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### Access to Safe Justice in Australian Courts: Some Reflections upon Intelligence, Design and Process

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#### Abstract

There have been great strides taken in Australia recently to make our courts safer, principally through an emphasis on risk management. After all, governments have a responsibility to protect those who work in, or who visit, court precincts. A greater understanding of how court safety can be enhanced by managing people, curial processes and the court environment requires assessing the physical mechanisms of risk management alongside a 'needs-focus' of stakeholders' safety considerations. At the same time there must be a focus on enabling participation and well-being in justice processes. By examining the way in which courts now operate around Australia and the developments in security intelligence, court design and processes, this paper seeks to outline how access to safe justice is possible.

#### Keywords

Court safety, risk management, access to justice, community participation.

#### Introduction

In the last decade there has been a strong (and growing) emphasis in Australia upon risk management of courts and securing the safety of those who enter them. Governments and courts have a responsibility to protect those who work in, or who visit, court precincts, as visitors, as clients or as administrative or legal professionals. This has been the aim of security services, too, whether they have been drawn from a sheriff's department or have been contracted 'in'. Good security science has made courts more secure, physically, too. Other methods for making courts and judicial processes less intimidating have principally been through the provision of closed-circuit television (CCTV) (to enable evidence-giving from remote rooms), volunteer court visitor information services, victim assistance programs, duty solicitors offering legal aid, and training of court staff.

Making courts fortress-like, however, comes at a risk. There are certain consequences of emphasising the physical side of risk management: it paints a general picture of defendants as

security risks; it presents to victims and witnesses that they are under suspicion; and, on busy days, it frustrates the general public's ability to enter court precincts with a minimum of fuss or creates an unwelcoming barrier. The question thus arises: to what extent is it possible to secure courtrooms and environs to an optimal degree without jeopardising their important features, namely the presumption of innocence, victim empathy, curial openness and access to participatory justice? Another consideration is the evolving nature of the administration of justice and the role that courts play as adjudicators and (potentially) therapeutic service organisations in a changing landscape.

A more complex analysis of how court safety can be enhanced by managing people, processes and the court environment leads to assessing risk alongside (i) a 'needs-focus' of a range of stakeholders' safety considerations and (ii) a focus on enabling participation and well-being in justice processes.

### **The courts**

Courts provide an essential cog in the wheel of the criminal justice system. About 10 per cent of the annual Australian justice budget is devoted to courts, amounting (in financial year 2010-2011) to just over \$1.35 billion annually (Productivity Commission 2012: Table 7.1). A growing proportion of that budget is now being spent on the provision of security. Developments in security awareness, risk assessment and safety preparedness have come about in response to the fact that courtrooms and their environs are often dangerous places (Sarre and Prenzler 2012). For example, each month (on average) there are three hundred 'security incidents' in NSW courts (NSW Attorney-General 2009). Thus, in Australian courts, there is an ever-present threat to the safety of judicial officers, court staff, litigants, legal aid officers, volunteers, the public and accused persons on trial.

There is, concomitantly, a moral duty resting on the state to ensure that the courts are operated in such a manner as to prevent or forestall harm to anyone in or around them while, at the same time, endeavouring to ensure that no adverse inferences can be drawn about the dangers presented by accused persons on trial (Tait 2011). There are other legal risks associated with poor security, too, namely potential civil liabilities attached to any government (or courts administration authority) that does not secure persons adequately while they are in courtrooms or court precincts and consequently harm occurs (Sarre and Prenzler 2012).

The role of the courts, civil and criminal, has expanded to address the different requirements of court users by providing appropriate support and services. The development of specialised or problem-solving courts and integrated service and case-management programs demonstrates how the functions of the courts have evolved to provide therapeutic outcomes as a direct result of court users' engagement with the court or with assistance provided afterwards (King 2008). A risk focus now means a consideration of more than just physical security and protection in a court environment. It now includes psychological and cultural safety measures which can minimise feelings of intimidation and stress, and enable greater participation and well-being for court users and personnel.

There are three discernible ways that court departments (and the government ministers responsible for them) have undertaken the task of assessing and alleviating risk and assessing and improving safety.

The first is improving the process of collecting data and the quality of information used in decision-making, whether that involves a focus upon security levels, processes (such as prisoner transfer and security screening), or placement of witnesses and families, judicial officers, and prosecutors. This can be referred to as 'intelligence.'

The second is the organisation of court spaces, which become the focus of attention after any security breakdown. This involves separating warring factions, having suitable entrances and exits, having a flexible range of rooms available, and protecting magistrates or jurors from being spat at or insulted. There is growing evidence that particular layouts of courts improve comfort, access, and feelings of protection and safety. This can be referred to under the rubric 'design.'

The third is a focus upon staff training and management, detailing, for example, how court users move through a building and into and out of courts, or what they may require to feel less anxious or what support they need to navigate the system and participate more effectively. This can be referred to as 'process.'

Each of these issues was examined in a qualitative study that was completed by a research team in 2012. The authors have been a part of this research project investigating how court safety in Australia could be enhanced by managing people, processes and places.<sup>1</sup> This study has identified how matters of security need to be linked to a broader view of safety; how creating 'safe justice' requires a balance between the use of technologies and intelligence with helpful and engaging designs and processes.

### **Methodology**

The research project collected data from three Australian state jurisdictions (Victoria, South Australia, Western Australia) and one federal jurisdiction (Family Court of Australia) over a three year period, 2009-2012. Several methods were used in this study, including activity maps (tracing flows of people through court spaces across the day), analysis of incident reports, interviews with key informants and user juries (groups of advocates walked around courts, recording their impressions and comparing notes in a debrief). This paper draws on the third of these sources: interviews with registry staff, security officers and victim support officers in the participating jurisdictions.

Interviews were conducted in 2011 with court staff and Stipendiary Magistrates in Victoria (Melbourne, Ballarat, Bendigo, Broadmeadows Magistrates Court and the Neighbourhood Justice Centre), and with court staff in Western Australia (Bunbury and Busselton and Perth's Central Law Courts). Interviews continued in 2012 with judiciary in Melbourne and New Zealand, and with security staff and court managers in Adelaide, Perth and New Zealand including Federal and Family Court registry services, volunteers from victim support agencies, and legal and advocacy groups.

The data collected from these interviews provided information from those who have knowledge and experience of the court environment, its historical and cultural contexts, specific encounters and different types of court users and personnel. The data provide a useful insight into the way security and safety issues are understood by those at the front line of service delivery.

### **Findings: Intelligence**

Four safety and security aspects were identified as most important to addressing and managing risk: (i) improving the communication and the sharing of information across security personnel within courts and across jurisdictions and states; (ii) security personnel working collaboratively and cooperatively with court staff and the judiciary on 'safety planning'; (iii) encouraging more thorough reporting of critical incidents; and (iv) implementing proactive (not just reactive) approaches to reducing or avoiding incidents in or around the courts.

The aims of enhancing communication and improving the exchange of information across security personnel involve developing better technologies and systems for data collection and dissemination and employing specialised security analysts to assess the data collected, as well as establishing strategic and coordinated security across all court jurisdictions. In Victoria, this

last objective required the formation of a court security operations committee with operations managers from each jurisdiction represented, along with representatives from the police, corrections, the Judicial College of Australia and others deemed appropriate to discuss security strategies. Similar meetings among state representatives was said to be important not only to establish Australian standards for court safety and security but also to share information about how each security unit responds to or prevent incidents and risks.

One of the reasons given for the importance of developing better communication methods and security strategies arises from different requirements across the jurisdictions, between state and federal and civil and criminal courts (Security officer 2012). A 'one size fits all' approach was said to be inappropriate and ignores the complexity of the justice system and the different degrees or types of security required.

Security – it's multi-jurisdictional ... there's a lot of spread there in terms of security issues and safety issues ... along with the resources. There are flagship buildings like this [the Federal Family Court] at the higher end and then a circuit in a country town where there's no security guarding presence at all, so that's quite a challenge to cater for all of these issues and responsibilities across the board. (Security officer 2012)

This perspective ties in with security personnel wanting to work collaboratively and cooperatively with court staff and the judiciary on 'safety planning'. This involves court staff providing information to security, reporting on incidents or possible risks, and understanding the role security can have in improving the operations of the court.

Related themes emerged from interviews with court staff. Some also expressed the relevance of working with security personnel and managing information appropriately in order to ensure court users' security and safety.

From there we developed our security database, so when we make a security plan, we then sent a copy of that plan to security. So if we'd gotten [a client] coming in tomorrow and she needs a secure escort and we're putting her in a secure room, they have all of that notification sent to them as soon as we've made a plan. ... We also sent it to what we'd call the event owners. An event owner is a court staff member who could be dealing with that issue. It could be one of our family consultants, if it was a children's matter or it could be a post coordinator who is assisting in the management of the matter that's going before a judicial officer. ... A copy of that plan goes to anybody and everybody involved in that, so that they're all aware of what's going on. (Registry officer 2011)

Interviewees also highlighted the importance of written notifications.

We've got our case track database on which you can make what are called operational task notes. Anybody can do it. And that would alert anyone looking at that case that particular attention needs to be given to security planning. We might notify our security staff of the case when it's next listed. We might actually ask for additional resources, as in guards. We might post a photo of a particular person in the security control room so they know to look out for that face. (Registry manager 2012)

Court staff also said that they are more able to concentrate on their work and to better address issues that arise with court users once they know their personal security is guaranteed.

So from that perspective I think it makes us more calm, as staff members knowing that you'd be very unlucky for something to get through to harm us. And I think that helps us get on with the business of what we need to do, rather than worrying about our personal security. (Registry officer 2011)

Another element to the development of safety planning in the court relates to policies such as those implemented in the Family Court which provides for the victim of violence to initiate a staff-led approach to addressing the potential of risk. Support agencies for family violence victims acknowledge the importance of informing victims (via the web, pamphlets or through signage) about how they can seek assistance from a Client Service Officer at the court to discuss arrangements to enable their safety whilst participating in court events. The involvement of the victim in the process of risk assessment by requesting a 'safety plan' is viewed as an advance on reactive strategies that were adopted on the day of the hearing without planning or specific measures put into place (like staggered arrivals, separate waiting areas, security guard escort, and so forth). Considering the victim's perspective as important to security and safety planning is also highlighted as a significant change.

To implement a proactive approach to security and safety required personnel and court staff to consider similar types of training in customs type profiling, the reporting of incidents and dealing with confrontational behaviour. In this way, fostering a shared knowledge of protocols (not only the sharing of information) could support a concierge or a very implicit security approach by all personnel within the court system. The other significant feature of a proactive approach was the collection of information that could enable the development of a profile or picture of what is happening over time that could aid in minimising or preventing incidents occurring:

We can be proactive not just in bringing in personnel to address the issues but also being proactive in treating the individuals who are copping the abuse ... We can also proactively minimise the number of incidences likely to occur at court [by developing] solutions to [identified] problems by consulting with the CEO of the court, the police, and court staff ... (Security officer 2012)

Planning ahead and developing methods to improve the courts' operations were directly linked to improving the reporting of incidents. Although there was confidence that most aggravated serious incidents were being reported, it was difficult to get people to report more general security incidents. These incidents were those related to subtle intimidation actions by polarised groups of people (such as hand gestures, menacing stares, walking or standing close to 'the other side').

Some of the suggestions offered by security staff in order to minimise or prevent risks were (i) to change court listings or times to reduce the numbers of court users coming to the court at one time and (ii) to consider specific jurisdictional problems and the use of the most appropriate court in terms of facilities and personnel. A marshal of a federal court strongly expressed the view that, if a matter to be heard involved heightened emotions, then secure state courts should be available and utilised if no secure federal courts are available in a particular jurisdiction. Moreover:

In many cases, we have arrangements behind the scenes where we make a note of problem people and proactively make sure there's a guard in the presence when they come before a court the next time. And, most often, the vast majority of cases, that's all we need to do. (Security officer 2012)

Other important considerations that emerged from the interviews related to the nomenclature used by security personnel and risk management specialists which signals some of the changes

in the approach discussed above. There is now a greater focus on the use of the word 'safety' rather than 'security'. The former can be the preferred term because it was determined that people are more likely to respond affirmatively and to accept advice in relation to their safety rather than their security. There is also a greater emphasis given to the psychological safety of court users and staff. For instance, the new position of a *Safety and Security Manager* for all courts and tribunals in Victorian was created in 2010. Both security and safety components are to be considered by this manager which involves not only attending any security incident that impacts (or may impact) on the good order and running of a court or on court staff, but also being attentive to anything including anyone else coming into the court environment.

... In relation to [our] duty of care ... I think [there has been] a subtle shift in court thinking in that, once upon a time, we primarily thought about staff security and safety, but now we increasingly think about safety and security for everyone coming on to the premises. So that's a subtle but significant shift. (Security officer 2012)

For victim support groups and advocates, further attention to safety is needed beyond the 'incident response' required for the court hearing or for when a person enters the court premises. Such an approach will advance psychological safety for victims (Court Support Worker 2011; Victim Support Worker 2012). Initiating safety plans can assume an empowered court user, can place the onus on the victim to activate safety measures and can limit the safety to a court event. Questions were raised by interviewees as to whether the 'duty of care' for the court to provide safety is confined to the footprint of the building or could extend to consideration of the structural insecurities of the everyday life of particular court users which either prevents them requesting assistance from the court or, due to their contact with the court, may mean they require greater support afterwards.

### **Findings: Design**

Today, in and around Australian courts, security systems and other security tools such as duress alarms, CCTV monitoring, hand held scanners and metal detectors are now commonplace. These have either been added on to existing nineteenth century and early twentieth century buildings, or are being built into the new generation of court buildings that have had the benefit of developments in security science. Courts administrators around the country have taken extraordinary (and usually expensive) steps to ensure that those entering their courts pass through a secure point of entry, and that corridors, conference rooms, meeting places and bathrooms in and around courtrooms are re-fitted or designed with safety and security in mind. To do this effectively, they have engaged the assistance of design experts. Newer courts, such as the Roma Mitchell Commonwealth Law Courts Building in Adelaide and the Neighbourhood Justice Centre in Victoria, have reaped the benefits of modern design expertise. This work has been undertaken to ensure that those who enter courts are not intimidated by the process, yet disarmed if they are carrying items that are deemed to be a risk. Given that the security screens may quell some concerns about physical security, the redesigning of how people are located in space and the type of encounters they have with staff can enhance their feeling of psychological safety. Passive surveillance in the waiting area alongside accessible staff are methods to enhance having court matters dealt with more effectively.

In the research conducted, it was revealed that, somewhat counter-intuitively, court registry counter staff were less likely to be harassed or vilified by visitors when (glass) barriers were removed from and replaced with interview desks, where clients could be seated to discuss matters.

We found that here, that clients are far better behaved when we're more open and accessible. (Registry officer 2011)



Similar views were expressed by a security officer and a registry manager.

We used to have four to five counters here where we had constant security incidents at the counter. If you look outside now, the counters have gone and we don't have security incidents. (Security officer 2012)

When we had the bank teller-style counters with the plate glass ... the behaviour of the staff member, the demeanour of the client, is profoundly affected by standing up and talking through a slot in plate glass as compared to sitting down ... as equal partners, getting the transaction done, sharing the screen when necessary, and the papers. I think the effect is not only [improved] security and risk management, but just the dignity that that affords the public is quite profound. (Registry manager 2012)

The change from the 'bank-teller counter' to new counter arrangements has been described as a 'sit-down counter service'. From the perspective of security, this arrangement has been reported to be highly effective but only in courts where roving security personnel are present along with trained court staff at the desk. The other elements that contribute to this type of arrangement feeling safe for court staff is the inclusion of a duress button (situated under the desk) and knowing that court users are screened for weapons. It was also stated that the sit-down counter service generally requires an improved understanding of the respective roles played by security and court staff, and the importance of the sharing of intelligence between them.

This cooperation and consideration also extends to court staff and security being consulted by court designers in regards to the use of space and the furniture, interior colours and finishes chosen. The Dandenong Court in Victoria was mentioned as a good example of a 'safe' refurbishment and one that was based on a consultation between court staff, security and designers:

[The waiting area] is a relaxing place visually [with] a combination of leather furniture that can be moved, bucket chairs, ottomans and sofas, with low wooden screening, and it sort of stays in all its constellations, but during the day, people will actually move it slightly in order to speak to each other or confer with their lawyer. It's carpeted. The colours were chosen with a high level of thought. There were psychological considerations given to the colours chosen. (Registry staff 2012)

There has been a view long held that furniture should not be of the type that can be employed as a weapon. That view is now being challenged.

People say, 'You can't have moveable chairs. Someone might pick it up and hit each other with it'. They won't. If you create a dignified, respectful environment, complemented by the presence of roving security officers and capable staff, the likelihood of someone picking up a chair is so low, and the advantages of having that flexibility and the amenity of that sort of seating is overwhelming to me ... [People] are going to be much less agitated because the environment is such that it's supportive. (Registry staff 2012)

We want access to justice for all of our clients so to give them proper access and to get those court matters dealt with efficiently and effectively, clients should feel comfortable and feel safe coming into our building, and we should be doing our utmost to make sure that happens. (Registry officer 2011)

However, there was concern from a security perspective that architects believe that they know how a court can function, 'without consultation or due diligence' and that their approach can have an 'impact on the safety of a victim or court users' generally (Security officer 2012). This security officer questioned whether you can have 'court design 101' that will work in all locations and for all purposes considering the variety of court buildings that exist. It was stated that there is a tendency to miss the point 'that security does have to stand alone sometimes and can impact [on the] final design'. Getting the architecture and the security concerns right was said to be very delicate. It was very important to consult with and engage a range of people, from heads of the jurisdiction to the police.

It's a real balancing act ... [because] we have [different] demands and we have what's not negotiable and what's going to compound the security risk exposure. (Security officer 2012)

The example of whether to place security screening before or after the registry counter illustrates this tension of different demands. For security, to have the screens after the registry all the time would require a concierge-type service that may not be available in all courts (mainly due to resource difficulties). There is also a concern that there can still be security incidents with this type of service. The other factor is the volume of people of the court and this was said to be 'something that needs to be factored into all of this' (Security officer 2012). For registry, the positioning of the screens can make a big difference to the court users' experiences as well as how they navigate the court building.

The building wasn't designed to accommodate that infrastructure. We are a flagship building but the whole setup is quite bad; it's squashy, we get bottlenecks, and the noise is appalling when people come through. [This] affects people's sort of psychological status as they move into the buildings. (Registry officer 2012)

The desirability of a concierge desk or reception desk is an interesting one. We've just systematically gone around, taking funding away from that, or re-allocating that resource in our security staffing, and then some of us more recently have been persuaded, maybe that was counter-productive [because there is no staff to help people navigate the court building]. (Registry officer 2012)

With the variety of court buildings that exist, it was acknowledged that the older court precincts were generally designed more for functionality than safety and continued to give rise to concerns.

On this floor, the men's [toilets] are over here and the ladies' are over there ... you have to go down a dead end to get to the toilet. So you get cornered in that area – and that's one of the things that the previous registry manager had a real issue. (Victim support worker 2012)

In this court [Bendigo Magistrates], magistrates must go through the public areas to get to particular court rooms ... they shouldn't be exposed ... in terms of practitioners collaring magistrates on their way through and trying to influence them ... and, clearly, because it's a security problem for them. (Legal advocate 2011)

When addressing security issues in heritage buildings, it is still possible to install wireless and CCTV cameras, and 'swipe' access for staff. The respondents indicated that these initiatives had improved their everyday work environment and security.



Advocate and support workers also indicated that the use of particular visible security measures like CCTV were helpful and more appropriate to court users in older courts.

I'm sort of in two minds about the security ... the screening can get a bit ridiculous when people are having to take off their belts or shoes so you can walk in. Courts have to be accessible to people as well as you know safe, so I like the CCTV thing because ... I think it holds people accountable for their actions if they know they're going to ultimately be seen. (Court support worker 2011)

However, concerns were raised about the installation of screening facilities in courts not designed for them, as they could lead to queues forming whilst court users tried to enter the building. Longer waiting times standing outside and the increased risk of people waiting alongside the respondent or their violent ex-partner were outlined as real security and safety issues (Family Violence support worker 2011).

The general layout of entrances and exits (usually one and the same in many court buildings) was also identified as problematic, especially in domestic violence cases or where courts hosted various types of cases (for example, exposing children with adult offenders).

But even more important than improved security measures and separate entrances/exits is, according to victim and court support respondents, the need for safe rooms or places where people can meet or retreat to, and even take children if required.

We have courts that have the Children's Court operating in them but they are not designed to accommodate children ... Or, I have clients ... single mums in our community and they have to bring their kids because they've got no alternative ... and there's no friendly places, no toys or books or facilities for these people. (Legal advocate 2011)

It was said that rooms for privacy, protection or care 'ought to be standard' and known or clearly apparent to court users either before attending court or once they're in the building (Victim support worker 2011). There are also concerns about design features for those in custody in terms of the relocation of police stations away from the court and the use of holding docks to accommodate offenders waiting for their court hearing. The time spent in court cells, their conditions and the security issues that could emerge going between the buildings need attention (Legal Aid worker 2011). More generally, the judiciary and staff noted the importance of improving surveillance and balancing the demarcation of spaces of seclusion, separation and inclusion for court users.

Newer courts have been able to use design research that has been undertaken in the past decade. With court design there was said to be an 'interesting dichotomy' between creating open spaces (like larger foyers, using glass walls for transparency) and turning our courthouses into fortresses. For some, however, the court design should 'communicate the authority of the jurisdiction' (Registry officer 2011) and contribute to the 'respect for the jurisdiction' (Judicial officer 2012). For others, this did not have to be at the expense of court users' feeling a sense of 'confidence and dignity' whilst in the court building, feelings that were said to enhance their sense of safety (Registry officer 2011).

For advocates or supporters of court users, greater respect for the court could be linked to people feeling that the environment respected them and accommodated their needs. Providing non-clustered entries, good signage, a range of rooms, open and private spaces, comfortable seating, well-placed and maintained toilets, court yard facilities, activities (like magazines or artwork) or pleasant visual outlooks (like waterfalls or a garden view), and access to food and

drinks at a café were all said to reduce 'feelings of intimidation or anxiety', heightened a sense of 'pleasantness' and being 'welcomed' and could be soothing for court users by creating a sense of 'normalcy' and care (Community advocate worker 2011; Court support worker 2011; Victim support 2011).

These physical design features were also extended to the structural design of the operations of the court. Staggered or better structured case listings and a separation of when particular types of cases are heard (for example, criminal and family matters not being conducted in the same areas or at the same times) were highlighted as important considerations for safety and security purposes.

### **Findings: Process**

Generally speaking, the last decade has seen the development of significant policies and procedures manuals concerning safety and security in and around courts. These procedures attempt to reconcile the need for risk amelioration and appropriate security with curial openness. It is simply not appropriate to turn any courtroom or court building into a fortress. In dealing with the strains that will emerge from a state taking this stance, courts departments have determined, accurately, that staff recruitment and training is vital. The key areas of training have been identified as the development of a strong culture, matching the security to the environment, and reminding all staff to be constantly security aware. It is, according to the court employees with whom the researchers spoke, not simply a question of force or power, but an appropriate and intelligent use of that power (via authoritative rather than authoritarian measures) and careful selection of staff and staff attributes.

When I first started about ten years ago, the sheriff's officers were mostly ex-military men, usually just before retirement. They were in their 50s, or 60s. They'd come out of the military with a bit of power but didn't want to retire and they were very firm. They ... were very brusque and they were very militarised. And then slowly ... the entry qualifications changed ... and a lot of quite small ... women and small much older men were hired and I asked somebody one day about this and he said, 'It's a psychological thing'. He said, 'the more these big bruiser guys tried to intervene in brawls the more they brawled ... You send in a little guy with white hair and about five foot five ... No problems, the little fragile women were going to go "oh, this is disgraceful, stop immediately" and they go, "Oh, well, sorry madam" ... They also have a sixth sense about when trouble's brewing. (Victim support worker 2012)

According to many security personnel interviewed, progress in security and safety have come about by recognising the significance of attitude and on-going training.

We can rely on technology and practices and procedures all you like, and it's certainly very helpful. But at the end of the day, if we've got staff who are working as a team, looking after each other and professionally trying to do what's expected of them, they do wonders. And I can remember coming to the court many years ago, before we had guards in a lot of places, and you'd often have a staff member do courageous things. You'd have Grizzly Adams walk in and threaten everyone, and in a loud, booming voice say he's going to blow up the court. And a petite little staff member would walk out and say, 'Listen, mate, just calm down. Do you want a cup of tea and I'll give you a hand with the forms?' (Security manager 2012)

There is an expectation of security that they will de-escalate heated situations, as distinct from being authoritarian and 'showing people the door' or too quickly resorting to a phone call to the

police. There is greater focus now on employing a security company with the right attitude and to have them undertake in-house training. The type of training identified ranges from reporting on incidents to dealing with confrontational behaviour and mental health issues. Other training involved detecting behaviour and being aware of possible risks:

Customs type of profiling [which is different to 'social profiling'] is about understanding a range of body language, how [a person] is presenting... how they carry themselves ... their nervousness, [observing] their type of attire, whether things could be hidden [like a glass knife that cannot be detected by screening]. (Security manager 2012)

There was also a greater appreciation of the distress that attending court can have on court users (especially if the media are grouped just outside the doors of the courthouse) and that security staff needed to be attentive to what could cause or exacerbate anxiety, aggression and abuse.

If anger, aggression and abuse aren't treated, [the court user will] end up in a threatening situation which may, if it's not treated, result in an act of violence. I think it's inculcating the staff with the spirit that people come to us under times of great personal stress getting staff to appreciate that people are walking in under already heavy personal pressure and may have difficulty with quite convoluted forms and processes and terminology. (Security manager 2012)

Some of our best staff are the staff that simply operate at the level of the person walking in the door and communicating with them and who assist cooperatively with the person to try and get through whatever the task is at the time. And you see that in country courthouses all the time with appalling security. There's no barriers. (Security officer 2011)

The emphasis on training has also been designed to decrease any inappropriate comments at entry screening. Staff, it was said, need to be professional and speak in a courteous manner and not belittle a person. Security personnel need to be able to work with all types of people at the court including the administrators, the judiciary, the Attorney-General (who attends the courts regularly for meetings with ministers), and the Executive Directors.

Training in being respectful provides another level of safety beyond physical barriers and metal detectors.

Look at [the way] some of our horror clients [have been managed]. When they started they were really stormy and horrid. And as we got to know them, and we built up a - I'll say a level of respect with each other. They're not so horrid when they come in. They're actually quite approachable, they're angry at the decisions that have been made in court, but they're not blaming us. In the early days of coming in, it was all our fault. No matter what happened in life it was our fault. Whereas now they come in, and they'll be a bit huffy but - I'm going to say we got used to it because it's not a nasty narky-ness, it's just they're fed up with the process, they're here to follow something else. But we can deal with it. And they're quite polite with us now, in their own way. (Registry officer 2011)

With the advent of courts hiring private security guards, the court administrators, security managers and marshals commented on how this arrangement is continuing to evolve and that this requires further discussion about practices, processes and results.

We're a very interesting outfit in terms of contract security guards because increasingly the guards are being used in more and more ways that they weren't used in the past. The police won't do anything about those lower-level matters [in the courts], which may very well amount or escalate to a more serious security incident. We deal with a variety of incidents through in-house treatment management options. (Security manager 2012)

Having some uniformity across all the courts despite the different security providers was also said to be important. One way that this may occur is to have 'the same standards, same KPIs [key performance indicators], same contract requirements and standard training'. Such an approach could also contribute to security personnel having 'clearer career paths' which may assist security companies in 'retaining their staff' (Security officer 2012). In sum, and generally speaking, there has been a commitment by governments in the field of training to embrace performance measurement and evaluation with a view to continuous improvement.

Aside from recruitment and training, there are also strict procedures in relation to emergencies. For example, there may be notification of a siege, a hold-up, an evacuation, a power failure or someone with a disability needing entry screening. This also extends to what arrangements are not appropriate for staff in their interactions with clients.

And he said 'I want to go into a room with you. I want to discuss this in a room'. And he's a big, big man. And I just said to him 'No, we're going to talk at one of the other counters. We'll sit down, face to face and we'll talk'. And I think he must have sensed that I was a bit frightened of him, because I didn't want to go into a room alone with him. Just in case it got a bit out hand, how would I get myself out? And when we sat down, he goes 'I apologise, if I've intimidated you in any way I'm sorry'. And I said 'It's okay, I'm a big girl, I can handle it'. ... We don't have to be that private that my security is compromised. [So we stayed at the counter] And so he understood that, and he accepted it. And I think he was very sorry that he'd frightened me a little bit, because he - just physically, he had that physical presence and I didn't like it, but ... I could say 'no' without it being a 'no'. (Registry officer 2011)

Victim and community support respondents commented on the difference it made to their clients to have security and court staff that were approachable and helpful. This could make the court feel more 'friendly' (Community advocate 2012). The importance of staff showing 'respect and dignity' to a person was also seen as fundamental to a court users' sense of psychological safety (Disability support worker 2011). The way in which difficult people are approached by security or court staff, especially if they are dealt with civilly, will have a calming effect on others. The importance of having 'roaming' police and protective services personnel who could assist with any queries and just be 'visible' for court users was highlighted too (Victim support worker 2011). It was said to be equally important that court staff or security also initiate the process of informing court users of what services were available or to provide direction for places to go to feel more safe or comfortable: 'It helped when we didn't go looking for [services]...they came to you' (Community advocate 2012). This was especially effective for those support groups which were not based at the courts and may not be familiar with the court building.

The courts need people who will go around and talk to people, sit with them and ask them 'Do you need any help?' And then guide them to particular services. This puts people at ease. (Victim support worker 2011)

There has been a commitment by governments and court personnel to establish policies and processes that address more broadly the safety concerns of court users, but this has also

extended to the administration of justice as a way to aid court users. In Victoria, for instance, there is the Court Integrated Service Program and the Assessment Referral Court (ARC) Program operating in the Magistrates Court which identify the special needs of the accused person in the criminal justice system and which provide services that might help them whilst in court and as a way of addressing their offending behaviour. The magistrate works closely with a team of support services including court staff to ensure the person's emotional stability and to tailor the court process to the person's ability to engage. Security staff may be involved in briefings as to what special needs a person has and how best to address them.

I think [such programs] have demystified the court a lot and made it a very accessible place ... as well as [the court user] having a perception of the court as a safer place. (Magistrate 2011)

The ARC program has made the process of going to court easier for people with a mental illness and a range of impairments. ... it has a collegial atmosphere and everyone is working toward understanding people's difficulties and helping them. (Community advocate 2012)

The recognition of specific safety needs and vulnerabilities of court users is also demonstrated in court-initiated support programs such as the Child Witness Service, the Remote Witness Protection scheme, and the Child Dispute Service, or in specialist courts like the Nunga, Koori and Youth Courts, which provide specialist staff to attend to victims, offenders and witnesses. These courts also offer different processes like conferencing and mediation where there is greater emphasis on case management and how to support constructive engagement with all involved in a case.

We certainly need more attention given to people who have particular vulnerabilities ... If you have any sort of cognitive impairment or are from a culturally diverse community ... [going to court] can be confusing and troubling ... Having specialist supports and environments in which people can be supported to participate I think is particularly important. (Magistrate 2011)

That same magistrate went on to observe that:

We are really reducing the number of contacts the Sheriff's Office is having for unpaid fines and things like that because people are coming to court to talk to the Koori Court officers and to start getting their legal issues resolved. (Magistrate 2011)

These measures are important process innovations as they recognise the complexity of the nature of safety and security and what may be required for individuals to participate more effectively in justice processes. They also acknowledge that the justice system is a whole series of parts that require coordination and cooperation across a variety of bodies and organisations.

## **Conclusion**

Reflecting upon three decades of security developments in the United States in 2007, Cooper wrote as follows:

No longer is 'court security' a function to be delegated primarily to the sheriff's department or other law enforcement agency, but it is rather a critical responsibility of judges and court administrative staff, who must work in partnership with law-enforcement and other professionals to ensure the safety, security, and integrity of the judicial process and the full range of personnel,

facilities, systems, and other components upon which it relies. The implications of this shift in definition for judicial administration are also significant. Court security is now an integral part of the responsibilities of court administration, reflecting the increasing recognition that the issue of 'court security' and the responsibility for ensuring 'continuity of court operations' are inextricably intertwined. (Cooper 2007: 45)

In other words, an awareness of the risks in and around court buildings has heightened and security has been addressed accordingly, not just by means of barriers and officers' presence but also by intelligence gathering, informed design work, appropriate training of staff, and the development of manuals and protocols in line with optimal practice models.

These developments have occurred alongside significant changes to the evolving role of the court as an institution of justice and as a service organisation with multi-objectives, especially the promoting of safety (symbolically and practically). Reforms to court designs, practices and processes have been aimed at reducing distressing and humiliating experiences for court users, minimising insensitive and unhelpful processes and systems, and promoting support, information and links across the various personnel that make up court staff. There have been important advances to understanding what safety means and its significance to both accessing and participating in justice. Such changes also demonstrate the growing awareness of the interrelationship between court security and the overall objectives of justice processes – and the importance of balancing a range of interests and needs of those attending and working within the court environment.

There are still competing interests as there are competing perspectives about how to approach security and safety matters. However, the security arrangements that are in place should not threaten nor jeopardise the openness of the courts, for to do so strikes at the heart of the notion of the fair trial. The principles of open court and a fair trial have been a hallmark of our legal tradition for centuries. By the same token, people who use the courts should not be exposed to unreasonable risks – physical or psychological. Finding the most appropriate balance between these aims is a crucial issue facing legislators, administrators and policy-makers alike.

At the end of the day, what should be our goal?

To me, if I was a client – I look at it from a client's perspective – I should feel comfortable and confident knowing I can come into a court building, no matter how bad my life has been outside of this place, I should be able to come in here and know that I can put my case before the court and have it heard, and not feel intimidated or have anything restraining or threatening me from doing that ... to come in here knowing that I'm going to get my matter heard and it's going to be heard with nobody interfering with me or how I feel or what I'm doing. (Federal court registry officer 2012)

Furthermore, there must be an emphasis upon dignity:

What is an important feature about justice and the courts is whether there is a sense of hope for people. The experience [of attending court] may not always be comfortable but people should feel that they have been treated fairly, respectfully and with dignity ... and, whatever happens [there], can make a difference to their lives. (Community advocate worker 2011)

With the appropriate intelligence-gathering, the right design work and processes in place, these goals should be achievable. We know a great deal more about court safety and security today. It is now an integral part of the responsibility of court administration. We now know that 'hard'



security is necessary – but not sufficient – to ensure court safety and, indeed, that an over-bearing security presence can be counter-productive to the task. Safety is thus born of a number of factors: informed ‘security science’, good design, constructive and collaborative processes, respectful practices, and appropriate training.

It is clear that not all risks of harm can be prevented but good governance strategies will identify possible risks and minimise their impact. Identifying reasonably foreseeable risks is a duty that remains constantly with administrators; so, too, understanding and assessing the safety needs of court users and staff. These are the tasks of a modern justice system. The aims of the courts should be to advance access to safe justice and to support whatever is required to bring that about.

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