
Responsibility for the Security of North Carolina's Courts

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"I don't feel safe at all. There's not very much security around here. I think there should be deputies patrolling the hallway, or officers—whatever they decided to put. And there should be metal detectors at the doors. It's just not a very safe place anymore."

—An assistant clerk of court in Orange County, after a woman was attacked in a courthouse restroom in September 1998

Court proceedings have some common features conducive to violence. They all involve conflict, often the kind that arouses deep emotions in those affected. They also entail coercion, for most people attending to business at a courthouse have no choice about being there. Finally, they often involve people who have been unable to conform to society's norms or control their impulses. Yet citizens reasonably expect courthouses and courtrooms to be among the safest places in the community. So security measures often are necessary to prevent incidents and to handle those that occur.

Court security has received new attention in the last few years for a variety of reasons. High-profile and extreme cases like the bombing of the federal courthouse in Oklahoma City certainly contribute to the increased concern. But less dramatic incidents like the one in Orange County are more typical and more likely to heighten the sense of many court officials and citizens that the courthouse is not a safe place. In surveys conducted by the North Carolina Administrative Office of the Courts, inadequate security and a fear of violence consistently rate among court officials' most pressing concerns. That has prompted the Administrative Office of the Courts (AOC) to issue guidelines for court security (see story, page 13).

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The issue is difficult because the incidents are still rare. But they can occur anywhere—in rural areas as well as metropolitan ones, in appellate courts and trial courts, and, as shown by the Orange County attack, in common areas used by the public. And when they happen, inevitably questions are asked about how and why they were not prevented.

The new guidelines offer help to those involved in providing security. This article discusses the roles of the governmental entities that are responsible for court operations.

GOVERNMENTAL RESPONSIBILITY FOR SECURITY

An examination of the government's duty to provide effective court security offers an excellent case study in intergovernmental relations. The issues involve multiple actors in both state and local government. Many of the legal issues are not yet clearly answered by case law or statutes.

At the state level, the legislative and judicial branches are involved. The legislature may decide the policy issues, including the scope and the allocation of responsibilities, and it provides some funding for security and related needs. Within the judicial branch, state-level administrators (the Administrative Office of the Courts) and local trial courts play a role in providing court security. In the trial courts, some responsibility lies with the senior resident superior court and chief district court judges, who have continuing administrative authority. Some responsibility also lies with the judges assigned to preside over specific cases.

At the local level, responsibility for court security rests with both the county commissioners (and the county's chief executive, the county manager) and the sheriff.

This complex array of governmental intersections presents three basic questions and related legal issues:

- Who has the duty to provide security for court operations or to ensure that security is provided?
- If an issue arises about whether those responsible for security are meeting their duty, who has the authority and the power to direct the responsible entities to take specific measures or to make general improvements?
- If disagreement occurs between an official with authority to request or order new security measures and the official responsible for taking the measures, how is that disagreement resolved?

Governmental Entities Responsible for Court Security

As with most issues relating to court administration, the starting point for determining who is responsible for court security is the structure put in place in 1962 when the General Assembly and the people of the state established the current uniform court system in the state constitution. In simple terms their decision was to make the courts a state function. The offices and the positions then supported by local funds (clerks, justices of the peace, and lower court judges) were replaced by new state offices and positions. The facilities in which those people worked, however, remained the county's responsibility. Thus counties were relieved of nearly all funding responsibility for the court system, with the major exception of providing the facility. The fundamental decision was that the county would provide the space and the state would provide the operating costs. This principle does not answer all the questions that arise, but it is the starting point for most of them.

The principle is important in determining the allocation of duties for court security because a facility's design is an important variable in an effective security program. But specific offices in both the courts and local government have operating responsibilities for security, as follows.

Administrative Office of the Courts. By constitutional mandate the state provides operating funds for the court system.¹ The state agency responsible for administering the funds and providing other administrative support is the AOC.² The AOC submits and administers the court system's budget;³ provides equipment for the trial courts with state funds;⁴ and investigates, recommends, and helps obtain adequate physical facilities for the courts.⁵ The AOC's responsibilities over facilities and court operations in general extend to analyses and recommendations, but it has no direct authority to order local governments to act in any specific way, such as to take specific security measures.

Judges presiding over trials. Trial judges make decisions about the conduct of trials and the security measures to be taken in response, either in the context of a specific case or as part of their administrative duty. It is fairly clear that, when a factual basis has been established, judges have the power to order the measures necessary to administer justice within the scope of their jurisdiction.⁶ Those measures may include actions to provide adequate security and to control

behavior that is disruptive to the court, and any related measures, and any judge conducting a proceeding may exercise them.⁷ In *State v. Lemons*,⁸ the North Carolina Supreme Court upheld a trial court judge's order in a capital case that a sign be posted on the courtroom entrance advising the public not to enter unless they had business in the courtroom and warning that all persons entering would be searched for weapons. The court rejected the argument on appeal that this security measure violated the defendant's constitutional right to an open trial, noting that the case dealt with a sign, not outright closure of the courtroom, and that defense counsel supported posting the sign. The court relied on G.S. 15A-1034(a), which gives the presiding judge authority to "impose reasonable limitations on access to the courtroom when necessary to ensure the orderliness of courtroom proceedings."⁹ Judges commonly order special security measures when, for example, witnesses, jurors, or court officials have been threatened; when weapons or other dangerous items have previously been found in the vicinity of the courthouse; or when they have reasonable grounds to believe that public interest in a case will run so high that security controls will be necessary to maintain order and provide a fair trial.

Judges with administrative responsibilities. In each judicial district, two judges have administrative responsibility for the court's operations: for superior courts, the senior resident superior court judge; and for district courts, the chief district court judge. Their authority, which is not tied to any specific case, derives in part from statutes and in part from rules adopted by the supreme court to govern trial proceedings. G.S. 7A-41.1 provides that "all duties place[d] by the Consti-

tution or statutes on the resident judge of a superior court district,

... which are not related to a case or controversy or judicial proceeding and which do not involve the exercise of judicial power, shall be discharged . . . by the senior resident superior court judge. . . ." G.S. 7A-146 provides that "[t]he Chief District Judge, subject to the general supervision of the Chief Justice of the Supreme Court, has administrative supervi-

sion and authority over the operation of the District Courts and magistrates in his district." Rule 2 of the Rules of Practice for the Superior and District Courts gives both the superior court and the district court the power to promulgate local rules for managing cases on the civil dockets. Other statutes and rules confer similar authority on these officials to issue bail or fingerprint policies and to perform many similar administrative tasks. When circumstances threaten safety or challenge the ability of the court to maintain order and decorum, these judges often negotiate with those who are responsible for providing security. Sometimes, relying on their inherent authority as judges, they direct that specific actions be taken.

The county. The county is responsible for providing "courtrooms and related judicial facilities."¹⁰ Those facilities must be "adequate" to meet the needs of the courts.¹¹ G.S. 153A-169 gives the county the authority to make decisions about the property in its control and to designate the uses to which county property may be put. It specifically authorizes the county to determine the location of the county courthouse. A county's decisions about the location, the size, and the design of court facilities and related spaces (like parking lots) have a significant effect on the extent to which a facility is secure. In addition, the location and the design of related county facilities like jails can have a significant effect on court security issues.

The sheriff. The constitution establishes a sheriff's office in each county, the holder of that office to be elected by the voters every four years.¹² The sheriff has a variety of statutory duties. He or she must run the county jail, if there is one, and serve civil papers in lawsuits. In most counties the sheriff also provides law enforcement. Finally, G.S. 17E-1 provides that the sheriff is "the only officer who is responsible for the courts of the state, and acting as their bailiff and marshal." That provision codifies a common-law understanding of the duties of the sheriff. The sheriff therefore must provide court security services. The sheriff obtains funds to operate his or her office from the county. On operating matters, however, because he or she is elected, the sheriff has the discretion to manage the office consistently with the responsibilities assigned to it.

Specific Security Issues

Within the framework of responsibilities just described, specific issues arise concerning facilities, equipment, and personnel.



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STATE PROJECT ON COURT SECURITY

In recent years, anecdotally and in formal surveys, judges and other court officials have cited violence and the threat of it as among the most serious concerns facing the administration of justice in North Carolina. Virtually every county has had incidents, from fights or bomb threats to shootings or rapes. In response to the refrain that “something needs to be done,” the Administrative Office of the Courts (AOC) obtained a grant from the Governor’s Crime Commission to address the issue. The goal was to inform county and court officials about what can be done, and how.

The AOC formed an advisory committee of court and county officials from all the interested offices and retained an expert in security. The resulting study included a statewide survey to assess present needs and priorities in court security, and inspection of five county courthouses to gain practical knowledge about the issues in and the obstacles to improving security.

The product, *North Carolina Court Security Guidelines*, was distributed in September 1998 to court and county officials statewide—judges, county commissioners, county managers, sheriffs, clerks of superior court, and others. The guidelines detail an approach for court and county officials to work together in evaluating security needs, developing policies and procedures, implementing improvements, and providing continuing review and enhancement. The guidelines also set out specific measures for screening for weapons, controlling access to buildings and grounds, securing courtrooms, stationing and training court security officers, designing courthouses, and conducting high-profile trials.

Cooperation, not funding, can be the biggest obstacle to making North Carolina courts safer. Some of the most urgent and effective ways to improve security cost next to nothing—for example, locking all outside doors except one. However, duties and authorities for the courthouse environment, for security in particular, are divided among judges, county commissioners, and the sheriff (hence the makeup of the advisory committee). The guidelines contain not only recommendations that fall within the purview of each of these officials but approaches that all of them can take together.

Court and county officials did work together in generating the guidelines, identifying such problems as overlapping or ambiguous authorities, and developing sound, practical, unanimous recommendations. In this important way, the guidelines offer proof that North Carolina can achieve adequate security through successful negotiation and cooperation toward a common goal—safety for court employees and the public.—*Rick Kane*

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Copies of the guidelines are available free of charge from Rick Kane, Administrative Office of the Courts, P.O. Box 2448, Raleigh, NC 27602, phone (919) 733-7107, e-mail rick.kane@aoc.state.nc.us.

Facilities

With regard to facilities, the issue that arises is whether the facility in which court operations are conducted is adequate to provide a reasonable degree of security. The law is clear that the facility must be adequate. What if there is a disagreement about adequacy, for lack of security or some other reason?

In 1991 the North Carolina Supreme Court held in the *Alamance County Court Facilities* case that “when inaction by those exercising legislative authority threatens fiscally to undermine the integrity of the judiciary, a court may invoke its inherent power to do what is reasonably necessary for the orderly and efficient administration of justice.”¹³ This holding established clearly for the first time that judges have the power to order another branch of government (the county in this case) to provide adequate court facilities.

Their doing so would be an extraordinary action, and the supreme court was careful to emphasize that. Guided by the principle of separation of powers, the court specifically held that the remedy chosen must minimize the intrusion on the other branch and that the procedures followed in deciding to order the other branch to act must be consistent with established procedures and due process. One important effect of those limitations is that, although the court may order the county to act, the county retains the discretion to determine how it will provide the adequate facility.

The *Alamance County* case is important because it establishes a remedy by litigation that had previously eluded those who had tried to fix what they thought to be inadequate court facilities. The case dealt with one kind of inadequacy, lack of space. It did not specifically address security issues. However, extending the ruling in *Alamance County* to facilities that are inadequate

because they do not provide adequate security would be consistent with the logic employed by the court. Other state supreme courts have approved local court orders requiring local governments to spend money for ongoing court operations when the necessary factual basis has been established.¹⁴ One case out of Indiana, *Carlson v. State*, dealt with issues that might reasonably be construed to involve security. In that instance the court upheld a local judge's order directing that the local government make funds available to hire bailiffs to provide adequate security (among other responsibilities).¹⁵ The *Carlson* case involved security personnel, not facilities, but together the two holdings suggest that, in a proper case, a facility that is inadequate because it does not provide adequate security could be the subject of an inherent-powers lawsuit.

Security Equipment

Another issue that arises is identifying who is responsible for supplying the physical items (metal detectors, bulletproof benches for judges, and so forth) needed to provide adequate security. There are two subissues. First, are these physical items needed as part of the court's operations, or are they more appropriately considered to be part of the facility? Second, even if they are not part of the facility, is a duty to furnish them imposed on the sheriff by virtue of his or her responsibility to provide security?

The law provides no clear answers to the first question. As a result, court officials and local governments often have disagreed on items. In general, if the item sought is equipment to be used for court operations, purchase of it is an operational expense, and the duty to provide it falls on the state and the AOC. If the item sought is part of the facility, the duty to provide it falls on the county.

Some items are easily assigned to one or the other category. Furniture is an integral part of providing a facility, so it is the county's responsibility.¹⁶ The computers and related equipment needed to provide information to and about the courts are essential to judicial operations but not a necessary part of a facility. Therefore they are the state's responsibility.¹⁷

But many items are not as easily assigned to either the state or the local government. Clearly the state has the duty to provide basic computer equipment (terminals, hardware, software, and printers), but questions frequently arise about some of the component parts of an effective computer system, including the cabling inside courthouses and related court facilities that links

them to the state's computer. Is the cabling part of the facility, or is it operating equipment? How one answers that question determines who must pay for its purchase and installation. Although computer cabling does not concern security, the handling of it illustrates how these issues are addressed. Further, because cabling purchases and installations are common, some precedents make the issue useful as a guide for the resolution of other issues.

Although cases and statutes provide no definitive answer, they suggest some factors that may bear on the question:

1. If the item is permanently affixed to a structure (for example, if it is a fixture or a part of the structure, like a built-in bookshelf), that suggests it is part of the facility.
2. If the item is used with persons other than court officials and patrons (for example, a permanent metal detector at a common entrance), that suggests it is not integral to court operations.
3. If the item would commonly be included in the construction costs of a new facility (for example, a sound system for a courtroom), that suggests it is a facility cost, even if it is being added to an existing facility.
4. If the item is unique to court operations (for example, transcribing equipment or special filing equipment), that suggests it is an operating expense. Conversely, if an item is not unique to court operations and not operated or controlled by court personnel (such as a portable metal detector used by sheriffs' deputies), that suggests the equipment is not an aspect of court operations per se.
5. If the General Assembly, which established the operations/facility dichotomy, allocates state funds to pay for the activity, that suggests it views the activity as an operating expense. If, on the other hand, the legislature has not provided funds for the activity, that implies it does not consider the cost to be a court operating expense.

Using factors such as these, parties generally have resolved the issue of computer cabling by negotiation. The typical result has been that the cost of providing cabling within the courthouse itself is considered a facility expense.

A similar analysis would apply to security equipment. Typically, permanent metal-detection equipment is installed to provide security and to deter persons who might bring weapons to court. This equip-

ment often is used in common areas that provide access to county operations as well as court operations. Both the fact that it is permanently installed and the fact that it serves county and court officials suggest that it is a county responsibility. Either fact is probably sufficient to make it a county responsibility using the traditional analysis.

Therefore some equipment needed for security probably falls clearly in the facility category. Sometimes, though, equipment is needed for a single, high-profile trial, and its use may be limited to a single courtroom. If in that situation officials use a hand-held metal detector at the courtroom door, it is hard to argue that the device is part of the facility.

But it does not follow that the responsibility is the state's. The sheriff's longstanding common-law duty to provide court security, now also an explicit statutory duty, suggests that responsibility for providing such equipment lies with that office and not with the AOC or the state.

The county's discretion. The existence of a duty does not determine the manner in which the duty is met. *Alamance County* makes it clear that, even when ordered to provide adequate facilities, the county retains the discretion to decide how to meet that responsibility. In the *Alamance County* controversy, the court community wanted a single new judicial center that would combine all court operations under one roof. It did not get its wish. The county opted to build a new, special-purpose facility and retain the old courthouse. To extend that principle to issues affecting security equipment, the sheriff or the county retains discretion to determine how best to provide adequate court security. Either may opt to use bailiffs or other personnel instead of providing screening devices like metal detectors. Only if the appropriate court officials determine that the decisions about security do not provide adequate protection may the court order that more be done, whether that involves equipment, facility changes, or added personnel. In specific, high-risk cases, judges sometimes do enter orders limiting access to the courtroom, mandating searches of spectators, or calling for other measures.¹⁸

Voluntary actions by the AOC. In some instances the sheriff and the judge presiding over a trial or another proceeding may disagree over the need for security equipment and other security measures. In such cases the AOC may elect to provide supplemental equipment, and it has done so on a temporary basis. This is apparently a valid use of state funds and an action within the AOC's statutory mandate. In some



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A hand-held metal detector

high-profile trials, when there has not been enough time to resolve the issue before the court proceeding begins, or when the local government has been unable or unwilling to do so, the AOC has provided equipment that it thought should have been included in the facility's infrastructure or provided by the sheriff as part of his or her duty.

Security Personnel

Security issues do not always involve equipment. Instead they may be raised by the quantity or the quality of the security personnel provided by the sheriff. In that case, may a court order the sheriff to provide additional personnel or improve the training of existing personnel? May it order the county to provide funds to the sheriff?

No statutes or cases in North Carolina speak to this issue. Courts in other jurisdictions have approved orders for expenditures to provide additional court employees.¹⁹ Also, they have upheld orders that clerks be hired, reassigned, or otherwise directed to perform specified activities, even though they did not work directly for the courts and even when the orders forced reallocation of personnel from another county function to the work of the courts.²⁰ The precise holding of *Alamance County* and the rationale of the cited cases could easily be read to support court-ordered local expenditures. Until such a case is decided, however, the question will be open.

If the courts are found to have this inherent power, that will raise another issue. If a court finds that the number of security personnel is inadequate, what is the remedy, and against whom is it to be directed? The sheriff almost certainly has personnel other than the bailiffs and the deputies assigned to work on court security. Should the sheriff be directed to reassign those employees? Should the county be directed to provide additional staff to the sheriff? Or should the court simply direct the county and the sheriff to

provide adequate security and leave the manner of compliance to their discretion? These are difficult questions, but, given the deference shown to the county in *Alamance County*, the third question represents the probable choice.

Responsibility for operations and facilities, the scope of the court's inherent power, the county's and the sheriff's discretion in determining how to provide security, and similar issues share a characteristic. Almost none of them are clearly answered by current cases and statutes. The resulting uncertainty usually contributes to a commonly perceived need to resolve matters through negotiation rather than resort to legislation or litigation.

Judges' Authority to Order Security Measures

The discussion to this point has dealt with who has responsibility to provide secure facilities, special security equipment, and personnel. But who has the authority to decide that improved security measures are needed?

A county may unilaterally decide to upgrade security arrangements for a courthouse.²¹ A sheriff may unilaterally decide to add bailiffs, improve bailiffs' training, or install metal detectors (if he or she can make an adequate showing of the need for them). That is not always how the issues arise, however.

A trial judge may determine that improvements in security measures are necessary to ensure a safe environment for court proceedings. G.S. 15A-1034 authorizes a presiding judge to limit access to persons who have been searched for weapons and to impose reasonable limitations on access. As explained earlier, in *State v. Lemons*, the court relied on this statute in upholding the posting of a warning sign on the courtroom entrance. G.S. 15A-1035 authorizes the presiding judge to take any other measures necessary to maintain courtroom order, through use of the inherent powers of the court.²² Measures that have been ordered in some cases include adding security personnel, requiring spectators to sign in, requiring all persons entering the courtroom to pass through metal detectors, and providing secure transportation for jurors. In one extreme case, the security for the jury's transportation included helicopter surveillance, a police convoy, and armed guards on the street when the jury's vans passed by.²³

But the issue may come up another way, or it may not be limited to a specific case. General security concerns are more appropriate for the chief district and senior resident superior court judges. They have the

general duty of administrative oversight of the courts in their district on matters unrelated to hearing or disposing of a specific case. Pursuant to that duty, when circumstances pose a threat to safety or challenge judges' ability to maintain order and decorum, they often engage in negotiations with those who are responsible for providing security. Also, as noted earlier, sometimes they enter orders directing specific actions, relying on their inherent authority as judges.²⁴ In these instances the judge is acting in an administrative capacity, and not in the context of a specific case, in which more urgency might be involved.

Resolution of Security Issues

If a judge enters an order in a specific case or pursuant to his or her administrative authority, it is an order of the court, and the sheriff or other officials affected by the order are expected to comply with it. If there is a question, typically all those affected discuss the issues before the order is entered. Unfortunately, though, sometimes judges enter orders without consultation. Other times there is consultation but no agreement.

In either instance, if there is resistance and if the need to provide orderly proceedings is clearly demonstrated, the court may consider using its contempt power to enforce the order. G.S. 15A-1035 clearly authorizes a judge to use contempt proceedings to maintain courtroom order, and G.S. 5A-11(a)(6) establishes as one ground for contempt the "willful or grossly negligent failure by an officer of the court to perform his duties in an official transaction." Cases commonly cite the principle that courts possess the contempt power because, to administer justice, they must be able to enforce their mandates. Among those mandates are that the courts be open and that trials be fair. Lack of security can threaten both.

But contempt is an extraordinary remedy, especially when used against a government employee acting in his or her official capacity. North Carolina cases suggest that, although a contempt citation may be a means of enforcing an order related to security, the courts will be reluctant to issue one, and appellate courts will examine the procedures used carefully.²⁵ No appellate cases in the state have approved this use of the contempt power, primarily because the issues typically are resolved before they get that far.

The *Alamance County* case offers an alternative procedure that is more protective of the county's interests in being heard. On large, systemic issues that cannot be addressed by a judge presiding over a

ISSUES OF INDIVIDUAL RIGHTS

Individuals sometimes challenge the security measures that courts impose, usually on the ground that the measures violate their constitutional rights. In most cases they challenge searches of persons entering a courthouse or a courtroom, typically conducted with metal detectors. Numerous cases, though, involve the imposition of other security measures. As an aid to readers interested in conducting more research on this subject, citations to and summaries of some leading cases follow.

State v. Lemons.¹ The court in this capital case upheld a judge's order that a sign be posted on the courtroom entrance advising members of the public not to enter unless they had business in the courtroom and warning that all persons entering would be searched for weapons. The court rejected the contention that this security measure violated the defendant's constitutional right to an open trial, noting that the case dealt with a sign, not outright closure; that defense counsel supported posting the sign; and that it was possible for a defendant to waive a constitutional right. The court relied on G.S. 15A-1034(a), which gives the presiding judge authority to "impose reasonable limitations on access to the courtroom when necessary to ensure the orderliness of courtroom proceedings."

State v. Grant. In this case the court held that an order directing that courtroom observers be searched before entering was not evidence of court hostility to the defendant:

It was necessary for the court to maintain discipline and decorum in the courtroom and its environs. The action of the court in prohibiting picketing, parading, and congregating in and around the courthouse and in requiring spectators to submit to a search for weapons before entering the courtroom was entirely proper.²

McMorris v. Alioto.³ The court in *McMorris* approved the use of metal detectors in a federal courthouse as an administrative search if the search was necessary to secure a vital governmental interest (protecting courts from danger); was limited and no more intrusive than necessary to protect against danger; and was not conducted to gather evidence for criminal prosecutions. The court found metal detectors to be less intrusive than other search methods. Further, it judged pat-down searches to be a reasonable secondary search method if the metal detector was triggered.

U.S. v. Darden.⁴ A federal court rejected the contention that the use of security measures conveyed to the jury that the defendant was dangerous, thereby depriving him of a fair trial. Measures included (1) placing numerous security personnel in the courtroom; (2) using metal detectors; (3) inspecting the belongings of defense counsel, initially within view of arriving jurors; (4) using an anonymous jury and assembling it in a secret location; and (5) transporting the jury from its sequestration site to the courtroom using armed guards and a helicopter escort. The court held that the trial judge must have wide discretion to ensure order and safety, and that the violent nature of the alleged conduct (racketeering and continuing criminal enterprise) justified the measures taken.

Holbrook v. Flynn.⁵ In *Holbrook* the U.S. Supreme Court held that the use of uniformed state police to provide extra court security was not inherently prejudicial to the defendant's ability to receive a fair trial, and was permissible in the absence of a showing of prejudice. Establishing the particularized factual basis to shackle or gag a defendant, required by *Illinois v. Allen*,⁶ was not necessary in this context.

U.S. v. DeLuca. In this case the U.S. Supreme Court rejected the contention that a policy requiring all courtroom spectators to provide written identification before being allowed to enter the courtroom violated the defendant's right to a public trial under the Sixth Amendment. The policy resulted in partial closure of the courtroom, justified by the government's interest in providing security at the trial. The court also suggested that the use of a metal detector did not result in closure:

To cite an obvious example, magnetometer screenings are designed to prevent armed spectators from entering the courtroom, yet no one would suggest that conditioning spectator access on submission to reasonable security screening procedures for dangerous weapons violates the Sixth Amendment right to a public trial.⁷

Rhode Island Defense Attorneys Association v. Dodd.⁸

The court in this case denied a request to enjoin a policy of searching all persons entering the courthouse, including attorneys, and of searching packages, briefcases, and the like for weapons. The court ruled that the policy did not violate the Fourth Amendment nor did it interfere with the defendant's right to counsel because it was limited to a search for weapons and did not involve inspection of confidential papers or confiscation of papers or files.

Martinez v. Winner.⁹ A federal appellate court ruled that judicial immunity applied to actions taken by the trial judge to control order and security in the courtroom. Actions taken to that end, the court said, are "judicial" functions.

NOTES

1. *State v. Lemons*, 348 N.C. 335, 501 S.E.2d 309 (1998).
2. *State v. Grant*, 19 N.C. App. 401, 413, 199 S.E.2d 14, 23 (1973).
3. *McMorris v. Alioto*, 567 F.2d 897 (9th Cir. 1978). See also *Klarfeld v. U.S.*, 994 F.2d 583 (9th Cir. 1991); *Legal Aid v. Crosson*, 784 F. Supp. 1127 (S.D.N.Y. 1992).
4. *U.S. v. Darden*, 70 F.3d 1507 (8th Cir. 1995).
5. *Holbrook v. Flynn*, 475 U.S. 560 (1986).
6. *Illinois v. Allen*, 397 U.S. 337 (1970).
7. *U.S. v. DeLuca*, 137 F.3d 24, 33 (1st Cir. 1998).
8. *Rhode Island Defense Attorneys Ass'n v. Dodd*, 463 A.2d 1370 (R.I. 1983).
9. *Martinez v. Winner*, 548 F. Supp. 278 (D. Colo. 1982).

specific case, it offers the only procedural roadmap that has the recent approval of the supreme court. The court attempted to ensure deference to executive and legislative functions while enabling the courts to take actions necessary to ensure their ability to function. Thus the opinion offers the safest procedure for courts to follow in disputes over security issues. To follow the recommended procedures, the court must (1) give the sheriff and the county notice and an opportunity to be heard on the matter, (2) find facts that support the exercise of its inherent power, and (3) narrowly tailor the order to minimize the intrusion on the discretion of the sheriff and the county.

In counties where security is not a problem, effective communication among the key actors and respect for one another's roles almost always are present. To be effective, communication must be reciprocal. Court officials help their case if they engage in continuing communications with county officials and the sheriff about their needs. They also help their case when they are respectful of the county's discretion and try to provide reasonable notice of their needs. Similarly, county officials help matters by being responsive when they can, and being willing to discuss the issue with court officials when they cannot be responsive.

Like many governmental matters, relationships on court security are forced marriages from which divorce is not possible. Any one of the many entities with a stake in the issue may create a problem for the others. However, because public safety is ultimately involved when problems arise, the incentive and the opportunity for finding common ground are great, and the cost for not doing so is high.

NOTES

1. N.C. Const. art. IV, § 20. This duty is codified in N.C. Gen. Stat. § 7A-300 (hereinafter the General Statutes will be cited as G.S.).

2. See G.S. 7A-340.

3. G.S. 7A-343(4).

4. G.S. 7A-343(6).

5. G.S. 7A-343(5).

6. In the Matter of Transportation of Juveniles, 102 N.C. App. 806, 403 S.E.2d 557 (1991).

7. See generally Felix F. Stumpf, *Inherent Powers of the Courts: Sword and Shield of the Judiciary* (Reno, Nev.: National Judicial College, 1994).

8. *State v. Lemons*, 348 N.C. 335, 501 S.E.2d 309 (1998).

9. See also G.S. 15A-1035.

10. G.S. 7A-302.

11. G.S. 7A-304(a)(2); *In re Alamance County Court Facilities*, 329 N.C. 84, 405 S.E.2d 125 (1991).

12. N.C. Const. art. VII, § 2.

13. *Alamance County*, 329 N.C. at 99, 405 S.E.2d at 133.

14. See cases cited in Stumpf, *Inherent Powers*, chap. 5, "Logistical Support."

15. See *Carlson v. State*, 220 N.E.2d 532 (Ind. 1966).

16. G.S. 7A-302.

17. Statutory support for that conclusion comes from G.S. 7A-343(1) and (3), which require the AOC to collect data and provide information services to the courts. Supplying the equipment necessary to do that is logically a part of the courts' operation, for which the AOC is responsible. Further, uniform, compatible equipment and programming across the state are essential parts of a uniform information system and must be under the courts' control.

18. G.S. 15A-1034, -1035.

19. See *Carlson*, 220 N.E.2d at 532.

20. *Price v. Superior Court*, 230 Cal. Rptr. 442 (Cal. Ct. App. 1986); *Crooks v. Maynard*, 732 P.2d 281 (Idaho 1987).

21. G.S. 153A-169.

22. See *State v. Superior Court of Marion County, Rm. No. 1*, 344 N.E.2d 61 (Ind. 1976) (approving inherent powers to order necessary equipment for courtroom); *O'Coins, Inc. v. Treasurer of County of Worcester*, 287 N.E.2d 608 (Mass. 1972). The practice of ordering specific security measures, with authority derived from the judge's inherent power to ensure a fair trial, has been commonly followed by judges for generations. Orders of this kind usually recite the specific findings that support them. See also *State v. Grant*, 19 N.C. App. 401, 199 S.E.2d 14 (1973), which seems to approve this kind of order, although it was not discussed in terms of the court's inherent powers, as demonstrated by the following language from that case: "It was necessary for the court to maintain discipline and decorum in the courtroom and its environs. The action of the court in prohibiting picketing, parading, and congregating in and around the courthouse and in requiring spectators to submit to a search for weapons before entering the courtroom was entirely proper." 19 N.C. App. at 413, 199 S.E.2d at 23.

23. *U.S. v. Darden*, 70 F.3d 1507 (8th Cir. 1995). See also *U.S. v. DeLuca*, 137 F.3d 24 (1st Cir. 1998).

24. See *Bozer v. Higgins*, 596 N.Y.S.2d 634 (Sup. Ct. 1992), modified, 613 N.Y.S.2d 312 (Sup. Ct. App. Div. 1994), in which the court system's authority to issue a security policy was held to be part of running a separate, independent branch of government.

25. See *In re Board of Commissioners*, 4 N.C. App. 626, 167 S.E.2d 488 (1969).