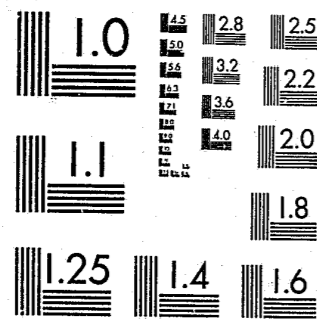


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Department of Justice

STATEMENT

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HOWARD SAFIR
ASSISTANT DIRECTOR
U. S. MARSHALS SERVICE

BEFORE

THE

SUBCOMMITTEE ON COURTS, CIVIL LIBERTIES
AND THE ADMINISTRATION OF JUSTICE
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

CONCERNING

THE WITNESS SECURITY PROGRAM

ON

JUNE 22, 1983

NCJRS

JUL 5 1983

ACQUISITIONS

Mr. Chairman, I appreciate this opportunity to appear before the Subcommittee to discuss the provisions of this bill entitled "The United States Marshals Service and the Witness Security Reform Act of 1983".

With relatively few exceptions, the Marshals Service fully supports this legislation and its intent to clarify and codify existing Program policies and procedures. The Service feels that the Witness Security Program in its present form and the legislation under discussion here today, comply fully with the intent of the Organized Crime Control Act of 1970 which formally established the Program thirteen years ago. Additionally, the proposed legislation recognizes the necessity of providing other services beyond just basic physical security which have also been of concern to the Marshals Service in administering this extraordinary Program over the years.

The Witness Security Program is truly a program without precedence. Since the Program's inception, the Department as a whole, and specifically, the Marshals Service, have been tasked to establish unique procedures which provide not only for the security of the witness, but the complete reconstruction of his life style and that of his family, and at the same time, balance the requirement to protect his relocation community and society, at large. The legislation proposed by this Subcommittee seeks to address both of these areas of responsibility.

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In its present form, the proposed legislation allows the Attorney General the latitude and flexibility necessary to provide for the specific needs of individual cases. One aspect of the Program which has remained constant throughout its thirteen year history, is the occurrence of distinct and unique situations. Without this flexibility, the Department and the Service would most definitely be at a disadvantage in successfully protecting witnesses and consequently, in prosecuting significant organized crime figures.

The proposed Act codifies procedures already initiated by the Marshals Service. For example, it has always been the policy and the practice of the Marshals Service to cooperate fully with any legitimate law enforcement investigation into the possible criminal activities of Program participants. While the Service does have a responsibility to maintain a witness' security, it does not do so at the expense of a bona fide investigation. In fact, the Service responds to all official requests for relevant information. To that end, the Marshals Service has provided the Federal Bureau of Investigation with the names, former and new, and all necessary identifying information, of all adult Program participants to enable the FBI to respond in both a secure and timely fashion, to inquiries from other law enforcement agencies conducting criminal investigations.

While the Service cooperates with any legitimate law enforcement investigation concerning a relocated witness, it also seeks to predict the possibility of anti-social behavior and initiate measures to quash it. To that end, the Marshals Service contracted in the spring of 1982, with a team of psychologists, all of whom have had vast experience in counseling and assessing individuals who had made difficult relocations under stressful conditions. This evaluation process is extended to all Program candidates recently released from prison and to those with an extensive history of violence or suicide attempts. To date, 127 individuals have been evaluated under this procedure. As a result of these in-depth psychological evaluations, the Service has been able to require psychiatric treatment and supervised state probation as a condition of Program participation in those cases where such requirements were deemed necessary.

In connection with the Subcommittee's concern that all possible measures be taken to protect society from unnecessary violence, the Marshals Service fully supports Section 102, which requires that all state parolees and probationers be actively supervised by federal probation officers. It has long been the opinion of the Service that all parolees and probationers should be supervised. In the absence of this federal provision, it is necessary to negotiate reciprocal supervision agreements between

the state court of jurisdiction in the danger area and the state probation authorities in the relocation area. Satisfactory arrangements were not always feasible. This federal provision will afford necessary attention to the state probationer/parolee's behavior and hopefully, reduce the possibility of harm to the new community.

The Marshals Service does feel, however, that certain provisions of the proposed Reform Act should be modified so as to conform with present Program procedures which the Service feels are presently adequate from the aspect of both operational effectiveness and administrative efficiency. The Service believes that the authority to enter into an agreement with the witness and his family should remain with the Marshals Service. It is impractical to allow only the Deputy Attorney General, the Associate Attorney General or an Assistant Attorney General this authority. Such restrictions would only cause inordinate delays and would provide no additional Program benefits. At present, when a witness enters the Program, he enters into a very detailed written Memorandum of Understanding which fully delineates those services the witness can expect from the Marshals Service and those precautions and duties the Marshals Service expects from the witness. The Marshals Service supports any further conditions or restrictions the Department may wish to place on the witness' participation in the Program,

but feels that any such provisions should be incorporated into the existing Memorandum of Understanding executed by the Marshals Service. Inasmuch as it is the responsibility of the Marshals Service to provide these services, it is preferable that it also be the responsibility of the Marshals Service to enter into the agreement with the witness. Additionally, the Marshals Service is an impartial body, not influenced by prosecutorial considerations. The Service understands that it may be the Subcommittee's intent that by insisting that this responsibility be elevated to the higher levels of Departmental review, that stricter admission requirements would ensue. It has been my personal experience, as first the Chief of Witness Security for one and one half years and subsequently, as the Assistant Director for Operations, overseeing the Witness Security Program for the past four years, that the higher levels of the Department have been keenly aware of and closely involved in the Program and its operation. Since the creation of the Office of Enforcement Operations and with it, the centralization of the admission authority, I feel it is accurate to say that the quality of the incoming witness and the seriousness of the existing threat to that witness have been more closely scrutinized. The results of the present admission procedure is most adequate and is certainly borne out in the increased conviction rate brought about by protected witnesses' testimony, which is

approximately 78 percent.

Sections (f)(1) through (2)(B) address the resolution of civil actions and most specifically, judgments against relocated witnesses. It has long been the opinion of the Marshals Service that Program participants should not be allowed to use the Program as a shield from their obligations by virtue of their relocation and new identity. Since 1978, the Witness Security Division has sought to assist creditors in enforcing their claims against Program participants through the service of process and giving notice to the creditor that such process has been served. The Service supports the Department's recommendation that current procedures continue in those cases where a recalcitrant witness refuses to comply with a judgment despite the Service's efforts to the contrary. These present provisions allow the Marshals Service with the concurrence of the Department to disclose a witness' relocation area and new identity to a creditor to enable the creditor to pursue legal action in the relocation area. In those cases where it is determined by the Department that disclosure would subject the witness to undue danger, a master would be appointed by the court to pursue the creditor's interest without disclosing the witness' new identity and relocation area.

Section 3523 (b) addresses the State governments' responsibility to assist the Attorney General in the provision of protection for witnesses in State prosecutions. The Marshals Service strongly urges the Subcommittee to include language which would require the States to assist the Attorney General and the Marshals Service in the provision of necessary documentation papers for all Program participants, whether they are testifying at the behest of state prosecutors or not. Additional language would hold the state harmless from any criminal or civil liability as a result of its cooperation with the Attorney General. At present, 14 state registrars feel that it is contrary to their state statutes to assist the Marshals Service in the provision of birth certificates. The majority of these same registrars are willing to assist the Service, but feel they cannot because they lack statutory authority. Unfortunately, without this necessary documentation, the witness' assimilation into the new community and often that of his children is significantly hampered.

Title II of the bill addresses the overall operation and statutory responsibilities of the United States Marshals Service. Section 1921 (e) provides the Marshals Service with the authority to credit to its appropriation, fees collected as a result of the service of process. The Service urges the Subcommittee to revise this language as follows:

(e) Notwithstanding any provisions of United States Law, the United States Marshals Service is authorized to the extent provided in the appropriations Act, to credit to its appropriation account all fees, commissions and net proceeds arising from or collected for the service of process, including complaints, summonses, subpoenas, judicial executions, seizures, levying and similar process served by the United States Marshals Service and to use such credited amounts for the purpose of carrying out such activities and to be carried over year to year for such purposes.

This additional language would better equip the Marshals Service in effectively executing a national forfeiture program.

The Marshals Service very much appreciates this opportunity to comment on this important legislation and thanks the Subcommittee and its staff for their continued interest and support of the Marshals Service and the Witness Security Program.

I would be happy to answer any questions you may have.

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