

CONFERENCE OF STATE COURT ADMINISTRATORS

TESTIMONY

by

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On

***Outside Witnesses Hearing: Funding for the Threat Assessment
Database Program of the Court Security Law and the NICS
Improvements Act***

Submitted to the

**HOUSE COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON COMMERCE, JUSTICE, SCIENCE, AND
RELATED AGENCIES
UNITED STATES HOUSE OF REPRESENTATIVES**

Subcommittee Hearing
Thursday, April 2, 2009

Mr. Chairman, I come before you today to request that the House Appropriations Committee fund the Threat Assessment component of the Court Security Improvement Act (PL 110-177) at the authorized level of \$15 million for FY 2010. We also request that the Committee fully fund the State Court System Grants under the National Instant Criminal Check System (NICS) Improvement Amendments Act (PL 110-180) for FY2010.

ABOUT COSCA

Thank you, Chairman Mollohan, Ranking Member Wolf, and members of the House Appropriations Subcommittee on Commerce, Justice, Science for hearing our testimony today. My name is Mary McQueen and I am testifying on behalf of the Conference of State Court Administrators (COSCA). I am also the former state court administrator for the state of Washington.

Before I begin my remarks, I would like to provide some background on our COSCA and its membership. The National Center for State Courts, of which I am President, serves as secretariat to COSCA. COSCA was organized in 1955 and is dedicated to the improvement of state court systems. Its membership consists of the principal court administrative officer in each of the fifty states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the Territories of American Samoa, Guam, and the Virgin Islands. The state court administrators are responsible for implementing policy and programs for the state judicial systems. COSCA is a nonprofit corporation endeavoring to increase the efficiency and fairness of the nation's state court systems. As you know, state courts handle 98% of all judicial proceedings in the country. The purposes of COSCA are:

- To encourage the formulation of fundamental policies, principles, and standards for state court administration;
- To facilitate cooperation, consultation, and exchange of information by and among national, state, and local offices and organizations directly concerned with court administration;
- To foster the utilization of the principles and techniques of modern management in the field of judicial administration; and
- To improve administrative practices and procedures and to increase the efficiency and effectiveness of all courts.

I also would like to tell you about the Conference of Chief Justices (CCJ), a national organization that represents the chief justices of the 58 states, commonwealths, and U.S. territories. Founded in 1949, CCJ, along with COSCA, speaks for state courts before the federal legislative and executive branches and works to promote reforms to improve the administration of justice. COSCA works very closely with CCJ on policy development and administration of justice issues.

THREAT ASSESSMENT DATABASE

All of us in the nation's state courts system were very gratified when the Congress approved and the President signed the Court Security Improvement Act of 2007 (PL 110-177). We thank the Congress for its diligent desire to ensure that our courthouses provide a safe and neutral forum to conduct the business of justice. This law makes a difference to the judges, prosecutors, public defenders, lawyers, law enforcement officers, court personnel, court reporters, jurors, witnesses, victims, and members of the general public who enter courthouses every day.

When the Congress was considering court security legislation, concern was expressed about the state courts' ability to document and track security incidents and threats made to judicial officers, non-judicial court personnel, and court facilities. Members of the House and Senate Judiciary Committees asked about the extent of the problem of attacks on court personnel and in our court facilities. We were able to provide anecdotal information and data from some jurisdictions, but were not able to fully respond to questions about the number, frequency, and increase/decrease of attacks against state court judges and court personnel. Setting up a national threat assessment/incident reporting system would enable state courts to answer these important questions and develop strategies to protect state court personnel and court facilities.

Threat assessment/incident reporting was a priority issue at the "National Summit on Court Safety and Security", which was convened by the National Center for State Courts and the National Sheriff's Association in Washington, DC on April 5, 2005. After the Summit, we reported to the House and Senate Judiciary Committees that, while some states had robust threat assessment and incident reporting systems, the vast majority did not. We requested that the court security legislation include a grant program to assist state courts to develop a threat assessment/incident reporting system, patterned after the U.S. Marshalls Service system, to capture national data on threats directed towards the state courts.

The Congress responded by creating a state court Threat Assessment program within the Department of Justice (Title III, Section 303 of the Act). Specifically the law authorizes the Attorney General to award grants to the highest courts in each state for the

purpose of establishing and maintaining threat assessment databases. The Attorney General would also be required to define a core set of data elements to insure the collection of uniform data and to facilitate sharing of the information between the states and with the Department of Justice. The law authorized \$15 million annually from 2008 to 2011 for this program. No funds were appropriated in either FY 2008 or FY 2009. It is clear from the authorizing language that the funds for threat assessment databases should go to state courts.

Given the limited number of states having mechanisms in place to document and track security incidents and threats made to judicial officers, non-judicial court personnel, and court facilities, the federal funds would be used to assist states to develop and implement threat assessment databases using uniform data elements and facilitate the exchange of the threat data between states.

In anticipation of the funding and creation of this program, we have been having discussions with staff of the DOJ's Office of Justice Programs (OJP) Bureau of Justice Assistance (BJA) division. We have discussed the data elements that such an incident reporting/threat assessment system would contain. We have also shared with BJA model incident reporting/threat assessment systems that have been developed by the CCJ/COSCA Security and Emergency Preparedness Committee. This committee has determined that threat assessment is only one of 10 essential elements for effective courtroom security.

NICS IMPROVEMENT ACT

We also support full funding for the State Court System Grants under the NICS Improvement Amendments Act (PL 110-180). The State Court System Grants are authorized for \$125 million for FY 2010 and FY 2011. No funds were appropriated in FY 2009 for the State Courts program. Currently, NICS Improvement Act reporting requirements are in place but state courts have not been appropriated funds for these purposes.

As you know, the NICS Improvement Amendments Act was signed into law by President Bush on January 8, 2008. This Act strengthens the Brady National Instant Check System by providing grants to states and state courts to assist them in reporting mandatory data to the National Instant Criminal Background Check System (NICS).

The Brady law mandates that federally licensed firearms dealers perform background checks on prospective gun purchasers. The Brady law has been effective in keeping guns out of the hands of individuals with prior criminal records and disqualifying mental health records. However, the Brady background check is only as good as the

records it can search. State courts are challenged in providing the mandated data to the NICS system.

The intent of the NICS Improvement Amendments Act was to prevent thousands of prohibited buyers from buying guns because their names are not in the NICS database. State courts have a key role in contributing to the NICS database because our disposition/adjudication data is a key part of the overall NICS system.

The NICS Improvements Act created two funding streams: a State systems grant and a State Court System grant. The purpose of the two new grant programs is to assist states to improve the automation and transmittal of arrest and conviction records, court orders, and mental health adjudications or commitments to NICS and State record repositories. The Act provided both incentives (the new grants) and penalties (loss of a percentage of Byrne-JAG funds) for compliance with data transmittal requirements.

The State Court grant will assist state court systems to set up all-in-one criminal records management information systems. The goal is to have a system that combines full criminal case data, including dispositions, sentences; and warrant information. A key feature of this turnkey system is the ability to depict all sentences and dispositions associated with a defendant on one screen. Some state court systems still have separate (stove pipe) systems that do not interface with each other.

We do appreciate the difficult funding faced by Congress this year, however, having a robust criminal instant check background system will help prevent the incidents of gun violence that have been far too common in this country. State courts are struggling to comply with the federal reporting requirements. We sincerely hope that you will fully fund the NICS Improvements Act State Court Systems grants as you produce your appropriations bill for FY 2010 in order to enhance compliance by state courts and to achieve the overall objectives of the legislation.

Thank you for the opportunity to testify on these important matters. I will be happy to answer any questions you may have.