



U.S. Department of Justice

Executive Office for Immigration Review

Chief Immigration Judge

5201 Leesburg Pike
Falls Church, Virginia 22041

November 29, 1988

MEMORANDUM FOR: All Immigration Judges
All Management Officers

FROM: William R. Robie *WRR*
Chief Immigration Judge

SUBJECT: Operating Policies and Procedures Memorandum
88-9: Courtroom Security

Since the creation of the Executive Office for Immigration Review (EOIR), the need for adequate courtroom security has been a concern shared by Immigration Judges and EOIR management. Up to this time we have addressed security issues on an as needed basis by locality. In light of recent agreements between EOIR and the Immigration and Naturalization Service (INS), it is now appropriate to set out general guidelines on courtroom security applicable to all Immigration Judge proceedings.

1. Fundamental Policy Considerations

It is a fundamental policy of the Executive Office for Immigration Review that Immigration Judge hearings will be conducted only in an environment in which all EOIR personnel as well as the parties, witnesses, and the public are secure as to their personal safety. In furtherance of this policy objective, EOIR and INS have agreed that it is the primary responsibility of the INS to provide adequate security in our courtrooms located within INS' detention facilities. This responsibility extends to hearings in our base city courtrooms, or in other non-detention facility hearing rooms, when detained aliens are brought before Immigration Judges. Similarly, when

Immigration Judge hearings are held within corrections facilities operated by the Bureau of Prisons, or by state, county, or municipal authorities, the primary responsibility for courtroom security lies with the officials responsible for the facility in question.

2. Upgrading Courtroom Security in Detained Circumstances

In the context of Immigration Judge proceedings held within detention facilities, or involving detained aliens in any hearing environment, it is the responsibility of the presiding Immigration Judge to determine if the security measures taken by the officials responsible therefore are adequate to ensure the personal safety of those in the courtroom. If he/she determines that existing security precautions are inadequate, the Immigration Judge may immediately request that the responsible officials upgrade security in the courtroom to an appropriate level. Failure by such officials to comply with a reasonable request for increased security may warrant an adjournment of the scheduled hearing until such time as the responsible officials can provide the necessary level of courtroom security.

3. Downgrading Courtroom Security in Detained Circumstances

In light of the heavy responsibilities placed on INS, BOP, and state, county, and municipal corrections officials to ensure the safety of personnel in hearings involving detained aliens, EOIR and INS have agreed that final decisions involving requests by Immigration Judges to reduce courtroom security (e.g., requests to remove restraints on detained aliens or requests to have only unarmed security personnel in the courtroom) will remain with the INS official (as communicated through the INS trial attorney) or corrections department official responsible for courtroom security.

In instances where the security precautions taken appear excessive, the presiding Immigration Judge may ask the supervisory security officer, prior to commencement of the hearing, to explain why specific security measures are being taken. If unpersuaded by the explanation, the Immigration Judge may request modification of the existing security measures. However, if the responsible security official declines to honor the request, the Immigration Judge will nonetheless commence the hearing.

Subsequent to the hearing, the Immigration Judge will inform the Office of the Chief Immigration Judge in writing of the problem involved. EOIR management will review the incident to determine an appropriate response to the agency or institution involved.

4. Security in Non-Detained Circumstances

Even in non-detained circumstances, courtroom security is an important concern of the Executive Office for Immigration Review. In consultation with their Management Officer, all Immigration Judges are responsible for familiarizing themselves with what types of security resources are available to them (and under what circumstances) in their base city courtrooms. In unusual and appropriate circumstances, an Immigration Judge may adjourn a non-detained hearing for security reasons until such time as the security concerns have been appropriately addressed.

WRR:MCG:mas:smb:0633b