering money all along?' " He said when he asked Bove about the money, Bove pulled him aside for a private talk. "He told me: 'Look, I know what you're thinking. I've been in this outfit a long time. There's no money in it. If you keep a guy here on a writ a little longer than he's supposed to be, there's a few bucks in it. You're on the team now. We're going to make room for you. You keep your mouth shut, you'll do all right.' "

Gonzalez was identified by Stacey as the same Gonzalez who was held in $50,000 bail Sept. 23 by U.S. Magistrate Harold J. Raby for reneging on a promise to cooperate with the government. A guard since 1970, Gonzalez, 39, had been charged with smuggling drugs, food, liquor and other contraband to federal prisoners in the correctional center, including Antonio Flores, a figure in the French Connection case. Stacey said he and a government witness who made payments while in the correctional center had provided the FBI with the name of the other correctional center employee. He said the payoffs had been going on at least since 1973, when he first became aware of it while transporting prisoners to the Federal House of Detention in Manhattan (later replaced by the correctional center).

Among the prisoners Stacey said were kept at the correctional center and at the former House of Detention were Carlo Gambino associate Joseph Marzeno, who between 1973 and 1976 was transferred from Lewisburg to the center six times for a total of more than 350 days (he should not have been there for at

least some of that time, Stacey said); Jolin (Moose) Marone, a mob loanshark who was sentenced to three years in Lewisburg and who spent a total of more than two months in 1974 and 1975 in the detention house or the correctional center when he should have been returned to prison; and Dasti, the Montreal mobster, who managed to spend a year in the correctional center after he had been ordered returned to Lewisburg in October, 1973. While in the correctional center, Dasti had his own phone and ran up thousands of dollars in phone bills using a credit card number belonging to the Drug Enforcement Administration, according to a federal source. "He was the king of the walk at the MCC," a former federal prosecutor said. The prosecutor said the Newark Strike Force opened an investigation of the Dasti case but never completed it. Dasti had been sentenced to a combined total of 35 years in prison in two narcotics cases, one involving disc jockeys and Columbia Records.

Stacey said that, after he learned what was contained in the envelopes, "I was treated with deference. I was promoted, given special details and used as their [Bove's and his unidentified partner's] special courier." Stacey denied he ever accepted payoffs but said it was an acknowledged practice in the office. "When I was made acting supervisor I was approached by bail bondsmen and attorneys coming in for service of subpoenas. They'd ask me to get things done for them quickly and when I explained I was short on manpower they'd pull out a $50 or $100 bill. When I told them to put their money away they acted as if I were crazy. When I asked my superiors about it I was told it was the way things had been done in that office for years."

It was Oct. 25, 1974, when Stacey said he got orders to murder a fellow deputy, Richard Callahan. He said Callahan, who had filed reports on corruption with the Newark Strike Force and with the marshal's internal affairs office, was hated by Bove and other deputies in the office, who considered him a trouble-maker.

"Bove called me in and wanted me to set Callahan up for a murder," Stacey said. "He said there was a prostitute wanted for parole violation in Greensboro, N.C. She was staying with her pimp . . . at Room 516 of the Belmont Hotel [1007 Broad St., Newark]. He said: 'You go with Callahan. There may be trouble. There's a lot of —— blacks there. You let Callahan go in first. When the shooting starts, I don't care if you shoot him and everybody else. Just get rid of the ——. He's starting to find out too much around here.' He told me to make sure that no one is left alive when I leave the room if shooting starts."

Stacey said that when he went with Callahan, "I knew I couldn't do what Bove wanted. I went through the door after the hotel manager knocked on it. Callahan grabbed the broad and I put a gun in the pimp's face. When a crowd started gathering we got the hell out of there fast. I told Bove that we had no problem in executing the warrant."

Stacey said there were other attempts to set up Callahan for murder or disciplinary action. One, which was successful, involved sending Callahan and Stacey to Long Island in 1974 to search for Thomas Magana, the chauffeur for Dominick (Dom the Sailor) Diquarto, a Genovese crime family captain, he said. He said Callahan was deliberately sent to a false location so an illegal search would take place. Callahan was charged later for breaking in a door and was docket five days' pay. In another instance, a source close to the investigation said the tires of Callahan's government vehicle were punched with a icepick in a manner designed to cause a blowout at a high speed. On Dec. 29, 1976, the side-wall of Callahan's car blew out on the Garden State Parkway at 60 MPH, the source said. The incident was reported to the internal affairs office but no action was taken and the person responsible never was identified.

Questioned recently about the incidents reported by Stacey and other sources, Callahan refused to discuss them with a reporter, referring all inquiries to his boss—newly appointed U.S. Marshal Edward Scheu. Scheu, assigned to replace former Marshal Carl Hirshman, forced to resign by Hall in June, said he could not comment and referred inquiries to the headquarters of the U.S. Marshals Service in Washington where a reporter was told there would be no comment because of the continuing investigation by the FBI and the Department of Justice's Office of Professional Responsibility. Both the FBI and the Department of Justice have refused to comment on the current investigation.

[Exhibit 7a]

PROVENZANO NOT ON THE GUEST LIST

[From Newsday, Nov. 14, 1977]

(By Tom Renner)

Anthony (Tony Pro) Provenzano, a key suspect in the disappearance of former Teamster boss James Hoffa, has for two decades been a major power in the New Jersey branch of the Teamsters for which he served as an international vice president and as president of Teamster Local 560. While he was arrested and taken to the U.S. marshal's office in Newark for temporary lockup and processing repeatedly during that period, there is no record in that office that Provenzano was ever a guest. And so, for other law enforcement agencies, one potential source of background information about Provenzano does not exist.

The disappearance of records involving the 60-year-old Provenzano, who has been identified by federal officials as a captain in the Vito Genovese crime family, comes as no surprise to former Newark Deputy Marshal Leon Stacey.

"Tony Pro always got special treatment when he was brought to our office," Stacey said. "I remember when he and Sal Briguglio [business agent for Local 560] were brought to our detention cell. He [Provenzano] was treated like royalty. One of the bosses [in the marshal's office] came down to see him, asking 'Can we get anything for you, Tony? Is there anything you need?' All the time he was there the cell door was left open and visitors were allowed to see him. One of the visitors was his attorney; the other was a mob wise-guy who said he was a cousin but I know wasn't related to him. There were two other deputies who came down to see him and offered to go out to get him things. When they finally had to take him out for arraignment, one of my bosses apologized to him for having to put handcuffs on him, blaming the press for his treatment. That boss [no longer a deputy marshal] used to do favors for Tony Pro when he was in prison in Lewisburg."

Stacey noted that when prisoners are processed by the marshal's office a special form known as a DJ-100 has to be filled out. The form records arraignments, indictments, arrests, dates of detention, the judge on the case, pleas and where the prisoner is sent as well as a physical description and a limited biography of the prisoner, he said. Newsday has learned the DJ-100 forms for Provenzano, Briguglio and Briguglio's brother, Gabriel, are missing from the Newark marshal's office. Sources close to the investigation said there should have been records reflecting at least a half-dozen appearances in the office, including a 1961 appearance on a charge relating to the kidnap-murder of a Teamster official, a 1963 case in which Provenzano was convicted and jailed for extortion and a June, 1976, arrest for a union loan kickback scheme.

Stacey recalled other favors. In 1975, when the FBI and the Newark Strike Force were investigating the disappearance and suspected murder of Hoffa, deputy marshals from Newark were sent to Trenton State Prison to pick up a witness, Ralph Picardo, who reportedly had information on Hoffa's murder and on a Jersey City dump to which, he said, Hoffa's body was transported in a 55-gallon drum and buried. Hoffa was last seen alive July 30, 1975, when he reportedly was to see Provenzano for a "peace meeting." Provenzano and Hoffa had hated each other since they were imprisoned together in Lewisburg and Provenzano was trying to block a Hoffa comeback as Teamster boss.

"No one knew about Picardo being brought to our office except the deputies who got him, my boss and the strike force," Stacey said. "I didn't even know what he was or that he knew Tony Pro. It couldn't have been an hour after we put him in a segregated detention cell that an attorney showed up to talk to Picardo in the bullpen [detention cell]. Strike Force was shocked but they let the attorney see him and later Picardo accused me of giving him up—of tipping off Provenzano. I didn't know what it was all about. Somebody had dropped a dime from our office."

A former Newark federal prosecutor confirmed Stacey's version of the incident and said the attorney had claimed to have seen deputies bring Picardo into their office. "We didn't believe that story," he said. "We always believed there had been a tipoff."

[Exhibit 7b]

EX-MARSHAL "ROMANCED" JUROR

[From Newsday, Nov. 15, 1977]

(Second of two parts)

(By Tom Renner)

A former deputy U.S. marshal has disclosed that he "romanced" a female juror in 1974 while she was sequestered with other jurors in the trial of former New Jersey Republican Chairman Nelson G. Gross.

The disclosure—the latest in a series of revelations about corruption in the U.S. Marshals Service—was made to Newsday by former Newark Deputy Marshal Leon Stacey, who served on the detail that protected the sequestered jury for five weeks. Gross was sentenced to two years in prison and fined $10,000 in June, 1974, after being convicted of setting up a scheme that allowed contributors to take illegal tax deductions on donations to former New Jersey Gov. William T. Cahill during his unsuccessful 1970 campaign for the U.S. Senate.

Stacey said the jury was sequestered at the Coachman Inn in Cranford, N.J., a location favored by then-U.S. Marshal Carl Hirshman for lodging juries. "My job was to check out the rooms of the jurors after the other deputies took them to court," Stacey said. "I made sure the maids came in and cleaned up, that no newspapers were around for jurors to read about the case and to be sure there was nothing in their rooms to compromise them."

Stacey said the only matron assigned to the jury was a marshal's office secretary. "Several times I took this one female juror for a walk," he said. "We'd kiss . . . She let her emotions be known to me."

Gross, who has twice unsuccessfully appealed his conviction, called the disclosures startling. He said he and his father, Albert Gross, an attorney, would seek a new appeal based on Stacey's statement to Newsday. Stacey has agreed to provide Gross with an affidavit describing what took place.

Stacey said he knew that becoming emotionally involved with a juror violated the rules for sequestering a jury. "It happens occasionally with sequestered jurors," he said. "You're in close quarters together . . . they get lonely and before you know it something gets started. The romancing started after the first week of the trial and the emotional feelings between this girl and myself got progressively more and more serious. I have to believe—any prudent individual would have to say—that when she went to deliberate on the case, Nelson Gross wasn't the main interest in her mind." Stacey said that he reported what had happened to Hirshman and charged that Hirshman told him "to say nothing about it to anyone." Stacey added, "I didn't, until now." He did not identify the female juror by name. Hirshman could not be reached for comment.

Stacey has been a key witness in a year-long probe by the FBI and Justice Department into payoffs and other forms of corruption in the Newark and Miami marshals office. He was a deputy marshal from 1971 until September, 1976, and was cited for conduct unbecoming a deputy when he became involved in fights with a Port Authority policeman and when he was stopped for speeding in Pennsylvania while transporting prisoners. He readily admits to the violations and to participating in August and September, 1976, in a scheme to take more than $15,000 from prospective narcotics dealers seeking cocaine. Stacey said his share of the "ripoff" was $2,000. He said he was not charged because he agreed to work for the FBI in gathering evidence against another former Newark deputy.

Stacey said sequestered juries were treated especially well by deputies in Newark. "There was a standing joke in the office when a sequestered jury verdict came down," Stacey recalled. "We'd say, well, we won another for Uncle Sam. The U.S. attorney never lost a sequestered jury case while I was a deputy in Newark." Stacey said that in 1974, sequestered juries were used to cut the cost of a Christmas party for deputies who entertained federal judges and prosecutors. He said he was instructed by his superior to talk to a caterer and guarantee him three consecutive sequestered juries at his motel if he provided a cut rate for a marshals' Christmas party. The party cost $5 a man, but Stacey said he did not know if the sequestered juries were placed in the motel. Seques-

tering a jury—keeping it lodged in a hotel or motel with food and other necessities—cost the government up to $1,100 a day at that time.

Stacey said that, shortly after joining the Newark marshals office in 1971, he found corruption was a way of life for some deputies. He said he was assigned to the air-piracy detail at Newark Airport and found deputies there were stealing baggage and passengers' garments left unclaimed at various airline offices and buying stolen property from an airport fence.

Stacey said he told the FBI that during a brief temporary assignment with the Newark Strike Force last year he was assigned to check the files of protected witnesses. He said that as he was arranging them in order, he found 10 of the files were missing and reported it to his superior. The files contained the new identities and addresses of major government witnesses who had been placed under the protection of the U.S. Marshals Service. "The supervisor wasn't concerned about the fact that they were missing," Stacey said. "He said that I shouldn't worry about it, that we could always get duplicate files. I don't remember whose files were missing but I told the FBI about it."

Stacey said that, although he has told the FBI everything he knows about corruption and payoffs and deputies he believes were crooked, the FBI has refused to help him obtain subsistence until he can get a job. He said he originally was put into the protected-witness program under the marshals but said the FBI told him to sign himself off in return for a $5,000 settlement. "Now they say that people in [the Department of] Justice won't put me back on the program, particularly since I've been talking to the media about what went on in Newark," he said. "Now, what do I do? I got the so-called good guys and bad guys after me and no protection."

Stacey said he convinced other witnesses—including two with whom he dealt in the phony cocaine schemes—to talk to the FBI about payoffs they made to deputies in return for liquor, the placing of gambling bets and drugs and prostitutes. Stacey said one person identified 15 deputies who were paid for favors while he was a witness. Another, Stacey said, told the FBI about payoffs he made to an official in the records section of the Metropolitan Correctional Center in Manhattan in return for marijuana, liquor and other favors he received while in the federal detention center. Stacey said the witness told the FBI that some of the deputies used the marijuana with the witness. Stacey added that a deputy later provided a prostitute for the witness and that the witness used a government car to have sex with the woman. Stacey said the witness had claimed the cost of favors he received from deputies over a two-week period amounted to $3,000.

Other witnesses and federal sources have confirmed some of Stacey's reports of payoffs in the correctional center, of tipoffs to hoodlums wanted on federal warrants and of inordinate friendships between some Newark deputies and mob figures. One witness who was expected to provide testimony for the FBI in connection with payoffs and tips was Alfred Yobbi, a relocated witness who is a key to an Essex County, N.J., case against mobster James (Jimmy Higgins) Palmieri. Yobbi was reported to have photographs of deputies who did favors for Teddy Riviella, 49, a convicted Newark fence operating with the Philadelphia crime family of Angelo Bruno, and supposedly Yobbi could identify deputies who received payoffs through Riviella. Yobbi disappeared in September and was last reported bouncing checks in the East. He still is sought by both the FBI and Essex County authorities, who need his testimony in the Palmieri case. That case involves an alleged conspiracy to siphon thousands of gallons of gasoline from wholesale dealers during a 1972 gas shortage.

A federal source told Newsday that in March, 1975, the Newark marshals had a warrant to arrest Nicholas Valvano, 44, a convicted loan shark. Valvano was wanted for sentencing after his conviction for conspiracy, forgery and aiding and abetting in the theft of U.S. savings bonds. According to a witness who was with Valvano and talked to agents later, on five separate occasions when a deputy and other agents moved to arrest him, Valvano received tips that they were coming. Valvano was arrested later by another agency.

The FBI and the Department of Justice have refused to comment on the investigation, as has the Marshals Service, but sources close to the investigation predict that evidence will be presented to a federal grand jury before January. The sources noted much of the alleged wrongdoing no longer can be prosecuted because the statute of limitations has run out. But the sources said disciplinary and administrative action can be taken against deputies, which could result in dismissals or resignations where there is sufficient evidence against them.

[Exhibit 8]

FEDERAL WITNESSES FRIGHTENED

[From Newsday, Oct. 6, 1974]

(By Tom Renner)

On the Fourth of July, 1972, federal informer Edmund Lowell Graifer and his family were rushed from their $150,000 home in Hillsdale, N.J., to a secret location by deputy U.S. marshals, minutes ahead of the arrival of two suspected mob assassins.

The deputies' quick action likely saved the life of the 32-year-old stock swindler, who has become an important witness against some of Cosa Nostra's most powerful crime figures, including Vincent Aloi, interim boss of the Joseph Colombo crime family. But today, after two years of dealing with the federal bureaucracy, Graifer is one of a growing number of protected witnesses who now regret their decision to cooperate with the federal government.

"When I was with the mob and they gave their word, you could go to sleep on what they said," Graifer told a reporter. He still has to testify before grand juries and at five trials involving more than 40 mobsters. "With the government, I stay awake nights wondering what else they'll do to screw me."

Graifer and other witnesses who contacted Newsday charge that they are victims of broken government promises, slipshod security and faulty documentation by the U.S. Department of Justice and the federal Marshals Service. A Newsday investigation has found that some of their claims are supported by federal agents as well as present and former prosecutors. All warn that, unless there is a change in the way witnesses are handled, the government's most important weapon against organized crime—the witness protection program—will collapse, and with it the success the government achieves in jailing the mob's hierarchy through informers.

Official spokesmen for both agencies flatly deny the charges. They point out that the marshals have never lost a witness through negligence and have provided new identities and relocated more than 900 witnesses and 1,300 of their wives and children. Wayne B. Coburn, director of the marshals Service, said in a recent report that the growth of the program "is an indication of the witnesses' faith that the marshals will allow them to testify and live." A federal source said, however, that there is cost cutting in the program. "Its false economy . . . there's a pattern of cutting them loose."

Statistics, however, are meaningless to a man like Graifer, who must still testify before grand juries and at five trials involving more than 40 mobsters. Graifer, who now lives under a new name, refused to give his new identity or location or residence because "there are mob contracts to kill me still hanging over my head." This is the story he tells:

In April, 1972, while operating a New Jersey car rental business known as At Your Service Leasing, Graifer was arrested by the FBI in connection with his role in peddling more than $3,500,000 in stolen Wall Street securities. He was, at the time, a confidant and partner of high-ranking members of both the Joseph Colombo and Vito Cenovese crime families. A college graduate, he came from a well-to-do, family and had married the daughter of Cosa Nostra crime captain Michael (Mike Scandi) Scandifia, who disappeared and was believed murdered by the mob in the late 1960s.

"When I was arrested, the FBI and the Newark Strike Force offered me a deal," Graifer said. "If I cooperated and worked for them against the mob, they would do what they could to help me in cases I had pending. They also said that the government would give me a new identity and background, provide me and my family with subsistence until my trials were over, relocate me and provide me with a chance to get a job or go into business for myself.

Graifer said he agreed, and for three months worked under cover with a hidden microphone strapped to his body to record deals he made with mob figures. As a result of his testimony, the government won convictions of Aloi, John (Johnny Dio) Dioguardi, John Savino, Pasquale Fusco and Ralph Lombardo, all Long Island mob figures, and indictments against a score of other mobsters.

"On June 20, I stopped working and stayed home in protective custody," he said. "On July 4, the marshals said I had to move in a hurry, the mob was

coming to get me. We moved out and 20 minutes later two assassins drove by the house in a Mark IV [Lincoln]."

Graifer said he was moved to Virginia Beach, Va., where with his wife and two children he lived in a federal deputy marshal's townhouse. Rent payments came from the $1,080 monthly subsistence he was alloted. "My cover was blown there because someone told neighbors they had a Mafia witness living in the house," Graifer said. "Then I had to move elsewhere. All this time, I waited for documentation, birth certificates, drivers' licenses, baptismal certificates. It took more than a year to get all them, and one of them was a Xerox copy that looked phony to start with. None of the documents are backed up by background."

Graifer said that in 1973, he tried to go into business and asked the marshals to vouch for him with a manufacturer. Nothing happened, he said. Then, in June, 1974, he said that he was notified by the marshal's chief of witness security, John Cameron, that his subsistence payments would be terminated and that the marshals would help him get a job.

"I told them I didn't want a job as a non-salaried salesman," he said. "That's what they offered. I never sold a thing in my life. I went to college. I've got background in running a business, but they want me to be a salesman. I told them I have a physical disability, that I can't stand or walk for long periods and all I wanted them to do was back up my qualifications when I tried to go into business. I mean what do you tell a businessman you want to work with? I'm so-and-so and for 32 years my life is a blank? I never worked for anyone? Not only that, but if I did take a job, what employer is going to stand for me being away weeks at a time while I'm testifying in trials in New York? The fact is I'm a nonperson, someone who don't exist and never did in my identity."

"Meanwhile, the mob's cut there, after me. A few months ago the FBI told me the mob tried to reach out for me through a relative, tried to find out where I'm living. Then I went to Newark last year with a deputy and we were supposed to be met by other deputies. Nobody shows up and the deputy is carrying two bags. So what happens? One of Bayone Joe's hoods [jailed crime captain Joseph Zicarelli] bumps into us. If he'd had a gun, we'd both been dead.

"Hey, there are a lot of hard-working, dedicated deputies who know what they're doing and try to help witnesses, but you got these Washington bureaucrats who never worked the street, controlling the budget and deciding we're just animals, to be cut loose to cut costs."

William Lynch, director of the organized crime division of the Justice Department, said that Graifer had not been promised subsistence until all his trials were through but added, "we're reviewing his case now. The marshals said no such promise was made and I'm inclined to believe them. A lot of these witnesses feel we should take care of them all their lives or make them executive vice presidents of IBM. We try to deal with all these people as fairly as possible. I'm sure screwups have occurred simply because the Marshal's Service put their pants on one leg at a time . . . they make mistakes."

John Brophy, deputy assistant chief of witness security, said that Graifer was not promised subsistence through all his trials. He added, though, that because Graifer has so many other trials, the question of his getting additional subsistence is being reviewed.

Brophy said that in the Virginia Beach case, it was Graifer's own wife who bragged about her husband and caused a problem. "The FBI investiagted this case and found no breech of security by the marshals," he said. "What did happen was Graifer ran up a $300 phone bill on the deputy and tried to blame the deputy for blowing his cover to get out from under paying the bill." Graifer denied this, and said he had canceled checks to prove that be paid all his bills.

Brophy did not deny that there were breakdowns in protection security as outlined by Graifer in New York and Newark, but said, "the fact remains that he's still alive . . . we've never lost a witness in the entire program because of poor security." Brophy also confirmed that the marshals would not go to a manufacturer and back up Graifer as a good risk for his own business. "If we did that we'd be perpetrating a fraud," he said. "We did go to a bank for him to help him get credit for a loan but the loan wasn't big enough for him so he turned it down. You've got to understand . . . a lot of these people want to start at the top rung right away. We have difficulty getting employment, the kind of employment, that these people want. We do our best and our job is to keep them alive. That we've done."

[Exhibit 8a]

FEDERAL INFORMER FEELS DESERTED

[From Newsday, Oct. 7, 1974]

This is the second of two stories concerning U.S. government informers

(By Tom Renner)

To federal agents Marvin Naidborne was a "one-man strike force" who risked his life working undercover and made scores of cases against mob figures for the government. Today, Naidborne is broke, out of work and, he claims, deserted by the government he spent three years helping.

Like other witnesses who have complained of the treatment they received from the Justice Department and the U.S. Marshals Service, Naidborne believes the government casts informers aside once they have worn out their usefulness.

"They don't care," Naidborne said. "They just leave you there, out in the cold, like an animal. I don't want their money . . . I just want a job, a chance to get my life straightened out."

Naidborne is 42, a college graduate with a degree in business administration who earned $26,000 a year as the manager of a Brooklyn car agency. In 1967 he was arrested and charged with grand larceny in Suffolk, Manhattan and Brooklyn, accused of purchasing stolen cars from a mob figure. He pleaded guilty to the charge and received five years' probation.

Naidborne had a major flaw in his character. He loved to gamble, and gambling got him in hock to loansharks. He turned to a friend on the New York City Police Department for help and the friend took him to the FBI and Denis Dillon, then director of the U.S. Attorney's Eastern District Strike Force. Naidborne volunteered to help and was put to work. He was like a whirlwind, sources said, infiltrating criminal operations ranging from loansharking to bank fraud to the sale of counterfeit money and stolen narcotics.

Naidborne said he was responsible for exposing a vice president of the former Kings Layfayette Bank who was receiving kickbacks for giving loans to mobsters, including crime boss Joseph Colombo, and officers of the Italian-American Civil Rights League. The bank's money, in turn, was used for loansharking, Naidborne said. Federal officials confirmed his claim.

Naidborne also bought $500,000 in counterfeit $10 bills for the Secret Service, resulting in arrests and convictions; set up a $284,000 purchase of hijacked drugs from Kennedy Airport for the FBI; testified against loansharks he was in debt to, and was threatened at gunpoint in his home by a loanshark and a hijacker. One mobster told him he'd spend "10 grand to put a bullet in my head if he found out I was informing," Naidborne said. Another time, a loanshark came to his Queens home when he fell behind in his payments and beat him in front of his wife, he said.

Finally, in 1971, after the FBI made arrests in the airport drug case, Naidborne, his wife and children were taken from their home by deputy federal marshals. They were hidden in a Nassau motel for a week and then brought to Washington to be given new identities and relocated.

Naidborne, who refused to disclose his whereabouts or his new identity, said his mother was in a nursing home when they left. "She never saw me again . . . she thought I'd died. She died a year later and the marshals flew me to the funeral. My biggest hurt is that my mother died not knowing if I was alive . . . you know . . . that's all I really had," he said crying. "Now my wife . . . we've been married 22 years without an argument . . . is filing for divorce. She's had to take so much these last years. She hasn't been able to see or talk to her family . . . I haven't got a job and the government's cut off my subsistence. I've tried. I've tried hard to try to put things together. All I want is a job . . . not their money. But nobody really cares . . . just an informer . . . that's all you are to them."

Naidborne, said that when he and his family were relocated, it took more than a year for disguised records to catch up with them. His children's school records, instead of being disguised through a Maryland school, bore the name of the school they attended in New York. "The school officials here thought I was a liar," he said. "I still don't have my own birth certificate."

Naidborne said he could live with such errors, but when he found a job paying $32,000 a year, the U.S. marshal in his area refused to vouch for him. "It took about a week for them to get around to do anything . . . by then the job was gone," he said.

He said he then found another job working at a car-leasing agency. It paid $1,000 a month—less than he received in assistance from the government. The marshals took away his subsistence payments. But he was laid off, he said, when his employer went into partnership with another man who had his own manager. During his employment, he ran into a car leaser who was a narcotics dealer, he said. Naidborne went to the Federal Bureau of Narcotics (now the Drug Enforcement Administration) and arranged for the purchase of nine pounds of heroin. Six arrests resulted, and the narcotics bureau sent a citation to the FBI commending his work.

Still out of a job, and desperate for money, he went to work for the FBI and earned $1,500 gathering evidence that broke a Vietnam war salvage ring wide open. "The FBI men . . . they've really been good to me," he said. "They're honest, men of their word, but they don't control the witness program and they can't get me a job."

Last month, after quitting a sales job that didn't pay enough to meet the bills, he was out from subsistence, he said. "I worked 13 out of 14 days, 15 hours a day," he said. "They said in six months I might become sales manager. Meanwhile, I'd lose my house and my family. I invested all our money—$14,000—to buy the house. It's worth $55,000 and they claim I'm living in a palace. What the hell do they know? It's got a swimming pool and they try to say I'm living above my station. The last job they offered me was a process server. That's a great job . . . I bump into someone who knows the mob and I get killed."

A federal agent who knows Naidborne said he is "a hardworking guy. He's worked all his life. The only thing he wants is a job which they [marshals] promised to get him. He had opportunities for jobs but they didn't back him up and he lost some good jobs. It's not right. You're dealing with a very mismanaged witness program. People promise them things and don't deliver and in Naidborne's case they're done virtually nothing."

Dillon, in a 1973 citation to Naidborne, praised him for proving himself "an invaluable asset to the war against organized crime. We have found you to be an individual of strong moral fiber and the utmost trustworthiness." Dillon called Naidborne an exceptional witness. "He was a one man strike force. Whatever you asked him to do he did. He got a terrible run-around from the government. It got so bad that I sent one of my attorneys, Jim Druker, to Washington to get things ironed out with the marshals. There were a lot of promises made, but nothing was done. If this program is to work, you've got to keep your word with these people. When you make a promise, and don't keep the faith, they'll pass the word and after awhile you'll have no witness program. This guy's been screwed . . . there's no doubt about it."

William Lynch, chief of the Department of Justice's Organized Crime Section, said he was informed that Naidborne had been offered jobs and refused them. "All I can say is, in my experience, the marshals service has tried to deal fairly with these people," he said. "By and large they try to do a responsible, sensible, efficient job. Not everyone will agree with that I'm sure." He flatly denied there was any danger that the progam would collapse because of witness complaints. "I think that's a statement born of ignorance. The fact is the program is working better now than before."

John Brophy, deputy chief of witness security for the marshals, reviewed the Naidborne case. He said there was no record of a request for help on a $32,000 job offer. "We got him the job in the leasing agency," he said, "he didn't get the job on his own. He lost a car for the dealership when he got involved in the narcotics case [because the car was seized by authorities]." Brophy said Naidborne quit his third job as a commission salesman even after the marshals told him he had a good chance to become sales manager in six months "if he proved himself." He was told he was off subsistence and not to quit but he quit anyhow. He said at one point that unless we get him a job for $20,000, he's not going to work. Hey . . . I'd like a job at that salary myself."

Dillon and other federal prosecutors, who declined to be identified because they feared possible reprimands from the Justice Department, said there are many cases of witness desertion. One cited by Dillon was the case of loanshark

victim Alan Magid. He was a witness in a Nassau court case in which Joseph Colombo and several associates were charged with conspiracy and robbery in the phony $750,000 holdup of a jewelry exchange. Magid had been beaten up in 1968 by loansharks who worked for Carmine Tramunti crime captain Paul Vario.

"His case was badly handled," Dillon said. "He was moved to the West Coast with his family and his location and creditability were blown because a judge gave too much latitude. The marshals never got him a job . . . they didn't get him [a new] background and he was literally starving. His wife and children left him. It was terrible."

A former FBI agent who knew Magid agreed. "Magid was a wheeler-dealer, but he was a good witness and he did what was asked of him. But they deserted him. What's happening in witness protection is frightening. They're not getting decent employment for witnesses . . . they're cutting them off without help to cut the budget and they give them documentation that isn't worth a dime. The government's got thousands of jobs available in the federal establishment . . . they can use some of those to help them, but they don't. It's a tragedy. This is a very important weapon and its going down the drain."

Still pending against the government is a $23,000,000 suit by witness Gerald Zelmanowitz, who testified against mobster Angelo (Gyp) DeCarlo. At U.S. Senate Rackets subcommittee hearings last year Zelmanowitz described how his cover identity was blown by a leak in Justice Department security.

Because of the leak, he said, he lost the stock business he had built. He also lost a suit against a firm that he said had tried to swindle him out of money due him. And when he came to Washington to testify before the committee, he was told by the marshals service and the Justice Department that he would not be given protection because he was exposing himself unnecessarily. Senate committee investigators wound up baby-sitting with Zelmanowitz until his testimony was concluded.

Now the government is fighting his suit in federal court in San Francisco, a suit that may have serious repercussions for the witness program and its future. Ironically, a Senate committee investigation that began last fall as a result of Zelmanowitz's testimony never went beyond the questioning of several high-ranking marshals service officers.

The witness protection program last year spent more than $3,000,000 providing protection for witnesses and supporting their families. A total of 504 new cases were brought into the program in 1973, in contrast to 29 when the program unofficially got its start in 1969. In its five years of operation, no witness has ever lost his life while under the protection of marshals.

Last month, however, the first witness on subsistence and not directly under marshal protection was found murdered in Forth Worth, Tex. Police said the witness, carrying two different identifications, apparently had engaged in illegal activity. The witness, identified as James E. Berry and living under the name Ronald Turner, apparently had cheated some local hoodlums who retaliated by kidnapping him at gunpoint, then shooting him. Berry had been a witness in an Indiana narcotics case involving a Black Mafia group identified as "The Family."

[Exhibit 10]

Bureau of Prisons Report on New York MCC, January 25, 1978

UNITED STATES GOVERNMENT

memorandum

TO: J. D. Williams, Asst. Director
Community Programs & Correctional Standards Division

DATE: January 25, 1978

FROM: Shirley Stuckly, Admin. Officer
Population Management Branch

SUBJECT: Institutional Visit - MCC - New York

PURPOSE: To consult with staff and witnesses housed in Protection Custody Unit (3rd Floor).

Schedule of Events:

Tuesday, January 17, 1978:

Met with Warden Harold Thomas and the following staff: Arvid Bergman, Chief Correctional Supervisor; Helise Harrington, Case Management Coordinator; Jim Davis, Central Monitoring Case Coordinator; Wesley Frey, Correctional Counselor, P. C. Unit.

--- Observed the procedures a visitor experiences enroute to the 3rd floor, P.C. Unit, and cook's tour through the P.C. Unit.

Wednesday, January 18, 1978:

--- Conferred with Case Management Coordinator and Central Monitoring Case Coordinator concerning CMCs and procedures.

--- Conferred with Record Office staff to check statuses of CMCs at MCC New York.

--- Extensive interview with John Parker, witness protection case. He was in segregation because of an altercation he had had with another inmate the night before.

Thursday, January 19, 1978:

--- Reviewed all P.C. Unit records to ascertain status and Assistant U.S. Attorney's responsible for their assignment to this Unit.

--- Group discussion with witnesses on P.C. Unit.

--- Individual interviews with witnesses.

Friday, January 20, 1978:

--- Completed individual interviews.

--- Observed kitchen operation.

Overall observation cf P. C. Unit Procedures

Visiting:

Persons visiting inmates on P.C. Unit check in with the officer at the front desk by disclosing their initials and indicating the initial of the inmate they wish to visit. A request for visit indicating who and date is furnished the Unit Counselor in advance of the visit.

It is the responsibility of the inmate to advise his family of the procedures of identification.

Visitors to the third floor are taken together to that unit without the presence of other visitors.

The visiting area is adjacent to the P.C. Unit kitchen area. A two-way mirror providing visibility by the unit officer in the visiting room. This mirror however, also reveal witnesses that are in the kitchen area causing concern by the witness of revealing their identification.

Recreation:

Inmates desiring outside recreation are escorted to the roof daily (1:15 - 2:30 P.M.). An express elevator is requested from the Control Center and all other inmates are cleared from the sallyport. The escorting officer has the responsibility for assuring that the elevator does not stop until it reaches the top floor. Two televisions are available on this unit. Also, indoor exercise equipment, pool table, ping-pong and other games.

Food:

Trays are picked randomly for this unit by the Food Steward and delivered personally to the floor. There has been occasions where initials have been placed on special diet trays. This is done by the Food Steward only. One witness has the responsibility to place food in microwave-oven and dish up salad for all other witnesses.

Medical Services:

The Physician's Assistant comes to the floor at least 3 times a week. The doctor comes every Wednesday. Emergencies are handled either by the P.A. or the doctor.

Dental needs are taken care of every Saturday. Physical therapy is also available on Saturday. However, I am confused as another staff member advised that physical therapy is available three (3) days a week.

Commissary:

A list is prepared by each inmate on Monday before 12:00 noon. The Commissary Clerk fills order without assistance of inmate help and personally delivers order to unit. Initial and register number are used for identification. Deposits by families to commissary account is made by initial identification.

Housekeeping:

This unit is exceptionally clean. Each inmate's room displays a sense of pride.

Capacity:

The P.C. Unit is comprised of 24 individual rooms. There were 20 occupants. Two persons awaiting transportation to designated institutions. One (1) known designated witness was expected on Thursday, January 19th.

General Atmosphere:

Relaxed, but exhibition of boredom. It was the opinion of the majority that they did not welcome agitators on this unit. Also, that the presence of such persons caused constant problems. They would much rather stay in their rooms, rather than become involved in conflicts and confrontations. Just prior to my arrival at MCC, a fracus had taken place between an agitator and another witness.

Industry:

A machine used to make name tags and signs is installed in the unit. One witness is assigned to operate this machine. When he is transferred or relieved for whatever reason, another inmate is given the assignment by the Correctional Counselor. The present incumbent is very proud of this assignment.

One witness serves as clerk for the Correctional Counselor. He is scheduled to be transferred to designated institution as soon as the U.S. Marshal picks him up. Another witness will assume this position.

One of the assignments of the inmate clerk is to prepare the P.C. list which is disseminated to the Commissary, Medical Department and Mailroom. Supposedly, the mailroom memorizes the list and destroys it.

Staff Assignment:

Normally, no probationary correctional officers are assigned to this unit. Procedures are being written which indicate probationary officers will never be assigned. It is felt that special screening should be established of persons assigned this unit.

Staff in general have genuine concern for their welfare and safekeeping. Some staff, however, vocally express their dislike for the unit and its inhabitants.

Telephone Usage:

There are at least two pay phones on the unit and accessibility to the phone in the Counselor's office is available, on a limited basis, during regular office hours.

Transfers - in/out:

Witnesses are taken out and returned to the unit via the 3rd floor sallyport after clearance of other inmates in the immediate area. However, in the elevator area there is another visiting area whereby sometimes is not free of all the occupants when witnesses are entering or exiting out.

This causes some paranoia on the part of the witnesses and they request the exploration of using a door that leads immediately from the P.C. Unit to the stairs, that exit to the first floor instead of by way of the 3rd floor sallyport. The feasibility of this seems reasonable from my observation on the layout.

Records:

Files on these witnesses contain only marginal information. Sentence data information is not included in all files. Status as to persons to be separated from or the AUSA responsible for their being housed in P.C. Unit is absent. Staff advise that if they need this information the inmate is asked. Some of the needed information is possessed by staff members in their heads. These records are presently in the Case Management Coordinator's office due to construction being done on the unit. They are to be returned to the Correctional Counselor's office. I am not sure in my mind that the latter place is a good one.

I also understand that dead CMC files are stored in the record office. This should be no problem as long as unauthorized persons do not have accessibility to them.

The Witness:

The average witness on this unit is a middle-aged, sophisticated criminal who is charged with a serious offense and serving a lengthy sentence. He has provided testimony for the government and cannot serve his term in a state or other federal institution because of the notoriety of the case and serious threats to his well-being.

He is now experiencing mixed emotions as to whether he was wise in his decision to assist the government as the persons he testified against are seemingly fairing better than he is. His family is unable to visit him often because of the distance and/or security. The promises made him by the Assistant U.S. Attorney have not been fulfilled and he feels deceived, powerless and frustrated.

Witness Concerns and/or Requests:

--- Lack of precautionary measures in providing them maximum protection.

--- Insensitivity of staff members.

--- Degrading remarks by some staff ("rats," "stoolies," etc.)

--- Food be prepared on P.C. Unit. An officer assigned to unit be responsible for supervision of the selection and delivery of their food.

--- Assignment of empathetic officers

--- Lack of adequate library resources. Would like set of law books.

--- Too much idleness.

--- Additional work assignments on unit. (Industry)

--- Removal of witnesses by back stairs to first floor instead of via sallyport.

--- Removal of persons who disrupt the unit.

--- One facility to house all Witness Protection Cases

--- Inadequate precautionary measures being exercised in transporting witness to roof for recreation.

--- Accessibility of witness mailyby inmate clerks

--- Initials on food trays.

Central Monitoring Cases (General):

General separation cases are housed on other units at the MCC. However, management of these cases seem to be done in a disorganized fashion. Information is furnished the institution by the requesting authority for the separation of individuals at New York or other institutions. This correspondence is placed in a folder in the record office and a computerized list generated and circulated to certain offices and/or units.

This information should be given to the Central Monitoring Case Coordinator for proper action in accordance with P.S. 7900.63A.

Care should be exercised that these persons are not designated to other institutions without clearance with this office. I recognize the handicaps the staff at New York have been experiencing with lack of staff and whatever other circumstances. However, it is the Bureau's responsibility to provide maximum protection to witnesses entrusted to our custody. The manner by which this mission has been carried out at New York MCC from surface observation leaves much to be desired.

Recommendations:

--- Broad guidelines be developed (manual) for operation of all P.C. Units (New York, San Diego, Chicago)

--- Curtain be installed to obscure vision to unit from visiting area.

--- Staff escorting witnesses to the roof ensure that elevator does not stop enroute.

--- Initials be eliminated on trays to P.C. Unit.

--- Change manner in which commissary deppsits are made by family members.

--- Use of stairway exit to first floor instead via sallyport.

--- Placement on the P.C. Unit be delegated to Central Office only in conjunction with the Witness Protection Division, Department of Justice.

--- Witness files be secured in an area other than the unit.

--- Exploration of additional industrial assignments that can be performed on the unit.

--- Limit accessibility of P.C. list.

--- Procedures be instituted to ensure that sentence data information; record of separatees and other pertinent information is contained in each withness' file.

[Exhibit 11]

Response of New York MCC Warden to Bureau of Prisons Report, February 23, 1978

UNITED STATES GOVERNMENT

Memorandum

MCC-NY, NY
150 Park Row 10007

TO : J. D. Williams, Assistant Director
Community Programs & Corr. Standards Div.

DATE: February 23, 1978

FROM : Dale Thomas
Warden

SUBJECT: Response to Memorandum of January 25, 1978

We would like to take this opportunity to respond to the observations reported and recommendations cited in Ms. Stutley's memorandum of January 25, 1978.

1. The report stated that the two-way mirror in the Protective Custody Unit's visiting room revealed the witnesses in the kitchen area to visitors in the visiting room. A work order has been issued for the installation of traverse curtain rods for this window and requisition for curtains has been made.

2. The report expressed confusion concerning the physical therapy schedule for Protective Custody Unit inmates. As of January 1, 1978, the schedule is Tuesdays and Thursdays during the 4:15 PM count and Saturdays between 8:00 AM and 9:30 AM.

3. Regarding movement in and out of the Protective Custody Unit via the third floor sallyport, the report recommended that ingress and egress should only be by the stairs adjacent to the fire exit of the Protective Custody Unit. We disagree; witnesses enroute to the United States Courthouse for the Southern District of New York utilize the third floor sallyport which is the safest medium. However, those witnesses enroute to destinations other than the United States Courthouse for the Southern District of New York are moved via the route you recommended. If witnesses enroute to the Southern District of New York Courthouse utilize the route recommended, they would have to walk approximately two blocks outside to the Courthouse and would be exposed to a considerably greater number of people than they are presently.

   Regardless of the witness destination, the third floor (first floor area as needed), is made secure from unauthorized persons during the period of transfer. Exit through the double doors of the Protective Custody Unit lobby provides the unit officer maximum visibility prior to opening the unit. Exit through the Fire Door would eliminate the unit officer's surveillance of the third floor area prior to opening the unit and would be considerably more hazardous.

The file will be kept in the unit office, but simultaneous with the movement of the Protective Custody Unit files to the unit office, there will be a directive issued requiring the direct supervision by staff or any non-staff member in the office.

The Protective Custody Unit dead files are stored in the Record Office in the Mosler Fireproof File Cabinet; only the Administrative Systems Manager and Security Officer have knowledge of the combination.

4. The report recommended that initials be eliminated on food trays going to the Protective Custody Unit. This has been done.

5. The report recommended a change in which Commissary deposits are made by family members. We feel that the manner in which Commissary deposits are made for Protective Custody Unit inmates is acceptable to all concerned. It is the responsibility of the witnesses to advise the depositor of his initials and register number. The Commissary staff contains commissary accounts primarily by register number, therefore, the register number, not the witnesses' initials are most significant.

6. The report recommended that staff escorting witnesses to the roof for recreation ensure that the elevator not stop enroute. As observed, the elevator is to be operated express service from the third floor to the twelfth floor. Each new staff member assigned to Internal Security, operating the elevator will continue to receive specific instructions to run the elevator express service from the third floor to the twelfth fl

7. The report recommended that placement in the Protective Custody Unit be delegated to Central Office in conjunction with the Witness Protection Division, Department of Justice. We unanimously concur with this recommendation. This will reduce the pressures exerted by local agenci i.e., United States Attorney's Office, United States Marshal Service, o upon the Metropolitan Correctional Center, New York staff. Additionall centralization will streamline admission procedures for greater uniformity in Protective Custody Unit operations.

8. The report recommended broad guidelines be developed for operation for Protective Custody Units. We concur with the recommendation. We do not however, that due to physical differences among Metropolitan Correction Centers, a degree of flexibility needs to be integral to these guidelines We would gladly provide whatever input necessary for the development of these guidelines. The report's concern regarding the idleness of the Protective Custody Unit inmates and suggested additional prison indust be placed in the unit. The limited physical plant of the Protective Unit precludes additional prison industries. Given any change in physi capacity consideration will be given to additional prison industries.

[Exhibit 12]

California Slaying Case Involves Ex-Mafia Figures and Krishnas

[From New York Times, Nov. 2, 1977]

(By Robert Lindsey)

Newport Beach, Calif., Nov. 1—The police in this pleasant coastal community are trying to unravel a mystery involving murder, kidnapping, narcotics, a Hare Krishna religious cult, former Mafia members from New York and New Jersey and huge amounts of money from mysterious sources.

Three men said by investigative sources to be former Mafia members who were secretly relocated in California by the Government after testifying against organized crime members have been charged with murder in the case.

Also charged with murder is Alexander Kulick, a 28-year-old member of the Hare Krishna sect, the Hindu-orientated religious group. Mr. Kulik lived in a $450,000 ocean front house and was driving a $100,000 Stutz-Blackhawk automobile when he was arrested.

According to the police, Mr. Kulick has been instrumental in investing hundreds of thousands of dollars in businesses in this area through a company called Prasadam Distributors Inc. Prasadam is a word used by the Hare Krishna sect to denote food.

The police declined to say where they believe the invested money originated. But the possible sources being investigated apparently include income from the sale of narcotics and what is believed to be substantial income derived by some Hare Krishna members from begging and selling literature at airports.

In an interview today, Sam Amburgey of the Newport Beach police homicide unit said there were still many unanswered questions about the case. But he said the police were working on a theory that the Hare Krishna members hired former Mafia members to kill an associate who apparently embezzled money from the business operations and subsequently kidnapped Mr. Kulick and collected $100,000 in ransom for his safe return.

The mystery began Oct. 22 when Steven J. Bovan, 36, of nearby Fountain Valley, was shot to death as he left a restaurant here. A witness reported seeing a green and white Cadillac speeding from the scene.

The next day, after an attempt was made to sell a green and white Cadillac, the police arrested Jerry P. Fiore, 41; Anthony Marone Jr., 33; Raymond S. Resco, 28, and Mr. Fiore's woman companion, Deborah Addison, 24 of Huntington Beach.

Although the United States marshal in Los Angeles, Gaylord Campbell, refused to comment on the matter, investigative sources said the three men, as well as two witnesses in the case, are among approximately 2,200 persons who with their families have been relocated since 1970 and given new identities under a program run by the Marshal's Service to encourage testimony against members of organized crime.

Mr. Kulick was arrested two hours after the murder and more than a pound of pure heroin found in his car. He was charged with murder last night as he was preparing to leave jail after arranging to post $500,000 bail on the drug charge. He is still in custody.

THREE OTHERS SOUGHT

The police are seeking three other persons associated with Prasadam Distributors Inc. Representatives of the Hare Krishna temple at Laguna Beach on the coast south of here called a news conference yesterday to say that none of the four men charged have any connection with the sect at this time. However, detectives said they believe the Hare Krishna sect still has connections with Prasadam.

Investigators outlined the following series of events that, they assert, led up to the murder:

Investing large amounts of money, Prasadam Distributors Inc. over the past year has purchased or started a large number of companies, including, one called The Bionic Bit Cookie Company and Delthic Auto Designs in nearby Costa Mesa.

"This year alone, hundreds of thousands of dollars went through Prasadam to other companies," Mr. Amburgey said. Usually after an investment was made, Prasadam installed its own management to run the company, he said.

Mr. Bovan was hired to help run one of the companies and Mr. Kulick and the three other Hare Krishna partners apparently began suspecting him of embezzling money.

At this stage, the authorities assert, Mr. Kulick and his associates hired what Mr. Amburgey called "five Italians" to discover who was stealing from the organization and to recover the loss. However, he said, it appears the five soon began attempting "to muscle in" on the company's operations.

In August, he said, Mr. Bovan and possibly other people kidnapped Mr. Kulick and released him only after $100,000 was paid in ransom by Mr. Kulick's associates at Prasadam.

According to the police, representatives of Prasadam then "posted a reward" for Mr. Bovan who had told friends in recent weeks that he was afraid "the mob" was after him." Lawyers for those arrested so far in the case say their clients denied any illegalities.

[Exhibit 13]

Protected Witnesses Sent Elsewhere

[From Los Angeles Times, Dec. 1, 1977]

(By Ellen Hume)

Washington.—Witnesses to crimes who have been given secret new identities by the federal government have become so concentrated in Southern California that no more will be resettled there during the next year, a Justice Department spokesman said Wednesday.

Associate Dep. Atty. Gen. Larry S. Gibson said he decided on the one-year moratorium in seven Southern California counties after meeting Wednesday with Rep. Mark Hannaford (D-Calif.), who raised questions about an Oct. 22 gangland-style murder in Newport Beach.

Three relocated witnesses and the son of another protected witness have been implicated in the murder of Steven Bovan, 36, who was shot to death outside a Newport Beach restaurant on Oct. 22.

According to an indictment returned by the Orange County Grand Jury, five members of a Hare Krishna splinter group hired the relocated witnesses to kill Bovan to avenge the kidnapping of one of their number.

That incident and other problems related to the government's seven-year-old Witness Security Program have led to a critical internal Justice Department study, to be released in several days, and to a current investigation by the Senate Judiciary Committee's subcommittee on administrative practices.

The Justice Department study found that not enough control was exercised over where the 2,300 witnesses—many of them organized crime figures given immunity for their testimony—were moved to and what they did when they got there, Hannaford said.

Gibson, who declined to discuss details of the study with the press, confirmed that more of the protected witnesses have settled in Southern California than in any other part of the country.

The moratorium will cover Los Angeles, Orange, Riverside, San Bernardino, Santa Barbara, San Luis Obispo and Ventura counties.

Although Gibson declined to estimate how many witnesses have settled in Southern California, an Orange County law enforcement official told The Times a year ago that more than 80 witnesses were then in Los Angeles and Orange counties alone.

Until three years ago, such witnesses could choose where they wanted to resettle with their families, and many flocked to Southern California and Florida.

"Whether they were going in high concentrations to Southern California and Florida simply because they like sunny climes or were seeking fraternal relations with former business partners is not known," Hannaford said after his hour-long briefing by Gibson.

The Justice Department study will be "highly critical" of the program but will advocate continuing it in some form, according to a Hannaford aide who sat in on the meeting Wednesday.

Many of the witnesses have been unable to get jobs under their new identities, so the federal government has had to continue paying them subsistence wages beyond the expected 120-day limit, the aide said. Gibson confirmed that one witness has received $46,000 in moving, subsistence and security services so far.

There is little knowledge of what happens to the witnesses after they leave the federal payroll, according to Irene Margolis, staff director of the Senate subcommittee. She said that about 24 of the relocated witnesses have contacted the subcommittee since it began its investigation of the program in July.

The Justice Department's Office of Professional Responsibility will look into reports that some members of the Newark, N.J., U.S. marshal's office sold to organized crime figures, the new names of some witnesses hidden away, she said.

Other incidents previously reported in the press:

—In Dallas, a protected witness was found guilty of defrauding a bank and sentenced to jail in September. While out on appeal, he again was relocated by the government.

—In St. Charles, Mo., a year ago, a protected witness committing a burglary killed an off-duty policeman.

—In Richmond, Va., a protected witness died under suspicious circumstances June 20, possibly because he might have been operating as an undercover informant for a different government program.

Relocated witnesses also are said to have been involved in at least two extortion attempts against narcotics dealers in Orange County.

"No one really knows for sure how many protected witnesses have died untimely deaths, and under what circumstances," Ms. Margolis said. "The government claims they have never lost a protective witness by what they have done, but only by something stupid that the witness has done. I don't know if that will remain true when the investigation is completed."

Hannaford said, however, that only four of the relocated witnesses have met with violent deaths where foul play was suspected.

Only 2% to 3% of them have been charged with any kind of serious crime, he said. He added that most of the witnesses submitting anonymous statements for the Justice Department study said they liked the program.

[Exhibit 14]

MARSHALS SERVICE RELEASE FORM POLICY

United States Department of Justice
UNITED STATES MARSHALS SERVICE
Washington, D.C. 20530

OFFICE OF THE DIRECTOR
ML

10 MAR 1978

Honorable James Abourezk
Chairman, Subcommittee on Administrative
Practice and Procedures
United States Senate
Washington, D.C. 20510

Dear Senator Abourezk:

This is in response to your letter of February 8, 1978 regarding releases used by the United States Marshals Service in the Department of Justice Witness Protection Program.

For many years, the Service has routinely requested witnesses who are being terminated to sign a release form. The practice first began when Department of Justice Memorandum 734 was issued on March 15, 1971. Paragraph 7E(13) of Memorandum 734 provided:

> Release Statement. It is suggested that upon termination of protection of a witness, the U.S. Marshals Service obtain a release from further obligation, in a form similar to the following:
>
> > The undersigned,_____, forever releases the United States Government, or its agents, from any further responsibility for protection or any disbursement of Government funds in connection therewith, from and after_____.
> >
> > The undersigned further certifies that no other promise of protection or financial assistance by the United States Government or its agents has been made and that he understands none will be forthcoming.
> >
> > _____
> > WITNESS'NAME

Memorandum 734 was superseded by Department of Justice Order OBD 2110.2 on January 15, 1975. OBD 2110.2 makes no reference to the use of releases, but the prior practice continues. Use of the same release statement is required by United States Marshals Manual Section 730, Paragraph 13, which appears at page 730.04 (copy attached). Both Section 730 of the Marshals Manual and Memorandum 734 have previously been furnished to the Subcommittee.

To our knowledge, none of the regulations of the Department of Justice or its component agencies place a continuing responsibility on the Department and its agencies to protect witnesses who are terminated from the Witness Protection Program. The Department has always viewed the Witness Protection Program as a program whose benefits are conferred at the discretion of the Attorney General and his delegates. When one of those officers determines that a witness, whose protection has previously been terminated, requires additional security assistance, such assistance will be provided. However, in the absence of the exercises of the Attorney General's discretion, a witness has no legal right to continuation or reinstatement of benefits.

The release most frequently used by the Marshals Service (as shown above) does not preclude the future provision of security assistance. Although the release extends to protection and provides that "no promise of protection ..... has been made and ..... none will be forthcoming," the release does not prevent the Department from reinstating protection services at any time after the release is executed. Of course reinstatement will occur only when the appropriate Department official determines it is necessary to protect the witness.

On occasion, other release forms have been used because of unique problems posed by a particular case. However, the Service generally uses the form shown above.

The policy of using releases will continue. The Service is in the process of revising the content of its releases, but they will continue to have the same effect on the legal rights of the witness and the United States. The revised releases will be sent to the Subcommittee when they are finalized.

Most importantly, there is little practical difference between a release of financial obligation and a release of protection. The Marshals Service protects witnesses primarily by establishing them in new communities. Actual physical protection is only provided for a temporary period necessary to effect the relocation. Given the economic position of most witnesses, relocation without financial assistance from the Government is not a realistic possibility. Thus, when witnesses release the U.S. from responsibility for financial assistance, he is, for all practical purposes, releasing the United States from responsibility for protection as well. Under the Witness Protection Program financial and security assistance are so interrelated that one cannot do away with one without doing away with the other.

Sincerely,

Julie P. Dubick

JULIE P. DUBICK
General Counsel

[Exhibit 15]

JUSTICE DEPARTMENT AUTHORIZATION—FISCAL YEAR 1979—FEES AND EXPENSES OF WITNESSES

Protection of Witnesses

The Witness Security Program is designed to assure the safety of government witnesses who testify against persons accused of organized criminal activities. The program provides for the financial maintenance of government witnesses, potential witnesses, and their families whose lives are placed in jeopardy by virtue of being a witness against criminal activities or personalities.

Program justification

The following laws and executive orders authorize the Department of Justice to provide for the protection of government witnesses, potential witnesses and their families. Title V of Public Law 91-452 authorizes the Attorney General to provide for the security of government witnesses, potential government witnesses, and members of their families whose lives are placed in jeopardy by virtue of being a witness or intended witness against any person alleged to have participated in an organized criminal activity. Title 28 USC 524 provides authority to use appropriations of the Department of Justice for the payment of compensation and expenses of witnesses and informants, all at the rates authorized or approved by the Attorney General or the Assistant Attorney General for Administration. Department of Justice OBD Order 2110.2, January 10, 1975, sets forth the procedure for establishing a person as a protected witness and places with the United States Marshals Service the responsibility for the security and maintenance of witnesses and their dependents.

The special services for maintenance and protection of witnesses and their dependents within the appropriation, "Fees and Expenses of Witnesses" are:

a. Subsistence expenses including food, clothing and personal care;

b. Housing expenses including rent, phone, and furniture rental or house furnishings;

c. Medical and dental expenses;

d. Travel expenses;

e. Documentation expenses for changing the identity of protected witnesses and their dependents including birth records, driver's license, car registration, school and employment records;

f. One-time relocation expenses, including security deposit fees for housing, utilities, furniture, necessary miscellaneous household items and clothing, and emergency motel and subsistence expenses when the true identity of a relocated protected witness becomes known;

g. Expenses incident to producing witnesses for pre-trial conferences and trials;

h. Movement of household goods and storage expenses;

i. Employment expenses incident to obtaining job opportunities for protected witnesses; and

j. Other miscellaneous expenses not specifically identified above, including any necessary costs for maintenance of safehouses for witnesses.

The national problem addressed by this program is organized criminal activity. Cases brought to trial with the support of testimony from protected witnesses are primarily the responsibility of the Criminal Division. The Division has stated that the use of protected witnesses remains singularly the most effective tool in the successful prosecution of key organized crime figures. As of June 1976, approximately 1,750 witnesses had been admitted into the witness security program. Research at that time, pertaining to the first 800 witnesses identified as having concluded their testimony, indicated that 1,098 trials resulted from the testimony of protected witnesses, in which 4,487 indictments were handed down and 3,071 convictions obtained. The convicted defendants were sentenced to a total of 17,649 years of incarceration plus 7 death and 12 life sentences.

Data on the number of protected witnesses has been maintained by the U.S. Marshals Service. The cumulative number of principal witnesses protected to date was 997 for FY 1977; the cumulative number of witnesses including family members was 2,568 for the same period. By the end of FY 1976, 798 principal witnesses and 2,038 witnesses including family members had been enrolled in the Witness Security Program. The average number of principal witnesses per month who were enrolled in the program was 471 in FY 1977. The average number for FY 1976 was 342.

The FY 1979 request of $5,383,000 for the protection of witnesses results in a net decrease of $673,000 compared to the FY 1978 level. A task force appointed by the Deputy Attorney General in August 1977 has conducted a thorough review of the Witness Security Program. Management improvements resulting from implementation of the recommendations of that task force should reduce the FY 1979 need for funds. The task force has concluded that organized crime prosecution requirements can be met with a significantly lower number of new entrants into the program in FY 1979 as compared to FY 1977. It is expected that the Department will establish a goal to limit the number of new protected witnesses to 30 per month. With this anticipated reduction in the number of new protected witnesses being partially offset by expected rises in subsistence payments (cost-of-living increases), the FY 1979 request will be adequate to support the organized crime priorities of the Department.

Long-range goal

-- To increase the effectiveness of the Department of Justice's organized crime prosecution program by obtaining testimony from potentially endangered or threatened witnesses.

Short-term objectives

-- To obtain testimony which can be used to prosecute persons accused of organized criminal activity.

-- To protect witnesses and their families when the testimony of the witnesses may jeopardize their personal security.

-- To provide adequate payments to relocated witnesses for subsistence costs as provided for by law (P.L. 91-452).

-- To limit future admission of witnesses to the program to only those who can provide high-quality testimony the substance of which is likely to convict persons accused of organized criminal activity.

Alternatives

The Government could discontinue the program altogether. This alternative would require a phase-out period of several years during which currently protected witnesses could be terminated from the program. According to this alternative, no new witnesses with testimony relevant to organized criminal prosecutions would have any guarantees as to their safety in return for testimony. The effectiveness of organized crime prosecutions would decline significantly if this alternative were implemented.

The number of witnesses admitted into the program could be limited to only those with high-quality testimony in regard to organized criminal activity. This alternative will be pursued in FY 1978 and FY 1979 as the result of implementing the recommendations of the Deputy Attorney General's task force which recently completed a review of the Witness Security Program.

Impact of short-term objectives

Witnesses will be available to provide testimony useful for the prosecution of persons engaged in organized criminal activity. The Witness Security Program will have funds adequate for the protection of witnesses and family members who have been approved to receive Government protection in return for their testimony.

CONTINUED

2 OF 4

[Exhibit 16]

U.S. Marshals Service Authorization Request for Fiscal Year 1979 for Witness Protection

DEPARTMENT OF JUSTICE
UNITED STATES MARSHALS SERVICE

Authorization Request - Fiscal Year 1979
Summary of Resources

Estimates by Budget Activity:	Fiscal Year 1977 as Enacted			Fiscal Year 1978 as Enacted			Fiscal Year 1979 Estimate			Fiscal Year 1980 Estimate		
	Perm Pos.	Workyears	Amount (000)	Perm Pos.	Workyears	Amount (000)	Perm Pos.	Workyears	Amount (000)	Perm Pos.	Workyears	Amount (000)
United States Marshals	2,136	2,008	$63,799	2,245	2,100	$65,966	2,328	2,175	$72,424	2,328	2,204	$72,733
Other Than Permanent Workyears.		128			128			128			128	
Total Workyears		2,136			2,228			2,303			2,332	
Estimates by Program												
United States Marshals:												
Witness Security	178	166	6,033	178	166	5,110	178	166	5,452	178	166	5,452
Execution of Process and Court Orders	465	440	14,031	485	456	14,062	485	453	15,028	485	453	15,028
Handling of Federal Prisoners	628	587	17,422	655	619	17,828	701	655	20,242	701	667	20,360
Security Support	557	521	12,350	557	521	12,467	610	568	14,314	610	581	14,449
Financial Support Services	153	144	2,664	148	139	2,652	148	139	3,066	148	139	3,066
U.S. Marshals Training	7	7	276	7	7	276	6	6	263	6	6	263
Supervision of Unsentenced Prisoners	...	...	...	51	36	972	67	63	1,715	67	67	1,791
Executive Direction and Control	148	143	11,023	164	156	12,599	133	125	12,344	133	125	12,344
Total	2,136	2,008	63,799	2,245	2,100	65,966	2,328	2,175	72,424	2,328	2,204	72,733
Other Than Permanent Workyears		128			128			128			128	
Total Workyears		2,136			2,228			2,303			2,332	

WITNESS SECURITY

This program provides protection from retribution or retaliation for persons who agree to testify against members of organized crime.

Program justification.

Authority for conducting this program is found in three documents:

a. Title V of Public Law 91-452 authorizes the Attorney General to provide for the security of government witnesses and potential government witnesses, and members of their families whose lives or persons are placed in jeopardy by virtue of being a witness or intended witness in legal proceedings against any person alleged to have participated in an organized criminal activity.

b. Title 28 USC 524 provides authority to use appropriations of the Department of Justice for the payment of compensation and expenses of witnesses and informants, all at the rates authorized or approved by the Attorney General or the Assistant Attorney General for Administration.

c. Department of Justice, OBD Order 2110.2, January 10, 1975, prescribes the procedure for establishing a person as a protected witness and places with the United States Marshals Service the responsibility for the security and maintenance of witnesses and their dependents.

The Report of the Senate Judiciary Committee on the Organized Crime Control Act reports that leaders of organized crime have been extremely successful in escaping punishment. Tampering with witnesses was reported as the most effective methods used by organized crime in obtaining acquittals or dismissals.

Requests for protection of witnesses generally originate in the Office of U.S. Attorneys and the Offices of Strike Forces. Division Attorneys may also request protection for witnesses. The Assistant Attorneys General of the concerned divisions, or their designees, review the requests and determine which persons meet the conditions for protection. If the Assistant Attorney General approves the request, he notifies the Director, USMS, by memorandum. Before the memorandum is actually received, the USMS may initiate protection and maintenance of a witness upon oral authorization from the division representative.

It should be emphasized that the USMS does not determine which witnesses are to be admitted to the program.

Services provided by the USMS for Witness Security functions are:

a. Protective services, including around-the-clock protection for witnesses while in a hostile environment and upon return to the danger area for pretrial conferences or trial appearances. Protection is given upon notice of threats within relocated areas.

b. Documentation services, including legal name change, driver's license, social security registration, etc.

c. Intelligence services.

d. Employment services.

e. Movement of household goods service.

f. Mail services to insure secrecy of relocated area for one year after termination of principal from program.

g. Medical care for witnesses.

h. Administration of all financial aspects within the Protection of Witnesses program.

i. Management services.

j. Housing and subsistence assistance.

k. Any other assistance or service necessary.

Long-range goal.

In FY 79, the emphasis will be on improving the management of the program at the working level. It is planned to place the day-to-day operation of the program at the district level under the supervision of the United States Marshal. The increased activity at the district level will involve more deputies in the program. In addition, the Marshal will have greater authority and greater responsibility in this program management area.

No known legislation has been passed or is pending that would directly affect program operation. However, there is legislation pending that may impact upon the program because of increased manpower demands generated in other program areas. The Revised Rules of Criminal Procedure (i.e., service of criminal summonses in lieu of warrants of arrest now served by other agencies) and the "Speedy Trial Act" are two examples that come quickly to mind that could cause manpower to be diverted from this program.

Short-term objectives.

--Protect 1500 witnesses in FY 79

Alternatives.

There is no alternative to this program except to require other law enforcement agencies to provide the identical service.

Impact of short-term objectives.

-- Program could be continued at present level.

[Exhibit 17]

CURRICULUM AND SCHEDULE FOR U.S. MARSHALS SERVICE BASIC TRAINING, JULY 8-29, 1977

USMS BASIC TRAINING

8 WEEKS CITD AT FLETC
3 1/2 WEEKS USMS BASIC TRAINING

INTRODUCTION — 1 HOUR

STUDENTS ARE GIVEN AN OVERVIEW OF THE BASIC TRAINING PROGRAM. INSTRUCTORS AND STUDENTS ARE INTRODUCED THROUGH THE DIADIC ENCOUNTER METHOD, COURSE OBJECTIVES ARE EXPLAINED, INTERMEDIATE AND TERMINAL PERFORMANCE CRITERIA ARE REVIEWED, AND GENERAL STUDENT QUESTIONS ARE ANSWERED DURING THIS PERIOD.

HISTORY OF USMS — 1 HOUR

THE GROWTH OF THE SERVICE IS TRACED FROM THE CREATION OF THE OFFICE OF U.S. MARSHALS IN 1789 TO THE PRESENT. STUDENTS FOLLOW THE DEVELOPMENT OF THE SERVICE BY REVIEWING IT'S MANY DUTIES, RESPONSIBILITIES, AND OPERATIONAL MISSIONS FROM A HISTORICAL PERSPECTIVE. PARTICULAR EMPHASIS IS PLACED ON UNDERSTANDING THE CONSTITUTIONAL AND STATUTORY AUTHORITY OF THE U.S. MARSHAL AND THEIR IMPACT ON THE ROLE OF THE MODERN DAY DUSM.

ORGANIZATION OF USMS — 1 HOUR

STUDENTS ARE EXPOSED TO THE FORMAL ADMINISTRATIVE STRUCTURE OF THE SERVICE. APPROPRIATE CHAIN OF COMMAND CHANNELS AND THE FUNCTIONS OF HEADQUARTERS ARE COVERED IN DETAIL.

DAILY LOGS AND VOUCHERS

ACQUAINTS THE NEW DUSH WITH THE DAILY LOG, US-110, AND THE RECOMMENDED METHOD FOR COMPLETING IT. THE DAILY LOG AS THE BASIC FORM FOR THE SERVICE MANAGEMENT INVFORMATION SYSTEM IS ALSO EXPLORED. STUDENTS ARE TAUGHT TO PREPARE A MONTHLY VOUCHER IN CONJUNCTION WITH LOGS, GTR'S AND TRAVEL ADVANCES. — 2 HOURS

ADMINISTRATIVE SERVICES

ACQUAINT THE STUDENT WITH THE FUNCTIONS OF THE ADMINISTRATIVE SERVICE SECTION, OFFICE OF THE DIRECTOR. EXPLAIN THE PROPER USE OF GOVERNMENT AUTOMOBILES, TELEPHONE SYSTEMS, RADIOS, CARE AND USE OF BADGE, CREDENTIALS, AND GUN. — 1 HOUR

PER DIEM AND OVERTIME

THE NEW DEPUTY IS GIVEN THE PROPER METHOD FOR COMPUTING AUO, PER DIEM, AND ACTUAL SUBSISTANCE. THEY ARE GIVEN PROBLEMS TO WORK OUT AND CORRECTED TO INSURE THEIR COMPREHENSION. TRAVEL REGULATIONS, DAILY LOGS, AND VOUCHERS ARE ALSO REINFORCED AT THIS TIME. — 4 HOURS

HUMAN RELATIONS

THE NEED FOR A LAW ENFORCEMENT OFFICER TO INFLUENCE OTHERS IN POSITIVE WAYS IS GAINING GREATER IMPORTANCE. THROUGH A SERIES OF SELECTED VIDEO TAPE PROBLEMS AND ROLE PLAYING SITUATIONS, THE STUDENT WILL EXAMINE AND ATTEMPT TO SOLVE PROBLEMS IN THE AREA OF UNDERSTANDING CONFLICT, ATTITUDE, THREATS AND CHALLENGES AND DEPUTY CITIZEN CONTACTS. — 8 HOURS

INTRO TO PUBLIC SPEAKING

BEING ABLE TO THINK AND SPEAK ON ONE'S FEET IS A VERY INTEGRAL PART OF A DUSM'S WORK: STUDENTS ARE GIVEN A BRIEF OVERVIEW OF PUBLIC SPEAKING AND SEVERAL COMMON TECHNIQUES. THEY ARE THEN REQUIRED TO PREPARE AND PRESENT A FIVE MINUTE SPEECH TO THE CLASS AT SOME TIME DURING THE USMS BASIC TRAINING COURSE. 1 HOUR

MANUAL REVIEW

THIS IS A GUIDED AND SYSTEMATIC INTRODUCTION TO THE USMS MANUAL AND DIRECTIVE SYSTEM. IT IS DESIGNED TO ACQUAINT A NEW DUSM WITH WHERE TO FIND ANSWERS AND THE RULES AND REGULATIONS OF THE U.S. MARSHAL SERVICE. 1 HOUR

PRISONER COORDINATION 1 HOUR

A LECTURE CLASS USED AS AN INTRODUCTION TO THE TRANSPORTATION OF PRISONERS. IT IS TO EXPLAIN COMMON TERMS AND TO ACQUAINT NEW DUSM'S WITH THE PLANNING AND PAPERWORK THAT IS NECESSARY TO COORDINATE A SUCCESSFUL P.C. TRIP.

PRISONER SEARCHES AND RESTRAINTS

DEMONSTRATIONS AND SLIDE PRESENTATIONS ARE USED TO INSTRUCT STUDENTS IN THE PROPER AND RECOMMENDED SEARCHING TECHNIQUES. DEMONSTRATIONS WILL BE UTILIZED TO INSTRUCT STUDENTS IN THE PROPER USAGE OF USMS RESTRAINING DEVISES. THEY WILL THEN BE AFFORDED THE OPPORTUNITY TO PRACTICE WITH THE DEVISES. 1 HOUR

TRANSPORTATION 2 HOURS

WALKING, AUTOMOBILE, VAN BUS, AND AIR TRANSPORTATION OF PRISONERS WILL BE DISCUSSED TO INCLUDE: SEATING, MEALS, RESTROOMS, AND

COMPLIANCE WITH CURRENT FAA REGULATIONS.

PRISONER COORDINATION PRACTICAL 4 HOURS

STUDENTS WILL BE GIVEN THE OPPORTUNITY TO PICK UP A PRISONER(ROLE PLAYER) FROM A DETENTION AREA, SEARCH, RESTRAIN, AND TRANSPORT TO ANOTHER AREA VIA AUTOMOBILE. THEY ARE TO UTILIZE ALL NECESSARY APPER WORK. A CRITIQUE BY INSTRUCTIORS AND ROLE PLAYERS ENDS THIS PRACTICAL.

CRIMINAL PROCESS 4 HOURS

THE FOLLWOING CRIMINAL PROCESS ARE EXAMINED AND REVIEWED BY THE STUDENT: BENCH WARRANT, MAGISTRATES WARRANT, WARRANT CF REMOVAL, TEMPORARY *MITTIMUS, FINAL MITTIMUS, JUDGEMENT AND COMMITMENT*, SUBPOENA, SUBPOENA DUCES TECUM, WRITS OF HABEAS CORPUS, CRIMINAL SUMMONS, AND COURT ORDERS.

CIVIL PROCESS 4 HOURS

THE FOLLOWING TYPES OF PROCESS ARE EXAMINED AND REVIEWED: CIVIL SUBPOENA, COMPLAINT, SUMMONS, WIRT OF ASSISTANCE, WRIT OF ATTACHMENT, WRIT OF EXECUTION, WRIT OF REPLEVIN, AND TEMPORARY RESTRAINING ORDERS, AND ADMIRALTY.

FEES AND MILEAGE 1 HOUR

THE COURSE INSTRUCTS THE NEW DUSM IN THE RULES GOVERNING THE CHARGE OF FEES AND MILEAGE ON PROCESS SERVED OR ENDEAVORED BY THE USMS. THE STUDENTS ARE GIVEN WORK SHEETS TO COMPLETE AND RETURN FOR EVALUATION.

NCIC AND TELETYPE 2 HOURS

STUDENTS ARE GIVEN AN INTRODUCTION TO NCIC AND ITS PART WITHIN THE USMS.

THEY ARE GIVEN THE OPPORTUNITY TO RUN AN INQUIRY THROUGH NCIC ON A WANTED PERSON.

WARRANTS — 4 HOURS

THE BASIC PLANNING, EXECUTION, AND AFTER ACTION TASKS CONNECTED WITH WARRANT INVESTIGATION ARE EXAMINED. EMPHASIS IS PLACED ON GOOD PLANNING AND COORDINATION WITH OTHER AGENCIES.

WARRANT PRACTICAL — 6 HOURS

STUDENTS ARE BROKEN INTO TEAMS OF FIVE AND SIX AND ASSIGNED A FICTITIOUS CASE TO WORK. THEY ARE TO INVESTIGATE, PLAN, APPREHEND, TRANSPORT, AND DO ALL NECESSARY PAPER WORK CONNECTED WITH AN ARREST. A CRITIQUE BY ROLE PLAYERS, INSTRUCTORS, AND STUDENTS ENDS THE PRACTICAL.

SPECIAL OPERATIONS GROUP — 8 HOURS

THE STUDENT WILL BE GIVEN A BRIEF HISTORY OF SOG TO INCLUDE PAST AND PRESENT ORGANIZATION AND CAPABILITIES. A FILM ON SOG TRAINING IS VIEWED. THE THEORY OF CONFRONTATION IS DISCUSSED TO INCLUDE, RIOT FORMATIONS, CONFRONTATION MANAGEMENT, COMMAND AND CONTROL AND THE GRADUATED USE OF FORCE. EACH STUDENT WILL BE GIVEN THE OPPORTUNITY TO PRACTICE IN A GROUP, CROWD CONTROL TECHNIQUES AND BECOME FAMILIAR WITH CHEMICAL AGENTS, BOTH BY ASSAULTING AND BY BEING ASSAULTED.

WITNESS SECURITY — 4 HOURS

AN OVERVIEW ON THE ORGANIZATION AND FUNCTIONS OF WITNESS SECURITY DIVISION, HEADQUARTERS ROLE, WITNESS SECURITY SPECIALISTS, U.S. MARSHALS, AND DEPUTIES ARE EXPLAINED. THE HISTORICAL DEVELOPMENT AND AUTHORITY FOR THE PROGRAM IS TRACED. OBD 2110.2 IS COVERED IN DETAIL AS TO FUNDING, SUBSISTANCE, DOCUMENTATION, RELOCATION, AND EMPLOYMENT.

COUNTER SURVEILLANCE AND PERSONAL SECURITY 1 HOUR

STUDENTS ARE INTRODUCED TO THE AREA OF PERSONAL SECURITY, THE TERMS AND TECHNIQUES. THE "ARMS REACH" PRINCIPLE IS DISCUSSEDIN DEPTH. DIFFERENT WAYS TO MOVE A PRINCIPAL FROM ONE LOCATION TO ANOTHER ARE DISCUSSED. COUNTER SURVEILLANCE TECHNIQUES TO INCLUDE PATTERNS, DAY VS NIGHT, DETECTION, NULLIFICATION ARE DISCUSSED.

WITNESS PRACTICAL 8 HOURS

WORKING IN GROUPS, GIVEN A SET OF FACTS,IE, PERSONNEL AVAILABLE, EQUIPMENT, MAPS, AREA, DEGREE OF THREAT, AND A WITNESS THE STUDENTS ARE THEN ASSIGNED TO PICK THE WITNESS UP, PROTECT HIM,FOR THE ENTIRE DAY. A CRITIQUE ENDS THE EXERCISE BY THE INSTRUCTORS, ROLE PLAYERS, AND STUDENTS.

COURT RESPONSIBILITY 2 HOURS

THE DEPUTY IS INTRODUCED TO THE AREA OF COURT SECURITY. AN OUTLINE OF DIFFERENT DUTIES RELATED TO COURT SECURITY IS DISCUSSED. HOST RESPONSIBILITY IS DISCUSSED. USMS USMS AREAS OF RESPONSIBILITY, MOVEMENT AND CONTROL OF SPECTATORS WITHIN THE COURTROOM IS DISCUSSED.

PHYSICAL SECURITY AIDS 1 HOUR

PHYSICAL PROTECTION SYSTEMS, CLOSED CIRCUIT T.V., DURESS ALARMS, LIGHTING SYSTEMS, REENFORCEING JUDGES BENCHES, AND WINDOW SECURITY ARE DISCUSSED.

SEQUESTERED JURIES 2 HOURS

THE DUTIES AND PROBLEMS OF A SEQUESTERED JURY ARE DISCUSSED, TO INCLUDE: RESPONSIBILITIES, ACCOMMODATIONS, SECURITY OF JURY QUARTERS, MEALS, MAIL LAUNDRY, T.V. NEWSPAPERS, TELEPHONE, TRAVEL, RECREATION, CHURCH,

SHOPPING, BUSINESS AFFAIRS, AND FAMILY VISITS.

PRISONERS IN COURT — 2 HOUR

VIDEO TAPES OF HEALTER SKELTER, AND THE SEQTTLE SEVEN TRIAL ARE SHOWN, AS IS A SLIDE PRESENTATION OF THE MARIN COUNTY SHOOTING. A DISCUSSION THEN FOLLOWS CONCERNING PRISONERS, JUDGE, AND DEPUTY BEHAVIOUR IN COURT.

PLANNING FOR A HIGH THREAT TRIAL — 3 HOURS

STUDENT LEARNS THE DIFFERENT AREAS OF CONSIDERATION WHEN PLANNING FOR A HIGH THREAT TRIAL. AREAS INCLUDED ARE: PERSONNEL, PHYSICAL AIDS, RESTRAINTS, SEARCHES, CONTROLLED SEATING , USE OF CLOSED CIRCUIT T.V., SEQUESTERED JURY. THE CLASS IS PRESENTED ONE DAY AND A HOMEWORK ASSIGNMENT IS GIVEN TO GROUPS OF STUDENTS. GIVEN FACTS RELATING TO ALL OF THE ABOVE AREAS, THE STUDENTS ARE TO DEVELOP A PLAN FOR THE TRIAL AND PRESENT IT IN CLASS THE NEXT DAY. IT IS CRITIQUED BY THE INSTRUCTORS AND REST OF THE CLASS.

JUDICIAL SECURITY — 1 HOUR

TO ACQUAINT DUSMS WITH EXISTING JUDICIAL SECURITY MEASURES AND ACQUAINT THEM WITH PROBLEMS THAT ARE LIKELY TO BE ENCOUNTERED ON SUCH DETAILS.

HOSTAGE SITUATIONS — 2 HOURS

TO ACQUAINT DUSMS WITH SOME PROPOSED COURSES OF ACTION IN THE EVENT THAT THEY SHOULD FIND THEMSELVES IN THE MIDST OF A HOSTAGE SITUATION. DISCUSSION ON WHAT TYPE OF PEOPLE ARE LIKELY TO BECOME CAPTORS. WHAT CHARACTERISTICS ARE COMMON TO A GOOD NEGOTIATOR, WHAT SHOULD AND SHOULD NOT BE NEGOTIATED.

LEGAL+ 2 HOURS

LEGAL DECISIONS RELATED TO THE DAY TO DAY DUTIES OF A DUSM ARE COVERED. PARTICULAR EMPHASIS IS PLACED ON LEGAL CASES RESULTING FORM ON THE JOB AND OFF THE JOB ACTIONS OF DEPUTIES. SPECIAL CARE IS GIVEN TO EXAMINE WH JUSTIFIABLE USE OF DEADLY FORCE AND WHAT SITUATIONS CONSTITUTE ACTION"WITHIN THE SCOPE OF OFFICIAL DUTY".

PERSONNEL PROGRAMS 7 HOURS

STUDENTS ARE EXPLAINED THEIR RIGHTS AND BENEFITS UNDER THE MAJOR PERSONNEL PROGRAMS. SPECIAL EMPHASIS IS PLACED ON PROPER PROCEDURES INVOLVED IN: MERIT PROMOTION, E.E.O. COMPLAINTS, INJURY COMPENSATION, PERFORMANCE EVALUATION, CLASS RECRUIT TRAINING, AND NEGOTIATED UNION CONTRACT AND GRIEVANCES PROCEDURES AND INTERNAL INSPECTIONS.

RANGE 8 HOURS

STUDENT WILL BE AFFORDED TIME TO PRACTICE AND LEARN AT THE FIREARMS RANGE.. INSTRUCTION IS BY FLETC STAFF.

DRIVERS TRAINING 12 HOURS

STUDENTS ARE GIVEN THE BASICS OF GOOD DRIVING TECHNIQUES AND THEN ARE ALLOWED TO PRACTICE IN THREE DIFFERENT AREAS: DEFENSIVE DRIVING, SKID CONTROL DRIVING, AND HIGH SPEED DRIVING. THIS AREAS IS INSTRUCTED BY FLETC STAFF.

PHYSICAL TRAINING 30 HOURS

TO ACQUAINT STUDENTS WITH A GOOD PHYSICAL TRAINING PROGRAM AND TO GET THEM IN SHAPE FOR A FINAL EVALUATION ON THE LAST DAY OF PHYSICAL TRAINING. MINIMUM GOALS ARE: 50 SITUPS, 30 PUSHUPS, 5 PULL UPS, AND A MILE RUN IN UNDER EIGHT MINUTES. PL US ACQUAINTANCE WITH SELF DEFENSE

TACTICS. THE INSTRUCTION IS PRESENTED BY FLETC STAFF.

EXAMINATIONS 3 HOURS

STUDENTS ARE REQUIRED TO TAKE TOW COMBINATION MULTIPLE CHOICE, ESSAY QUESTION TESTS. THE FINAL EXAMINATION IS A COMPREHENSIVE MULTIPLE CHOICE TEST.

EXAMINATION REVIEW 3 HOURS

AFTER EXAMS ARE GRADED THE STUDENT WILL HAVE THE OPPORTUNITY TO REVIEW QUESTIONS MISSED. POINTS OF INSTRUCTION WILL BE CLARIFIED AT THIS TIME.

ADMINISTRATIVE TIME 20 HOURS

THIS TIME IS DEVOTED TO LUNCH PERIODS, RESEARCH WORK, AND PREPARATION OF WRITTEN ASSIGNMENTS.

GRADUATION 1 HOUR

AT THE COMPLETION OF THE COURSE THE STUDENT WILL ATTEND A FORMAL GRADUATION CEREMONY. A GUEST SPEAKER WILL KEY NOT THIS FUNCTION.

EXTERNAL TRAINING

IN ADDITION TO THIS TRAINING THE BASIC DEPUTY MAY BE EXPOSED TO IN-DISTRICT TRAINING. THIS IS ANY TRAINING THAT THE MARSHAL FOR THE DISTRICT DEEMS NECESSARY AND INSTITUTES. IT CAN COVER ANY FACET OF THE JOB.

COURSE: BASIC — DATES: JULY 8 to 29, 1977

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY JULY 8	SATURDAY
				9:00 - 10 :50 INTRODUCTION, OBJECTIVES AND FORM PREPARATION 11:00 - 12:00 HISTORY OF USMS 12:00 - 1:00 LUNCH 1:00 - 1:50 ORGANIZATION OF USMS 2:00 - 2:50 HOSTAGE SITUATIONS 3:00 - 5:00 DAILY LOGS, MONTHLY VOUCHERS, AND CTR 5:00 - 5:30 ISSUE JUMPSUITS HOMEWORK ON LOGS AND VOUCHER	

COURSE: BASIC — DATES: JULY 8 to 29, 1977

MONDAY JULY 11	TUESDAY JULY 12	WEDNESDAY JULY 13	THURSDAY JULY 14	FRIDAY JULY 15	SATURDAY JULY 16
8:30 - 10:30 DRIVER TRAINING ORIENTATION (BLDG 29) 10:30 - 11:30 ETHICS 11:30 - 12:30 LUNCH 12:30 - 1:30 NCIC 1:30 - 3:30 PHYSICAL TRAINING 3:30 - 5:30 WARRANT INVESTIGATION 6:30 - 8:00 LOG AND VOUCHER REVIEW	8:30 - 12:30 GROUP A DRIVER TRAINING GROUP B NCIC AND TELETYPE 12:30 - 1:30 LUNCH 1:30 - 3:30 PHYSICAL TRAINING 3:30 - 5:30 WARRANT INVESTIGATION 6:30 - 8:00 WARRANT INVESTIGATION AND NCIC REVIEW	8:30 - 12:30 GROUP A NCIC AND TELETYPE GROUP B DRIVER TRAINING 12:30 - 1:30 LUNCH 1:30 - 3:30 PHYSICAL TRAINING 3:30 to 5:30 CRIMINAL PROCESS a) SUBPOENA b) WRIT OF HABEAS CORPUS c) JUDGEMENT AND COMMITMENT 6:30 - 8:00 NCIC REVIEW	8:30 - 12:30 GROUP A DRIVER TRAINING GROUP B PER DIEM AND TRAVEL REGULATIONS 12:30 - 1:30 LUNCH 1:30 - 3:30 PHYSICAL TRAINING 3:30 - 5:30 PERSONNEL a) MERIT PRINCIPLES b) HAZARDOUS DUTY RETIREMENT c) ANNUAL PERFORMANCE RATING HOMEWORK ON PERDIEM 6:30 - 8:00 PER DIEM REVIEW	8:30 - 12:30 GROUP A PER DIEM AND TRAVEL REGULATIONS GROUP B DRIVER TRAINING 12:30 - 1:30 LUNCH 1:30 - 3:30 PHYSICAL TRAINING 3:30 - 5:30 CRIMINAL PROCESS a)CRIMINAL SUMMONS b)COMMITMENT c)WARRANT OF REMOVAL 5:30 - 6:30 EXAMINATION REVIEW HOMEWORK ON PER DIEM	8:30 - 5:30 SOG

COURSE: BASIC

DATES: JULY 8 to 29,1977

MONDAY JULY 18	TUESDAY JULY 19	WEDNESDAY JULY 20	THURSDAY JULY 21	FRIDAY JULY 22	SATURDAY JULY 23
8:00 - 8:50 EXAMINATION 9:00 - 9:50 PRISONER COORDINATION 10:00 - 12:30 PRISONER RESTRAINTS 12:30 - 1:30 LUNCH 1:30 - 3:30 PHYSICAL TRAINING 3:30 - 5:30 PRISONER TRANSPORTATION 5:30 - 6:30 EXAMINATION CRITIQUE	8:30 - 9:45 GROUP A JAIL GROUP B DISCUSSION ON PRISONER TRANSPORTATION AND HANDLING. 9:45 - 11:30 GROUP A DISCUSSION ON PRISONER TRANSPORTATION AND HANDLING. GROUP B JAIL 11:30 - 12:30 LUNCH 12:30 - 1:30 PERSONNEL a) MERIT PROMOTION b) LATERAL TRANSFER 1:30 - 3:30 PHYSICAL TRAINING 3:30 - 5:30 CIVIL PROCESS a) SUMMONS AND COMPLAINT b) CIVIL SUBPOENA c) DEPOSITION SUBPOENA d) BANKRUPTCY SUBPOENA e) INJUNCTIONS TRO'S f) NOTICE OF CONDEMNATION	8:30 - 11:30 CIVIL PROCESS a) GARNISHMENTS b) WRIT OF ASSISTANCE c) WRIT OF EXECUTIONS d) WRIT OF REPLEVIN e) ADMIRALTY 11:30 - 12:30 LUNCH 12:30 - 1:30 CIVIL PROCESS 1:30 - 3:30 PHYSICAL TRAINING 3:30 - 5:30 PERSONNEL a) UNION-LABOR MANAGEMENT REL. b) FEDERAL EMPLOYEES COMPENSATION (INJURIES) c) E.E.O. AND AFFIRMATIVE ACTION 6:30 - 8:00 PROCESS REVIEW	8:30 - 9:20 PROCESS FEES AND MILEAGE 9:30 - 11:30 GROUP A RANGE GROUP B LEGAL 11:30 - 12:30 LUNCH 12:30 - 1:30 PERSONNEL a) DISCIPLINE b) GRIEVANCE 1:30 - 3:30 PHYSICAL TRAINING 3:30 - 5:30 AUO, OVERTIME, AND DIFFERENTIALS 5:30 - 6:30 EXAMINATION REVIEW	8:30 - 9:20 EXAMINATION II 9:30 - 11:30 GROUP A LEGAL GROUP B RANGE 11:30 - 12:30 LUNCH 12:30 - 1:30 USMS AREAS OF COURT RESPONSIBILITY 1:30 - 3:30 PHYSICAL TRAINING 3:30 - 5:30 PRISONERS IN COURT(TAPE) 5:30 - 6:30 EXAMINATION CRITIQUE HOMEWORK PROCESS FEES AND MILEAGE	8:30 - 12:30 FIREARMS 12:30 - 1:30 LUNCH 1:30 - 5:30 HUMAN RELATIONS

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COURSE: BASIC

DATES: JULY 8 to 29, 1977

MONDAY JULY 25	TUESDAY JULY 26	WEDNESDAY JULY 27	THURSDAY JULY 28	FRIDAY JULY 29	SATURDAY -
8:30 - 9:30 SEQUESTERED JURIES 9:30 - 11:30 GROUP A FIREARMS. GROUP B DEMONSTRATION AND INSTRUCTION OF PHYSICAL SECURITY AIDS. 11:30 - 12:30 LUNCH 12:30 - 1:30 SEQUESTERED JURIES 1:30 - 3:30 PHYSICAL TRAINING 3:30 - 5:30 ADMINISTRATIVE SERVICES	8:30 - 9:30 PLANNING FOR A HIGH THREAT TRIAL 9:30 - 11:30 GROUP A DEMONSTRATION AND INSTRUCTION OF PHYSICAL SECURITY AIDS GROUP B FIREARMS 11:30 - 12:30 LUNCH 12:30 - 1:30 GROUP PLANNING FOR A HIGH THREAT TRIAL 1:30 - 3:30 PHYSICAL TRAINING 3:30 - 4:30 GROUP PLANNING FOR A HIGH THREAT TRIAL 4:30 - 6:30 CRITIQUE OF PLANNING EXERCISE	8:30 - 11:20 WITNESS SECURITY 11:30 - 12:30 COUNTER SURVEILLANCE 12:30 - 1:30 LUNCH 1:30 - 3:30 PHYSICAL TRAINING 3:30 - 5:30 PERSONAL SECURITY TECHNIQUES HOMEWORK -- WITNESS SECURITY P/E	8:00 - 8:50 JUDICIAL PROTECTION 9:00 - 3:30 WITNESS SECURITY P/E 3:30 - 5:30 CRITIQUE ON WITNESS SECURITY P/E 5:30 - 6:30 EXAMINATION REVIEW	8:00 - 8:50 EXAMINATION - FINAL 9:00 - 9:50 COURSE CRITIQUE 10:00 - 10:50 EXAMINATION CRITIQUE 11:00 GRADUATION	

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[Exhibit 18]

Proposed Curriculum for Witness Security Specialist Training Program

WITNESS SECURITY TRAINING

Two four-week Witness Security Training Courses will be held at the Federal Law Enforcement Training Center in Glynco, Georgia. Class #78-1 will begin on June 26, 1978, and end on July 20, 1978. Class #78-2 is tentatively scheduled to begin on August 7, 1978, and end on August 30, 1978. Final confirmation of Class #78-2 dates is expected from the Center within the next four weeks.

Each class is designed to accommodate forty students, thereby providing a comprehensive training program for all Witness Security Specialists and selected Witness Security staff at Headquarters. A copy of the course syllabus is attached.

Course Title: Witness Security Training

Length: Four Weeks (approximately)

Terminal Performance Objectives--To familiarize Witness Security Specialists with:

1. Behavioral Social Sciences
2. Organized White Collar Crime
3. Witness Security Program Services
4. Communicative Skills
5. Policies, Procedures & Legal Issues
6. Specialized Training Techniques

Method: Implementing a four-week training school

Interim Performance Objectives:

1. To acquaint, advise, teach, coordinate, and manage the students in a broad-based curriculum on Witness Security;
2. To enable the students to properly fulfill their roles and complete their assigned missions; and
3. To increase the student's proficiency through instruction, testing, assignments, and practical exercises.

COURSE MATTER AND SUBJECT

I. BEHAVIORAL - SOCIAL SCIENCES

A. Crisis Intervention and Conflict Management

Students are exposed to an overview of crisis situations and interpersonal conflicts. Emphasis will be placed on proper intervention and management of human crises, problems, and conflict situations. (4 hours)

B. Human Relations

Students are instructed on cultures within many communities of the Nation and the different traits and backgrounds of various kinds of people in our contemporary society. Additionally, this course includes instruction on self-awareness, social deviancy, interpersonal relations, and sensitivity to the problems of other people, as well as a better understanding of one's own self. (4 hours)

C. Recognizing and Handling Emotional Problems

This course identifies the many kinds of emotional problems, their symptoms, and some of their dangers. In making the student aware of the various mental disturbances, the student will be better able to understand and deal with the witnesses and their families when the stress and strain of their past lives and adjustment to their new identities cause recognizable emotional problems. (2 hours)

D. Stress Management

Students will become familiar with stress management and those aspects of stress which affect personal and occupational behavior. This course includes sources of stress and distress, recognition of stress, excessive stress reactions, stress and family life, and approaches to managing stress. (4 hours)

E. Psychological Profile of Protected Witnesses

Students are familiarized with the distinctly different characteristics of witnesses including personalities, trait profiles, and the effect of family life style on the witness. Stress awareness and management is applied in this course as it relates to witnesses and their families. (2 hours)

II. COMMUNICATIVE SKILLS

A. Verbal and Non-Verbal Communications

Students are introduced to interpretation of body language and non-verbal emotional responses through observation. Effective verbal communications are stressed. An overview of the types of communications between cultures, geographical areas, and groups within the U.S. is also presented. (1 hour)

B. Transactional Analysis

Students are advanced in their communicative skills through analyzing relationships between people as a result of establishing rapport, gaining new understanding, and being able to describe, and influence people through effective communications. (4 hours).

C. Interpersonal Counseling

This course identifies ways of advising and counseling. Students are instructed in techniques of counseling witnesses with problems and in the ways of making witnesses and their families feel secure through effective counseling communications. (1 hour)

D. Interviewing Techniques

Students are taught the techniques of effective interviewing. The course identifies and addresses stress interviews, hostile interviews, cooperative individuals, and reluctant witnesses, and employs counseling techniques and proper communicating methods. (3 hours)

E. Notetaking and Report Writing

Students are taught effective methods in taking notes during interviews and later transcribing notes into formalized reports, memoranda, and statements. Instruction will include the legal ramifications of notes and reports, and the fundamentals of what every report should contain in order to be considered complete, accurate, and concise. (3 hours)

F. Courtroom Demeanor and Testifying

This course teaches the Witness Security Specialists the proper demeanor in a judicial proceeding. Additionally, students are instructed on behavior, appearance, speaking, and overall conduct while testifying in a courtroom. (1 hour)

III. SPECIALIZED TRAINING

A. Driving Tactics

This course combines classroom instruction with an actual practical exercise on proficiency techniques for the protection of a witness' life while in a vehicle. Subject matter includes High Speed Evasive Defensive Driving, Offensive Driving, Hazardous Conditions Driving, and Mobile Operations. (12 hours)

B. Emergency Medical Treatment

Students are oriented in administering emergency first aid, trauma medical treatment, cardio-pulmonary resuscitation, and general medical techniques for emergency conditions. (10 hours)

C. Firearms Training

This course will include the combat pistol, combat shotgun, carbine and other weaponry familiarization, and judgment pistol shooting. This course does not stress proficiency in target shooting as much as it stresses exercising judgment. (8 hours)

D. Surveillance and Counter Surveillance

Students are taught the importance of proper surveillance and counter surveillance techniques. Instruction includes recognizing and practicing surveillance techniques, through patterns, detections, nullifications and general conscious awareness techniques. (4 hours)

E. Bomb Identification, Threats, and Searches

Students are given classroom and field instruction on bomb identification, searches, handling, and threats. Included in this course is a brief familiarization with various types of explosive and incendiary devices, and a field demonstration on detonated explosives. (2 hours)

F. Clandestine Threats and Terrorist Activities

This course concentrates on special security problems and responsibilities when confronted with potential adverse clandestine activity. Students are familiarized with preparation and response techniques and development of strategies for protecting witnesses against potential attackers. (4 hours)

G. Undercover Operations

Students are instructed in the techniques of undercover operations. The importance of maintaining anonymity of specialists and witnesses in all situations will be stressed. (3 hours)

IV. ORGANIZED CRIME/WHITE COLLAR CRIME

A. Organized Crime

Students are instructed on the activities, locations, and individuals involved in organized crime. The course ranges from orientation to present day organized crime activities. Included is the socio-economic impact of organized crime. (4 hours)

B. White Collar Crime

This course provides an introduction to various types of white collar crime. Students are oriented to the types of people who commit white collar crimes and are given an overview of the socio-economic impact of these crimes. The students are given a basic understanding of the kinds of schemes, frauds, and general crimes committed by white collar criminals. (4 hours)

C. Efforts to Combat Organized Crime and White Collar Crime

Lectures will provide an overview of Strike Force investigative and prosecutorial units, intelligence gathering and storage; individual investigative efforts on the Federal level; Congressional Committees, and state and local agencies. Instruction will delineate areas of responsibilities among agencies, and areas of cooperation in multi-agency investigative units. (4 hours)

V. WITNESS SECURITY PROGRAM SERVICES

A. Vocational Counseling and Job Placement

Students are instructed on the various approaches and techniques in vocational counseling and job placement as related to the Witness Security Program. The skills acquired in the Behavioral Science and Communication portions of this course will be used as the basis for instruction in this area. Special attention will be paid to making contacts with private and public employers for placement of witnesses. (3 hours)

B. Revised Identity

Witness Security Specialists are instructed on the sources of documentation, redocumentation, and the methods employed for acquiring proper and legal documents for witness' new identity. Also included will be instruction on the Documentation Unit of the Witness Security Division. (4 hours)

C. Funding of Protected and Fact Witnesses

Witness Security Specialists are indoctrinated on the budgetary process for the Witness Security Program, the accounting procedures required in the program, and system of payment at the office level. The security problems related to various systems of payment will be covered. (3 hours)

D. Personal Security Techniques

Students are instructed on contemporary low and high visibility profile security techniques for fixed-base and mobile operations. Technique discussions will include those which are employed by other agencies and private concerns so that the student will achieve a broader knowledge of the alternatives available to meet unusual occasions as well as the more common situations. (4 hours)

E. Case Management

The focus of this part of the course is managing, case by case, each witness from one central point of operation. This instruction will orient the student on the functions of the Case Management Unit of the Witness Security Division. (2 hours)

F. Relocation and Medical Assistance

The central service point for arranging household goods relocation and medical treatment is discussed in this course. The student is oriented to the support the USMS provides in this regard, the procedures followed, and the rules and regualtions which apply to administration. (2 hours)

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VI. POLICIES, PROCEDURES, REGULATIONS, AND LEGAL ISSUES

A. External Problems and Liaison

The means for establishing liaison with federal, state, and local law enforcement agencies are discussed in this course. Additionally, common external liaison problems are discussed to provide the student with a broader awareness so that he/she may avoid such problems in the future. (1 hour)

B. Intelligence Gathering

Students are taught how to acquire and maintain sources of information which would enable them and the program to operate more successfully in its mission. Topics of discussion include the use of intelligence information, strike forces, investigative agencies, printed articles and periodicals, and confidential sources of information or informants. (2 hours)

C. Legal-Witness Case Studies

Students are given a case-by-case study of past witness associations with the USMS and some of the causes of action pending against the USMS in civil cases. (2 hours)

D. Legal Case Law and Statutory Law (Practical Considerations and Problems)

The laws of arrest, search and seizure; detainment; conspiracy, and other related subject matter are reviewed. Highlighted in this course are the statutes which directly relate to the civil rights of witnesses and their families, the statutes which directly relate to the Witness Security Program, and the Privacy Act and the Freedom of Information Act as they relate to witness identities, case files, notes, and reports. (10 hours)

VII. PRACTICAL EXERCISES

The following practical exercises incorporate a majority of the instruction presented in the Witness Security Specialist Training School. These exercises provide the students with the opportunity to apply learned subjects under a controlled, observed, and critiqued environment. Practical exercises will include:

A. Human Relations - Interpersonal Counseling. (4 hours)

B. Interviewing Techniques. (6 hours)

C. Notetaking and Report Writing. (Homework)

D. Personal Security Techniques. (8 hours)

E. Driving Tactics. (Time is already included)

F. Mock Trial Situation. (8 hours)

G. Surveillance and Counter Surveillance. (4 hours)

H. Bomb/Explosive Demonstration and Bomb Search Practicum. (4 hours)

MISCELLANEOUS ADMINISTRATIVE TIME

Course Introduction, Orientation, and Registration	2 hours
Equipment Issuance	1 hour
Exam #1	1 hour
Exam #1 Review	1 hour
Final Exam	2 hours
Equipment Return and Checkout	1 hour
Course Critique and Graduation	1 hour

[Exhibit 20]

Excerpts From Criminal Code Reform Act of 1977 (S. 1437) Regarding Witness Relocation and Protection

"§ 3121. Witness Relocation and Protection

"(a) *Relocation*—The Attorney General may provide for the relocation of a government witness or a potential government witness in an official proceeding involving racketeering activity, an offense similar in nature, or an offense the investigation or prosecution of which appears likely under the circumstances to cause the commission of an offense described in section 1323 (Tampering with a Witness or an Informant) or 1324 (Retaliating against a Witness or an Informant) The Attorney General may also provide for the relocation of the immediate family of, or a person otherwise closely associated with, such witness or potential witness if the family or person may also be endangered.

"(b) *Related protective measures.*—In connection with the relocation of a witness, a potential witness, or an immediate family member or close associate of a witness or potential witness, the Attorney General may take any action he determines to be necessary to protect such person from bodily injury, and otherwise to assure his health, safety, and welfare, for as long as, in the judgment of the Attorney General, such danger exists. The Attorney General may:

"(1) Provide suitable official documents to enable the person relocated to establish a new identity:

"(2) Provide housing for the person relocated;

"(3) Provide for the transportation of household furniture and other personal property to the new residence of the person relocated;

"(4) Provide a tax free subsistence payment, in a sum established in regulations issued by the Attorney General, for such time as the Attorney General determines to be warranted;

"(5) Assist the person relocated in obtaining employment; and

"(6) Refuse to disclose the identity or location of the person relocated, or any other matter concerning the person or the relocation program, after weighing the danger such a disclosure would pose to the person relocated, the detriment it would cause to the general effectiveness of the relocation program, and the benefit it would afford to the public or to the person seeking the disclosure.

"(c) *Civil action against a relocated person.*—Notwithstanding the provisions of subsection (b) (6), if a person relocated under this section is named as a defendant in a civil cause of action, arising prior to the person's relocation, for damages resulting from bodily injury, property damage, or injury to business, process in the civil proceeding may be served upon the Attorney General. The Attorney General shall make reasonable efforts to serve a copy of the process upon the person relocated at his last known address. If a judgment in such an action is entered against the person relocated, the Attorney General shall determine whether the person has made reasonable efforts to comply with the provisions of that judgment. The Attorney General shall take affirmative steps to urge the person located to comply with any judgment rendered. If the Attorney General determines that the person has not made reasonable efforts to comply with the provisions of the judgment, he may, in his discretion, after weighing the danger to the person relocated, disclose the identity and location of that person to the plaintiff entitled to recovery pursuant to the judgment. Any such disclosure shall be made upon the express condition that further disclosure by the plaintiff of such identity or location may be made only if essential to the plaintiff's efforts to recover under the judgment, and only to such additional persons as is necessary to effect the recovery. Any such disclosure or nondisclosure by the Attorney General shall not subject the government to liability in any action based upon the consequences thereof.

§ 3122. Reimbursement* of Expenses

"The offer provision of facilities transportation, housing, subsistence, or other assistance to a person under section 3121 may be conditioned by the Attorney General upon reimbursement of expenses in whole or in part to the United States by a state or local government.

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* For witness protection.

§ 3123. Definitions for Subchapter C

"As used in this subchapter:

"(a) 'government' includes the federal government and a state or local government;

"(b) 'racketeering activity' has the meaning set forth in section 1806(f).

[Exhibit 21]

PROGRAM RANKING IN U.S. MARSHALS SERVICE AUTHORIZATION REQUEST FOR FISCAL YEAR 1979

Ranking:	*Program*
1	Security support.
2	Handling of Federal prisoners.
3	Supervision of unsentenced prisoners.
4	Execution of process and court orders.
5	Financial support services.
6	Executive direction and control.
7	Witness security.
8	U.S. marshals training.

[Exhibit 24]

LOCATIONS OF U.S. MARSHALS SERVICE WITNESS SECURITY SPECIALISTS

HEADQUARTERS WITNESS SECURITY SPECIALISTS

Location	Number of positions	Area of responsibility
District of Columbia	6	District of Columbia.
New York, NY [1]	4	New York Metro.
Philadelphia, Pa [1]	6	Do.
Bridgeport, Conn [1]	6	Do.
Kansas City, Kans	1	Midwest.[2]
Detroit, Mich	1	Midwest/east.[2]
Cleveland, Ohio	1	Do.
Buffalo, NY	1	East.[2]
Reno, Nev	1	West.[2]
Total	27	

[1] New York Metro unit.
[2] Area includes 53 districts without sufficient workload to warrant an in-district specialist.

DISTRICT WITNESS SECURITY SPECIALISTS

Location	Number of positions	Area of responsibility
USM Office, New Orleans, Fa	1	Eastern District of Louisiana.
USM Office, Dallas, Tex	1	Northern District of Texas.
USM Office, Jacksonville, Fla	1	Middle District of Florida.
USM Office, Utica, NY	1	Northern District of New York.
USM Office, St. Louis, Mo	1	Eastern District of Missouri.
USM Office, Miami, Fla	2	Southern District of Florida.
USM Office, Baltimore, Md	1	District of Maryland.
USM Office, Seattle, Wash	1	Western District of Washington.
USM Office, Sacramento, Calif	1	Eastern District of California.
USM Office, Salt Fake City Utah	1	District of Utah.
USM Office, San Diego, Calif	1	Southern District of California.
USM Office, San Francisco, Calif	1	Northern District of California.
USM Office, Portland, Oreg	1	District of Oregon.
USM Office, Phoenix, Ariz	1	District of Arizona.
USM Office, Omaha, Nebr	1	District of Nebraska.
USM Office, Oklahoma City, Okla	1	Western District of Oklahoma.
USM Office, Norfolk, Va	1	Eastern District of Virginia.
USM Office, Minneapolis, Minn	1	District of Minnesota.
USM Office, Milwaukee, Wis	1	Eastern District of Wisconsin.
USM Office, Louisville, Ky	1	Western District of Kentucky.
USM Office, Los Angeles, Calif	2	Central District of California.
USM Office, Little Rock, Ark	1	Eastern District of Arkansas.
USM Office, Indianapolis, Ind	1	Southern District of Indiana.
USM Office, Houston, Tex	1	Southern District of Texas.
USM Office, Greensboro, N.C	1	Middle District of North Carolina.
USM Office, San Antonio, Tex	1	Western District of Texas.
USM Office, Denver, Colo	1	District of Colorado.
USM Office, Chicago, Ill	2	Northern District of Illinois.
USM Office, Columbia, S.C	1	District of South Carolina.
USM Office, Cincinnati, Ohio	1	Southern District of Ohio.
USM Office, Charleston, W. Va	1	Southern District of West Virginia.
USM Office, Birmingham, Ala	1	Northern District of Alabama.
USM Office, Albuquerque, N. Mex	1	District of New Mexico.
USM Office, Anchorage, Alaska	1	District of Alaska.
USM Office, Jackson, Miss	1	Southern District of Mississippi.
USM Office, Asheville, N.C	1	Western District of North Carolina
USM Office, Atlanta, Ga	1	Northern District of Georgia.
USM Office, Boston, Mass	1	District of Massachusetts.
USM Office, Pittsburgh, Pa	1	Western District of Pennsylvania.
USM Office, Providence, R.I	1	District of Rhode Island.
USM Office, Kansas City, Mo	1	Western District of Missouri.
Total districts	41	
Total specialists	44	

[Exhibit 25]

STATEMENT OF SALVATORE R. MARTOCHE, ATTORNEY, BUFFALO, N.Y.

March 30, 1978

Chairman James Abourezk
United States Senate
Subcommittee on Administrative
Practice and Procedures
162 Russell Office Building
Washington, D. C.

RE: VIEWS OF MR. SALVATORE R. MARTOCHE,
ON THE FEDERAL WITNESS PROTECTION PROGRAM;
PUB. L. 91-452, TITLE V §501-504,
OCTOBER 14, 1974, 84 STAT. 933

Dear Mr. Chairman:

I thank this Committee for allowing me the opportunity to present my view of the Federal Witness Protection Program, a program with which I have had considerable contact. My experience with the Witness Protection Program emanates from personal contact with the operational aspects and effects of this Act on society generally and families and individuals in particular.

Prior to the Organized Crime Control Act of 1970, the Justice Department had virtually no statutory authority to engage in what now has been characterized as "witness protection" procedures. Even so, a strained construction of The Omnibus Crime Control and Safe Streets Act of 1968 allowed the Justice Department's Strike Forces to utilize "programs dealing with the prevention, detection and control of organized crime" and presumably to remove a felon from a state maximum security penal institution, change this convicted robber's identity and ultimately, in return for his testimony, release him into the mainstream of society with his new identity.

This is where my contact with the ad hoc Witness Protection Program began. This first transaction, a practice involving dubious legality, has since exploded into a multi-million dollar administrative folly. My reasons for this somewhat overt characterization will be evident as I continue.

On December 29, 1964, Pascal Calabrese, armed with a loaded gun, robbed the Treasurer's Office of the Buffalo City Hall, of $16,245.80 in cash and $282,884.50 in checks. On September 6, 1966,

after a conviction for this robbery, Calabrese was sentenced to jail. Prior to this conviction, his profession was that of a robber and a thief. After conviction, sentence and a short period of incarceration, the United States Justice Department used Calabrese's testimony to prosecute several Buffalo organized crime figures. Calabrese never returned to prison; he never served the bulk of his sentence. Rather, in return for his testimony, Mr. Calabrese's name and identity was changed to Patrick Angelo, by using false and forged documents. However, the Justice Department did not stop there. Calabrese had a girlfriend, Rochelle Leonhard, who had three children, Michael, Karen and Stephan Leonhard. Rochelle had been estranged from their father, and my client, Thomas Leonhard.

On August 15, 1967, after having changed the identities of Calabrese and Rochelle Leonhard and the three children, the Justice Department's Organized Crime Strike Force "relocated" this "household". Thereafter, from August 15, 1967, through July 4, 1975, my client attempted to enforce his visitation rights and custody rights, first informally, and then, in the Federal Courts (See Leonhard v. Mitchell, 473 F.2d 709 (2nd Cir., 1973), cert. den., at 412 U.S. 949).

For eight years, Thomas Leonhard tried to exercise his natural and legal rights to custody and visitation, but with no success. Prior to bringing suit on behalf of Mr. Leonhard, I attempted to informally arrange with the Justice Department some mutual method of remedying this situation, but was met only with statements of governmental and official immunity and a total and absolute lack of responsibility.

Throughout those eight long years, the Federal Government completely disregarded not only the rights of Mr. Leonhard, and the decree of the New York State Supreme Court giving Mr. Leonhard custody of his children, it also disregarded the health, safety and welfare of Karen, Michael and Stephan Leonhard.

During the Federal Court suit I brought to compel the Department of Justice to disclose the whereabouts of the Leonhard children, the Attorney General's position was that Mr. Calabrese and his "family" were under a constant danger of organized crime recrimination for Calabrese's testimony. In taking this position, the safety and welfare of the children, in being forced to live with a hoodlum, was not even considered. Further, in the ensuing years, I have learned that Calabrese worked for over a year as a bouncer in a Reno, Nevada, casino while allegedly hiding from organized

crime elements. In view of the extent of exposure to such elements in working in that position, it is inconceivable that Calabrese was ever in danger of reprisal. The suppositions of the Justice Department were based upon pure rumor and were never affirmatively substantiated before taking their position in formal court proceedings. The Department of Justice was concerned only with the future testimony and investigative fruits of Calabrese's continuing assistance as a possible witness without regard for the safety of my client's children. During those eight long years, Mr. Leonhard and his children were deprived of the following Constitutional rights: the rights of association, the right to raise and rear and be reared by the natural parent, the right of a family life, the rights of due process of law and equal protection of laws, the right to freely exercise one's religion, and the right of privacy. (See, e.g., Wisconsin v. Yoder, 406 U.S. 205; Stanley v. Illinois, 405 U.S. 641; Meyer v. Nebraska, 262 U.S. 390; Prince v. Massachusetts, 321 U.S. 158; Cleveland Board of Education v. LaFleur, 414 U.S. 632; Smith v. Organization of Foster Families for Equality and Reform, 431 U.S. 816; Pierce v. Society of Sisters, 268 U.S. 510, Griswald v. Connecticut, 381 U.S. 479; Roe v. Wade, 410 U.S. 113.) These constitutional rights of parent and child are natural rights of man and have been reaffirmed by the United States Supreme Court as recently as January 10, 1978, in Quillion v. Walcott, 98 S. Ct. 549 (1978) wherein the Court stated that "...the relationship between parent and child is constitutionally protected..." (at 554) and "...legal custody of children is of course a central aspect of the marital relationship and even a father whose marriage has broken apart will have borne full responsibility for the rearing of children..." (at 555).

The Justice Department's actions in the case of Mr. Leonhard and his children fully and completely ruptured the parent-child relationship and wholly disregarded their rights under the very Constitution these governmental agents are charged to uphold. The zealous prosecution of the organized crime cancer is the nobelest of ventures and an absolute necessity, but when zealous prosecution becomes overzealous, and fraught with a wanton disregard of an innocent individual's rights as are guaranteed under the Constitution of the United States, someone must be held responsible, some remedy must exist. Here, the only proper remedy was to allow Mr. Leonhard and his children to reunite; the Government wholly failed in its duties to its citizens in that regard.

One would normally conclude that after the Government's actions in the Leonhard case were recognized, problems such as these would become de minimus. However, one single blunder has become a complete fiasco; the first failure has erupted into a malignancy itself.

After the difficulties with Leonhard, and after passage of the Organized Crime Control Act of 1970: Pub. L. 91-452, Title V §501-504, on October 15, 1974, (84 Stat. § 933) the Attorney General was:

> "authorized to provide for the security of Government witnesses, potential Government witnesses, and the families of Government witnesses and potential witnesses in legal proceedings against any person alleged to have participated in an organized crime activity;"

and further was:

> "authorized to rent, purchase, modify, or remodel protected housing facilities to otherwise offer to provide for the health, safety, and welfare of witnesses and persons intended to be called as Government witnesses, and the families of witnesses and persons intended to be called as Government witnesses in legal proceedings instituted against any person alleged to have participated in an organized criminal activity whenever, in his judgment, testimony from, or a willingness to testify by, such a witness would place his life or person, or the life or person of a member of his family or household, in jeopardy."

The history of the passage of this Act and the scant reference in the House and Senate hearings to this provision suggests that the Attorney General, in representing this legislation to the House Senate Judiciary Committee, perpetrated a fraud upon Congress. John Mitchell, Will Wilson and Henry Peterson all must have known what was intended by the vague terms in the Act, such as: "otherwise offer to protect", "in his judgment", "member of his family or household". However, when questioned about them they never articulated this actual intent. Nowhere by the plain meaning of these terms in this provision can the Act be construed to allow the changing of a witness' identity, nor does it allow the removal of a convicted murderer from a state facility to federal "custody". Yet, the Department of Justice construes the words of this Act as a carte blanche authorization to change the identity of sentenced and convicted criminals and inject them back into the mainstream of society in exchange for their valued and often perjurious testimony. Nevertheless, the only intent of Congress in passing this piece of legislation was to provide for special housing facilities for the protection of Government witnesses.

Since the passage of Title V, tens of millions of dollars have been spent pursuant to the Act. This squandering of the taxpayer's money, also was never anticipated. Under P. L. 91-452, Title V § 504, as initially introduced in S-30, $1,000,000.00 was authorized to be appropriated. Mysteriously, after introduction, but before the passage of the Act, the specific amount was deleted and changed to read:

> "...this section authorizes the appropriation from time to time of such funds as are necessary to carry out the provisions of this title..."

Certainly, it was never contemplated that the original appropriation would mushroom into tens of millions of dollars.

Under the new Act, the Department of Justice and the United States Marshals have proceeded to follow in the footsteps of the Leonhard problems. Once the enabling legislation was passed, the Department of Justice and the United States Marshal Service quickly showed they had learned little from their prior mistakes in judgment. Time and again, the rights of innocent third parties were violated for the sake of expediency. Another client, Weston J. Frank, was confronted with a situation similar to that of Thomas Leonhard. Immediate contact was made with the appropriate Department of Justice officials to insure that Mr. Frank and his children's rights for a normal family relationship would not be undermined as had Mr. Leonhard's and his children's. In the Frank case, the Justice Department so valued the testimony of Joseph Lanavero, that they not only changed his identity, but also the identity of Mr. Frank's former wife (the former Mrs. Frank had remarried a step-son of of Lanavero) and Mr. Frank's children and the entire Lanavero family unit, including nephews, cousins, grandchildren, grandparents, step-children and others, and relocated them all. After serious and close scrutiny in court proceedings was given to assure that the Justice Department was bound to honor the agreement they were making with Mr. Frank, it became apparent that the United States Marshal's Service, even though itself a branch of the Department of Justice, did not consider itself bound in any way, shape or manner to the contract of the United States Attorneys. Further, Mr. Frank was placed under extreme pressure by the Rochester area and Monroe County Law Enforcement agencies not to make waves. He was deceived, intimidated and coerced all in an effort to have him abandon his efforts and go along. Apparently, it made no difference that he was a natural parent. He was only considered expendable. This situation directly controverts comments made by Gerald Shur that the Leonhard situation could never happen again.

These actions are an outrage. When in our country, a free citizen, convicted of no crime, can be stripped of his natural rights to raise and rear his children, so as to protect an organized crime witness, injustice prevails. Even an incarcerated criminal has been held to have the right to demand that prison officials allow him child visitation, see Mabra v. Schmidt, 356 F. Supp. 620 (S.D. Wis. 1973); Agron v. Montange, 392 F. Supp. 454 (W.D.N.Y. 1975); United States ex rel. Wolfish v. Levi, 406 F. Supp. 1243 (S.D.N.Y. 1976).

These two situations are typical of individual problems encountered by innocent victims of the Witness Protection Program. These two cases are not isolated instances of prosecutorial indiscretion; the very same situations occur time and time again. A Mr. Eugene Grossman of New York City has also become a childless Witness Protection Program victim. The reason for this very disturbing situation is that the Witness Protection Program is poorly run, loosely organized, devoid of guidelines and lacking a responsible official to whom the public may appeal. Mr. Gerald Shur, an Assistant Attorney General, who was in charge of witness protection, wrote to Mr. Leonhard once and stated that Leonhard should be proud of himself for allowing the United States to take his children as a sacrifice in our war against organized crime. I cannot help but wonder if Mr. Shur would also like to sacrifice his children involuntarily in this undeclared war.

Of equal significance is the phenomenon involving the types of witnesses, the types of criminal proceedings, and the types of testimony used by the United States Attorney in these cases. When a potential witness, who has been sentenced and incarcerated in a state penal institution, is brought to the attention of federal agents as having certain favorable testimony in a potential prosecution against organized crime figures, the inherent danger of perjurious testimony is obvious. A person in jail will usually do anything to get out, and all too often, a Government prosecutor who views a defendant as guilt-ridden will use this testimony, even suspecting such as fabricated. The Justice Department will confirm that convicted murderers incarcerated in state institutions have been removed from jail, and in return for their testimony in other prosecutions, recommended for clemency and/or pardons if the prosecution is successful. To allow a murderer to get away with his crime is unconscionable. This type of promise by our Government is a clear incentive for perjury; but even if the testimony is not perjurious, some very serious moral questions are raised in allowing one convicted criminal to go free or be placed in "federal custody" in order to convict another. These practices have been well documented by the press and by two novelists. The problems involving

Frank Angus Miele, Pascal Calabrese, Robert T. Brocato, Gerry Fiori, Raymond Resco, Anthony Marone, Jr., Raymond Freda, Gerald Festa, U.S. Marshals Leon Stacey and Angelo Bove, Gerald Zelmanowitz and Joseph Lanavero are typical of the situations the Justice Department encounters.

Repeatedly, when a protected witness gets himself into trouble with local or state law enforcement agencies, the Justice Department intercedes in order to protect these criminals from lawful prosecution. This is particularly true when these individuals are being used by Federal Law Enforcement Agencies in ongoing prosecution. Literally then, another example of special privilege and a quasi-immunity is offered to avert a witness's own criminal liability. The moral and legal implications of such conduct are obvious; this conduct cannot be condoned or tolerated. Further, in criminal prosecutions, federal officials consistently hinder defense attorneys' attempts to prepare for trial by refusing to disclose payments made and other promises offered to the witness in exchange for his testimony see U.S. v. Partin, 493 F. 2d 750 (1974); U. S. v. Devoe, 493 F. 2d 776 (1974); U. S. v. Howell, 514 F. 2d 710 (1975); U. S. v. Muckenstrum, 515 F. 2d 568 (1975). In Partin, supra, a defendant's conviction under the Hobbs Act was reversed after it was discovered after the trial that the witness and his family received over $26,000.00 while in "protective custody." This type of activity goes right to the heart of our Sixth Amendment.

One of the most serious abuses sanctioned by the Department of Justice in changing a criminal witness's identity and unleashing such a person on an unknowing society is that in doing so, in theory, the witness is given a clean slate, a fresh start and a new life with no past criminal record available to anyone. In reality, however, are we not still dealing with the same person? Many of these criminals have been convicted of serious and violent offenses. There can be no doubt that our Government has a duty to our society. We must be allowed to gain information about who we are dealing with. The potential for this type of misrepresentation has been well documented by Fred Graham in The Alias Program. The public has a right to know; the public has a right to protect itself.

The purpose of the Witness Protection Program as initially conceived was to protect the lives of witnesses, assure that justice is done, and control or attempt to control organized criminal activity. The former obstacles associated with detailed witness protection dictated that federal authority, federal-state cooperation and other concerted efforts would be required to provide for the protection of organized crime witnesses. When dealing with the criminal witness, however, the United States Attorney has failed to effectively segregate, control, protect and oversee the adminis-

tration of this process. A necessary element of effective protection includes the providing of a new name, job, documents, passports, identities, and complete relocation. Inevitably, when the criminal-witness who has ties with organized crime is dealt with, he has a violent and dangerous character coupled with an extremely extensive past criminal history. In such a case, the changing of this witness's identity, regardless of his favorable testimony in a criminal prosecution must be given the strictest of scrutiny.

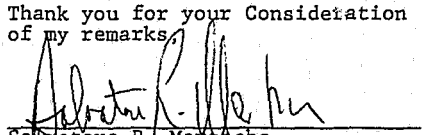
Unless the Department of Justice recognizes and places a premium on the rights of individuals, the rights of families, and the rights of the community, by minimizing infringement upon individual freedom and personal rights, these rights must be found to outweigh any criminal prosecution where a Federally protected witness's testimony is sought in evidence.

There can be little doubt that if this Program was administered effectively, efficiently and under strict control, it could be an extremely effective tool in protecting witnesses who choose to testify, and at the same time it could minimize the exposure to danger of violent retaliation from organized crime figures. Throughout these hearings, shortcomings in the effective training or specialized marshals who deal with protected witnesses, problems in program administration, and a clear delineation of authority within the Department of Justice regarding this program have been given center stage. The assertions, proposals and suggestions made heretofore fail to recognize that this Program has been operating under the partial Justice Department's administration for over eight years. In considering the past track record of the Justice Department, our government must demand that the closest scrutiny be given to the administration of Federal Witness protection proceedures. Therefore, I propose that this Committee consider the establishment of a permanent panel of impartial program overseers comprised of a number of citizens, government officials and state officials to monitor the Justice Department's administration of this Program. This detached, disinterested and impartial panel would inject a balancing system to cure or check against indiscretions, inepitude and mismanagement that has in the past been so typical in the Justice Department's cavalier handling of this Program.

Unless steps are taken immediately, in disclosing the amounts of monies expended, in curbing perjured testimony of the witnesses, in protecting the public at large, in securing individual rights, in identifying the responsibility and in establishing a permanent panel of impartial program overseers, the

Witness Protection Program must be eliminated. Unless these proposals are implemented immediately, the Witness Protection Program will become yet another dreary episode in the ponderous assault on freedom employing repression as a substitute for the Constitution, custom and reason.

Thank you for your Consideration of my remarks.



Salvatore R. Martoche
Attorney at Law
300 Statler Office Building
Buffalo, New York 14202
Tel. No. (716) 856-1010

[Exhibit 26]

Witness Protection Proposals of U.S. Marshals Service in Response to Justice Department Report and Subcommittee Hearings, March 29, 1978

UNITED STATES GOVERNMENT

memorandum

DATE: March 29, 1978

REPLY TO ATTN OF: Director, United States Marshals Service

SUBJECT: Witness Security Program

TO: John J. Twomey, Deputy Director
William H. Russell, Assistant Director for Administration
Julie P. Dubick, General Counsel
Frank W. Niland, Special Assistant to the Deputy Director
Arthur Daniels, Chief of Witness Security
John W. Cameron, Chief Inspector

After completing my review of the "draft" Report of the Witness Security Program Review Committee (March 1978), and after participating in the Senate Subcommittee hearing concerning the program on March 23, certain important steps seem necessary. I do not believe these initiatives should be deferred until the "draft" report is formally adopted by Department of Justice. It is my intention by these initiatives to re-affirm and strengthen the U.S. Marshals Service's commitment to the Witness Security Program.

1. To reduce the backlog of documentation, I intend to create, on a temporary basis for an initial term of four months, a separate Documentation Division under the supervision of Chief Inspector John Cameron, who will report to the Deputy Director. Mr. Daniels will designate one of his two specialists in this field to assist Mr. Cameron. The following other persons will be assigned to Mr. Cameron:

James Redpath
James Arendash
Joseph Robinson
Theresa Lewis

From the inception and during the duration of this temporary Documentation Division, Mr. Daniels will be responsible only for documentation required subsequent to January 1978, in addition to the normal responsibilities of his Division.

In addition, the Assistant Director for Administration will immediately proceed to fill three positions on Mr. Daniels' staff in the current Documentation Section and one position in the Headquarters Employment Section Staff. This should preclude any additional work backlog from taking place.

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

*U.S. Government Printing Office: 1976—241-630/3018

OPTIONAL FORM NO. 10 (REV. 7-76) GSA FPMR (41 CFR) 101-11.6 5010-112

SUBJECT: Witness Security Program

2. To assure this program is given the high priority it deserves, and to take every measure possible to guarantee its success, I wish to temporarily assign the Special Assistant to the Deputy Director to full oversight of all facets of Marshals Service participation in the program. The initial duration of this detail shall be for a term of four months. In this capacity, Mr. Niland will assume Marshals Service responsibility for liaison between the office of Mr. Gerald Shur, Attorney-in-Charge, Criminal Division; the Witness Security Division, USMS; and the newly created Documentation Division. He will report to the Deputy Director.

3. The Assistant Director for Administration will take all necessary steps, including the requirement of overtime, to assure that all job advertisements related to this program are expeditiously filled with no delays.

4. The Assistant Director for Administration will immediately convene a panel of all concerned to assure that priority training, with emphasis on employment, documentation, and social problems, is scheduled in the immediate near term as soon as the necessary training can be properly prepared.

In connection with the preparation of such training, it is essential that the views of senior witness security specialists be obtained and incorporated therein. It is also essential that the views of Mr. Daniels and his staff, Mr. Cameron, Mr. Niland, and Mr. Shur be so incorporated.

5. To keep fully abreast of all developments and improvements in this program, a weekly progress will be submitted by Mr. Niland to the Deputy Director.

6. The General Counsel will review the contents of the present witness general release form and modify as necessary.

I am confident that with the program outlined above the Marshals Service will be able to fulfill its responsibilities in the management and implementation of the Witness Security Program.

The Deputy Director should see that these initiatives are undertaken at once.

William E. Hall

WILLIAM E. HALL
Director

27-252 O - 78 - 16

[Exhibit 27]

U.S. Investigating 7 Inmate Murders at Atlanta Prison

[From Los Angeles Times, Apr. 6, 1978]

(By Ronald J. Ostrow)

Washington.—The director of the Federal Bureau of Prisons, alarmed by seven inmate homicides at the U.S. penitentiary in Atlanta, has named an investigative team to report on security at the institution.

The latest death resulted from the stabbing March 23 of William R. Zambito, 30, only 14 hours after Zambito, a drug dealer, began serving a seven-year sentence in prison.

Zambito had provided information to law enforcement authorities that led to the breakup of an organized crime ring in Florida's Dade County.

His death was the latest in a series of incidents that called into question the ability of federal authorities to protect gang figures who cooperate in prosecutions.

The Justice Department's witness relocation program has been criticized on that score and an organized crime "family" in Cleveland last year managed to obtain information from FBI files on a government informant who was later murdered.

The seven inmate killings at Atlanta, considered the second toughest federal institution—next to the one at Marion, Ill.—have taken place since January, 1977.

Norman A. Carlson, the Bureau of Prisons director, said Wednesday that he had appointed a five-man investigative team to "advise me as to what can be done to maximize security for offenders confined at the facility."

Jack A. Hanberry, the warden at Atlanta, was quoted by Bureau of Prisons officials here as saying that he had not been informed that Zambito would require protection.

Zambito's body was found by guards inside his cell at 6:30 a.m. after other prisoners had gone to breakfast.

A year ago, Zambito was charged with the 1973 murder of an alleged police informant, whose body had been found wrapped in chains in Biscayne Bay near Miami. But Zambito was not brought to trial on that charge.

Instead, he reportedly began to cooperate with the Dade County Organized Crime Bureau, providing information on the so-called Piazza gang. The information was said to have led to the arrest of 11 members of the underworld organization.

Zambito's testimony helped win a conviction of John C. Piazza III, alleged leader of the gang, on charges of cocaine smuggling.

[Exhibit 28]

Atlanta Prison Security Tightened After Killing

[From New York Times, Apr. 12, 1978]

Atlanta, April 11.—The warden of the Atlanta Federal Penitentiary said today that security was being tightened sharply as a result of nine killings in the last 17 months, some of them believed to be contract murders.

Warden Jack Hanberry said at a news conference that 39 more prison guards would be hired, metal detectors would be installed in prison corridors and the frequency of unannounced shakedowns of inmates would be increased.

He also said that the movement of inmates in and out of the prison would be more closely monitored to protect prisoners who might be targeted for death by organized crime.

The latest killing was that of Dominique Orsini, 55 years old, who was found yesterday in the stairwell of a prison dormitory. Mr. Orsini, a reputed major figure in the "French Connection" narcotics case, who was serving time for another drug case, was stabbed at least three times in the chest and his throat was cut.

Mr. Hanberry said that Mr. Orsini's cousin, Jean Orsini, was also an inmate at the prison and was put in protective custody "immediately" following the discovery of the body.

Also being investigated is the March 23 murder of William Rhett Zambito, an underworld figure slain within 24 hours of his arrival at the prison.

Mr. Zambito, 30, supplied crucial testimony to the federal authorities in Miami that led to indictments against 10 members of a drug ring. Because of that, Mr. Zambito was suposed to be held in protective custody in Atlanta. Instead, he was allowed to mix with the general prison population.

[Exhibit 29]

MEMORANDUM OF UNDERSTANDING

SENSITIVE INVESTIGATIVE MATERIAL

WITNESS SECURITY PROGRAM

UNITED STATES MARSHALS SERVICE

MEMORANDUM OF UNDERSTANDING

Distribution:
Original Copy - METRO
One Copy - Originating Witness Security Specialist
(Do not give copy to witness)

SENSITIVE INVESTIGATIVE MATERIAL

Revised 7/12/77

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MEMORANDUM OF UNDERSTANDING

INTRODUCTION - Under Title V of Public Law 91-452, the purpose of the Witness Protection Program is to provide for the security of Government witnesses and potential Government witnesses, and members of their families whose life or person is placed in danger by virtue of being a witness or intended witness in legal proceedings against any person alleged to have participated in an organized criminal activity. Protection and maintenance are not provided in return for testimony. This memorandum is not a contract or an agreement to provide protection or maintenance in return for testimony. This is not a contract for employment between the witness and the Government, nor a contract to secure employment. Participation in the Witness Protection Program is purely voluntary and a witness may terminate participation in the Program at any time. Moreover, since it is within the Attorney General's discretion to approve participation in the Program, the witness may be terminated from the Program when the Attorney General determines that the life or person of the witness is no longer in danger, or for other reasons deemed appropriate by the Attorney General or his representative.

This memorandum sets out the assistance which will be provided by the United States Marshals Service under the Witness Protection Program as well as the obligations of the protected witness. This memorandum and it's appendices, encompass all of the assistance which will be provided. Assistance not specifically contained herein, will not be provided by the United States Marshals Service, except as may be amended in writing. Investigative agents and government attorneys are not authorized to make representations concerning assistance which will be provided in effecting protection and relocation. Any representations made by such investigative agents or attorneys, which are outside those expressly prescribed herein, are made without authority and will not be honored by the United States Marshals Service. State all promises or agreements which have been made by investigative agents or government attorneys, concerning the Witness Protection Program.

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Initials of Adult Family Members

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Once designated by the Attorney General or his representative, protection of a government witness becomes the responsibility of the United States Marshals Service.

The security of each witness depends on the witness' cooperation as well as the cooperation of family members. Willful acts on the part of the witness or family members, which jeopardizes the witness' security, WILL BE GROUNDS FOR TERMINATION from the Witness Security Program since the Marshals Service will be unable to provide adequate protection. Such actions as returning to the danger area without United States Marshals Service protection or against instructions of United States Marshals Service personnel, and involvement in criminal activity will result in IMMEDIATE TERMINATION from the Witness Protection Program. Likewise, the United States Marshals Service WILL NOT SHIELD witnesses from civil or criminal litigation initiated prior to or subsequent to entry into the Program.

Government protected witnesses WILL NOT act as undercover informants or in other witness roles without the prior approval of the Assistant Attorney General who authorized their admission into the Witness Protection Program. If authorization is not received then the witness will be terminated.

When assistance has been provided to the extent that the witness' life or person is no longer in danger subsistence may be discontinued. It is, therefore, imperative that witnesses begin vigorously seeking employment as soon as possible. Security assistance is continuing in nature and future security problems should be brought to the attention of the United States Marshals Service for evaluation.

The attached documents must be read and completed.

A. SECURITY ASSISTANCE

1. The United States Marshals Service is authorized to make all decisions concerning security assistance. Unless deemed appropriate by the Marshals Service, a witness will not be protected at his/her pick-up location and the witness must be willing to relocate immediately. The relocation is necessary since the danger at the pick-up location may present serious security risks.

2. When deemed necessary by the Marshals Service, personal

Initials of Adult Family Members

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security will be furnished to the witness on a 24-hour basis when it is necessary for him or her to return to the place of danger to testify in court or converse with government attorneys in connection with preparation for trial, or at any other time when deemed necessary by the United States Marshals Service. Security will begin upon the witness' arrival in danger area.

3. The Bureau of Prisons will normally determine where prisoner-witnesses will be housed.

B. DOCUMENTATION ASSISTANCE

1. ONLY new documentation which is in the opinion of the United States Marshals Service, ESSENTIAL FOR THE WITNESS' SECURITY, will be provided. Fictitious or false records will not be provided and documentation will reflect only factual information. Bank references or credit histories WILL NOT BE PROVIDED. Certain verified information which is in the possession of the United States Marshals Service, may be provided after security considerations have been made. Special documentation needs must be brought immediately to the attention of the United States Marshals Service for their consideration.

2. The United States Marshals Service, by providing any documentation which reflects a new identity, has done so only for the witness' protection and security.

3. This documentation WILL NOT be used for fraudulent purposes and any obligations which may be incurred by utilizing this documentation are liabilities of the witness and not those of the U.S. Government.

C. RELOCATION ASSISTANCE

1. After authorization has been received, a witness will be relocated immediately from the danger area to an area determined by the United States Marshals Service. Normally, a witness is located to a temporary site for a short period of time, and may then be relocated to a second temporary site until the trial has ended. If permanent relocation is necessary, only one permanent relocation will be made at government expense. Subsequent permanent relocations will be at the witness' expense, unless the United States Marshals Service determines that the relocation is necessary for security reasons.

Initials of Adult Family Members

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2. The relocation of household goods will be made by commercial moving establishments selected by the United States Marshals Service. It should be noted that our prior experience indicates that commercial movers frequently damage furniture. It should be noted that the United States Marshals Service assumes no responsibility for damage or loss which may occur through the movement of household goods by commercial movers. Any claims for such loss or damage must be made by the witness with the commercial mover. The United States Marshals Service will provide assistance in forwarding the claim to the commercial mover in order to protect the witness' identity and location to the extent consistent with maintaining the witness' identity and location secret. The United States Marshals Service will pay for the movement of household goods.

3. Jewelry, monies (gold, silver, or currency), coin or stamp collections are not covered for insurance purposes by commercial movers. The witness must carry these items to the area of relocation. Consideration should also be given to carrying other items of extraordinary value.

4. Relocation of the witness (and family members, if applicable), will be by a mode selected by the United States Marshals Service.

5. Family members of prisoner-witnesses will not be relocated unless deemed necessary by the Assistant Attorney General. Such relocation may not necessarily be to the area where the prisoner-witness maybe located.

D. SUBSISTENCE ASSISTANCE

1. The United States Marshals Service has sole authority to arrange for the maintenance of protected witnesses and their family and/or household members.

2. The subsistence to be provided is determined by family size and geographic area, and is based on Bureau of Labor Statistics tables. Witnesses who are determined by the United States Marshals Service to be able to support themselves and their families, WILL NOT be furnished subsistence. Witnesses must immediately notify the United States Marshals Service of income received by them, household members, or held for their account. Witnesses may not receive both subsistence under the Witness Protection Program and statutory witness fees.

Initials of Adult Family Members

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3. The United States Marshals Service will assist relocated witnesses in obtaining housing in the new area. Rents shall be paid from subsistence allocated in Paragraph 2, above. Rents will be consistent with funds available based on Bureau of Labor Statistics tables. The housing may be in the form of detached homes, apartments, motel or hotel rooms, and may be located on government installations.

4. The United States Marshals Service will not purchase houses or other real property for witnesses nor will it act as a surety or guarantor for the purchase of such property.

5. The witness (and family, if applicable) will be eligible for emergency or major medical treatment at Public Health Service facilities during the time they receive subsistence. Arrangements for normal or routine medical treatment will be arranged by the local United States Marshal through private facilities. No cosmetic medical treatment is authorized.

6. Family members of prisoner-witnesses who are not relocated WILL NOT normally receive subsistence, since their ability to work is in no way restricted.

E. DEBTS AND RELATED LEGAL MATTERS

1. Attachment V. reflects all debts incurred by the witness or member of the witness' household. Arrangements must be made with creditors immediately, to settle all debts. Failure to do so will jeopardize participation in the Witness Protection Program since the United States Marshals Service WILL NOT SHIELD witnesses from legitimate creditors. Failure to settle debts may result in the disclosure of location to creditors. Additionally, creditors may resort to private investigators whose activities will seriously jeopardize the witness' security. In addition to debts, witnesses must list all property, personal or real, on which there is presently a lien, and the name of the person or entity holding such lien.

2. Witnesses may appoint private counsel to settle debts in their behalf. Payment of private counsel is the sole responsibility of the witness, and the United States Marshals Service assumes no responsibility for payment of private counsel. Witnesses may appoint private counsel to receive service of process in their behalf. If private counsel is not appointed, the witness hereby designates the General Counsel, United States Marshals Service, to receive and forward all process to the witness. The witness must then take those steps necessary to respond to said process. The United States Marshals Service will neither represent nor pay for private counsel to represent a witness' interest in such matters. No agency relationship

Initials of Adult Family Members

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of any kind is created by this Memorandum between the witness, members of his/her family, or any officer or employee of the United States Marshals Service. Under no circumstances will the General Counsel, United States Marshals Service, act as an agent for service of process for a witness or any member of his/her family. It is the responsibility of the witness to arrange for an agent to conclude ALL BUSINESS ARRANGEMENTS, such as the sale of a residence or business, prior to entering the Witness Protection Program. The United States Marshals Service assumes no responsibility for expenses incurred in concluding these arrangements.

3. All court orders which are directed to the witness must be immediately brought to the attention of the United States Marshals Service. Court orders which grant custody of minor children to persons other than a witness who is being relocated, will be honored and said minor children WILL NOT be relocated in violation of the court order. It is the responsibility of the witness to comply with or have amended or vacated, orders directing the payment of child support or alimony. Otherwise the United States Marshals Service may be compelled to pay these amounts from the witness' subsistence.

4. Should there be a dissolution of the witness' family structure, no element of the family will be provided subsistence above that described herein.

F. EMPLOYMENT AND TERMINATION FROM SUBSISTENCE

1. Acquisition of gainful employment is the responsibility of the protected witness. EACH WITNESS IS EXPECTED TO ACQUIRE EMPLOYMENT WITHIN SIXTY (60) DAYS FOLLOWING HIS OR HER PERMANENT RELOCATION. The United States Marshals Service will assist the witness in attempting to locate one job opportunity. The United States Marshals Service can give no assurance that a job opportunity which may be located, will be equal to the witness' last job in either type, prestige, or pay. If a job opportunity is secured, however, the witness is expected to accept the job. If the witness fails to accept this job opportunity, he or she will be terminated from subsistence.

2. Immediately after permanent relocation, the witness must begin actively seeking employment. While resumes or background histories will not be prepared by the United States Marshals Service, witnesses who need their employment backgrounds verified must contact the United States Marshals Service, who will advise the employer of the witness' background and criminal record, if any. The witness WILL NOT represent that he or she is an employee or consultant of the United States Marshals Service or any other government agency. False information will not be provided to potential employers. 18 U.S. Code,

Initials of Adult Family Members

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Section 912, provides for a fine of not more than $1,000 or imprisonment for not more than three (3) years, or both, for anyone who assumes or pretends to be an officer or employee of the United States and demands or obtains money or any other thing of value.

3. Family members of prisoner/witnesses who are not relocated will not normally receive subsistence, since their ability to work is in no way restricted. Relocated family members of witnesses who receive jail sentences and are incarcerated will be terminated from subsistence sixty (60) days after the witness goes to jail and the provision of (1) above will apply.

G. MAIL FORWARDING SERVICES

A. The witness acknowledges that the United States Marshals Service will only provide mail forwarding services for a period not to exceed one year after his/her last trial appearance.

B. The witness agrees to complete a "Change of Address Order" changing his/her mailing address to a Post Office Box Number used by the United States Marshals Service. The witness acknowledges that forwarding service will only be provided for letters or other written material contained in an envelope.

C. The witness acknowledges the necessity to terminate correspondence, where possible, with persons known prior to entry into the Witness Security Program for reasons of security.

D. The witness agrees to present all mail addressed to correspondents having knowledge of his/her identity prior to entry into the Witness Security Program to the United States Marshals Service for forwarding to insure confidentiality of his/her new identity and address.

Initials of Adult Family Members

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I. MOVEMENT OF HOUSEHOLD GOODS

A. The witness acknowledges that his or her household goods will be relocated only one time at government expense, unless otherwise determined to be necessary by the United States Marshals Service. Household goods will be relocated:

From_____

If the final relocation site is unknown, then household goods will be placed in temporary storage. If the witness desires to assume responsibility for placing household goods in long-term storage, then the cost of movement to permanent relocation site will be borne by the witness. The United States Marshals Service will handle security arrangements only.

B. The witness acknowledges that the move will be made by a commercial moving establishment and the United States Marshals Service assumes no responsibility for the handling and care given those goods by the moving establishment.

C. The witness acknowledges that any and all claims for loss or damage to household goods must be made with the moving establishment. These claims will be submitted through the U.S. Marshals Service in order to protect the witness' identity and location.

D. The witness acknowledges that jewelry, monies (gold, silver or currency), coin or stamp collections are not covered for insurance purposes and SHOULD NOT, therefore, be shipped with household goods. Likewise, the witness understands the risks involved in shipping other items of extraordinary value with household goods.

E. The witness acknowledges that household goods placed in storage by the United States Marshals Service and remaining in storage at the time the witness is terminated from allowances by the United States Marshals Service will cease to be the responsibility of the United States Marshals Service sixty (60) days following date of termination. The witness shall provide an address for delivery of household goods within sixty (60) days, or assume responsibility for payment of storage and subsequent delivery costs thereafter.

By:_____ _____
U.S. Marshals Service Witness' Signature

Date:_____ _____
Signature of adult family member(s)

Date:_____

11. MOVEMENT OF WITNESS AND/OR FAMILY MEMBER

A. The witness acknowledges that he or she and family members will relocate by the following means, as determined by the U.S. Marshals Service.

_____

(LIST MEANS USED SUCH AS COMMON CARRIER OR PRIVATELY OWNED VEHICLE)

Number of family members being relocated_____.

B. The witness acknowledges that the U.S. Marshals Service will pay the cost of common carrier transportation if used, or pay____cents per mile if movement is by privately owned vehicle. Motor vehicles with outstanding liens WILL NOT be moved out of state.

C. The witness acknowledges that before the U.S. Marshals Service will reimburse him or her for costs of food and lodging during such move, receipts must be presented to the U.S. Marshals Service. This reimbursement will be an account not to exceed $_____per day.

D. The witness acknowledges that travel between the relocated area and the place of trial, which is at the request of government attorneys, will be paid for by the U.S. Marshals Service. The mode of travel will be that selected by the U.S. Marshals Service. Before the U.S. Marshals Service will reimburse a witness for costs of food and lodging which may be incurred during such travel, receipts must be presented to the U.S. Marshals Service. This reimbursement will be an amount not to exceed $_____ per day.

WITNESSES HAVING FUNDS FROM OTHER SOURCES MAY NOT RECEIVE SUCH REIMBURSEMENT.

By:_____
U.S. Marshals Service

Date:_____

_____
Witness' Signature

_____
Signature of adult family member(s)

_____
Date

III. PETS

A. Care and feeding of pets is the responsibility of the witness and NOT the United States Marshals Service. Costs for boarding pets will be borne by the witness and witnesses must make such payment from their monthly subsistence.

B. The witness acknowledges that the United States Marshals Service will pay for the movement of pets as long as such movement can be accomplished by ordinary commercial means, such as by regularly scheduled aircraft, trains, etc. The United States Marshals Service assumes NO responsibility for the care and treatment of such pets while being transported.

Initials of Adult Family Members

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IV. STATEMENT OF OTHER SOURCES OF INCOME

The witness acknowledges that he or she must provide the United States Marshals Service with information concerning all sources of income received by them, household members, or held for their account.

AMOUNT OF INCOME	SOURCE	DATE RECEIVED OR ANTICIPATED

The witness acknowledges that information concerning other sources of income may determine the amount of subsistence which will be paid by the United States Marshals Service. Failure to provide this information or providing false information, may subject the witness to Federal criminal penalties under 18 U.S.C. 641.

By: _____
U.S. Marshals Service

Date: _____

_____
Witness Signature

_____
Signature of adult family member(s)

_____
Date

V. SUBSISTENCE PAYMENTS

A. The witness acknowledges that subsistence payments may be at a daily or monthly rate and the amount thereof will be determined from Bureau of Labor statistics tables. The method of payment will be determined by the United States Marshals Service.

B. The witness acknowledges that subsistence payments may end sixty (60) days after permanent relocation or upon obtaining employment.

C. The witness acknowledges that subsistence payments may be terminated sooner for reasons stated in the attached Memorandum of Understanding.

D. The witness further acknowledges that he/she must confine spending to the amounts of subsistence authorized and received through the United States Marshals Service.

By:_____
U.S. Marshals Service

Date:_____

_____
Witness' Signature

_____
Signature of adult family member(s)

Date:_____

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VI. OUTSTANDING DEBTS/LIENS

A. The witness acknowledges that the following debts are presently outstanding.

CREDITOR	BALANCE OWED
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

B. The witness acknowledges that outstanding liens exist on the following goods.

DESCRIPTION OF GOODS	LIENHOLDER	ADDRESS
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Have you ever filed for bankruptcy?_____.
If so, give name of court, location, and status of the proceeding.

By:_____
U.S. Marshals Service

Date:_____

_____
Witness Signature

_____
Signature of adult family member(s)

_____
Date

VII. OUTSTANDING COURT ORDERS AND APPOINTMENT OF PRIVATE COUNSEL

A. The witness acknowledges that the following court orders exist which direct him or her to perform the following acts.

COURT	ACTIONS DIRECTED	DATE

B. The witness acknowledges that he or she has appointed the below named person to receive service of process and act in his or her behalf in all matters, and that this person has been so notified and retained. THE WITNESS CONSENTS TO THE PERSONAL JURISDICTION OF ANY COURT IN WHICH A CIVIL ACTION MAY BE BROUGHT AGAINST HIM OR HER.

NAME	ADDRESS

C. The witness acknowledges that if private counsel is not appointed to receive service of process, the General Counsel, U.S. Marshals Service will receive and forward all process to him or her. The witness must then take those steps necessary to respond to said process. The Marshals Service will neither represent nor pay for private counsel to represent a witness' interest in such matters.

By: _____
U.S. Marshals Service

Date: _____

_____
Witness Signature

_____
Signature of adult family member(s)

_____
Date

VIII. RELEASE OF MEDICAL RECORDS

I DO HEREBY REQUEST THAT DR._____,
(Doctor's Name)
_____, _____,
(Street Address) (City)
_____, RELEASE TO A REPRESENTATIVE OF THE
(State and Zip Code)
UNITED STATES MARSHALS SERVICE (UPON PROPER IDENTIFICATION) A COPY OF ANY AND ALL MEDICAL RECORDS IN HIS/HER POSSESSION PERTAINING TO MY FAMILY AND MYSELF.

_____
(Signature)

_____
(Date)

NOTE: The witness shall complete this document and leave it in the package. Separate forms are to be completed for each doctor concerned.

IX. RELEASE OF SCHOOL RECORDS

I DO HEREBY AUTHORIZE AND REQUEST THAT _____
(School)

_____
(Location)

RELEASE TO A REPRESENTATIVE OF THE UNITED STATES MARSHALS SERVICE (UPON PROPER IDENTIFICATION) SCHOOL RECORDS PERTAINING TO MY CHILD _____.

_____
(Signature of Parent or Guardian)

_____
(Date)

NOTE: The witness shall complete this document and leave it in the package. Separate school releases are required for each child and school involved.

X. RELEASE FOR SOCIAL SECURITY INFORMATION

I DO HEREBY AUTHORIZE THE SOCIAL SECURITY ADMINISTRATION TO RELEASE ANY AND ALL INFORMATION REGARDING MY SOCIAL SECURITY APPLICATION TO THE UNITED STATES MARSHALS SERVICE.

ON MY BEHALF, I AUTHORIZE THE UNITED STATES MARSHALS SERVICE TO PROCESS, THROUGH THE SOCIAL SECURITY ADMINISTRATION, ALL LEGAL CLAIMS AND BENEFITS TO WHICH I AM ENTITLED.

_____
(Applicant's Signature (New Name)

_____
(Date)

Old Social Security Number:_____

NOTE: The witness and each family member shall complete this document and leave it in the package. The witness and each family member shall also complete an "Application for a Social Security Number" (Form SS-5) and attach to this package as described in USM Order on "Revised Identity."

If the witness or any member of his family cannot remember his old number, or if a member of the family is over 10 years of age and states that he has never had a Social Security number, provide on a separate piece of paper: True name, place of birth, mother's true maiden name, and father's true name.

XI. REVISED IDENTITY AGREEMENT

"THE UNDERSIGNED _____

HEREBY ACKNOWLEDGES THAT THE DEPARTMENT OF JUSTICE, BY PROVIDING ME WITH ANY DOCUMENTATION WHICH REFLECTS A NEW IDENTITY, HAS DONE SO ONLY FOR MY PROTECTION AND SAFEKEEPING. I UNDERSTAND THAT THIS DOCUMENTATION MAY NOT BE USED FOR MY OWN PERSONAL GAIN AND THAT ANY OBLIGATIONS WHICH I INCUR BY UTILIZING THIS DOCUMENTATION ARE MY LIABILITIES AND NOT THOSE OF THE UNITED STATES GOVERNMENT. I FURTHER UNDERSTAND THAT THESE DOCUMENTS REMAIN THE PROPERTY OF THE UNITED STATES GOVERNMENT AND MUST BE SURRENDERED AT ITS REQUEST. SUCH RETURN REQUEST WOULD BE PREDICATED UPON MY MISUSE OF THESE DOCUMENTS FRAUDULENTLY OR FOR PERSONAL GAIN."

_____
(Signature of Witness)

_____
(Signature of Adult Family Members)

_____

_____

By: _____ _____
(U.S. Marshals Service) (Date)

_____
(Date)

XII. REQUEST FOR COURT-ORDERED NAME CHANGE

I DO HEREBY REQUEST THAT THE UNITED STATES MARSHALS SERVICE OBTAIN FOR ME AND MY FAMILY A COURT-ORDERED NAME CHANGE.

(True Name)	(New Name)	(DOB)
(True Name)	(New Name)	(DOB)
(True Name)	(New Name)	(DOB)
(True Name)	(New Name)	(DOB)
(True Name)	(New Name)	(DOB)

(USE FULL NAMES, NO INITIALS)

_____
(Signature of Witness)

_____
(Signature of Adult Family Members)

_____

_____

_____

By: _____
(U.S. Marshals Service)
Date: _____

NOTE: Upon receipt of this form at METRO, a decision will be made on whether a name change is required. If deemed appropriate, a formal petition will be prepared and returned for additional signatures. It is important that this form be filled out and returned to METRO as soon as possible.

XIII. SUMMARY

The witness acknowledges having read and understood the foregoing Memorandum of Understanding and accompanying Subsections consisting of twenty (20) pages. All provisions of the Witness Security Program are contained in the foregoing twenty (20) pages. A copy of this Memorandum is not being furnished the witness for security reasons. However, this document may be reviewed by contacting the United States Marshals Service. No amendment to this Agreement is effective and binding unless approved by the Chief, Witness Security Division, and Legal Counsel, United States Marshals Service.

_____
(Signature of Witness)

_____
(Signature of Adult Family Members)

_____

_____

_____
(Date)

By: _____
(U.S. Marshals Service)

Date: _____

[Exhibit 30]

Letter From Senator James Abourezk to Benjamin R. Civiletti, April 19, 1978

JAMES O. EASTLAND, MISS., CHAIRMAN
JOHN L. MCCLELLAN, ARK.
EDWARD M. KENNEDY, MASS.
BIRCH BAYH, IND.
ROBERT C. BYRD, W. VA.
JAMES ABOUREZK, S. DAK.
JAMES B. ALLEN, ALA.
JOSEPH R. BIDEN, JR., DEL.
JOHN C. CULVER, IOWA
HOWARD M. METZENBAUM, OHIO
DENNIS DECONCINI, ARIZ.
STROM THURMOND, S.C.
CHARLES MCC. MATHIAS, JR., MD.
WILLIAM L. SCOTT, VA.
PAUL LAXALT, NEV.
ORRIN G. HATCH, UTAH
MALCOLM WALLOP, WYO.
FRANCIS C. ROSENBERGER
CHIEF COUNSEL AND STAFF DIRECTOR
SUBCOMMITTEE
JAMES ABOUREZK, S. DAK., CHAIRMAN
JOHN C. CULVER, IOWA
JOSEPH R. BIDEN, JR., DEL.
PAUL LAXALT, NEV.
STROM THURMOND, S.C.
IRENE R. MARGOLIS
CHIEF COUNSEL AND STAFF DIRECTOR

United States Senate

COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON
ADMINISTRATIVE PRACTICE AND PROCEDURE
WASHINGTON, D.C. 20510

April 19, 1978

Mr. Benjamin R. Civiletti
Acting Deputy Attorney General
Department of Justice
9th and Constitution Ave., N.W.
Washington, D.C. 20530

Dear Mr. Civiletti:

In the course of the Administrative Practice and Procedure Subcommittee's investigation of the Witness Protection Program, some disturbing information regarding the activities of relocated witnesses in Orange County California has come to our attention.

As you are aware, several protected witnesses and the son of one of the protected witnesses have been accused of the October 22, 1977 gangland-style murder of a man in Newport Beach, California. According to information supplied to the Subcommittee, the witnesses were not relocated originally in California, but assembled there on their own initiative after meeting in a safehouse in New York, where they were being housed while testifying in various trials.

Donald McPherson, an Inspector with the U.S. Marshals Service in California told the Subcommittee that, shortly after he was assigned to California (around April 1977) he received intelligence information from Orange County officials regarding these witnesses. He was told that the witnesses were in touch with each other and were involved in illegal activities as a group.

Inspector McPherson notified the Witness Security Division Headquarters in Washington of this information, expecting that some action would be taken. In fact, Inspector McPherson claims he sent several written memos to headquarters, as well as, a tape casette of an interview with one of the witnesses in order to prompt Headquarters' action. To his knowledge nothing was done and of course last October the Witnesses were arrested for murder.

Letter to Mr. Benjamin R. Civiletti
page two

At our April 14 hearing on the program I raised the issue with William Hall, Director of the U.S. Marshals Service and Arthur Daniels, Chief of the Witness Security Division. Mr. Daniels said he did not recall that headquarters had been notified of their criminal activities, and that none of the witnesses were active program participants in April 1977, so that there would have been no continuing contact with the Marshals Service at that time. However, Mr. McPherson told the Subcommittee that one of the witnesses still was receiving subsistence in April 1977.

Mr. Hall assured the Subcommittee that he would investigate the matter and report his findings to the Subcommittee. Because of the grave implications of this matter I felt it should be brought directly to your attention, so that you might determine what information the Marshals Service was provided about the illegal activities of these witnesses, when it received that data and what action it took or would have been appropriate for it to take under the circumstances.

I appreciate your attention to this matter.

Sincerely,

James Abourezk
Chairman
Subcommittee on Administrative
Practice and Procedure

[Exhibit 31]

Letter From Benjamin R. Civiletti to Senator James Abourezk, June 23, 1978

THE DEPUTY ATTORNEY GENERAL
WASHINGTON, D.C. 20530

June 23, 1978

Honorable James Abourezk
Chairman
Subcommittee on Administrative
Practice and Procedure
Committee on the Judiciary
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

This is in response to your letter of April 19, 1978 in which you inquired into actions taken by the Marshals Service with regard to the activities of several relocated witnesses. It has been alleged that these witnesses engaged in a pattern of organized illegal activity in Orange County, California, which culminated in a murder in Newport Beach, California in October 1977. Your letter indicates that your Subcommittee is under the impression that the Marshals Service Witness Security Division Headquarters in Washington was notified that these witnesses were involved in illegal activities in California prior to October 1977, but that nothing was done to stop them.

In late May 1977, Marshals Service Headquarters was notified of the arrest of a protected witness, Anthony Manfredonia, Sr., and his associate, Jack Napoli, for grand theft. The Marshals Service learned at that time that Manfredonia was involved in a fraud scheme, in which he and his associates promised to sell television sets to unsuspecting victims who paid them for televisions that were never delivered. That information was provided to Inspector McPherson of the Marshals Service by the Los Angeles County District Attorney's office. The Marshals Service received no information about any illegal activities of Manfredonia, Sr. or other protected witnesses in the Los Angeles area other than the television fraud scheme, although immediately after being arrested, Manfredonia and Napoli began to cooperate with the Los Angeles County authorities in their investigations of organized crime.

The murder to which you referred in your letter occurred in October 1977, when, to our knowledge, Manfredonia and Napoli were continuing to cooperate with Los Angeles authorities. The murder appears to have been an outgrowth of a dispute between factions of a Hare Krishna sect in the Los Angeles area, who apparently enlisted some former protected witnesses in their activities. None of the persons arrested for the murder was a protected witness who had been relocated to California. Two of the defendants had been relocated to other parts of the country, and moved on their own to California after being terminated from the program.

The only person arrested for the murder who had been relocated to California by the Marshals Service was Manfredonia, Jr., who himself was not a protected witness but who was moved to California along with other members of his family when his father entered the Witness Protection Program. Manfredonia, Jr. received no direct payments, but was one of the dependants for whom Manfredonia, Sr. was receiving subsistence. The payments to the Manfredonia family were terminated in November 1977.

At no time in their investigations of the television fraud scheme or of organized crime in the Los Angeles area did the Los Angeles authorities ask the Marshals Service for information about Manfredonia, Sr., Manfredonia, Jr. or others who might have been associated with them in illegal activity. The Marshals Service, the Criminal Division and the Federal Bureau of Investigation have established procedures to assure that vital criminal history information about protected witnesses is provided to law enforcement agencies who require it in connection with criminal investigations.

Very truly yours,

Benjamin R. Civiletti
by Judith Bar...

Benjamin R. Civiletti
Deputy Attorney General

[Exhibit 32]

DRAFT REPORT—DEPARTMENT OF JUSTICE WITNESS SECURITY REVIEW COMMITTEE, MARCH 1978

[The Justice Department emphasizes that this report is a preliminary draft which, as of October 15, 1978, has not been formally adopted by the Department. In this form the report represents only the views of the committee members.]

U.S. Department of Justice

DRAFT

REPORT OF THE WITNESS SECURITY PROGRAM REVIEW COMMITTEE

MARCH 1978

DRAFT

REPORT

OF THE

WITNESS SECURITY PROGRAM REVIEW COMMITTEE

MARCH 1978

Larry S. Gibson
Chairman

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SUMMARY OF RECOMMENDATIONS

Recommendation No. 1

Program Continuation. The Department of Justice should continue to operate and support a Witness Security Program that relies principally on the secret relocation of witnesses to places of safety and well being for them and their families.

Recommendation No. 2

Revised Eligibility Standard. The administrative order governing the Program should be amended to impose a witness eligibility requirement that the testimony of the witness is needed in an important case that is assigned high priority by the Department of Justice. Currently those priorities are organized crime, narcotics trafficking, public corruption, and white collar crime.

Recommendation No. 3

Program Entry Levels. To effectively administer the Program, entry into the Witness Security Program normally should not exceed 20 witnesses per month.

Recommendation No. 4

The Criminal Division Witness Security Unit. A central Witness Security Unit, independent of sections utilizing the Witness Security Program, should be established within the Criminal Division. This unit should be responsible for approving the entry of persons into the Program, maintaining follow-up records regarding protected witness' testimony, and compiling statistical reports to be used in reviewing the effectiveness of the Program.

Recommendation No. 5

Reduce Emergency Entry. There should be a substantial reduction in the use of emergency entry procedures by advance planning of entry of witnesses into the Program, careful screening of emergency authorization requests, continued use of temporary protection by investigative

agencies, and appropriate scheduling of grand jury and trial appearances.

Recommendation No. 6

Regulation of Travel Requests. The Executive Office for U. S. Attorneys, working in cooperation with the Criminal Division and the U. S. Marshals Service, should develop and publish in the U. S. Attorneys' Manual guidelines on travel by protected witnesses for the purpose of preparing or giving testimony, together with procedures to be followed by prosecuting attorneys in making such travel requests.

Recommendation No. 7

U. S. Marshals Service Security Contact. The U. S. Marshals Service should establish a 24-hour telephone notification system so that each protected witness has a number to call at all times in the event of a security emergency.

Recommendation No. 8

Equipment for Witness Protection. The U. S. Marshals Service should review the equipment and vehicles available to witness security personnel to insure that adequate weapons, vehicles, and protective equipment are on hand as required.

Recommendation No. 9

Housing Bank. The U. S. Marshals Service should develop a housing bank throughout the country,

into which relocated witnesses can be moved upon short notice. This should substantially reduce the time witnesses and their families spend in facilities designed for temporary occupancy.

Recommendation No. 10

Limits on Subsistence Payments. The U. S. Marshals Service, in cooperation with the Office of Management and Finance, should establish and enforce guidelines placing limits on the length of time a protected witness may receive subsistence payments. These guidelines should: (a) set a realistic goal for the normal termination of subsistence payments; and (b) provide for the granting of only limited extensions for cause.

Recommendation No. 11

Employment Assistance Responsibility. The administrative guidelines for this Program should be amended to specify clearly that it is the responsibility of the U. S. Marshals Service to provide assistance to protected witnesses in the acquisition of gainful employment.

Recommendation No. 12

Job Bank. The U. S. Marshals Service should establish a team of employment specialists charged with the responsibility of developing and maintaining a bank of potential jobs for protected witnesses, by making contact with employers throughout the country.

Recommendation No. 13

Documentation Assistance Responsibility. The administrative guidelines for this Program should be amended to specify clearly that it is the responsibility of the U. S. Marshals Service to provide identifying documents for protected witnesses whose identities are changed for security purposes.

Recommendation No. 14

Documentation Staff. The staff of the U. S. Marshals Service responsible for obtaining documents for relocated witnesses should be substantially increased so that adequate documentation can be provided to witnesses and their families in a timely fashion.

Recommendation No. 15

Explanation of Program to Witnesses. Copies of the Memorandum of Understanding should be placed in all U. S. Attorneys' offices. It should be the responsibility of one or more specially trained Assistant U. S. Attorneys in each office to explain the Program to witnesses, using the Memorandum of Understanding as in effect an application for admission to the Program. Comments should be limited to the provisions of that document. A representative of the U. S. Marshals Service -- preferably a security specialist -- should be afforded an opportunity to explain the Program more fully to a potential protected witness as early as is practicable.

Recommendation No. 16

Formal Complaint System. The U. S. Marshals Service, with the concurrence of the proposed Witness Security Program Review Board, should establish a system for receiving and handling complaints by protected witnesses.

Recommendation No. 17

U. S. Marshals Service Headquarters Staff. The Director of the U. S. Marshals Service and the Office of Management and Finance should review the headquarters staffing for the Witness Security Program and assign such additional personnel as are required to adequately manage this Program.

Recommendation No. 18

Contact Deputies. The U. S. Marshals Service should take such actions as necessary to provide continuity in witness contact. This might be accomplished by creating in the Service a separate witness security force that, in addition to normal Marshals' training, receives special training in witness work.

Recommendation No. 19

Social Workers. The U. S. Marshals Service should take immediate action to obtain by direct employment, intragovernmental arrangement, or contractual agreement the assistance of a staff of social workers in each district where witnesses are relocated to assist protected witnesses and their families in adjusting to relocation.

Recommendation No. 20

U. S. Marshals Service Records. The U. S. Marshals Service should issue and implement guidelines stating what documents should be maintained in case files at headquarters and field locations and should substantially improve its filing system.

Recommendation No. 21

Criminal Division Records. The proposed Criminal Division Witness Security Unit should maintain a file on each protected witness that includes information, as established by guidelines, necessary to discharge the Criminal Division's responsibilities relating to the Witness Security Program.

Recommendation No. 22

Standard Case Numbers. A uniform numbering system should be used in all files by both the Criminal Division and the U. S. Marshals Service.

Recommendation No. 23

Special Training. Special training courses on the Witness Security Program should be given to the U. S. Marshals and Deputy Marshals, FBI and DEA investigative agents, U. S. Attorneys and Assistant U. S. Attorneys and members of the Criminal Division.

Recommendation No. 24

Records of Criminal Convictions of Protected Witnesses. The Marshals Service should maintain records showing criminal arrests and convictions against witnesses actively involved with or previously relocated by the Program.

Recommendation No. 25

Unmanageable Witnesses. The U. S. Marshals Service should be able to object to the entry or continuation of a witness in the Program on the grounds that the anticipated financial costs, social costs, or management problems associated with the witness will substantially outweigh the prosecutorial advantage to be derived from the witness' participation in the Program. The U. S. Marshals Service should raise its objection first with the proposed Criminal Division Witness Security Unit. Should the U. S. Marshals Service and this Unit be unable to arrive at agreement, the matter should be referred to the Assistant Attorney General in charge of the Criminal Division, who will make a decision in consultation with the Director of the U. S. Marshals Service.

Recommendation No. 26

Required Follow-Up Data. The proposed Criminal Division witness unit should maintain detailed information regarding the prosecutorial benefits derived from each protected witness. This information should include the names of each case in which testimony is given, the type of case, the form of testimony (whether grand jury, preliminary hearing, or trial), convictions obtained, sentences imposed, and significance of case.

Recommendation No. 27

Witness Debriefing. Each witness should be thoroughly debriefed by law enforcement officials soon after entry into the Program to ensure that the Government makes maximum use of all of the witnesses' knowledge. To facilitate this, some witnesses might be temporarily housed in a secure area or a safehouse, while at the same time their families are permanently relocated.

Recommendation No. 28

Witness Security Program Review Board. There should be established in the Office of the Deputy Attorney General a Witness Security Program Review Board which would provide advice to the Deputy Attorney General with regard to:

- General Program oversight and coordination;
- Recommendations regarding major Program changes;
- Resolution of major differences between the Assistant Attorney General in charge of the Criminal Division and the Director of the U. S. Marshals Service with regard to program administration and operations.

This Board should consist of one representative each from the Office of the Deputy Attorney General, the Criminal Division, the Executive Office for U. S. Attorneys, the Office of Management and Finance, and the U. S. Marshals Service.

x

INTRODUCTION

Public Law 91.452 authorizes the Attorney General to provide for the security of actual and potential Government witnesses who are placed in jeopardy because they assist in criminal proceedings. The Department of Justice fulfills this responsibility through the Witness Security Program. Responsibility for the program currently rests with the Assistant Attorneys General of the Department's Legal Divisions and with the U. S. Marshals Service. A witness is admitted into the Program upon the approval of an Assistant Attorney General of one of the legal divisions. Security measures for the witness then are undertaken by the U. S. Marshals Service.

As of August 1977, more than 2,200 witnesses had been admitted into the Witness Security Program. By testifying in grand jury proceedings and trials, these witnesses have aided prosecutors in obtaining numerous convictions for serious violations of Federal law.

Growth of the Program has been rapid, both in terms of the number of witnesses protected and in financial expenditures by the Department of Justice. However, this rapid expansion has not been without its difficulties. Throughout its existence the Program has been plagued with administrative problems and has aroused considerable criticism. Questions have been raised

that go to the heart of the Witness Security Program: To what extent is it needed? Has it been effectively managed? What are the social and monetary costs? What is the impact of the Program on communities where witnesses are relocated?

This report presents the findings and recommendations of the Witness Security Program Review Committee which was created in July 1977 and given the task of assessing the Witness Security Program and making recommendations for its improvement.

In conducting its assessment, the Committee held hearings, interviewed and surveyed both witnesses and Program officials, and reviewed the written records of the Program.

The Review Committee concludes that, despite its shortcomings, the Witness Security Program has successfully performed its basic mission -- providing protection to witnesses in jeopardy because of their cooperation with the Federal Government in criminal cases. The Review Committee found wide agreement that there is a need for continued protection of certain Government witnesses, and the Committee itself concurs in that view.

There are, however, significant deficiencies in the existing Witness Security Program that must be remedied if the Program is to operate in an efficient and effective manner. This report presents 28 recommendations covering specific problems and issues found during the assessment.

The Review Committee believes that implementation of the recommendations will result in a stronger Witness Security Program.

PROGRAM PURPOSE AND EVOLUTION

Evolution of Witness Protection

Prosecutors and law enforcement agents have long recognized that witnesses who testify against certain individuals do so at serious risk to themselves and their families. The Kefauver Committee found in the 1950s that a major organized crime syndicate:

> . . .will eliminate anyone who stands in the way of its success and destroy anyone who betrays its secrets and will use any means available, including intimidation to defeat any attempt by law enforcement to interfere with its operation.

Law enforcement officials also have come to agree that the single most effective tool for prosecuting persons involved in organized crime is the testimony of insiders who decide, for whatever reason, to give information against their former associates.

Before the existence of a formal witness protection program, police officers, investigative agents, and prosecutors periodically aided witnesses whose cooperation with the Government placed them in jeopardy. The assistance varied from arranging for relocation to a new residence, to assisting in establishing a new identity or in obtaining employment. Often, the assistance was little more than a bus ticket to some distant location.

In 1967, the Task Force on Organized Crime of the President's Commission on Law Enforcement and Administration of Justice reported that no jurisdiction had made adequate provisions for protecting witnesses from reprisal in organized crime cases. To resolve the problem, the Task Force recommended that:

> The Federal Government should establish residential facilities for the protection of witnesses desiring such assistance during the pendency of organized crime litigation.

Congress responded to the Task Force recommendations in the Organized Crime Control Act of 1970, which provided for the funding of witness protection activities. Title V of the Act provides:

> Section 501. The Attorney General of the United States is authorized to provide for the security of Government witnesses, potential Government witnesses, and the families of Government witnesses and potential witnesses in legal proceedings against any person alleged to have participated in an organized criminal activity.

Title V of the Act also contains a specific provision authorizing the Attorney General to establish facilities for protecting witnesses and their families when, in the Attorney General's judgment, the witness' testimony or willingness to testify would place his family or household in jeopardy:

> Section 502. The Attorney General of the United States is authorized to rent, purchase, modify, or remodel protected housing facilities and to otherwise offer to provide for the health, safety and welfare of witnesses and persons intended to be called as Government witnesses and the families of witnesses and persons intended to be called as Government witnesses in legal proceedings instituted against any person alleged to have participated in an organized criminal activity whenever, in his judgment, testimony from, or a willingness to testify by, such a witness would place his life or person or the life or person of a member of his family or household, in jeopardy. Any person availing himself of an offer by the Attorney General to use such facilities may continue to use such facilities for as long as the Attorney General determines the jeopardy to his life or person continues.

The language of the statute clearly indicates that the Congress anticipated that the first security method would be to protect witnesses in secured facilities, known as "safehouses," during the period when they were in danger. However, the statute did not limit the Attorney General to the safehouse approach. It provided expressly that he was authorized "to otherwise ...provide for the health, safety and welfare of witnesses" and their families.

Safehouses often had been used by the intelligence community to debrief defectors and agents; and its application to the concept of witness protection seemed logical. In the late 1960s the U. S. Marshals Service employed safehouses to protect witnesses, most of whom were prisoners and had been moved from regular prison facilities. The effort to apply this approach to witnesses who were not prisoners proved to be unreasonably

expensive, inefficient, and not particularly effective from a security perspective. The locations of the safehouses were highly publicized and round-the-clock guards were needed. Furthermore, the safehouse model had obvious drawbacks for witnesses with families, especially those with children. The safehouse environment precluded normal family life.

As the limited value of safehouses for protecting witnesses who were not prisoners became increasingly apparent, the Department began to rely upon the relocation of witnesses as its principal security tool. It was simply more efficient and more beneficial to relocate a witness secretly than to provide round-the-clock protection at a known location.

Initially, the Criminal Division had primary responsibility for administering the Program. The necessary witness services, including job assistance and financial assistance, were performed by the Criminal Division staff, with the U. S. Marshals Service limited to supplying guards when a need for protection arose.

As the Witness Security Program developed, that division of responsibility between the Criminal Division and the U. S. Marshals Service had to be reevaluated. Questions were raised about the possible impropriety -- or at least the appearance of impropriety -- of prosecuting attorneys securing money for witnesses. Furthermore, program administration was becoming a considerable burden for the Criminal Division.

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It was therefore decided that the U. S. Marshals Service should be charged with the primary responsibility for the Program and given the authority to make expenditures for subsistence. The legal divisions of the Department retained the authority to place witnesses in the Program. However, once a witness had entered, security and maintenance were the responsibility of the U. S. Marshals Service. Although there have been difficulties associated with the allocation of functions, the Program continues to operate under this arrangement.

Continued Need for Program

There is almost universal agreement as to the need for some form of witness protection, especially in organized crime and narcotics cases. A recent Criminal Division report, Violence in Organized Crime, concludes:

> Because discouraging witnesses with the use of violence is such an effective tool for neutralizing law enforcement, the most cruel and inhuman torture before death is not uncommon. Those suspected of cooperating with law enforcement officials have been beaten, burned, blown up, shot, drowned, and/or garrotted. The hits are typically well planned and executed by professionals who leave few traces, and on the rare occasion where there are witnesses, as soon as the word goes out that it was a mob hit, the witnesses become very reticent. Hence, effective programs for protecting and relocating witnesses are essential if the criminal justice system is to work.

The same report notes an increase in violence associated with organized crime, and quotes the concluding remarks of a

protected witness before a Federal grand jury in Kansas City:

> "You people just don't realize -- you go home and you walk the streets and you see a beautiful city, which it is . . ., and you don't realize how bad these people are. You just have no idea. Not only my family (has been) ruined, they have ruined 50 families. I'm the first one that has even had enough guts to stand up like I'm doing now, and I don't know if I'll make it or not, but at least if they get me, I'm going to take some of them with me."

Another Criminal Division report that tabulates murders related to organized crime in the United States indicates that the victims in almost 10 percent of all such murders in the last four years were prosecution witnesses who were not included in any protection program.

The following are typical recent cases involving murder of witnesses, none of whom were in the Witness Security Program:

Bompensiero, Frank: Murdered February 22, 1977, while scheduled to appear before a Federal grand jury in Los Angeles concerning extortion in the pornography business.

Bowen, Harold: Murdered February 22, 1977. It is believed that Bowen upset the organized crime community when he testified before a Federal grand jury on a theft charge which involved a member of a criminal organization.

Delia, Ellen: Shot to death February 17, 1977, in Sacramento, California, where she had gone to give testimony concerning fraud and misuse of Federal and state funds in the operation of East Los Angeles Community Projects.

Delman, Gerald: Shot by an unknown assailant two days after being subpoenaed and two weeks prior to scheduled testimony in a gambling case in Las Vegas, Nevada.

Ota, Stanley: Shot to death November 17, 1976, in a public housing project. Two months earlier, Ota had been arrested for the sale of one pound of heroin to undercover Federal agents. Shortly after his arrest, there were widespread rumors that the crime syndicate had ordered his death because of the possibility of his cooperation with government authorities.

Gretch, Anthony: Gunned down February 14, 1975. He had turned state's evidence in a gangland killing of Louis Mariani in 1963.

Giancana, Samuel: Murdered in his Oak Park, Illinois home on June 19, 1975, prior to a federal grand jury hearing.

Rand, Tamara: Shot in the head November 9, 1975. Rand was a San Diego realtor. After being cheated in several potentially lucrative real estate transactions, Rand began compiling evidence for a judicial retaliation.

Wellman, Alan E. and his wife Renate: Murdered December 15, 1975, in their Sherman Oaks, California home. Alen Wellman was scheduled to testify in a Federal court in Philadelphia in January 1976.

Dubeck, John and wife: Murdered in courtyard of their Las Vegas apartment complex March 19, 1974. Dubeck was scheduled to testify the following week against several organized crime figures.

Fucillo, Joseph: Shot and killed October 17, 1974. Fucillo had testified against two major organized crime figures.

Other reports examined by the Review Committee showed a clear and distinct pattern of violence directed at informers and unprotected witnesses. One report, covering 50 narcotics-related prosecutions, showed 45 murders, 9 attempted murders, 9 threats of murder, and an assortment of other physical attacks.

Although the number of witnesses actually killed each year is not large, the Review Committee found convincing evidence that the danger to witnesses is real and serious. The Review Committee found no evidence that the risk to actual or potential

state and Federal witnesses had declined over the years, and there is some indication that such risks are increasing.

Consequently, the Review Committee concludes that there is no realistic and fair alternative to continued protection for witnesses. The choice is either to provide a Witness Security Program or to abandon efforts to prosecute the most dangerous criminals.

RECOMMENDATION NO. 1

Program Continuation. The Department of Justice should continue to operate and support a Witness Security Program that relies principally on the secret relocation of witnesses to places of safety and well being for them and their families.

ADMISSION STANDARDS AND PROCEDURES

Witness Eligibility

The statute under which the Witness Security Program was structured refers to cases involving alleged "organized criminal activity." Attorney General Griffin B. Bell recently defined organized crime as "...two or more individuals in common enterprise to commit crime for profit with the intent of the enterprise to perpetuate itself despite the loss of one or more of its members."

The administrative order governing the Program, Departmental Order OBD 2110.2, does not by its terms limit witness protection to "organized crime" cases. It sets out three conditions which must be met in order for a witness to be eligible for the Program:

(1) "The person is a qualifying witness in a specific case in process or during or after a grand jury proceeding;

(2) Evidence in possession indicates that the life of the witness and/or that of a member of the witness' family is in immediate jeopardy; and

(3) Evidence in possession indicates it would be advantageous to the Federal interest for the Department to protect the witness and/or a family or household member."

During the Program's early years, it was used primarily for witnesses sponsored by the Criminal Division's Organized Crime and Racketeering Section, with the other sections providing small percentages of protected witnesses.

Over the past few years there has been a steady increase in the percentage of witnesses admitted into the Program by the Division's Narcotics and Dangerous Drugs Section. This trend is evident in the following chart, which shows the section authorizing admission of each of the 200 sample cases examined by the Review Committee.

	1970	1971	1972	1973	1974	1975	1976	1977
Organized Crime	2	4	18	7	19	17	17	6
Narcotics	0	2	4	10	8	12	18	11
General Crimes	0	1	3	4	4	10	6	3
Other	0	0	3	2	3	0	2	1

By 1977, the Narcotics and Dangerous Drug Section was supplying the largest percentage of the witnesses. The 100 witnesses accepted between July 6 and August 19, 1977, reveal the following pattern:

	Number and Percent
Organized Crime	33
Narcotics	46
General Crimes	12
Other	9
	100

Although the Criminal Division must, for administrative purposes, distinguish between cases involving organized crime, narcotics, and other types of criminal activity, it is recognized that individual cases will not always fall neatly into a single classification. For example, a narcotics case frequently will involve some form of organized criminal activity. The same may be said about offenses falling under the jurisdiction of the General Crimes Section or Fraud Section or Public Integrity Section. Undoubtedly, witnesses in a wide variety of cases may be placed in very serious physical danger because of their testimony.

The Review Committee concludes that the underlying purpose of the Witness Security Program -- the protection from reprisal of key witnesses in important criminal cases -- is best served by the broad definition of organized crime reflected in the Attorney General's definition.

CONTINUED

3 OF 4

On the other hand, there is evidence that, because of expectations of prosecutors and investigative personnel, the Program is more widely available than it should be, given limited resources and established priorities. The Review Committee has concluded, however, that any necessary controls should be achieved through administrative procedures rather than through limiting witness eligibility based on the type of criminal conduct involved.

RECOMMENDATION NO. 2

- Revised Eligibility Standard. The administrative order governing the Program should be amended to impose a witness eligibility requirement that the testimony of the witness is needed in an important case that is assigned high priority by the Department of Justice. Currently those priorities are organized crime, narcotics trafficking, public corruption, and white collar crime.

Number of Witnesses

The 1976 audit of the Program by the Internal Audit Staff, Office of Management and Finance, noted the rapid rate at which the Program was growing. In fiscal year 1971, some 92 witnesses were admitted into the Program, along with 156 members of their families. The Internal Audit Staff noted that

a 500 percent increase in annual admissions had occurred by 1976, just five years later. They found that in fiscal 1975, 659 witnesses were admitted, along with 969 family members. The auditors recommended that DOJ Order OBD 2110.2 be revised to tighten the conditions for protection, in an effort to stabilize the size of the Program. Rapid growth, however, has continued.

Without a close examination of the cases in which these witnesses testified -- an impossible task, given the current state of the case records -- it cannot be determined whether this expansion is attributable to increased productivity or looser entry standards. The Review Committee heard conflicting opinions on this subject. Even if it is assumed that significantly increased prosecution efforts are responsible for the growth in the number of witnesses, the Review Committee finds that more witnesses are being admitted than can be effectively handled.

Some control is needed to facilitate budgeting, resource utilization, and adequate planning for witness services. Furthermore, control on entry is needed to encourage greater selectivity in use of the Program. Nevertheless, any mechanisms for controlling growth should be flexible enough to avoid impairing the Program's effectiveness.

RECOMMENDATION NO. 3

- Program Entry Levels. To effectively administer the Program, entry into the Witness Security Program normally should not exceed 20 witnesses per month.

Entry Decisions

Administrative Order OBD 2110.2 spells out the procedures to be followed for admitting a witness into the Witness Security Program. Briefly, they are:

-- Requests for protection of witnesses generally originate in the Offices of the U. S. Attorneys, Strike Forces, or legal division attorneys. Each request, in writing, should contain certain specified information to be sent to the Assistant Attorney General of the division concerned.

-- The Assistant Attorney General, or his designee, reviews the request and determines which persons meet the conditions for protection. If the Assistant Attorney General decides that a person meets the conditions, he approves the request for protection and notifies the Director, U. S. Marshals Service, by memorandum.

In practice, all but a few of the protected witnesses enter the Program upon approval of the Assistant Attorney General in charge of the Criminal Division. In approving the entry, the Assistant Attorney General acts upon the recommendations of the Deputy Assistant Attorneys General, who in turn act upon the recommendation of the chiefs of the various prosecuting sections, such as the Organized Crime and Racketeering Section.

The various sections handling witnesses do not process protection requests in any uniform manner. The procedures and personnel involved vary from section to section. In the Organized Crime and Racketeering Section, approval is handled by the Intelligence and Special Services Unit. In the Narcotics and Dangerous Drugs Section requests are handled by a different specialized staff. In the General Crimes Section, any staff attorney may make a recommendation to the Section Chief, who in turn forwards the recommendation to the Assistant Attorney General. Each section uses its own forms and maintains its own files.

The Review Committee finds that the lack of centralization in the admission process is a major Program deficiency. It leads to inadequate admissions screening, inconsistent admission

standards, disparate procedures, and confusion regarding the responsibility for admission. Placing the admissions authority within specific prosecuting units reduces the opportunity for objective judgment as to the value of a witness' testimony compared to the potential costs of admitting the witness into the Program. Decentralization has also made it difficult to monitor the entry process and to keep track of the benefits obtained from a given witness' testimony.

The Review Committee believes that the processing of witness protection requests should be centralized within the Criminal Division in a unit operating independently of the various prosecuting sections.

RECOMMENDATION NO. 4

- The Criminal Division Witness Security Unit. A central Witness Security Unit, independent of sections utilizing the Witness Security Program, should be established within the Criminal Division. This unit should be responsible for approving the entry of persons into the Program, maintaining follow-up records regarding protected witness'

testimony, and compiling statistical reports to be used in reviewing the effectiveness of the Program.

Regular/Emergency Entry

Administrative Order OBD 2110.2 spells out the procedures that normally should be followed when admitting a witness to the Program. It requires that the sponsoring attorney submit, along with his request for protection, a memorandum containing information needed to evaluate the protection request and to enable the U. S. Marshals Service to plan for protection and maintenance of the witness should the request for protection be granted. This information, which must be supplied three work days prior to the scheduled "pickup" of the witness, should consist of:

(1) Name, address, date and place of birth, FBI or police numbers of witness.

(2) Information and/or evidence to be supplied by the witness. (Involvement of witness in the crime.)

(3) Importance of case; name and importance of prospective defendant(s).

(4) All other cases, Federal or state, where the witness' testimony may be required.

(5) The names of individuals for whom witness protection has previously been approved in connection with the same case; also, the names of

any other individuals connected with this case who are likely to be placed under the Witness Security Program.

(6) Realistic estimate of the completion date of the trial(s).

(7) Degree of threat, including names of those who may threaten or harm the witness. Report from investigative agency substantiating the threat to the witness must be attached.

(8) Number of family and/or household members for whom funding is authorized (name, age, relationship).

(9) Assets and liabilities (property, loans, alimony, support payments, mortgages, bank accounts, pensions or other income, etc.)

(10) Medical problems.

(11) Employment data (education, job skills, past employment, and employability of family and/or household members).

(12) Whether witness is receiving or expects to receive money from other state or Federal agencies and, if so, how much.

(13) If witness is incarcerated, when release can be reasonably anticipated.

The Review Committee examined a number of witness files, and found that in several instances the information described above was not included in the memoranda requesting admission of the witness into the Program. Consequently, it appears that both the authorizing personnel in the Criminal Division and witness security personnel in the U. S. Marshals Service frequently have been called upon to make decisions and take action regarding witnesses without the information anticipated by OBD 2110.2.

This problem has been most acute when the witness entered the Program under the emergency provisions of OBD 2110.2. Under those provisions, an Assistant Attorney General or his designee may orally request the immediate protection of a witness when the circumstances are such that there is insufficient time to prepare a full supporting memorandum. The Order anticipates that the emergency protection will not exceed three days and that within that period the full documentation required under the regular admissions process will be supplied.

However, the Review Committee found extensive misuse of the emergency provisions. Far too many witnesses are admitted under so-called "emergencies." This problem has been increasing in recent years. By the end of 1974, 40 percent of the witnesses entering the Program were doing so under the "emergency" provisions. That ratio has now climbed to more than 60 percent.

In most instances the records fail to reveal why the regular procedures could not have been followed. The emergency authorization seldom is followed up by a written memorandum within the 3-day period called for by the Order. Moreover, the written memorandum, once received, usually fails to supply all of the required data.

Extensive use of the emergency entry procedures has had several negative effects on the Program: It prevents careful screening of applications for witness protection. It reduces the opportunity to set priorities for selection of witnesses to be protected. It requires the U. S. Marshals Service to assume responsibility for persons about whom it has inadequate information. It places undue strain on the witnesses and their families, and it increases the overall level of tension and frustration for everyone involved in the Program.

A review of some of the files in which the emergency procedures were used clearly revealed that, in most of the cases, a little advance planning would have permitted use of the regular, non-emergency process. Frequently, the witnesses had been involved with Federal investigators and prosecutors and their potential need for protection had been known for several weeks or months before their admission into the Program on an "emergency" basis. With sufficient determination on the part of administrators and policy makers, the number of emergency entries can be drastically reduced.

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RECOMMENDATION NO. 5

- Reduce Emergency Entry. There should be a substantial reduction in the use of emergency entry procedures by advance planning of entry of witnesses into the Program, careful screening of emergency authorization requests, continued use of temporary protection by investigative agencies, and appropriate scheduling of grand jury and trial appearances.

PROGRAM SERVICES

General Physical Security

Although all witnesses admitted into the Program presumably are in danger of death or injury from persons who would be adversely affected by their testimony, wide variation exists as to the source and degree of threat. Many witnesses are in danger even before their decision to cooperate with the Government. In fact, such fear may be a principal factor motivating a witness to cooperate with Federal authorities.

In examining specific files, however, the Review Committee found only sketchy data about specific threats faced by witnesses. This information, which the investigative agency is required to supply under OBD 2110.2, was seldom present. Undoubtedly, U. S. Marshals Service field personnel are given additional data beyond that documented in the files. Nevertheless, the file should include sufficient information about the danger to permit informed decisions about entry and development of suitable protection plans. When such information is missing, the protection provided by the U. S. Marshals Service -- at least initially -- necessarily will be standardized rather than tailored to meet specific threats.

Despite these shortcomings, when the Program is evaluated on the basis of its ultimate results -- prevention of physical attacks on witnesses -- it must be regarded as a success. As of August 9, 1977, a total of 2,225 witnesses had entered the Program, bringing with them an average of 2.5 family members apiece. Considering that many of these persons were being pursued by some of the most dangerous criminals in the country, it is highly significant that the records of the U. S. Marshals Service reveal only one documented case of an individual receiving assistance under the Program being murdered in reprisal for serving as a witness.

- Daniel La Polla (Murder - Explosives)

  On September 29, 1972, Mr. Daniel La Polla, an individual cooperating with, and being protected by, the Treasury Department's Bureau of Alcohol, Tobacco and Firearms, was murdered at his residence in Oneco, Connecticut. Although protected by ATF agents, La Polla was funded by the U. S. Marshals Service.

  Investigation by the Bureau of Alcohol, Tobacco and Firearms and Connecticut State Police disclosed that Mr. La Polla was killed by an explosive device when he opened the front door of his residence. The murderers were subsequently identified, resulting in their arrest and conviction in Federal Court.

The U. S. Marshals Service informed the Review Committee of two other protected witnesses who died under circumstances that might have been related to their role as witnesses.*

- Ernest Pacaro (Suspicious Asphyxiation)

  At approximately 11:00 a.m., April 12, 1975, the body of Mr. Ernest Pacaro was found on the floor of a garage in Las Vegas, Nevada, by Officer G. Davis of the Clark County, Nevada, Police Department. Pacaro's head was inside an open car door. The garage was black with smoke and the automobile engine was still hot as if the witness had just turned it off. Pacaro's hand prints were on the side of the car door and on the garage door, where he may have tried to get out. Three guns were missing: a .25 caliber, .38 caliber, and a .45 caliber. The Coroner's Report attributed Pacaro's death to suicide by asphyxiation. The Clark County Police Department suspects foul play.

- Roosevelt Richardson (Murder-Stabbing)

  On July 18, 1975, at approximately 4:30 a.m., Mr. Roosevelt Richardson, a government witness, was stabbed to death in Atlanta, Georgia. The Fulton County Medical Examiner's report stated the cause of death was multiple stab wounds. Richardson, an informant for the Drug Enforcement Administration in Philadelphia and Atlanta, had been relocated for his personal safety by the U. S. Marshals Service to Tampa, Florida. Investigation by FBI and DEA agents disclosed that the witness had returned to the "danger area" without the knowledge or consent of the U. S. Marshals Service.

In addition, Joseph Barboza, a well-known organized crime figure who had testified on behalf of the government, was murdered by shotgun blasts in February 1976, three months after his release from the California penal system. Barboza had cooperated with the Federal government prior to the establishment of the Witness Security Program and had received some services from the Program following its establishment. It is believed that the murder was related to Barboza's cooperation with Federal prosecutors.

Even if the two suspicious cases, those of Pacaro and Richardson, are accepted as security failures, and if the Barboza case is added, the mortality rate for protected witnesses is low: 4 out of more than 2,000 witnesses in the Program over a period of seven years. This level of protection was achieved in spite of the efforts of organized criminals with extensive resources and strong motivation to locate and harm witnesses.

Most of the protected witnesses surveyed by the Review Committee indicated satisfaction with the protection afforded. Of the 151 protected witnesses who returned anonymous questionnaires to the Review Committee, 119 responded "yes" to the question, "Have adequate security measures been taken to protect you and your family?" Only 23 witnesses answered "No" and 9 witnesses gave ambiguous responses.

The witnesses who complained of inadequate security usually cited inadequate attention to security measures during travel related to the Program, and a general decrease in protective efforts when a witness completes testimony and active assistance to prosecutors.

Although the Review Committee heard several anecdotes regarding security breaches -- some reportedly committed by personnel of the U. S. Marshals Service and some by witnesses themselves -- existing records did not permit the Review Committee to make an accurate assessment of the frequency of such security breaches. Neither the U. S. Marshals Service nor the Criminal Division maintains adequate records of security breaches. The improved record system recommended in this report should include all available information relating to the security breaches.

The Review Committee concluded, however, that both witnesses and Federal authorities engage in practices that unnecessarily jeopardize security. Some witnesses were paid informers before entering the Witness Security Program. Frequently, they remain in touch with friends and relatives in the danger area, usually by telephone. Through these contacts, witnesses often continue to provide investigative agents and prosecutors with information about ongoing criminal activities.

Although witnesses frequently return to the danger area without the knowledge or consent of Federal authorities, prosecutors and investigative agents sometimes unnecessarily require protected witnesses to return to danger areas. Such requests for return of witnesses are frequently handled by telephone and may require transcontinental flights, substantial expenditures of money and manpower, and the risk of exposure or compromise of a relocation site.

The Review Committee heard several complaints regarding security during such travel. There were complaints of witnesses not met at airports, of witnesses required to arrive at courthouses unprotected, and of witnesses escorted by inadequately-armed U. S. Marshals. Witnesses complained of lack of a round-the-clock telephone contact system to handle emergency security problems.

Although the Review Committee believes that the U. S. Marshals Service should review its security measures in light of these and other complaints, the Committee did not find major deficiencies in the quality of protection afforded witnesses and their families.

RECOMMENDATION NO. 6

- Regulation of Travel Requests. The Executive Office for U. S. Attorneys, working in cooperation with the Criminal Division and the U. S. Marshals Service, should develop and publish in the U. S. Attorneys'

Manual guidelines on travel by protected witnesses for the purpose of preparing or giving testimony, together with procedures to be followed by prosecuting attorneys in making such travel requests.

RECOMMENDATION NO. 7

- U. S. Marshals Service Security Contact. The U. S. Marshals Service should establish a 24-hour telephone notification system so that each protected witness has a number to call at all times in the event of a security emergency.

RECOMMENDATION NO. 8

- Equipment for Witness Protection. The U. S. Marshals Service should review the equipment and vehicles available to witness security personnel to insure that adequate weapons, vehicles, and protective equipment are on hand as required.

Relocation

Administrative Order OBD 2110.2 provides that:

> ...whether the witness is furnished protection or relocation to a place of safety is a matter solely within the judgment of the U. S. Marshals Service. The witness will normally be relocated to a place of safety, given a new identity and assisted in securing housing and employment in order to become self-sufficient.

Most protected witnesses are relocated, at least on a temporary basis. Of the 200 sample cases examined by the Review Committee, 27 were temporarily moved and 131 were permanently relocated. No relocation was involved in 41 of the cases.

Most of the complaints the Review Committee received regarding the relocation process concerned the use of temporary facilities. Before their permanent relocation, witnesses are frequently quartered in hotels, motels, and other facilities designed for short-term occupancy. These "temporary" arrangements frequently last for months and constitute very unpleasant living conditions. Transient quarters are typically small, provide no cooking facilities, and offer no exposure to community life. The undesirability of these arrangements is particularly acute when the witness is accompanied by family members. Often the witness and his family literally must live out of suitcases for several months.

Such long-term "temporary" arrangements result in large measure from inadequate efforts by the U. S. Marshals Service to develop permanent housing resources for relocating witnesses. With enough advance planning, it should be possible to anticipate the number of housing units needed and to arrange for most witnesses to be moved directly from their original places of residence to their new locations. In general, a family should not be maintained for more than two weeks in a temporary facility.

One by-product of the initial years of the Program is an imbalance in the geographical distribution of relocated witnesses. Initially witnesses were relocated to the place of their choice, provided it was an adequate distance from the danger area. This policy has produced concentrations of witnesses in certain areas of the country, particularly in those with warmer climates. The problem of maldistribution has been held in check by certain administrative measures that steer witnesses to a variety of locations and limit the number of protected witnesses moved into certain geographical areas.

RECOMMENDATION NO. 9

- Housing Bank. The U. S. Marshals Service should develop a housing bank throughout the country into which relocated witnesses can be moved upon short notice. This should substantially reduce the time witnesses and their families spend in facilities designed for temporary occupancy. Normally, a family should spend no more than 2 weeks in such a facility.

Financial Assistance

Under Administrative Order OBD 2110.2, the U. S. Marshals Service may authorize direct monetary payments to a protected

witness. These subsistence payments are intended to be used for food, clothing, and transportation while the witness is unemployed due to participation in the Program.

Subsistence payments account for the largest portion of direct expenditures on protected witness services -- about 45 percent. Of the 200 sample cases examined by the Review Committee, 162 witnesses had received subsistence payments, totaling $647,080, for an average of $3,944 per witness.

In addition to subsistence payments, the U. S. Marshals Service also may provide funds for housing and medical expenses. All of this is handled by the Witness Support Unit of the U. S. Marshals Service. The Office of Management and Finance in the Department of Justice establishes the maximum amounts which may be given to a witness in all three categories of assistance: subsistence, housing, and medical aid. The current rates are shown in the following table:

Number of Persons	Per Day Rate	Per Month Rate
1 to 3	$37.00	$1,108.00
4	39.00	1,170.00
5	41.00	1,233.00
6	43.00	1,296.00
7	45.00	1,359.00
8	47.00	1,422.00
9	49.00	1,485.00

However, most witnesses are not paid at the maximum rate. The exact amount of subsistence received is determined by the Witness Support Unit using a variety of factors, the principal one based on the cost of living in the area where the witness resides. In the most expensive areas a family of four may receive up to $1,170 per month. In the least expensive area the same family would receive a maximum of $952.00

The level of subsistence payments has aroused considerable discontent. Often witnesses complain that the amounts received are inadequate and impose much hardship on them and their families. The Review Committee believes that many witnesses are indeed seriously disadvantaged economically by virtue of their participation in the Program. The subsistence payments are often substantially less than the prior income of the witness. In addition, witnesses frequently suffer a loss of social status and an increase in personal debt as a result of relocation costs not absorbed by the Government. The Review Committee, however, does not at this time recommend major change in the procedures by which the levels of financial support are determined.

A witness' financial position is often severely effected by loss of credit rating -- an important asset in the contemporary environment of the United States. The Marshals Service could and should be undertaking more aggressive measures on behalf of protected witnesses to protect their credit standings.

There should be no direct relationship between continuation of subsistence payments and the giving of testimony, other than the extent to which testimony may preclude regular employment. All witnesses should be encouraged to become economically self-sufficient within a reasonable period, after which subsistence payments should discontinue. It is widely believed, however, that witnesses are entitled to subsistence payments as long as their testimony continues and that their subsistence payments must be terminated upon completion of their testimony. This often leads the witness to engage in delaying tactics, sometimes

with the cooperation of the prosecuting attorneys or investigative agents, which unnecessarily prolong the period of testimony and subsistence payments. One result is that some protected witnesses continue to be used in hearings and trials for years and receive subsistence payments during the entire period. The stated goal of establishing the witness' economic independence within 120 days of entry into the Program is seldom realized. Perhaps this is an unrealistic goal.

The U. S. Marshals Service does not maintain statistics showing how long witnesses generally remain on subsistence, but the information available to the Review Committee indicates that the average time is about a year. Many witnesses receive subsistence for much longer periods.

By far the shortest periods of payment are for witnesses enrolled by the Narcotics and Dangerous Drugs Section of the Criminal Division. Upon examination, the Review Committee found that this was the only section of the Criminal Division to establish a systematic follow-up procedure to determine when subsistence for a witness could be appropriately terminated. One employee performs this work full-time. Considering the savings in subsistence payments, the Committee believes this is a sound personnel investment.

RECOMMENDATION NO. 10

- Limits on Subsistence Payments. The U. S. Marshals Service, in cooperation with the Office of Management and Finance, should establish and enforce guidelines placing limits on the length of time a protected witness may receive subsistence payments. These guidelines should: (a) set a realistic goal for the normal termination of subsistence payments; and (b) provide for the granting of only limited extensions for cause;

Employment

The principal factor contributing to lengthy subsistence periods is the time that protected witnesses remain unemployed after entering the Program.

Unemployment among protected witnesses is a major problem in the administration of the Witness Security Program. Protracted periods of unemployment increase the overall cost of the Program, severely damage the morale and self-image of the witnesses, and retard the re-entry of the witness into normal society.

Many interrelated factors contribute to this problem. Witnesses often have little legitimate work experience at the time they enter the Program. Furthermore, the employment available to them where they are relocated is quite often unattractive and

relatively low-paying. The process of acquiring a job is complicated by the fact that witnesses cannot give a prospective employer the usual detailed statement of personal background.

Administratively, there is confusion about who bears the principal responsibility for securing employment for protected witnesses. Administrative Order OBD 2110.2 seems to place the principal responsibility on the witness himself. It provides:

> ". . . Acquisition of gainful employment within 120 days of acceptance into the Program is the responsibility of the protected witness. Job assistance, when necessary, will be provided by the Witness Security Division of the U. S. Marshals Service, but will be limited to assisting the protected person in locating one reasonable job opportunity. If this job opportunity is refused, maintenance may terminate immediately. If a reasonable job opportunity cannot be developed within 60 days following the last court appearance, maintenance may be terminated."

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Nevertheless, many witnesses feel that the principal responsibility for obtaining employment should rest with the U. S. Marshals Service. They complain that the one solid commitment which was made to them prior to their entering the Program, other than protection, was that the Government would help them obtain jobs. The Administrative Order in its current formation is unrealistic and should be amended to more clearly spell out the Government's responsibility in providing employment assistance.

In practice, witnesses often receive little or no assistance from the U. S. Marshals Service in obtaining employment. The U. S. Marshals Service has not demonstrated a serious commitment to the employment effort. Less than one-third of the 200 sample witnesses had received any employment assistance at all. Only one employee in the central office of the U. S. Marshals Service has full-time responsibility for providing employment assistance to protected witnesses. Her work is supplemented by the efforts of the U. S. Marshals Service employees in the field, such as the contact deputies. However, their efforts are sporadic and only marginally effective. Too much depends upon the attitude of the individual contact deputy toward the Program and the witness involved. Furthermore, contact deputies are not trained as employment specialists.

No major program to acquire jobs for protected witnesses has been undertaken by the U. S. Marshals Service. An ad hoc effort was made at one time by the Criminal Division to make contacts with executives of national corporations through the Chamber of Commerce and to place the witnesses in jobs. Although that attempt met with some success, the U. S. Marshals Service has not followed through to develop a job bank for protected witnesses.

Because of the relationship between a witness' unemployment and the amount of financial assistance required, the Review Committee believes that any expenditures for employment assistance will prove to be cost effective. It is estimated that a team of at least five full-time employment specialists will be needed to develop an adequate job bank to handle the existing and future protected witnesses.

RECOMMENDATION NO. 11

- Employment Assistance Responsibility. The administrative guidelines for this Program should be amended to specify clearly that it is the responsibility of the U. S. Marshals Service to provide assistance to protected witnesses in the acquisition of gainful employment.

RECOMMENDATION NO. 12

- Job Bank. The U. S. Marshals Service should establish a team of employment specialists charged with the responsibility of developing and maintaining a bank of potential jobs for protected witnesses, by making contact with employers throughout the country.

Documentation

As part of its security measures for witnesses, the U. S. Marshals Service may assist a witness in establishing a new identity by obtaining for the witness new identification documents. Witness complaints of inadequate assistance in obtaining documentation are second only to complaints regarding employment assistance.

Witnesses enter the Program expecting to be provided with documents establishing a complete new identity. However, it often happens that very little documentation is provided, and those documents are usually received months after relocation has occurred. The absence of adequate documents creates security risks, frustrates efforts at finding employment, and impedes the establishment of a normal life in the new community.

Although witnesses expect rather extensive documentation to be automatically provided, Administrative Order OBD 2110.2, states that:

> ". . . documentation will not normally be undertaken without a legal name change. Due to cost and time requirements, only that documentation absolutely essential will be issued and such issuance shall be at the discretion of the U. S. Marshals Service. Bank references, credit cards, credit references and histories will NOT be provided."

In practice, rather little documentation is provided. Of the 200 sample cases, only 82 of the witnesses had received any documentation at all; and most of that was provided without the benefit of a change in the witness' legal name. Those witnesses who obtained some assistance with documents waited an average of 6.8 months before receipt of the first piece of identification. One result is that many relocated witnesses are apparently living under new names without documents provided by the Government. Whether identifying papers have been obtained from other sources is not clear.

The Review Committee found the documentation operation of the U. S. Marshals Service to be grossly understaffed. Only two people in the headquarters handle documentation for all the witnesses and their families, although witness security specialists and contact deputies in the field provide some assistance. It is simply impossible to provide a reasonably effective documentation service without additional resources.

The Review Committee was told that it is becoming increasingly difficult to obtain adequate documentation for witnesses, regardless of the amount of staff support. Many local and state government officials refuse to assist in the creation of new identities for protected witnesses. This reluctance arises from concern about the legality of such documentation practices and the possibility of civil liability to persons harmed by redocumented witnesses. Even U. S. Marshals Service personnel expressed reservations about the legality of the documentation process in the Witness Security Program.

Legislation has been introduced to amend the Organized Crime Act to specifically authorize the Attorney General to obtain documents in the process of establishing a new identity for a protected witness. It is anticipated that the legislative history will urge Federal, state, and local government agencies to continue their cooperation and assistance in this effort.

RECOMMENDATION NO. 13

- Documentation Assistance Responsibility. The administrative guidelines for this Program should be amended to specify more clearly that it is the responsibility of the U. S. Marshals Service to provide identifying documents for protected witnesses whose identities are changed for security purposes.

RECOMMENDATION NO. 14

- Documentation Staff. The staff of the U. S. Marshals Service responsible for obtaining documents for relocated witnesses should be substantially increased so that adequate documentation can be provided to witnesses and their families in a timely fashion.

Other Witness Services

In addition to protection, relocation, documentation, and financial assistance, witnesses receive a variety of other services from the Government. They are eligible for medical and dental treatment at public health hospitals. The U. S. Marshals Service acts as a conduit for necessary mail and other communications and also assists witnesses in working out problems with creditors. The Government assists in the transportation, storage, and disposal of household goods, privately-owned vehicles, and other personal property. There have been complaints of inadequate care being taken in discharging some of these functions. The Review Committee found that considerable efforts were being taken to correct many of these administrative problems.

Expectations of Witnesses

Witnesses constantly claim that commitments made to them by "the Government" are not kept. The alleged promises cover a variety of subjects, but most in some way involve money (e.g., obtaining for the witness specific kinds of employment, setting the witness up in a particular business, maintaining the witness on subsistence payments for a given length of time).

When pressed to identify "the Government," the witness may point to the investigative agent, the prosecutor, the U. S. Marshals Service, or the Criminal Division. Occasionally, the alleged culprit is some state or local law enforcement official or an employer of some Federal department other than the Department of Justice. Usually, the official involved denies that the promise was made. OBD 2110.2 states:

> ". . . Investigative agents and attorneys are not authorized to make representations to witnesses regarding funding, protection, or relocation. Neither are they authorized to make representations to prisoners/witnesses regarding where they will be housed. Those matters are for decision by authorized representatives of the U. S. Marshals Service only. Representations or agreements made without authorization will not be honored by the U. S. Marshals Service."

Requests for protection of witnesses generally originate in the offices of the U. S. Attorneys and the Strike Forces. Assistant U. S. Attorneys and Strike Force attorneys normally are contacted by an investigative agent who frequently has already discussed the Program with a witness who may later be accepted into the Program. Understandably the investigative agent's principal concern is the individual case or investigation for which the witness' assistance is sought. These preliminary discussions can lead to unrealistic expectations on the part of the witness.

The Director of the U. S. Marshals Service has advised the Review Committee that:

> ". . . A large percentage, if not a preponderance, of problems surrounding administration of the Program evolve around or emanate from promises, however well intended, made by persons outside the USMS over whom we have no control. In practically all cases, the Program participant is approved into the Program without prior notification or opportunity for USMS Witness Program personnel to meet with and explain the services provided. Invariably, after a witness enters the Program, he/she makes demands for fulfillment of promises made by others which are beyond the scope of our authority and in many instances are simply impossible. Consequently, the USMS or its personnel suddenly become the recalcitrants who refuse to fulfill the Government's "obligations." Much of this difficulty could be avoided by more direct communication between the involved agencies and involvement by USMS Witness Security personnel in briefings of witnesses prior to granting Program authorization."

The Review Committee finds that the "broken promise" problem is a serious one that must be overcome.

The Review Committee believes that sometimes improper promises are in fact made. On the other hand, it often happens that witnesses hear -- or remember hearing -- what they want to hear. Undoubtedly, there are also cases where witnesses simply make accusations they know are false.

The Review Committee hopes that the written Memorandum of Understanding put into use in July 1977 will eliminate this problem for new witnesses entering the Program. This 21-page document, prepared by the U. S. Marshals Service for the review and signature of each new witness entering the Program, spells out what services are to be provided to the witness by the U. S. Government and what is expected of each witness and family member. This Memorandum should eliminate most complaints generated by misunderstanding on the part of witnesses and their attorneys.

It is important that a potential witness be given the opportunity to review the Memorandum of Understanding while he still has a bona fide option as to whether to enter the Program. To accomplish this, procedures must be established to assure that all Departmental personnel who undertake to explain or offer the Witness Security Program to a potential witness do so on the basis of the Memorandum of Understanding. The Program should be explained to witnesses only by U. S. Marshals and Department of Justice attorneys who have received special training for the Program. No promises or commitments beyond that explicitly set forth in the Memorandum should be made by anyone other than Marshals Service personnel. 47

RECOMMENDATION NO. 15

- Explanation of Program to Witnesses. Copies of the Memorandum of Understanding should be placed in all U. S. Attorneys offices. It should be the responsibility of one or more specially trained Assistant United States Attorneys in each office to explain the Program to witnesses, using the Memorandum of Understanding as in effect an application for admission to the Program. Comments should be limited to the provisions of that document. A representative of the U. S. Marshals Service -- preferably a security specialist -- should be afforded an opportunity to explain the Program more fully to a potential protected witness as early as is practicable.

Witness Satisfaction

As part of its review, the Committee solicited the views of protected witnesses on their satisfaction with the Program. Two witnesses were interviewed by the full Review Committee. Other witnesses communicated directly with individual members of the Review Committee.

In addition, two mail surveys were conducted of protected witnesses:

- Witness Survey #1

  Questionnaires were distributed to 200 protected witnesses selected by taking roughly every 10th witness to enter the Program between March 8, 1972, and June 17, 1977. The mailing included a self-addressed stamped envelope which permitted the questionnaire to be returned anonymously. Of the 200 questionnaires distributed, 32 (16 percent) were returned.

- Witness Survey #2

  Questionnaires were distributed to 500 protected witnesses actively involved in the Program as of August 1977. This group had generally been in the Program for a shorter period of time on the average than those surveyed in Survey #1. There were 144 (29 percent) anonymous responses received.

The returns are informative and represent the first systematic attempt to obtain the views of protected witnesses regarding the Program. Five questions were asked and a space provided for elaboration In summary, the returns produced the following results:

(1) "Have adequate measures been taken to protect you and your family?"

	Survey #1	%	Survey #2	%
Yes	21	66	117	81
No	8	25	18	13
Other	3	9	9	6
	32		144	

Reasons given for inadequate security:

a. Government interest diminished after testimony completed.

b. Danger while incarcerated.

c. Witness was moved only a short distance from danger zone.

d. No Deputy U. S. Marshals were present during moves, transfers, and returns.

e. Family members were not protected as well as witnesses.

(2) "Have you or your family experienced problems under this Program which could have been avoided?"

	Survey #1	%	Survey #2	%
Yes	21	61	79	55
No	10	31	58	40
Other	1	3	7	5
	32		144	

Problems experienced:

a. Financial.

b. Documentation.

c. Employment.

d. Broken promises.

e. Poor explanation and guidance under the Program.

f. Movement of household goods.

(3) "Do you feel that this is a worthwhile Program?"

	Survey #1	%	Survey #2	%
Yes	29	90	130	90
No	1	3	4	3
Other	2	6	10	7
	32		144	

Reasons why worthwhile:

a. New lease on life, new start, new chance.

b. An alternative.

c. Protection.

d. Chance to help combat crime.

Reasons why not worthwhile:

a. Only good is for the Government.

b. Not fit for families.

(4) "If, when you entered the Program, you had your present knowledge about it, would you still have entered?"

	Survey #1	%	Survey #2	%
Yes	19	59	101	70
No	10	31	31	22
Other	3	9	12	8
	32		144	

Reasons for entering:

a. Gives a chance for a new start.

b. No new charges to face.

c. Chance to help Government.

d. No choice or best choice available.

e. Safety.

Reasons for not entering:

a. Requires a dependence upon inadequate support.

b. Bureaucracy operates inconsistently.

c. Promises not kept.

d. Too many sacrifices to make.

e. Financial problems.

(5) "What recommendations would you make for improving this Program?"

a. Keep promises.

b. Need personnel more concerned about welfare and problems of witnesses.

c. Improve system of financial assistance.

d. Provide a better explanation of program.

e. Tighten security.

f. Provide faster documentation.

g. Provide better employment assistance.

h. Provide better coordination between agencies, at headquarters, and within the Marshals Service.

Many of the witnesses gave very informative narrative statements in the space provided for comment after each question. The Appendix of this Report contains all such comments returned under Protected Witness Survey #1. The only difference between these comments and those from Survey #2 is that the first group -- which included larger numbers of older cases and a larger number of witnesses no longer on subsistence -- tended to be more cricial of the Program than the responses under Survey #2.

The Review Committee believes it is quite significant that, notwithstanding all the problems and criticisms the Program has faced, a clear majority of the witnesses in both surveys thought the Program was "worthwhile" and, given their present knowledge, would still enter the Program.

Complaints

There is no clearly defined procedure for protected witnesses to follow in voicing complaints about their treatment under the Program. The result is that the witnesses complain everywhere: to the local U. S. Attorney, to investigative agents, to the Criminal Division, to the local U. S. Marshal, to their contact deputy, to the U. S. Marshals Service headquarters, to their Congressional representatives, and to the press.

Frequently, witnesses pursue several avenues of complaint concurrently, so that two or more offices may be handling the same complaint, independently and without coordination. Often these various offices arrive at conflicting assessments of a complaint and adopt inconsistent approaches to its resolution. The witness may receive one commitment from the Criminal Division

and quite a different commitment from the U. S. Marshals Service. Undoubtedly, witnesses sometimes exploit this confusion and pit one Government office against another. Thus the present non-system produces misunderstanding, promises that cannot be kept, friction among Governmental units, and frustration for everyone involved in the Program.

A regular procedure should be established for handling the complaints of protected witnesses. The process should include appropriate appeal procedures.

Complaints regarding operational matters should generally be made in the first instance to the contact deputy or witness security specialist assigned to the case. If these persons are unable to resolve the matter, it should be directed to some designated official in the central headquarters of the U. S. Marshals Service.

Operational decisions that appear to involve prosecutorial considerations should be coordinated with the proposed Witness Security Unit in the Criminal Division. Complaints centering on the giving of testimony or connected in some way with trial preparation might be referred directly to the Criminal Division for a recommendation.

It is important that whatever complaint process that is established be made known to all future protected witnesses and to all current witnesses actively involved with the Program.

RECOMMENDATION NO. 16

- Formal Complaint System. The U. S. Marshals Service, with the concurrence of the proposed Witness Security Program Review Board, should establish a system for receiving and handling complaints by protected witnesses.

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ADMINISTRATIVE PRACTICES

Personnel

The headquarters unit of the U. S. Marshals Service responsible for the Witness Security Program is grossly understaffed. Not a single component of that operation, with the possible exception of the financial unit, has adequate personnel. The Review Committee believes that to some extent this is a consequence of a low priority having been placed on this Program by the U. S. Marshals Service.

In practical terms, much of the effectiveness of the Witness Security Program at present depends upon the 94 local U. S. Marshals and their deputies. Services that should be centrally provided, such as assistance in obtaining employment and documents, have fallen to the local level. This is unfortunate because the personnel and internal structure of the local U. S. Marshals offices are not suited to providing the needed witness services.

It is the general policy of the Marshals Service for deputy marshals to rotate among the various principal marshal functions, such as court security, prisoner transportation, process serving, and witness security. That policy is required in a few districts by union contract; in other districts, it is an operating procedure endorsed by the U. S. Marshal. The length of time an individual deputy marshal spends in a particular

assignment varies; the period is often as short as 90 days. Consequently, there is a constant change of contact deputies assigned to a witness. This produces certain real and imagined problems for witnesses, who complain that they have no one to talk to about their adjustment problems. Many witnesses have found that after they have developed rapport with a particular deputy marshal, that deputy is rotated into another job within the U. S. Marshals Service.

Some deputies apparently dislike working with protected witnesses. Several witnesses who responded to the Review Committee's questionnaire stated that deputy marshals treat them like criminals and are rude to them and unsympathetic to their families' needs. They complained that the marshals resent them and do not treat them in a dignified and compassionate manner. Some witnesses believe that the marshals resent the subsistence payments witnesses receive. On the other hand, many deputies want to be assigned witness work because it carries with it more possibilities for earning overtime than other deputy marshal assignments.

Even without rotation, it is doubtful that deputy marshals could be expected to cope with many of the problems associated with relocation. Although the Review Committee found many dedicated deputy marshals who had devoted extraordinary effort and energy to the Program, regular U. S. Marshals Service personnel are generally ill-equipped to handle the sensitive adjustment problems of the relocated witness. Specialized personnel are needed to handle much of the witness protection program, with the contact deputies essentially limited to providing security and physical protection

RECOMMENDATION NO. 17

- U. S. Marshals Service Headquarters Staff. The Director of the U. S. Marshals Service and the Office of Management and Finance should review the headquarters staffing for the Witness Security Program and assign such additional personnel as are required to adequately manage this Program

RECOMMENDATION NO. 18

- Contact Deputies. The U. S. Marshals Service should take such actions as necessary to provide continuity in witness contact. This might be accomplished by creating in the Service a separate witness security force that, in addition to normal Marshals' training, receives special training in witness work.

RECOMMENDATION NO. 19

- Social Workers. The U. S. Marshals Service should take immediate action to obtain by direct employment, intra-governmental arrangement, or contractual agreement, the assistance of a staff of social workers in each district where witnesses are relocated to assist protected witnesses and their families in adjusting to relocation.

Records

Recordkeeping has been a major management problem for the Program. Files are currently maintained in a number of places and are poorly organized and incomplete.

The U. S. Marshals Service Witness Security Unit maintains a file on each witness. The Organized Crime and Racketeering Section of the Criminal Division keeps another set of files, covering organized crime witnesses, along with many witnesses sponsored by other sections of the Criminal Division. The Narcotics and Dangerous Drug Section maintains separate files for witnesses it sponsors into the Program. Each set of files has its own separate numbering system, even though security considerations dictate that the use of personal names be kept to a minimum.

In general, no rhyme or reason seems to govern the content or organization of files. Individual files, with the possible exception of those maintained by the Narcotics and Dangerous Drugs Section, consist of disorganized collections of whatever material was acquired concerning a particular witness. In most instances it is impossible to reconstruct a coherent case history from the files.

The 1976 internal audit of the Witness Security Program commented on the poor recordkeeping of the U. S. Marshals Service:

". . . The U.S.M.S. needs to prepare guidelines covering the contents, location, and disposition of case files maintained for witnesses. Apparently, case files containing varying types of information about witnesses are maintained at headquarters and two or more field locations. At headquarters, many case files do not contain all the information required, whereas, at field locations, case files had more information than needed. The lack of information at headquarters hindered the efficiency and effectiveness of employees in providing services to witnesses. The information in case files at field locations could jeopardize the new identities and endanger the lives of witnesses being protected."

The Review Committee could find no evidence of significant compliance with these recommendations.

RECOMMENDATION NO. 20

- U. S. Marshals Service Records. The U. S. Marshals Service should issue and implement guidelines stating what documents should be maintained in case files at headquarters and field locations and should substantially improve its filing system.

RECOMMENDATION NO. 21

- Criminal Division Records. The proposed Criminal Division Witness Security Unit should maintain a file on each protected witness that includes information, as established by guidelines, necessary to discharge the Criminal Division's responsibilities relating to the Witness Security Program.

RECOMMENDATION NO. 22

- Standard Case Numbers. A uniform numbering system should be used in all files by both the Criminal Division and the U. S. Marshals Service.

Financial Operations

This Review Committee did not examine in detail the accounting and financial operations of the Witness Security Program. However, the information available to the Review Committee suggests that financial administration of the Program in the past four years has been generally good.

The Committee finds it significant that there have been very few allegations of misappropriation of government funds, although the operation of the Program necessitates the frequent handling of large amounts of cash by numerous employees throughout the country. In addition, the Program's continued expansion over the past few years has required considerable flexibility on the part of the financial staff of the U. S. Marshals Service.

The Review Committee is aware of certain specific allegations which have recently been made and are currently under investigation by the Office of Professional Responsibility of the Justice Department. These include accusations of U. S. Marshals Service personnel receiving improper gratuities, obtaining kickbacks from moving companies, and taking bribes to reveal witness locations. Although these are serious charges, there has been no indication of widespread financial abuse. A recent

internal audit entitled "Disbursement Functions at District Offices within the U. S. Marshals Service, " dated November 1977, supports this conclusion.

Training

The Review Committee found widespread misunderstanding about this Program among Department lawyers, investigators, and other Department of Justice personnel. There are widely held misconceptions about the purpose of the Program, how it operates, the role of the subsistence payments, the process for admitting a witness into the Program, and the services provided to protected witnesses.

RECOMMENDATION NO. 23

- Special Training. Special training courses on the Witness Security Program should be given to the U. S. Marshals and Deputy Marshals, FBI and DEA investigative agents, U. S. Attorneys and Assistant U. S. Attorneys, and members of the Criminal Division.

PROGRAM COSTS

Government Expenditures

Federal government expenditures for this Program fall into two broad categories: (1) direct program expenditures for specific protected witnesses; and (2) personnel compensation and other indirect support costs. Computing the first category was quite simple. Computing the latter proved most difficult.

Direct Program Expenditures

Direct program expenditures for protected witnesses are grouped administratively by the U. S. Marshals Service into nine categories:

(1) Subsistence Expense. Expenses for protected witnesses and their dependents for food, clothing, and personal care. (Approximately 45 percent of all direct expenditures.)

(2) Housing Expense. Expenses for protected witnesses and their dependents for utilities, telephone service, furniture, rent and house furnishing. (Approximately 27 percent.)

(3) Medical Expense. Medical and dental expenses incurred by protected witnesses and their dependents. (Approximately 5 percent.)

(4) Government Transportation Requests. Authorizations issued for the travel of protected witnesses and their dependents. (Approximately 5.4 percent.)

(5) Documentation Expenses. Expenses for changing identity of protected witnesses and their dependents, including name change, bith records, driver's license, car registration, and school and employment records. (Approximately .5 percent.)

(6) One-Time Relocation Expenses. Expenses for security deposit fees for housing, utilities, furniture, and essential miscellaneous household items and clothing needed due to relocation, and necessary housing and subsistence expenses for emergency relocation. (Approximately 5 percent.)

(7) Pretrial Conference and Trial Housing and Subsistence Expenses. Expenses of housing and subsistence for protected witnesses attending pretrial conferences and trials. (Approximately 2 percent.)

(8) Movement of Household Goods, Vehicles, and Mileage Expenses. Charges for the transportation and storage of household goods and privately-owned

vehicles, including mileage, for protected witnesses and their dependents. (Approximately 10 percent.)

(9) Safehouse Maintenance and Miscellaneous Expenses. Charges for maintenance of safehouses, and other expenses that cannot be specifically identified by object class code, for protected witnesses and their dependents. (Approximately .1 percent.)

Direct expenditures for the Witness Security Program have increased rapidly over recent years. In FY 1975 direct expenditures totaled $2,762,415. In FY 1976 and FY 1977, the amounts were $4,030,000 and $5,950,000 respectively. This represents an increase of more than 100 percent in just two years. The FY 1977 increase was a 47 percent increase over FY 1976. The current average annual cost per witness is $15,900 for direct expenditures. These direct costs are summarized in Table I in the Appendix.

Indirect Program Support Costs

While direct expenditures may be computed exactly, determining indirect support costs necessarily involves estimates. Although investigative agencies and local U. S. Attorneys offices provide some degree of support to this Program, the Review Committee's computation of indirect support costs is based only upon those costs accruing to the

U. S. Marshals Service and the Criminal Division. These estimated costs are reflected in Table II, and show for FY 1977 a total support cost of $5,725,150. The estimated annual cost per witness for Marshals Service and Criminal Division salaries and expenses is $15,300.

Although the total expenditures for indirect support services have remained relatively stable in recent years, the average number of work years per witness has been decreasing since the closing of the safehouses. Table III combines the direct program costs and indirect support costs for FY 1971 through 1977. It reveals that the rapid growth in the cost of the Program is principally attributable to increases in direct expenditures, particularly those for subsistence and housing.

It is likely that program costs will continue to increase. However, substantial increases in support staff, particularly for employment and documentation assistance, together with the initiation of careful screening processes, should keep growth and financial costs within reasonable limits.

Impact on Witnesses and Family Members

Although many witnesses report that the Program has benefited them by providing an opportunity for a "new start", the most immediate social consequence to witnesses and their families upon entry into the Program is general upheaval. For security reasons, witnesses are often required

to terminate their former lives abruptly and begin again in unfamiliar locations. Education is disrupted. Friends and relatives must be left behind. Those hardest hit by the relocation seem to be the spouses and children who, through no fault of their own, are denied communication with family and friends and required to find work and go to school in new environments.

Many witnesses placed in the Program have at one time been closely associated with persons involved in criminal conduct. The Witness Security Program may provide these participants with a "new lease on life" -- a way out of the criminal world. Yet it is also true that, for any witness and his family, the experience of relocation, however necessary it may be, is likely to be quite traumatic. The initial months of relocation are the most difficult. During this time the witness and his family ar totally dependent upon the personnel of the U. S. Marshals Service. At best, it is a difficult period of readjustment; at worst, a time of bitterness and frustration.

Many witnesses live in constant fear for themselves and for their families. They are so fearful of security breaches that the ordinary tasks of daily living, such as going to the grocery store, can become traumatic experiences. Sometimes security breaches are in fact committed by U. S. Marshals Service personnel. More often, however, the breach is caused by the witness himself or members of his family. A postcard or letter not sent through the established security channels,

a collect phone call to family or friends, or a slip in discussing a fabricated background with new neighbors and friends may cause legitimate concern regarding the family's safety.

As discussed earlier in this report, many witnesses enter the Program under emergency conditions. As a result, witnesses often sell homes under distress conditions and accept purchase offers at less than fair market value.

Loss of assets is often accompanied by a loss of credit standing due to inability to pay debts or to document a credit-worthy background. Some of these economic losses could be avoided if sufficient advance planning were devoted to the entry of the witness into the Program. Many witnesses could be processed into the Program before being exposed as cooperating witnesses; this would allow time for an orderly adjustment of their affairs.

Impact on the Community

The Review Committee finds that, despite certain well publicized incidents, the adverse consequences to the communities into which witnesses are relocated are generally minimal. Ours is a highly mobile society with all communities experiencing constant turnover of population. The Review Committee finds no evidence that the relocation of witnesses under the Program has materially affected the character of or risk to any community. The number of protected witnesses is simply too small to have such impact.

The Review Committee is aware of concerns which have been expressed regarding crimes committed by relocated witnesses. Every day thousands of crimes are committed in this country by persons with widely diverse backgrounds. Obviously some crimes are committed by persons who are or who have been protected witnesses. On occasion protected witnesses have abused their protected status to facilitate criminal conduct. Nevertheless, the Review Committee found no evidence that constituted a special threat.

Of the 200 witnesses included in the Review Committee's sample, approximately 15% had been arrested at least once since their entry into the Program. Some of the arrests were for offenses committed prior to their entry. Most of the arrests were for minor offenses and most have not, to date, led to convictions. It is not possible to determine at this point what the ultimate conviction rate will be, nor whether the arrest rate would have been different for the same group of people had they not entered the Witness Security Program. Of course it is not possible to know whether any of these witnesses will commit additional offenses in the future. Although they are assisted by the Marshals Service, protected witnesses are not in custody, are not on probation, and are not subject to the direction and control of the Marshals Service. Notwithstanding this, the Marshals Service could and should maintain better records of convictions obtained against protected witnesses.

At the community level, the most clearly documented impact of the Witness Security Program is on the community from which

the witness is removed. Particularly difficult problems often arise concerning a family member who has been left behind, such as a divorced parent who is unable to exercise his visitation rights to his relocated child, or a parent who cannot collect the child support payments the relocated spouse has been ordered to provide.

The most frequent community losses are sustained by creditors of relocated witnesses. Many relocated witnesses leave behind legitimate debts which become uncollectible and a loss to the creditor. Often creditors turn for assistance to the U. S. Marshals Service, which for security reasons cannot divulge the whereabouts of the relocated witness. Thus the creditor cannot undertake normal collection procedures. The Office of General Counsel of the U. S. Marshals Service spends much time acting as an intermediary between indebted witnesses and their creditors. Sometimes satisfactory arrangements are made, but creditors frequently suffer losses.

RECOMMENDATION NO. 24

- Records of Criminal Convictions of Protected Witnesses. The Marshals Service should maintain records showing criminal arrests and convictions against witnesses actively involved with or previously relocated by the Program.

RECOMMENDATION NO. 25

- Unmanageable Witnesses. The U. S. Marshals Service should be able to object to the entry or continuation of a witness in the Program on the grounds that the anticipated financial costs, social costs, or management problems associated with the witness will substantially outweigh the prosecutorial advantage to be derived from the witness' participation in the Program. The U. S. Marshals Service should raise its objection first with the proposed Criminal Division Witness Security Unit. Should the U. S. Marshals Service and this Unit be unable to arrive at agreement, the matter should be referred to the Assistant Attorney General in charge of the Criminal Division, who will make a decision in consultation with the Director of the U. S. Marshals Service.

Litigation

The financial and social costs generated by the Witness Security Program are reflected in litigation brought against the Government. The Review Committee was informed of at least 15 pending cases, some by protected witnesses alleging broken promises, negligence in transporting of household goods, or inexcusable delay in providing documentation. Non-witnesses have also brought suit against the Government, citing a variety of frauds and other wrongs allegedly perpetrated by protected witnesses and facilitated by their witness status. Other legal proceedings are simply collection cases brought by creditors seeking satisfaction of debts from the United States. Most of these cases remain under seal for security reasons.

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PROGRAM BENEFITS

Program-Related Convictions

The Review Committee attempted to determine the extent to which the testimony of protected witnesses has contributed to convictions of major organized crime figures and narcotics traffickers. Unfortunately, the Review Committee could not determine precisely the results of the trials in which protected witnesses have testified, because records showing the nature of the testimony and the trial or grand jury results for each witness are not routinely maintained.

Efforts have been made to reconstruct the prosecutorial benefits derived from protected witnesses. This essentially involved mailing questionnaires to the original sponsoring attorneys, in some cases years after completion of the legal proceedings involved. Only a few responses were received and information supplied proved not to be very useful.

While statistical information on the productivity of the overall program is lacking, there is clearly a high level of support for the Program among Federal prosecution officials in general. The Review Committee sent questionnaires to each of the 94 U. S. Attorneys offices and to each of the Organized Crime Strike Forces. The responses were unanimous as to the prosecutorial

value of the Program. As the Chief Attorney of the Boston Organized Crime Strike Force advised the Review Committee:

> "My professional opinion is that whether the measure is quality or quantity of defendants in a criminal case, the witness protection program is the most important and potent weapon to use against organized crime of all the tools Congress gave to law enforcement in the 1960's and 1970's."

The Attorney-in-Charge of the Cleveland Strike Force reported:

> "The Cleveland Strike Force has found the Witness Protection Program essential to the carrying out of our efforts against organized crime. Most of the more significant cases handled in this office have involved relocated witnesses."

High-ranking officials in the Criminal Division reported that they could not recall a single major case involving organized crime or narcotics which has been successfully prosecuted without the use of a protected witness.

Although useful systematic records are not available at any central point, U. S. Attorneys, Strike Force chiefs, and departmental attorneys were able to provide to the Review Committee impressive examples of the effectiveness of the protection program in individual cases. Typical protected witness cases reported to the Review Committee included:

1. Kansas City Strike Force

   - Mr. and Mrs. Jess C. Roberts' testimony in the United States v. James Duardi, et al., trial in November/December, 1972, resulted in the conviction of all six defendants. Just prior to his entry into the Program, witness

Roberts was shot several times by two of the defendants, who left him for dead. The case involved a bribery and prostitution conspiracy prosecution of Kansas City organized crime figures who were attempting to set up casino gambling and prostitution in a small Oklahoma resort town.

- Larry Eugene Williams and Michael Biatt testified in United States v. Michael Kattov, et al., a case involving four defendants, all of whom were convicted. The case involved the prosecution in March 1974 of a major cocaine distribution operation headed by two Kansas City, Missouri, Fire Department Officials.

- Robert Joseph Wright, Allen Garner, Raymond Toliver, and Richard Gile were protected during incarceration in connection with United States v. Anthony Cardarella. The case involved the prosecution of a local organized crime figure and reputed hit man for receipt, transportation, and possession of stolen merchandise.

- Anderson M. Jackson testified in United States v. James Jackson, et al., which involves six defendants, five of whom were convicted by trial in December, 1975; one pled guilty. The case involved a major Kansas City heroin distribution operation. The witness testified in spite of what was believed to be a serious threat to his life.

2. Los Angeles Strike Force

- James Joseph Canavari testified against Joseph A. Arieno, Jack Fineberg, and Howard Wayne Hirdlar concerning a fraud scheme involving the recording industry. Arieno, a significant organized crime figure, pled guilty and received a two-year sentence. Fineberg is an associate of Los Angeles organized crime figures and East Coast organized crime figures and is a well known con man operating planned bankruptcy fraud-type schemes. He received a total of eight years incarceration, five in the instant case, three for probation revocation. Hirdlar, a bank employee, was convicted of perjury.

- Harry Coloduras provided information resulting in conviction of several leaders of the Licata crime organization.

3. Newark Strike Force

- Michael Wolfe, Leonard Gross, and Sydney Yeskel were responsible for the indictment and subsequent conviction upon pleas of guilty of Michael B. Ricciardi, Charles Muccigrosso, and Angelo Vinci, for their violation of 12 U.S.C. 892, 894, 1962, and 371. Ricciardi is an associate of Angelo Bruno, while Vinci was a reputed member of the Angelo Bruno crime family.

- Lillian Greaves, who also pled guilty, was instrumental in the conviction of Frank DiGilio, brother of John DiGilio, Joseph Celso and Eugene Sangillo in connection with their conversion and forgery of stolen U. S. Savings Bonds.

- Michael Scarano and Thomas Cogar's testimony resulted in the conviction of Vincent Santa, Stanley Diamond, Morris Spiers, Pasquale DeFillipo and James DeFillipo, in connection with their violation of Title 18 U.S.C., Section 659.

- Anthony Cilli has provided information which resulted in the investigation and prosecution in the areas of loansharking and bank fraud and embezzlement. The information provided by Cilli was used by the U. S. Attorney's office to institute its bank fraud and embezzlement investigations which have in the last 18 months resulted in over 30 indictments and the convictions of in excess of 26 individuals for fraud against various banks within this State involving millions of dollars.

- Walter Scribner has testified in one Federal trial and two state murder trials. He has provided information to both the state and federal authorities that has been indispensible in the solution of at least two organized crime related murders.

- Gerald Festa testified in numerous Federal and state cases in the area of stolen goods, hijacking, extortion, and counterfeiting. He has perhaps been the most successful relocated witness in the history of the Newark Strike Force office.

4. Philadelphia Strike Force

- One of the most significant Philadelphia Strike Force cases that utilized witness protection was United States v. James Pox, et al. The case involved a large-scale Black Mafia heroin distribution network. The defendants were responsible for over 60 percent of the heroin coming into Philadelphia. After a lengthy one month trial wherein the government relied heavily on the testimony of a protected witness, all defendants were found guilty. The defendants received sentences of 30, 28, 21 and 15 years imprisonment respectively.

- Vincent Panetta was indicted for firearms violations and large scale loansharking and income tax violations. Largely through the testimony of a protected witness, Panetta was convicted in both the firearms indictment and the loansharking indictment. The protected witness testified in both cases and was particularly successful in explaining the details of the loansharking business including a $120,000 loan to a notorious black racketeer who was murdered in gangland style in 1973, two days after receiving the money from Panetta.

5. Fraud Section, Criminal Division

- The Fraud Section directly engaged in a program beginning in 1972 which relied heavily on the Witness Security Program for its success. At that time the Section was focusing on a group of professional white-collar offenders that operated on an international scale. Through prosecutions of key individuals, including Philip Wilson, Michael Strauss, Jack Axelrod, and others, the Section was able to secure evidence which was used effectively in the prosecution of an estimated 50 professional white-collar offenders.

> This project lasted for approximately 18 months during which time the Section was forced to place many of these witnesses under the Witness Security Program.

In the absence of systematic follow-up records, the Review Committee was unable to determine how many of the individual witnesses provided significant testimony resulting in convictions in high priority cases. It does appear, however, that most of the witnesses are providing useful testimony. Of the 200 witnesses in the Review Committee's sample, at least 144 had already testified before grand juries, trials, or both. In only 12 of the cases do the records affirmatively show the witness did not testify. Frequently this is the result of the entering of a guilty plea.

Without systematic follow-up, it is also impossible to determine what kinds of witnesses are most likely to be productive. Nor could the Review Committee determine the types of cases in which protected witnesses are most useful.

RECOMMENDATION NO. 26

- Required Follow-Up Data. The proposed Criminal Division witness unit should maintain detailed information regarding the prosecutorial benefits

derived from each protected witness. This information should include the names of each case in which testimony is given, the type of case, the form of testimony (whether grand jury, preliminary hearing, or trial), convictions obtained, sentences imposed, and significance of case.

Other Law Enforcement Assistance

All law enforcement personnel interviewed by the Review Committee stated that witnesses were handled too narrowly, for the benefit of specific cases only, and that law enforcement personnel were failing to obtain the maximum benefit from the protected witnesses' knowledge regarding a wide range of criminal activities. Witnesses entering upon the recommendation of Narcotics and Dangerous Drugs Section might not be questioned regarding their knowledge of other criminal conduct, such as counterfeiting or gambling. Witnesses are not routinely debriefed at the time they first enter the Program as to all criminal matters of which they have knowledge. In addition to the loss of potentially beneficial information, the absence of thorough debriefing often results in attempts to recall or locate protected witnesses once they have been relocated. This results in unnecessary expense, risk, and inconvenience to the witness.

RECOMMENDATION NO. 27

- Witness Debriefing. Each witness should be thoroughly debriefed by law enforcement officials soon after entry into the Program to ensure that the Government makes maximum use of all of the witnesses' knowledge. To facilitate this, some witnesses might be temporarily housed in a secure area or a safehouse, while at the same time their families are permanently relocated.

Rehabilitation

Although rehabilitation was not originally articulated as an objective, the Program does give many witnesses who have been involved in criminal activity an opportunity for a new start. Several witnesses commented to this effect in the questtionnaire they had submitted to the Review Committee. Most law enforcement personnel interviewed by the Review Committee shared the belief that the Program has a rehabilitative value. Most of the witnesses have not been in the Program long enough to permit any conclusions about long-term rehabilitation, but there are nevertheless clear indications that numerous witnesses and many more of their family members have generally improved their overall personal situations following entry into this Program.

ADMINISTRATIVE OVERSIGHT

Administration of the Witness Security Program is basically the responsibility of the U. S. Marshals Service, which is charged with providing for the security and maintenance of witnesses and their families. However, the U. S. Marshals Service does not have the authority to bring witnesses into the Program nor to take them out of it. That authority has been delegated to the Assistant Attorneys General of the Legal Divisions.

This division of responsibility between the U. S. Marshals Service and the legal divisions, particularly the Criminal Division, has produced several undesirable consequences. There is widespread misconception on the part of witnesses, the public, and members of the media as to who is responsible for what aspects of the Program. This confusion has led to a counterproductive adversarial relationship between the Marshals Service and the Criminal Division. The Review Committee was frequently confronted with allegations of Program mismanagement by one unit against the other.

The absence of clearly defined responsibility has precluded effective oversight and has inhibited coherent direction of the Program on a regular basis. The Review Committee recommends that differences between the Criminal Division and the U. S. Marshals Service

be resolved by the Assistant Attorney General, Criminal Division, in consultation with the Director, U. S. Marshals Service. However, there remains a need for a mechanism with authority to oversee the entire Program, to assure compliance with all applicable departmental rules and guidelines and to make recommendations if Program changes are necessary, as well as to reserve any major differences between the Assistant Attorney General in charge of the Criminal Division and the Director of the U. S. Marshals Service.

RECOMMENDATION NO. 28

- Witness Security Program Review Board. There should be established in the office of the Deputy Attorney General a Witness Security Program Review Board which would provide advice to the Deputy Attorney General with regard to:
  - General Program oversight and coordination;
  - Recommendations regarding major Program changes;
  - Resolution of major differences between the Assistan Attorney General in charge of the Criminal Division and the Director of the U. S. Marshals Service with regard to Program administration and operations.

  This Board should consist of one representative, each from the Office of the Deputy Attorney General, the Criminal Division, the Executive Office for U. S. Attorneys, the Office of Management and Finance, and the U. S. Marshals Service.

APPENDIX

APPENDIX A

Witness Survey No. 1 (PPWS)

As part of its assessment of the Witness Security Program, the Review Committee surveyed selected groups of witnesses. The following comments we submitted in response to a questionnaire sent by the Review Committee in its Witness Survey #1 to a sample of roughly every 10th witness to enter the Program between March 8, 1972 and June 17, 1977. Of the 200 questionnaires distributed, 32 (or 16 percent) were returned by the cutoff date of November 1, 1977.

The witnesses' comments are reprinted here verbatim, except for some spelling errors which have been corrected.

1. Have adequate security measures been taken to protect you and your family? Yes_____ No_____ Explain.

No. My name has not been changed, social security numbers are the same. Neither has no one else in my family. The information given by me on all jobs applied for has been true. At this rate, I might as well announce to the world my present locale, it wouldn't be hard to find.

* * * *

No. Because I think that I would not need that now as long as no one know where I am. I call up to New York every now and then and my wife said everything is going along fine but they are still living up there because I have not been able to find a steady income and they are getting welfare up there and I try to get welfare and food stamps but the people said I could not get them.

* * * *

Yes. During the period (1972) that I was a witness, the U.S. Marshals Office went to extremes to insure the safety of my family and myself. This included relocation from the east coast to the west coast.

* * * *

No. Protection was not provided for my family.

* * * * *

No. I'm not working, me and my family are in need, because after I was moved, they cut me off the Witness Security Program.

* * * *

Yes. However, the amount of money received is less than I am able to care for my family and our needs. I have a family of six people and with the cost of living we find it almost impossible to meet expensives. We cannot use credit and since we are new in this area we are not aware of the locations of bargains. ES. ?

* * * *

Yes. No security measures are fail-safe, but the Marshals did everything I could think of to protect our lives and secure and insure the safety of our families.

* * * *

No. Myself and my wife were told that if any help was needed that we would have to call the local police first, the Marshal Service second. To me if trouble did come it would be to late either way. However, moving us out of state did help somewhat.

* * * *

(Follow style throughout, separating each response with asterisks.)

No. We no longer consider ourselves under protection, however, numerous slipups occurred, which could have had serious results. Most of these were caused by human errors on the part of U.S. Marshals, bureaucrats, U.S. attorneys, etc. In general, I would say that govt. interest in our safety dropped sharply as soon as we had finished doing all the things the govt. wanted us to do for them. At one point we were even forced to go back to our home town, because of economic reasons, at a time when the person who had threatened our life had just been released from prison, and had told everyone he was going to get us. The fact that this person was suffering from a terminal illness, and had no fear of the consequences of his act made it even worse. The U.S. Attorneys Office at that time expressed its concern, but refused to do anything to help us. Our reason for returning home was that having lost my job in my new location, the only way remaining for me to earn a living was to return home and try to run the business of my father who had just passed.

XXXX

Yes. We have been re-located to a new area with a new identity. I feel that adequate measures has been taken.

XXXX

Yes. Footnote: Even though the Marshals Service did in fact provide initial protection when I first entered the program, this protection was almost compromised by the fact that after our re-location and repeated requests, they failed to provide the necessary documentation to support our new identities, i.e. birth certificates, school records etc. Some of these documents took 2 years in the coming.

XXXX

Yes. The Marshals seem very concerned and do all they can to help us. However, the few months we have spent the Marshal not only seemed indifferent but made us feel they were to busy to help.

XXXX

No. We were sent to another state where we were later dropped from the program. When my husband was sentenced they handed us $1500.00 and said lots of luck. We had to come back to where the danger was. I do not consider this adequate security. Do you?

XXXX

Yes. Security measures have been quite adequate. Since being relocated, I feel if we follow the program as it was laid out for us by the Marshals Service, we will be reasonably safe for a long time to come. I also feel that if there were a leak in security that it would probably be the fault of the witness and not that of the Marshals Service.

XXXX

Yes. I personally feel as though everything that could be done was done as far as security for myself and my family is concerned.

Yes & No. Obviously it wasn't too bad, we are still here. Basically the Justice Dept. did their job. The FBI prior to acceptance on the program, I felt there was a lot of room for improvement. Because of the FBI we had to leave one location, just one hour ahead of the bad guys.

* ***

Yes & No. The duplicitous answers shown above can only be explained by understanding that although in general security arrangements have been more than adequate they have resulted not from the program but from personal pressure applied by myself, my family and the dedication of a couple of marshals who have given of their own time. The inadequacy of arrangments and their substitute arrangements are as follows: 1. While testifying in front of grand juries or at trials, or at U.S. Attorneys offices, while incarcerated, I was placed in federal facilities although I have been specifically threatened with death if I was ever incarcerated in a federal jail. I had to sign myself into solitary confinement cells in county institutions for protection. The facilities were so bad that the warden would not let me stay in the cell without a letter of release from me. In the federal institutions, I was held in a public holding area even though my picture was in all of the local newspapers. When I was isolated for my protection, I traveled in a bus with other federal inmates who were imprisoned in the same facility. This was ironic, because I spent the nights in solitary so as to be away from the general prison population I traveled with them in a conveyance during the day. In a western state where I testified before a grand jury, I was isolated in a county holding tank (for drunks) where the temperature reached 100 degrees, where there was no showers, and I stayed there for four days. However, each day when I went to the courthouse, I was held in a public cell with other prisoners. 2. When I entered the program, it was agreed that nothing could be done for my eldest son who at that time was senior in law school. A change of name couldn't be affected for his school records and transfer to another law school was impossible. The local marshal agreed to keep an eye on him and his family which included a one year old baby. My son was threatened in an attempt to locate me. He asked the service to place his child in a safe day care center, rather than with the babysitter who took care of her. A sixteen year old girl. He offered to contribute the cost of the babysitter toward the day care fee. He asked the marshal after his graduation from law school, he was moved to another locality. 3. Despite the fact I entered the program at the suggestion of a Special United States Attorney, who understood and was concerned for my safety during the time I testified for him,

immediately after I completed his trials he proceeded to release and has continued to release stories to the national press about me and my cooperation as well as details of the testimony. When I approached him as to why he continued to jeopardize me and my family, long after his trials were over, he replied, "its public information." Unfortunately, certain details were only known to him, and the national reporter who ran one story acknowledged that a confidential federal memorandum had been leaked. 4. When my daughter was married, prior to my incarceration, a marshal was assigned to the wedding for security purposes. Three other marshals volunteered their own time and attended. After I was incarcerated, when my younger son got married, first the Bureau of Prisons refused me a furlough because I was in the program. After intercession, a furlough was granted with the understanding that I have a marshal in attendance and I pay his costs. Some $350. Despite the fact I never took a subsidy when I was not incarcerated. Despite the fact I paid all of my own transportation and expenses to appear before 3 grand juries and three times in the United States Attorney's office, and despite the fact only a severe and suspicious accident forced my wife to leave work making a subsidy essential, I was asked to pay for my own protection. After agreeing to this, the marshals service withdrew the assigned man, despite the fact that he was willing to accompany me on his own time and not get paid. I went to the wedding unattended. There are numerous other silly incidents of this type, but I will not belabor the point.

XXXX

Yes. The change in name and residence etc. etc. was fine. So far there has been no problem.

XXXX

Yes & No. They only moved me 250 miles from my endangered area.

XXXX

Yes. On the occasions when my husband was asked to return to our former resident state he was always given proper protection. This made him very comfortable and confident that he was in no danger.

XXXX

No. I was placed in a halfway house where inmates from all federal institutions were constantly arriving. Where the danger to my person was very real.

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2. Have you or your family experienced problems under this program which could have been avoided? Yes___ No___ Explain.

Yes. There is too much prejudice by too many USM in Higher positions and consequently nothing gets done until all the nickers is raised. (Wash. is called by witness)

XXXX

Yes. There was total lack of help for my family while I was gone - no financial help - no one to turn to - there was not enough consideration for family and children.

XXXX

Yes. Because this program have not done nothing to help me get a job. All they did is rent me a trailer for 3 or 4 months and after December I have not heard nothing from them. I got a job which lasted about 6 weeks. After that I got behind in the rent and had to move so I moved down with my sister that is where I live now. For the good I am doing I really wish I had gone to jail. I don't think it could be this bad.

XXXX

No. As explained to me at the beginning, every possible situation was well covered and the risk was minimal. The U.S. Marshals office more than "lived up" to their agreement.

XXXX

Yes. Problems with social security--re medicare and change of identity.

Yes. The problem that I live in a public housing project, and lot of people know where I'm and I run in danger every time I walk in the street.

Yes. My grandmother received several threatening phone calls, which her number possibly could have been changed, and her house was fire bombed in order to try to stop me from testifying on these people.

Yes. The problem with my car, the problem with our papers and a job for me and my wife and after we had developed trust with the man who brought us into the program, he was transferred before all things were completed. Many of the problems were considered small. However, people in our situation only have major problems because we don't know what is safe, and who we can trust. Our case showed that even some of the people who worked for the government should not be trusted.

No. We felt comfortable and even safe while under the plan.

Yes. I was told that I had a job and an apartment waiting for me. However, upon arriving, I spent 3 weeks in a hotel of which I was told that I would have to pay about $200.00 myself. Also there was no apartment, no job. Lying is a big problem, don't promise what can not be delivered!

Yes. Our biggest problem was caused by a personality conflict between ourselves and a certain U.S. Marshal. He apparently just plain disliked us, and did several very foolish things which resulted in the fact that we were govt. witnesses' being revealed to several people on more than one occasion. There was also an incident in which we were falsely arrested, because of some clerk somewhere who forgot our address and reported erroneously that we were fugitives. A federal judge gave us his sincere apology, but that did nothing to relieve the fact that I was arrested in front of my boss and fellow employees and had to do some very fast lying just to save my job. The suspicion which followed me at work after that never really subsided. Some of these problems were already reported a few years back, and a person whose job it was to inspect U.S. Marshals spoke to us, so there must be a record of this somewhere. There were a lot of other problems, much too numerous to detail here.

Yes. I have been having troubles obtaining a job, because (1) I can't give my former employer as a reference because of security and (2) don't know what to put down on application as to past residency and (3) personal references. If the government had given me in addition to a new identity, a job background, this certainly would have helped me very much.

Yes. The foremost problems which we have encountered since entering the program, was the failure of contacting deputies, to give any serious attempt in helping me obtain suitable employment as well as the fact that I was misled regarding my subsistence. A lot of hard feelings and disappointment could of been avoided if only the "Administrators" had shown more compassion and understanding when handling an individual and his family who were suddenly torn from his loved ones and surroundings albeit for their protection. It seems to me that some thought should be given to utilize a qualified individual, who has himself been relocated in this program, to act as a special guidance counselor to others coming into this program. The empathy required for this type of job could only belong to one who has also suffered the pain, and humiliation of leaving all that he knows and being labeled quote "a rat". I have often felt that those who were charged to protect my family and me have thought of me as less than human terms. It appeared that someone entering the W.R. Program loses more than his former identity. He loses his dignity. For example, if they offer you a job of inferior quality and you do not accept it, they look upon you as a malinger. They give the impression of this in the program "take it or leave it". No man should be made to feel that circumstances beyond his control should make him less a man.

The key word in your witness protection program should be compassion. When you find people to revise this program that can remember that they are dealing with human lives, then the first step to improving the overall performance and success will have been taken.

Yes. We could have avoided financial losses - if at the time we were asked to get involved with helping the government the program had been fully and honestly explained to us.

Yes. If we weren't uprooted thinking we were going to be taken care of we could have maybe straightened out our end of the mess. But thanks to the "program" I (wife) was left here with my daughter where I still have to be scared to go some places for fear of our lives. I do not think anyone who worked that program thinks ahead. Or if they do they choose to overlook the future problems.

Yes. I don't know if it's unavoidable but when my boyfriend and I first got on this program we temporarily split up. He was sent to one place and I another. Because of this the money we were suppose to get we didn't. I was given 3 days pay of $150 to get to where I was being sent. Out of this I had to pay for food, gas and hotel. I was reimbursed for the hotel, nothing more. I'm not looking a gift horse in the mouth but my boyfriend had to pay for his own hotel expenses, food, etc.

We are back together after being separated for only 1 week in April but only receiving an income of $850.00 for a family of 4. We are not making it. Our rent is $225, utilities $75, food $200, other payments and were not making it on $850.00 Everyone else has told us we are suppose to be receiving $1100.00. We are on two different numbers but living together. I don't understand how the income is suppose to be so am I correct in saying that a woman with 2 children receive only $650 and one man receive only $200.00 for himself. How much is a family of 4 suppose to receive? And since we are back together and have been why are we still on two different numbers. We were on 1 number when we first started off. Please explain, we're not making it. I can't even buy shoes or clothes for my children much less keep food in the ice box the last 2 weeks of the month. We're hurting.

No. I do feel that there were times when different aspects of the program could be better coordinated between each office, but I have not experienced any serious problems because of this.

Yes. Explicit ground rules provided by FBI as to what we could and could not expect from the program. Improved communications either between Metro and Marshal or Marshal and witness. Exact program spelled out before entering between all parties.

Yes. Again I could fill two pages with examples of indictments that need never occurred. When we entered the program in order to relocate as quickly as possible we sold our home at a loss of some ten thousand dollars. The sale was made at distress ten days after we were told to relocate. The relocation was absolutely proper and well handled. However, a fictitious sale would have accomplished much the same and given us time to dispose of the house in a more orderly manner. This would possible have relieved the government of our current subsidy. Because I am in the program, while incarcerated I am deprived of all program that an ordinary prisoner can participate in. This means that because I am assisting the government, I must be treated worse than a normal prisoner. Because I cannot safely be sent to a federal prison, I cannot get adequate dental care. The county facility in which I am held has no theraputic dentistry. I have lost six teeth since I am here despite spending almost a thousand dollars personally, while on a furlough, to inhibit the spread of the infection. When I requested that I be taken to the nearest Public Health Service to have my teeth treated, I was refused because no one would assign a Marshal to protect me. However, whenever a law enforcement official needed me, even on matters where they wanted help in which I had no involvement, there was always two Marshals available for transportation. I could continue indefinitely, but I won't.

Yes. It has been almost nine months and still most of the necessary papers (social security card, high school diploma etc.) are not here.

Yes. I've been in for 11 months, and still haven't received my birth certificate, which I need and I would like to know where I was born at. At times you need these things desperately. And also my social security benefits have been transferred over to my new number, I checked.

Yes. When we left our home we were sent on our way. We arrived with a small child and no place to stay. We were not assisted in anyway on finding a place to live or in help seeking a job. As I'm sure you realize when you are in your 20's it's kind of difficult to find work when you cannot show any previous jobs.

Yes. My codefendant is in a federal institution in the event that he talks to a number of inmates and one was to arrive at the halfway house where I am staying and make the connection between myself and my codefendant things could become serious.

3. Do you feel that this is a worthwhile Program? Yes___ No___

Yes. Of course the program is "worthwhile". There is no question that people who put themselves in danger to help the government should be protected. However, "protection" to mean anything has to be absolute or it is of no use at all. That means no halfway measures.

Yes. This has given me and my family a new lease on life. Also a new opportunity to reconcile my problems.

Yes. The only alternative for someone to take, if there were not such a relocation program is not to testify and to throw himself upon the mercy of the very same criminal who have victimized him. I know that each case is different, and should be judged on its own merit. Some witnesses took that route to avoid prosecution. Others, such as myself, have chosen to be witness because we believed what they are doing is right.

Yes. In some cases. However, I believe we would have been better off had we stayed out.

Yes & No. For some it may have worked out great. For us it was a complete disaster. I would never recommend this program for anyone. It's the worst experience I ever had with any part of the government. I've lost all faith in your ways.

Yes. When a person like us is at stake and children are involved you have no choice.

Yes. Without this program my two daughters and I would probably not be around today to fill out any questionnaire. Even though I may not have much left to contribute to society my two young daughters may have. At least, because of the program we will have the chance to find out. Yes, the program is worthwhile.

Yes. This program has meant just about everything to me and my family. It provided an opportunity for me to repent for my crime. It gave me personally an opportunity to do whatever was necessary to help D.E.A. in it's investigation into the organized drug culture. Maybe my cooperation will help my fellow brothers and sisters left out there in that drug atmosphere by cutting off at least one avenue of the drug input into the community. This would not have been possible if not for this program.

Yes & No. For the different agencies to obtain whatever they are seeking, yes. In certain cases regarding the legal status of a witness, yes. From my side of the coin, no. The compensation, documentation assistance and direction are way out of line.

Yes, on a quid pro quo basis the prosecutor gets a witness who ordinarily would not testify or limit his testimony. On the other hand a person legitimately desirous of attempting a new life can only do so under the aegis of a program such as this, especially if he has testified against organized crime. Certainly, there will be a number of conmen who will abuse the program of stint on their cooperation. However, their duplicity must be measured against the greater potential public good if major criminal cases can be made against major criminal figures. Of additional consideration is the trend toward sophisticated white collar crime, with the intricacies of major financial manipulations and intricate schemes involving master financial planning. I have assisted law enforcement people of 5 such cases, and although I was involved in none my knowledge of financing was not available to these officials because there was no one available to them with similar expertise. The only way people able to pinpoint criminal activity will come forth is through such a program.

Yes. It offers information which the US Marshal wants in return. It gives protection to the witnesses. Both of which is important to the two parties.

Yes. Yes I do feel it is a very worthwhile program. But when promises are made promises should be kept especially by the United States Government. We on the program are not all underworld figures or the run of the mill gangsters. We were told we would receive certain things that people denied ever promised. These were not payoffs for testimony but legitimate requests.

Yes. For protection to a witness.

4. If, when you entered the program, you had your present knowledge about it, would you have still entered?
~~Yes____ No____ Explain~~

No. The different promises made by UMS before testimony and the deliverance of the promises after testimony were two different things. The majority of USM need to be fired and sent to the school for dealing in people's feelings.

No. Well I did not know it was this bad but now I know. At the time they told me they was going to help me get a job. But when I got down here they told me I had to find a job myself and I have not found one yet not to pen on. That why I been write letter and call and I never heard nothing from them.

Yes. There are many variables for my personal involvement but it would be foolhardy on my part, not to desire assistance from the U.S. Marshals' office.

Yes. At first I would have been relucant but after careful consideration I would have proceeded.

Yes. I think things are run smoothly. I have no complaints.

Yes. I got a very good exp. and after all I would like to do some more work for the U.S. Government. I know people all over and I think that if you people want a do some work we can do it together.

Yes. I had no alternative, the Mafia was trying to bill us. I was not able to care for our needs alone. The program is good in that respect but it could be improved. When a man is in a program like this and he wants to be a man but can't he suffers a quiet death just because some gives you money doesn't mean they are helping you. The program must work to help you help yourself.

Yes. I think I was treated just and fairly by most of the Marshals we encountered. Some I would call a friend. And in my life the program represented a turning point for me and my wife. Thanks to the patience and endurance and coaxing of many of the Marshals. To name a few I would name [redacted] and some I did not learn their names.

Yes. Probably yes, if for no other reason, but not to face any new charges. There are lots of rumors in prison about the programs and now are true, for instance (seed money) what is it, I for one don't know.

It is not possible to answer that question with a yes or no, as we were given no choice in the matter. We will say that, yes we do wish the whole thing had never happened. We suffered for 5 years, and still worry that someone will hear something about our past that will harm our reputation.

Yes. I would, however, I would get a little more clarification on some information. You have to remember that no matter what, there may be problems which occur that was not covered in the program.

Yes. Unfortunately most people in my predictment have no choice. Having done what I did because I believed I was right, I had to seek the only island of refuge available to me and my family, the Witness Protection Program.

No. I do not feel that the amount of good I did (if any) was worth the 25 years I spent in getting where I was at. Now I find myself starting over at 45 years of age.

No. We have no faith in any program you people would have to offer. We were burnt once. We'd never go back for a second try.

Yes & No. It's hard. Your mail is read or opened. You can't relate to friends or relatives the way you wish. There's no privacy. Yes because of the protection, no because you treated like a guinea pig told to do this and that and there's no personal concern for you as a human being. Your just a number and off you go. Your treated bad and told, "If you don't like it walk lady."

Yes. The program was very clearly explained to me before I signed anything. I have found that I was not given any false information or promises. Nor was I promised anything other then enough money to live on until I am off the program and protection from the Marshal's Service. The Marshal's Service has lived up to their part of the bargain as I hope I am living up to my part. Knowing what I know now I would enter the program again.

Yes. I'm glad that upon entering this program I had absolutely no knowledge of its benefits. My reason for that is it may have confused my motives for offering my cooperation, but not hindering the same. If I had my present knowledge about this program there would be no hesitation whatsoever about my entering.

No. Too many things arise that you can't get an answer for or constructive assistance. Under the current structure, it reduces a person to total dependency and there isn't enough strength to support this. After the release if a person isn't careful he could become a 2nd class citizen quite easily.

No. The dedication of one United States Marshal and his concern for me and my family sold me on the program after I had rejected it twice before with other marshals. explained the program, emphasized its security limitations, but also expressed concern for my wife and children and grandchild. He took time to meet them, understand their problems and keep a continuous liaison. What I did not know and what would discourage me from entering again, was the limitation of the man I thought was assigned to me to function with us. His instructions have been countermanded at my personal jeopardy when I went to other jurisdictions to testify. His knowledge of the peculiar problems of my family with two sons seniors in law school, who had to stay behind and were constantly harassed and threatened. Only his concern, his continuous contacts with my family have made the program have any meaning other then the subsidy that is now vital due to my wife's accident. The bureaucracy that operates the program countermand each other, vary rules and are inconsistent in policy and follow through.

No. The subsistance is barely enough to live on. You can't get a job because (a) you have to keep flying back to testify (b) after the trials are over no assistance is offered to speak of such as references etc., in finding employment.

No. Because you have to reestablish new previous addresses and mostly credit references. I did have maximum credit built-up now nothing.

Yes. In certain circumstances one has no choice. And our family is grateful we were offered a chance for safety and the opportunity to start our lives over again without any fear.

5. What recommendations would you make for improving this program?

1. There should be a training program for deputies, etc. used in this program; if there is, it needs improving. (I have met 2 other witnesses living in the same apartment complex) 2. Explain everything in full detail to all oncoming witnesses. Most people don't have any information on program. 3. There should be personal job contacts where no information has to be given by witness.

XXXX

Definite regard to financial survival for family.

XXXX

Why should they tell you something and don't do it. I don't have the money to go to a doctor. Anyway it is hard living down here.

XXXX

I would like to see the program explained better to the witness and the proper documents furnished for future references for the witness. (Thank you for your concern)

Unfortunately, funds are limited and a participant must be ready to make some sacrifices. If Congress allocated additional funds for the families and witnesses, this would be a great improvement.

Cut out the government bureaucracy in ID and social security.

There is always room for improvement in any program. However, I can not recommend any, as I feel it is adequate.

Better protection for the family, if something should happen to me. There is none now. It seems that once you got what you wanted, that is where it ended. No prepakation for financial support for my family in case of a I get killed.

I think the program is quite good as it is. I see no need for DEA to build it up with wild promises of money, new homes etc., Maybe someone should speak to them.

More protection and more help for the U.S. Government informers or C.I.

Tighter security.

I don't know all the answers. I can say it would be best if someone could spend more time with you, listen to the problems, help you with the change. I have taken care of myself and others all my life. It is very hard to be in a position where you can not take care of your family. I had the alternative and I have lost everything I worked for most of my life. I have none broken the law knowingly. I

am not the criminal, I am the victim of the crime. I never was involved in nothing wrong and with nobody and because I always lived with morality I was the victim of those who uses the law for make themselves big. But some people in the office of the USA Marshals, make me feel like other criminal under welfare. The program needs people who know what to do and how to take care of the witness. I am grateful for the chance to say how I feel.

Acquire more personnel with the character of _____. All of these men gave us moral support as well as physical and financial support. In the words of my wife, those men really helped us. Thank you.

Don't make false promises, don't guarantee me a job. Don't tell me you are going to help support me until I get on my feet again, and then leave me dry with no job and on welfare as I am right now.

First of all, too many people are involved. I think that a witness under the program should have just one person to contact about everything. And that one person should be the only one who has intimate knowledge of the witness. If the government is going to pay for the witness, then a little trust should be extended. For ex. a landlord should not receive a check every month for the witness's rent from the U.S. Marshal office. Why can't the government give the rent money to the witness and trust him to pay the rent? If he doesn't pay the rent, how long will it take for you to find out? Anyway, how many people in the position that a protected witness is in want to play games with the United States of America? We have a lot more to say but there is not space or time here. If you wish to hear more, we have a lot to tell. It is difficult to keep all these experiences to ourselves, but we have done so, because we know that it is the best way. Still, it would be nice if the people who should know these things, could hear the whole story in one piece. Various departments in the Justice Department know bits of our case, but we sometimes wonder if anyone at all knows the whole thing. We have been through a truely bizarre experience, and it would help to find out that someone knows about it besides us. I would also like to say that although for the most part it was not a pleasant 5 years, some people did treat us well, and did do their jobs admirably. I would like to praise these people by name. If we hear further from you we will do so.

I feel that the government should pay all of your bills exeluding home payments. Since you are moving into a new area, and it will take some time to obtain a position. Therefore, your old bills could begin to build up, and you certainly cannot let your creditors know where you are because of security. Also the government should help you in obtaining a job.

What I have thought of to improve the program in the (5) years that I have been in it could not even begin to be covered in this space allowed here. Therefore, if you are sincerely interested in learning how to improve this program, bring us to Washington, and I will devote my own time to assisting you with my thoughts and comments to improve this program.

A new name and drivers license is not a new identity without job and credit references.

Scrap the whole thing and start from root one. Nothing is perfect but that program is a real joke.

The marshals, some not all, could be more polite to the witness. Not treat them like dirt. People are scared and don't understand what's happening to them when they go through something like this. Especially when their whole home life and ways are being taken away from them. That's a hard enough blow but when a marshall tells you, hey you have only 2 choices, walk or stay and they're rude, that's hurts more. They treat you like dirt and their kings.

The one recommendation I would make would be to have some printed literature for the witness when they first go on the program. I feel that it should include a basic explanation of the program and some the rules and regulations. Such as how to send letters to friends and relatives. How to cash checks that come in your old name. Some basic things. This would have a two fold purpose. It would save the marshalls a lot of time going over things and having explain things over and over. The witness would be able to read it when they settled down a little and they would not have the excuse that no one explained a procedure to them. I know that this would have been helpful in my situation and I'm sure that it would help others.

I just can't say enough good things about this program. It has meant everything to me and my family. I have a new life. I'm sure all concerned can understand what that means to me. Inspector .. and his agents have in my opinion went above the call of duty to make me feel safe, to help me find housing and a job. I felt as though he and his office really had my interest at heart. There seemed to be genuine interest. Even though it seemed so rare to encounter this kind of sincerity, I can say it was and is greatly appreciated. I'm praying that this program will continue because I can see a great future for it and the witnesses fortunate enough to be a part of it.

Insurance program - total, assistance with medical assistance. Restructured compensation schedule. Improved documentation. Thorough indoctrination prior to entering program. Rehabilitation during and improved relationship and assistance after release. Job and credit reference.

There are many, but I will limit myself to two. First, an agreement that permits the witness to have the same privileges while incarcerated as any normal prisoner. There should be no deprivation while serving a sentence that makes life more difficult for the witness than for a regular prisoner. This includes visiting, medical care, furloughs, and work release among the most important. Secondly, an individual entering the program should be given a detailed printed memorandum explaining and underlying what the program is permitted to do. There should be no misunderstanding by either party as to the limitations of the program. Lastly, one case officer should handle an individual until he leaves the program being in the program involves more the simple protection. Security means peace of mind for the witnesses' family. This means dealing with the wife and the children and maintaining their security, because if they are upset your witness becomes recalcitrant and non-cooperative. Unfortunately, the program when it takes in a family, also becomes somewhat the social worker, and this can only work on a one on one basis. Further, if there is a document of understanding it can be completely explained to the witness, so that there will be no future misunderstandings. Lastly, if emergencies do occur the case officer will be intimate enough with the problems to evaluate it and help cope with it. Thank you for your interest. Help is needed both by the witness and the program.

The monthly medical allotment is not sufficient. More information on just how difficult it is to start a new life. Speediness with the records.

It's a good program.

That when promises are made that the witnesses are provided with documentation so that no denials can be made. And that the legal documents are carefully gathered and done correctly. When we received a new birth certificate for our daughter her name was misspelled. That's a little hard to explain and a very foolish error.

Never place and confine any witness or former witness to an institution, where all prerelease inmates are constantly arriving. Could become dangerous.

APPENDIX B

TABLE I

DIRECT COSTS OF
PROTECTED GOVERNMENT WITNESSES

Fiscal Year	Witnesses Accepted	Witnesses in Program*	Average No. of Witnesses**	Amount of Funding	Average Cost per Witness***
1969	...	29	...	$72,481	
1970	...	53	...	162,350	
1971	...	92	...	428,075	
1972	...	222	...	744,852	
1973	...	347	...	1,252,264	
1974	329	505	251	2,274,000	$9,060
1975	371	659	255	2,762,415	10,830
1976	466	798	303	4,030,000	13,300
1977	469	986	374	5,950,000	15,900

* Does not include witnesses reinstated for one month funding.

** Number of witnesses receiving subsistence each month divided by twelve.

*** It is believed that the actual average direct cost per witness was lower than shown for 1974 and is higher than shown for 1977, since apparently the average length of time in the Program in now longer than twelve months.

TABLE II

Witness Security Program
Personnel Compensation and Related Costs

Agency	Fiscal Year						
Marshals Service	1971	1972	1973	1974	1975	1976	1977
Contact Deputies and Special Assignments	$1,045,790	$1,966,640	$2,820,270	$3,781,570	$3,112,340	$3,034,370	$3,004,380
Program Support and Field Specialists	189,690	215,400	286,670	379,560	388,470	410,870	378,640
District Supervisory and Accounting Support	406,470	445,160	482,820	621,900	674,260	625,240	681,550
Travel, SLUC and Other Costs	414,000	518,000	648,000	720,000	799,000	887,000	985,000
Additional Overtime Costs	200,000	300,000	400,000	500,000	557,290	535,000	515,750
Criminal Division							
Attorney Personnel	17,760	28,110	39,400	51,690	54,540	57,270	71,810
Other Personnel	17,160	27,160	33,320	44,860	55,230	69,040	72,020
Travel, SLUC and Other costs	10,000	11,000	12,000	13,000	14,000	15,000	16,000
Total Support Costs	$2,300,870	$3,511,470	$4,722,480	$6,012,580	$5,555,130*	$5,633,790*	$5,725,150*
Average per Year							
Number of principals	...	...	...	251	255	303	374
Annual Costs	...	...	...	$23,950	$21,780	$18,590	$15,310

* Decrease in 1975 from 1974 is a consequence of the closing of the Marshals Service safehouses. It is expected costs per witness will increase rapidly in 1978 and future years, since the savings were fully absorbed by 1977.

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TABLE III

WITNESS SECURITY PROGRAM
ESTIMATED TOTAL COSTS 1971-1977

FISCAL YEAR	DIRECT COSTS	INDIRECT SUPPORT COSTS	1971-1977 TOTAL
1971	$ 428,075	$ 2,300,870	$ 2,728,945
1972	744,852	3,511,470	4,256,322
1973	1,252,264	4,722,480	5,974,744
1974	2,274,000	6,012,580	8,286,580
1975	2,762,415	5,555,130	8,317,545
1976	4,030,000	5,633,790	9,663,790
1977	5,950,000	5,725,150	11,675,150
	$17,441,606	$33,461,470	$50,903,076

APPENDIX C

WITNESS SECURITY PROGRAM REVIEW COMMITTEE

In July 1977, the Deputy Attorney General created the Witness Security Program Review Committee, chaired by Associate Deputy Attorney General Larry S. Gibson, and charged it with assessing the Program and making appropriate recommendations for improvements. The other members of the Review Committee are: Judith Bartnoff, Special Assistant to the Assistant Attorney General, Criminal Division; J. Jerome Bullock, United States Marshal, District of Columbia; Laurence S. McWhorter, Assistant Director, Legal Services, Executive Office for U. S. Attorneys; and Garnett F. Taylor, Program Planning Analyst, Office of Management and Finance.

The Review Committee undertook an extensive effort to learn how the Witness Security Program operated in the past and to determine the facts on which to base substantive recommendations for change. The fact-finding process included surveys, hearings, interviews, and a review of the program's written records, including routine reports as well as special audits conducted since the Program was instituted.

The Review Committee used questionnaire surveys to gather information about the Program's operation. Questionnaires were

sent to all 95 U. S. Attorneys and to 13 Organized Crime Strike Force offices. In addition, the Criminal Division and the U. S. Marshals were asked for detailed data on a sample of 200 witness cases selected by taking roughly every tenth witness to enter the Program. Witnesses themselves were also surveyed. Initially, questionnaires were sent to the 200-case sample. That survey subsequently was expanded, and questionnaires were sent to all 500 protected witnesses actively involved with the Program as of August 1977.

The Review Committee conducted hearings on the Program on September 7, 8, 9, and 12, 1977. At those hearings, the Program was discussed with representatives of the U. S. Marshals Service, the Federal Bureau of Investigation, the Drug Enforcement Administration, and the Bureau of Prisons, as well as with two witnesses currently in the Program. The officials interviewed included: Doyle James, U. S. Marshal, District of Colorado; John Partington, Security Inspector, U. S. Marshals Service, Providence, Rhode Island; John L. Smythe, Supervisory Agent in Charge, Inspection Staff, Federal Bureau of Investigation; Jim Moody, Special Agent, Federal Bureau of Investigation, New York, New York; Michael Alexander, Deputy U. S. Marshal, District of Maryland; Donald Wyatt, U. S. Marshal, Central District of California; Arthur Carter, Supervisory Agent, Drug Enforcement Administration; Gary Liming, Chief, Special Action

Desk, Drug Enforcement Administration; J. D. Williams, Associate Director for Designations, Bureau of Prisons.

The Review Committee also spent several hours at the offices of officials and staff responsible for the direct operation of the Program, discussing how the Program works and reviewing files. The Committee visited the offices of the Intelligence and Special Service Unit of the Organized Crime Section of the Criminal Division, the Witness Security Division of the U. S. Marshals Service, and the Narcotics and Dangerous Drugs Section of the Criminal Division.

In addition to the questionnaire surveys described above, the Review Committee solicited written comments on the Program from the U. S. Marshals Service, the Federal Bureau of Investigation, the Drug Enforcement Administration, the Criminal Division, and the U. S. Attorneys. The Review Committee also reviewed internal reports and memoranda analyzing and describing the Program prepared at various times by the U. S. Marshals Service; Criminal Division files of sample cases; Criminal Division monthly status reports on particular witnesses and monthly summary reports; Criminal Division reports on witnesses accused of criminal offenses while in the Program; Criminal Division reports on convictions obtained in cases in which protected witnesses testified; and reports from the Strike Forces on involvement of protected witnesses in significant organized crime cases. For background information, the Review Committee also

studied DEA's Geographical Drug Enforcement Program (G-DEP) criteria and procedures, and a General Accounting Office (GAO) report critical of the Organized Crime Strike Forces.

The Review Committee soon learned that, whatever the imperfections of the Witness Security Program, they do not include any reluctance on the part of the Department of Justice to identify and document apparent Program deficiencies. The Review Committee studied literally scores of such memoranda, reports, and letters exchanged over the years. In fact, the Review Committee was struck by the extent to which many Program deficiencies were repeatedly identified -- but left unresolved -- during the past years. The problem appears to be not a lack of critical evaluation, but rather insufficient Departmental coordination and restructuring to assure that needed changes are institutionalized.

[Exhibit 33]

Letter From Senator James Abourezk to Benjamin R. Civiletti May 4, 1978

[This letter contains Senator Abourezk's comments on the draft report of the Justice Department Review Committee which appears as exhibit 32 in this volume. Mr. Civiletti had earlier solicited the Senator's suggestions about the draft report.]

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United States Senate
COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON
ADMINISTRATIVE PRACTICE AND PROCEDURE
WASHINGTON, D.C. 20510

May 4, 1978

Mr. Benjamin R. Civiletti
Acting Deputy Attorney General
Department of Justice
9th and Constitution Ave., N.W.
Washington, D.C. 20530

Dear Mr. Civiletti:

The Administrative Practice and Procedure Subcommittee has completed its public hearings on the Witness Protection Program and now is drafting a report based on those hearings and on the Subcommittee's 9-month investigation of the program. While our report is not yet complete, I would like to take this opportunity to comment on the draft report of the Justice Department's Witness Security Program Review Committee which was sent to me March 22nd.

First, I want to commend the Department, and the Review Committee specifically, for focusing attention on the problems that have plagued this valuable program for some time. Generally, I found that the Committee's report contains some very constructive recommendations for changes in the administration of the program. I would like to comment briefly on 19 of the report's recommendations and on some topics which the report does not consider. I shall not comment specifically on recommendation 6,7,8,11,14,16, 17,24 or 27. I consider these to be good recommendations, and in some cases essential for improving the administration of the program. I endorse each of these suggestions. I shall, of course, forward you a copy of the Subcommittee's report, which will discuss in more detail our own findings and recommendations.

Recommendation 1--Program Continuation.

I agree wholeheartedly that the program is essential and should be continued. However, I think consideration should be given to a multi-level program which addresses the particular needs of each witness. The tendency now is to relocate every witness but, not all witnesses need to be relocated permanently or redocumented. The services provided a witness should be better tailored to fit the specific needs of each witness so that the program's limited resources could be used more effectively. The Department should consider admitting witnesses only to that phase of the program--be it temporary physical security, redocumentation or relocation--that is necessary to protect the witness.

Recommendation 2--Revised Eligibility Standard.

I concur that witnesses should not be eligible for the program unless their testimony is needed in "an important case that is assigned high priority by the Department".... However, the report neither discloses the specific criteria and procedure the Committee contemplates to accomplish this goal, nor recommends any action to enforce this policy.

Recommendation 3--Program Entry Levels.

While I agree that too many witnesses are being admitted to the program, and that some limitation must be imposed on admissions, I am not persuaded that a strict, numerical quota is the solution.

A more detailed description of the quota system contemplated by the Committee is needed. It is not clear from the report on what basis the Committee urges a quota of 20 witnesses per month. Nor does the report explain how the 20 witnesses per month would be allocated among the various U.S. Attorneys offices. Finally, given the nature of the program, the 20 witness quota can only be a target figure, yet no procedure for handling exceptions to the limit are outlined.

Recommendation 4--The Criminal Division Witness Security Unit.

I support this recommendation, but wonder what oversight role, if any, the Committee envisions for the Deputy Attorney General in the admissions process. See comments regarding Recommendation 28.

Recommendation 5--Reduce Emergency Entry.

I share the Committee's concern about the overuse of emergency entry procedures. However, I don't think this recommendation goes far enough. I assume the Committee recognizes that some emergency admissions are necessary, but, the report makes no attempt to define criteria for emergency entry. More specific guidelines in OBD 2110.2 on this procedure are necessary.

Recommendation 9--Housing Bank.

I agree that a housing bank is needed to expedite the relocation of witnesses and their families. However, this recommendation fails to distinguish adequately between the problems involved in permanent relocations and those arising during the temporary relocation of witnesses.

The Subcommittee discovered that many witnesses had to relocate permanently before they had been properly documented and before job opportunities had been found, because of

housing conditions. Development of a housing bank to facilitate only permanent relocation does not address this problem adequately. The only way to reduce the time witnesses spend in temporary facilities is to expedite documentation and job placement.

Perhaps two housing banks should be established--one listing housing facilities in permanent relocation areas and the other listing comfortable facilities for witnesses during their transition period at a temporary site. The Committee appears to have confused the problem of poor living conditions at temporary sites with the inability of the Marshals Service to find housing for witnesses in their permanent relocation area.

Recommendation 10--Limits on Subsistence Payments.

I concur that realistic limits on subsistence payments should be established and enforced, but it should be keyed to the self-sufficiency of the witness, not to some artificial time frame or event. Subsistence funding should continue until proper documentation and job assistance have been provided and the witness is on his feet. At a minimum, subsistence should continue until the witness can earn what he was getting in subsistence payments.

This would avoid the on-again-off-again subsistence syndrome which currently operates where witness funding is terminated only to be restored later after the intervention of the Criminal Division.

Recommendation 12--Job Bank.

I believe the development of a job bank is a good idea, but the recommendation does not sufficiently discuss the mechanics of establishing the bank. The report seems to indicate that headquarters personnel should have the primary responsibility for developing job contacts. However, at our hearings the Marshals Service took the position that deputy marshals in the field should locate job opportunities.

The report also fails to discuss what information prospective employers would be given about a protected witness, and how the further dissemination of that information by the employer should be restricted.

Recommendation 13--Documentation Assistance Responsibility.

I wholeheartedly support this suggestion but again, feel it does not go far enough in solving the immense documentation problems witnesses have encountered. OBD 2110.2 should include guidelines on exactly what types of documentation may be provided witnesses. In addition, it should be made clear that witnesses should not be relocated until they

CONTINUED

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have received certain basic documentation under their new names. These changes would go a long way toward easing a witness' adjustment to his new life and thus would reduce witness complaints.

I also would urge the Marshals Service to adopt formal interagency agreements with various federal agencies (such as the Social Security Administration) authorizing cooperation in providing documentation, and detailing expeditious procedures for obtaining the documents.

Finally the Marshals Service should make a sustained effort to work out particular problems in certain states in obtaining birth certificates, professional certificates, etc. for witnesses.

Recommendation 15--Explanation of Program to Witnesses.

Generally I support the suggestion as far as it goes. However, I feel it fails to solve several critical problems. No mention is made of the explanation of the program that investigative agents undoubtedly give witnesses in order to entice them to cooperate. I believe it essential that some sort of directive and training be given to all Justice Department Investigative agents (and those in other departments) regarding what should be said to a potential witness about the program. (See comment on Recommendation 23).

In addition, this recommendation and the discussion of it seem to indicate a desire that the Marshals Service discuss the program with a witness before the admission decision is made. However, nowhere does the report discuss procedures for the timing of such a briefing. Given the Marshals Service past difficulties regarding witness expectations, a specific procedure for a briefing by the witness security specialist must be spelled out.

Recommendation 18--Contact Deputies.

This recommendation focuses on what I feel is perhaps the most important area of concern in this program. The Review Committee obviously has recognized the absence of continuity in witness contact. Paragraph two on page 55 of the report acknowledges that "much of the effectiveness of the Witness Security Program at present depends upon the 94 local U.S. Marshals and their deputies." However, the Committee fails to solve the problem once it was discovered.

The report's recommendations ignore the line of authority problem within the Marshals Service. The apparent political autonomy of local U.S. Marshals causes confusion within the Marshals Service as to who has the authority to run the Witness Protection Program. The problem goes far beyond the rotation of Marshals that the report correctly cites as a difficulty. Yet the report only hints that a separate

witness security force is needed.

Recommendation 18 says: "The U.S. Marshals Service should take such actions as necessary to provide continuity in witness contact. This might be accomplished by creating in the Service a separate witness security force that, in addition to normal Marshals' training, receives special training in witness work."

The report does not indicate whether a dedicated force which handles only witness protection matters and reports to headquarters is appropriate. Nor does the report consider the possibility that the force might be outside the control of the Marshals Service.

Recommendation 19--Social Workers.

On page 56 of the report the Committee says "specialized personnel are needed to handle much of the witness protection program with the contact deputies essentially limited to providing security and physical protection." The Committee then recommended only that a staff of social workers be hired in each district to help witnesses adjust to relocation. In specifically recommending the addition of social workers to the program, the Committee correctly pinpoints one area of the program which has been woefully neglected since its inception--the emotional adjustment which must be made by participants. However, it is unclear what role is envisioned for these social workers. I would stress that social workers not be viewed as the primary provider of services to the witnesses. Specially trained security specialists should be responsible for making job contacts, finding housing and securing documentation. The role of social workers should be limited to providing counseling services to witnesses and their families.

Recommendation 20,21 & 22--U.S. Marshals Service Records, Criminal Division Records, Standard Case Numbers.

I agree that improved record keeping is important and would urge that guidelines regarding records in the Marshals Service and the Criminal Division be issued immediately.

Recommendation 23--Special Training.

I support this suggestion, but as noted in recommendation 15 believe investigative agents should be given specific guidance on what to say about the program when talking with potential witnesses.

Recommendation 25--Unmanageable Witnesses.

I agree that the Marshals Service should be able to voice its concern about the difficulties of protecting some potential program participants, but, a veto over witness admissions would be inappropriate. I doubt whether the Marshals Service is ever in a position to balance the prosecutorial advantages to be derived from any witness participation in the program against the problems associated with handling a witness. That decision should be made by someone other than the Marshals Service and the prosecutorial agency sponsoring the witness. If the decision is made to admit the witness to the program, despite the Marshals Service concerns, the procedures outlined in this recommendation should include special written authorizations for any arrangements outside routine program practices which are necessary to accommodate the witness.

Moreover, it is unclear how this recommendation ties in with Recommendation 15. As noted in the comments on 15, I believe a formal procedure for Marshals Service input before entry into the program is authorized is necessary and should be set out by the Department.

Recommendation 26--Required Follow-Up Data.

I consider follow-up data essential and would urge the Committee to consider requiring the Division to compile such information on all witnesses who have entered the program to date.

Recommendation 28--Witness Security Program Review Board.

I favor the establishment of a Witness Security Program Review Board within the Deputy Attorney General's Office. However, I do not feel this Review board alone will solve the oversight problem the Committee itself recognizes on page 79, where it states "The absence of clearly defined responsibility has precluded effective oversight and has inhibited coherent direction of the program on a regular basis".

The report does not specify what role the Deputy Attorney General will have in overseeing the program and in setting Justice Department policy on witness protection matters. Many of the program's problems have persisted because of the lack of any high level review--outside the Marshals Service and the Criminal Division--of the program. I think the Committee should detail the scope of the Deputy Attorney General's responsibility and limit the delegation of his authority. Recognizing that the Deputy Attorney General will not be involved with the day-to-day operations of the program, the Committee should explain what decisions require approval by the Deputy Attorney General. I am particularly concerned that recommendations relating to admission of witnesses do not outline a role for the Deputy Attorney General.

While the Subcommittee's report will make some additional recommendations I want to mention two subjects which the Department's report does not cover, and which I feel were serious omissions.

First, the Committee has not confronted the difficult issue of when a witness is "off the program", if indeed he ever is totally out of the program. This is important in the context of the Marshals Service release-form policy. As was discussed at our hearing, many witnesses are disturbed--and I share their concern--when they are asked to sign a form releasing the government from any future responsibility to protect a witness. The continuing protective responsibility of the government to witnesses is an important policy issue that must be addressed at the highest level of the Justice Department and then reduced to writing.

Finally, I am distressed that the Committee's report does not recommend that the Marshals Service attempt to resolve the long-standing complaints of witnesses who have been in the program for some time. It is my understanding that the Service has added personnel to solve the backlog of documentation requests. In addition, the special assistant to the Deputy Director temporarily has been assigned to monitor the program, and to attempt to settle disputes involving some of the most troublesome witness problems. However, since the number of witnesses admitted to the program is increasing it is impossible, given the current staffing of the Witness Security Division to service new witnesses and also correct past program deficiencies. If today's witnesses are not to become tomorrow's problems, the Department must allocate sufficient resources to enable a special team to work on past problems, freeing current personnel to handle new witnesses fairly and expeditiously.

I hope these comments will prove helpful to the Review Committee. I know the Subcommittee has found the views of Justice Department officials invaluable in our investigation. I am eager to see the report in its final form and hope that its recommendations will be acted upon quickly.

Thank you again for affording me the opportunity to consult on the Draft Report.

Sincerely,

James Abourezk
Chairman
Subcommittee on Administrative
Practice and Procedure

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