

GAO

Report to the Ranking Member,
Committee on Homeland Security,
House of Representatives

September 2011

FEDERAL COURTHOUSES

Improved Collaboration Needed to Meet Demands of a Complex Security Environment

U.S. Government Accountability Office

GAO90

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1921-2011

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Highlights of [GAO-11-857](#), a report to the Ranking Member, Committee on Homeland Security, House of Representatives

Why GAO Did This Study

Safe and accessible federal courthouses are critical to the U.S. judicial process. The Federal Protective Service (FPS), within the Department of Homeland Security (DHS), the U.S. Marshals Service (Marshals Service), within the Department of Justice (DOJ), the Administrative Office of the U.S. Courts (AOUSC), and the General Services Administration (GSA) are the federal stakeholders with roles related to courthouse security. As requested, this report addresses (1) attributes that influence courthouse security considerations and (2) the extent to which stakeholders have collaborated in implementing their responsibilities and using risk management. GAO analyzed laws and documents, such as security assessments; reviewed GAO's work on key practices for collaboration and facility protection; visited 11 courthouse facilities, selected based on geographic dispersion, age, size, and other criteria; and interviewed agency and judiciary officials. While the results from site visits cannot be generalized, they provided examples of courthouse security activities.

What GAO Recommends

GAO recommends DHS and DOJ update the MOA to, among other things, clarify stakeholders' roles and responsibilities and ensure the completion and sharing of risk assessments; and further assess costs and benefits of the perimeter pilot program, in terms of enhanced security, and include all stakeholders' views, should steps be taken to expand the program. DHS and DOJ concurred with GAO's recommendations.

View [GAO-11-857](#) or key components. For more information, contact Mark Goldstein at (202) 512-2834 or goldsteinm@gao.gov or William O. Jenkins, Jr. at (202) 512-8777 or jenkinswo@gao.gov.

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Improved Collaboration Needed to Meet Demands of a Complex Security Environment

What GAO Found

Various attributes influence security considerations for the nation's 424 federal courthouses, which range from small court spaces to large buildings in major urban areas. According to DOJ data, threats against the courts have increased between fiscal years 2004 and 2010—from approximately 600 to more than 1,400. The Interagency Security Committee—an interagency group that develops standards for federal facility security—has assigned courthouses the highest security level because they are prominent symbols of U.S. power.

Federal stakeholders have taken steps to strengthen their collaboration, such as establishing agency liaisons, but have faced challenges in implementing assigned responsibilities and using risk assessment tools.

- A 1997 memorandum of agreement (MOA) outlines each stakeholder's roles and responsibilities and identifies areas requiring stakeholder coordination. However, at 5 of the 11 courthouses GAO visited, FPS and the Marshals Service were either performing duplicative efforts (e.g., both monitoring the courthouse lobby) or performing security roles that were inconsistent with their responsibilities. The judiciary and other stakeholders stated that having the Marshals Service and FPS both provide security services has resulted in two lines of authority for implementing and overseeing security services. Updating the MOA that identifies roles and responsibilities could strengthen the multiagency courthouse security framework by better incorporating accountability for federal agencies' collaborative efforts.
- In 2008, Congress authorized a pilot program, whereby the Marshals Service would assume FPS's responsibilities to provide perimeter security at 7 courthouses. In October 2010, the judiciary recommended that the pilot be expanded. AOUSC noted general consensus among various stakeholders in support of the pilot and estimated the costs of expanding it, but AOUSC did not obtain FPS's views on assessing the pilot results or on how the expansion may affect FPS's mission. Additional analysis on the costs and benefits of this approach and the inclusion of all stakeholder perspectives could better position Congress and federal stakeholders to evaluate expansion options.
- The Marshals Service has not always completed court security facility surveys (a type of risk assessment), as required by Marshals Service guidance. At 9 of the courthouses GAO visited, the Marshals Service had not conducted these surveys, but Marshals Service officials at some courthouses told us that they assessed security needs as part of their budget development process. However, these assessments are less comprehensive than the court security facility surveys required by Marshals Service guidance. FPS has faced difficulties completing its risk assessments, known as facility security assessments, and recently halted an effort to implement a new system for completing them. Furthermore, GAO found that the Marshals Service and FPS did not consistently share the full results of their risk assessments with each other and key stakeholders. Sharing risk assessment information could better equip federal stakeholders to assess courthouses' security needs and make informed decisions.

Contents

Letter		1
	Background	4
	Federal Courthouses Have Several Attributes That Influence Security Considerations	7
	Clarification of Roles and Responsibilities and Improved Risk Management Could Strengthen Collaboration in Securing Courthouses	14
	Conclusions	33
	Recommendations for Executive Action	34
	Agency Comments and Our Evaluation	35
Appendix I	Scope and Methodology	38
Appendix II	Comments from the Department of Homeland Security	40
Appendix III	Comments from the Administrative Office of the U.S. Courts	43
Appendix IV	Comments from the General Services Administration	45
Appendix V	GAO Contacts and Staff Acknowledgments	46
Table		
	Table 1: Federal Stakeholders' Primary Courthouse Security Responsibilities as Designated in the 1997 MOA and Reaffirmed in 2004	15
Figures		
	Figure 1: Increase in Potential Threats Against Court Personnel and Those Involved in the Judicial Process Investigated by the Marshals Service, Fiscal Years 2004 to 2010	8

Figure 2: View of Antivehicle Barriers Created to Help Secure a Courthouse

Abbreviations

AOUSC	Administrative Office of the U.S. Courts
CSC	Court Security Committee
CSO	Court Security Officer
DHS	Department of Homeland Security
DOJ	Department of Justice
FSA	Facility Security Assessment
FSC	Facility Security Committee
FPS	Federal Protective Service
GSA	General Services Administration
IG	Inspector General
ISC	Interagency Security Committee
MOA	Memorandum of Agreement
NHPA	National Historic Preservation Act
RAMP	Risk Assessment and Management Program

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G A O

Accountability * Integrity * Reliability

United States Government Accountability Office
Washington, DC 20548

September 28, 2011

The Honorable Bennie G. Thompson
Ranking Member
Committee on Homeland Security
House of Representatives

Dear Mr. Thompson:

Since fiscal year 2004, potential threats and incidents against court personnel and those involved in the judicial process have more than doubled. Additionally, the January 2010 shooting at the U.S. Courthouse in Las Vegas, Nevada, and the discovery in March 2010 of an improvised explosive device outside the Thomas S. Foley U.S. Courthouse in Spokane, Washington, have brought attention to the issue of federal courthouse security. Federal courthouses—totaling 424 nationwide, according to the Administrative Office of the U.S. Courts (AOUSC)—run the gamut from small court spaces in post offices that house courts on a part-time basis to large buildings in major urban areas, and each presents a slightly different mix of security risks and vulnerabilities.¹ Effective protection for courthouses is critical to help create a safe and accessible environment—one in which judicial matters and activities can be conducted without the threat of intimidation or harm to those participating in the judicial process.

Federal courthouse security is a collaborative effort involving various federal stakeholders from executive branch agencies and the judiciary.²

¹These 424 courthouses include federal district, appellate, and bankruptcy courthouses. The General Services Administration (GSA) reported to us that the agency counts 413 federal courthouses. GSA and AOUSC count courthouses differently because of how each defines what constitutes a courthouse. For example, GSA told us the agency counts a building as a courthouse if it contains a courtroom, and not if it includes other court-related functions. AOUSC officials told us they count buildings in a complex or campus setting as one courthouse. The federal courthouse system is divided into 94 judicial districts, which consist of district and bankruptcy courts. Those 94 judicial districts are organized into 12 regional circuits, each of which has a United States court of appeals. Unless otherwise noted, the discussion throughout this report refers to federal district courts, which are the judiciary's "trial courts."

²Throughout this report, we refer to federal agencies and the judiciary, which have responsibilities related to courthouse security, as federal stakeholders.

This collaborative effort is formalized by a 1997 memorandum of agreement (MOA) between the Department of Justice (DOJ), General Services Administration (GSA), and AOUSC that designates roles and responsibilities for each of these entities in protecting federal courthouses and sets forth the federal framework for securing courthouses. The MOA was reaffirmed in 2004 to acknowledge the transfer of the Federal Protective Service (FPS) from GSA to the Department of Homeland Security (DHS). Within the executive branch, GSA manages federal facilities, including courthouses, and is responsible for federal courthouse design, construction, and maintenance. The U.S. Marshals Service (Marshals Service or Marshals), a component of DOJ, has primary responsibility for protecting federal judicial facilities and personnel. FPS is responsible for enforcing federal laws and providing building entry and perimeter security at GSA-owned or GSA-leased facilities (referred to as GSA-controlled), including facilities housing federal courts.³ Within the judiciary, the Judicial Conference of the United States (Judicial Conference)—chaired by the Chief Justice of the United States—is the principle policy-making body for administering the federal court system, and its security committee sets security policies for federal judges and courts. The Judicial Conference’s policies are implemented by AOUSC.

You asked us to review federal efforts to protect courthouses. This report addresses the following questions: (1) What attributes influence security considerations for federal courthouses? (2) To what extent have federal stakeholders collaborated in implementing their roles and responsibilities and in using risk management?

To address these objectives, we reviewed relevant laws and obtained and analyzed documents from the federal stakeholders responsible for courthouse security, such as memoranda of agreement, facility security guidance, and risk assessments. We interviewed officials from the Marshals Service; FPS; GSA; and the judiciary, particularly AOUSC officials, federal judges, and other court officials, to obtain information on the security environment and the federal stakeholders’ efforts to secure courthouses. We also visited 11 federal courthouse facilities to gain firsthand knowledge and understanding of efforts to protect them, as well as to document security risks and vulnerabilities. We selected these

³For the purposes of this report, we refer to property that is owned by the federal government and under the control and custody of GSA as GSA-owned property.

facilities based on a mix of criteria, including geographic dispersion, urban versus rural locations, age, size, and proximity to international borders. During the site visits, we interviewed officials from the Marshals Service, FPS, and GSA, as well as judges and other court officials to obtain information and their views on courthouse security efforts at those 11 courthouses.⁴ We also toured the 11 courthouses to observe courthouse protective measures, and we relied on officials to bring security issues to our attention at the individual courthouses. Therefore, we could not always determine whether these issues were present at other courthouses unless officials brought them to our attention. Although information obtained from these site visits cannot be generalized to all federal courthouses, they provided us with insights into federal agencies' practices to secure courthouses and challenges agencies face in their security efforts.⁵ We assessed federal stakeholders' efforts to secure courthouses against key practices we have identified for federal collaboration and facility protection.⁶ (Appendix I contains additional information on our scope and methodology.)

We conducted this performance audit from January 2010 to September 2011, in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

⁴At two courthouses, FPS regional officials with responsibility for protection of other courthouses in their regions provided us with examples of security arrangements at those other courthouses.

⁵For the purposes of this report "courthouses" refers to federal district courthouses. We focused on district courthouses unless otherwise noted—not other judiciary facilities like courts of appeals or leased space—because district courthouses make up the largest portion of judiciary facilities, have been a significant focus of security efforts, and are the busiest in terms of judiciary business and public access.

⁶GAO, *Homeland Security: Further Actions Needed to Coordinate Federal Agencies' Facility Protection Efforts and Promote Key Practices*, [GAO-05-49](#) (Washington, D.C.: Nov. 30, 2004), and *Results-Oriented Government: Practices That Can Enhance and Sustain Collaboration among Federal Agencies*, [GAO-06-15](#) (Washington, D.C.: Oct. 21, 2005).

Background

Security at the nation's 424 federal courthouses is overseen by FPS, the Marshals Service, GSA, and AOUSC. Federal statutes and interagency agreements define these stakeholders' roles and responsibilities for the protection and security of federal courthouses and persons within courthouses. FPS is the primary federal agency responsible for patrolling and protecting the perimeter of GSA-controlled facilities, including facilities housing federal court functions, and for enforcing federal laws and regulations in those facilities.⁷ Specifically, FPS has the authority to enforce federal laws and regulations aimed at protecting federally owned and leased properties and the persons on such property. FPS conducts its mission by providing security services through two types of activities: (1) physical security activities, such as conducting risk assessments of facilities and recommending risk-based countermeasures aimed at preventing incidents at facilities; and (2) law enforcement activities, such as responding to incidents, conducting criminal investigations, and exercising arrest authority. FPS charges customer agencies, such as the judiciary and Marshals Service, fees for the security services FPS provides. FPS charges federal agencies three fees: (1) a basic security fee, (2) a building-specific administrative fee, and (3) a security work authorization administrative fee. All customer agencies in GSA-controlled properties pay the basic annual security fee. Customer agencies in facilities for which FPS recommends specific countermeasures pay the building-specific administrative fee, along with the cost of the countermeasures. Customer agencies that request additional countermeasures pay the security work authorization administrative fee, along with the cost of the countermeasures.

The Marshals Service, by law, has primary responsibility for the security of the federal judiciary, in either primary courthouses—where judicial and judicial-related space comprise at least 75 percent of the building—or multitenant facilities—including the safe conduct of court proceedings and

⁷40 U.S.C. § 1315.

the security of federal judges and court personnel.⁸ The Marshals Service is divided into 94 districts (with one U.S. Marshal for each district) to correspond with the 94 federal judicial districts. Security of federal courthouses is administered by the Marshals Service's Judicial Security Division, whose mission is to ensure the safe and secure conduct of judicial proceedings and provide protection for federal judges, U.S. Attorneys, Assistant U.S. Attorneys, jurors, and other members of the federal court family. The Office of Courthouse Management has responsibility for, among other things, physical security and construction of all Marshals Service office, support, and special-purpose space.⁹ The Marshals Service receives both direct appropriations and funding transferred from the judiciary for its courthouse security activities. Judicial Services has oversight for programs funded by the AOUSC court security appropriation. This funding provides for the Court Security Officer (CSO) program, security equipment, and systems for space occupied by the judiciary and for Marshals Service employees.¹⁰

As the federal government's landlord, GSA designs, builds, manages, and safeguards federal buildings, including courthouses. Under the Homeland Security Act of 2002, FPS was transferred to DHS along with FPS's responsibility to perform law enforcement and related security

⁸28 U.S.C. § 566. According to 28 U.S.C. § 566(i), the Director of the Marshals Service shall consult with the Judicial Conference on a continuing basis regarding the security requirements for the judicial branch of the United States Government, to ensure that the views of the Judicial Conference regarding the security requirements for the judicial branch of the federal government are taken into account when determining staffing levels, setting priorities for programs regarding judicial security, and allocating judicial security resources. The term judicial security includes the security of buildings housing the judiciary, the personal security of judicial officers, the assessment of threats made to judicial officers, and the protection of all other judicial personnel. The Marshals Service retains final authority regarding security requirements for the judicial branch of the federal government.

⁹According to the Marshals Service, special-purpose and support space include detention cellblocks, secure prisoner circulation corridors, courtroom holding cells, prisoner/attorney interview rooms, prisoner elevators, and vehicle sally ports.

¹⁰CSOs assist deputy marshals with building security. CSOs are employed by private security companies under contract to the Marshals Service. Although not federal employees, CSOs are deputized as Special Deputy U.S. Marshals. Their duties include: monitoring security systems; responding to duress alarms; screening visitors at building entrances; controlling access to garages; providing perimeter security in areas not patrolled by FPS; and screening mail and packages.

functions for GSA buildings.¹¹ However, GSA retained some responsibilities related to courthouse security. GSA continues to provide proposed plans for new construction and renovation of court space and for the installation of additional security systems and other security measures, such as fencing, lighting, and locks on doors. In response to a recommendation we made in 2005 and to enhance coordination with FPS, GSA established in 2006 the Building Security and Policy Division within the Public Buildings Service, where FPS once resided, to manage its security policy and implementation efforts, including its dealings with FPS. Additionally, GSA's Center for Courthouse Programs is responsible for nationwide policy formulation and general management of new federal courthouse construction and the modernization of existing courthouses.

In the judicial branch, both the Judicial Conference, which is the judiciary's principal policy-making body concerned with the administration of the U.S. courts, and AOUSC, which is the central administrative support entity for the judicial branch, play a role in courthouse security. The Judicial Conference's Committee on Judicial Security coordinates security issues involving the federal courts. For example, the committee monitors the protection of court facilities and proceedings, judicial officers, and court staff at federal court facilities and other locations, and makes policy recommendations to the Judicial Conference. Appropriations for security can be funded directly to the courts or transferred to the Marshals Service, which is responsible for administering judicial security consistent with the standards or guidelines agreed to by the Director of AOUSC and the Director of the Marshals Service. This represents a collaborative effort between the federal judiciary and DOJ to assist in securing the judicial process. Additionally, at the district level, federal judges have responsibilities in securing courthouses. For example, the court has the authority to, among other things, issue rules or orders regulating, restricting, or prohibiting items within or near the perimeter of any facility that has a courthouse.¹²

We have previously identified key practices both for enhancing collaboration among federal agencies and for facility protection.¹³

¹¹6 U.S.C. § 203(3); 6 U.S.C. § 232.

¹²18 U.S.C. § 930.

¹³GAO-05-49.

Regarding collaboration, we have identified a number of factors, such as leadership and trust and agreeing on roles and responsibilities, which are key to facilitating an effective collaborative relationship.¹⁴ We have used these practices in our prior work to evaluate collaboration between FPS and tenants in federal facilities and the Transportation Security Administration's efforts to secure commercial airports, for example. We have also identified facility protection key practices from the collective practices of federal agencies and the private sector to provide a framework for guiding agencies' protection efforts and addressing challenges. We have used the key practices to evaluate, for example, the efforts of FPS in protecting federal facilities, the Smithsonian Institution in protecting its museums,¹⁵ and the National Park Service in protecting national icons such as the Statue of Liberty.¹⁶

Federal Courthouses Have Several Attributes That Influence Security Considerations

Courthouses Are Symbolic Targets and Are the Hub of Judicial Business

Courthouses—which house judicial proceedings and which many view as symbols of democracy and openness—have faced increasing security risks. DOJ data on potential threats against court personnel and individuals involved in the judicial process show a steady rise in recent years, adding to the concern of securing federal courthouses.¹⁷ (See figure 1.)

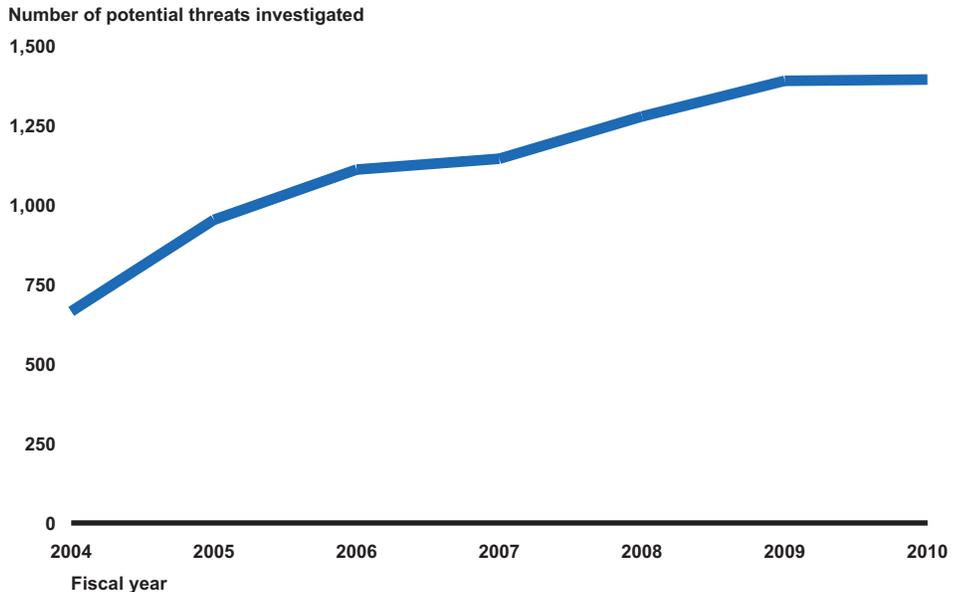
¹⁴[GAO-06-15](#).

¹⁵GAO, *Smithsonian Institution: Funding Challenges Affect Facilities' Conditions and Security, Endangering Collections*, [GAO-07-1127](#) (Washington, D.C.: Sept. 28, 2007).

¹⁶GAO, *Homeland Security: Actions Needed to Improve Security Practices at National Icons and Parks*, [GAO-09-983](#) (Washington, D.C.: Aug. 28, 2009).

¹⁷DOJ defines a potential threat as any explicit or implied communication with intent to assault, intimidate, or interfere with the judicial process, which includes threats against judges, prosecutors, witnesses, jurors, court staff, or their families.

Figure 1: Increase in Potential Threats Against Court Personnel and Those Involved in the Judicial Process Investigated by the Marshals Service, Fiscal Years 2004 to 2010



Source: GAO analysis of DOJ data.

AOUSC recognizes the symbolic nature of courthouses, and has stated that access to the courts is a core value in the American system of government and that courthouses are important symbols of the federal government in communities across the country. The Interagency Security Committee (ISC) ranks U.S. circuit, district, and bankruptcy courthouses as “very high”—the highest security level—because they are prominent symbols of U.S. power or authority.¹⁸ According to ISC, symbolic targets are attractive to foreign terrorists, as well as domestic antigovernment radicals. For example, case-related or antigovernment protests and demonstrations can occur outside courthouses, increasing possible security risks to the courthouses. Among our site visits, a court official at one location stated that, in one instance in March 2003, protesters outside the courthouse who were trying to avoid arrest broke a window

¹⁸ISC was created to enhance the quality and effectiveness of security in, and protection of, nonmilitary buildings occupied by federal employees in the United States. ISC has representation from all federal cabinet-level departments and other agencies and key offices, including GSA and FPS. AOUSC is a nonvoting associate member. AOUSC staffs and chairs working groups and hosts ISC’s quarterly meetings.

and entered the official's office, potentially putting the official and others at risk.

With the increased number of potential threats against courthouses in recent years, the Marshals Service reports that threats from extremist groups exist, particularly at courthouses in certain locations. For example, at one courthouse we visited, FPS officials expressed concern about the presence of antigovernment persons and groups within the district. In part to better protect the courthouse from any person or group that may attack the courthouse, an area of raised terrain followed by an excavated area lined with rock which is not visible from a distance, was constructed between the courthouse and the road. Figure 2 illustrates the antivehicle barriers constructed to protect the courthouse.

Figure 2: View of Antivehicle Barriers Created to Help Secure a Courthouse



Source: GAO.

In addition to the symbolism of courthouses, the wide variety of civil and criminal cases that come before the federal judiciary include some that can pose increased security risks to federal courthouses, such as those involving domestic and international terrorism, domestic and international organized crime, extremist groups, gangs, and drug trafficking. At courthouses with these types of cases, federal stakeholders have implemented additional security measures. For example at one courthouse we visited, the Marshals Service stated that they implemented countermeasures to increase security in preparation for a major terrorist trial. These countermeasures included closing streets near the courthouse during the trial, erecting additional barriers, and having a uniformed guard presence 24 hours a day, 7 days a week.

Locations of Courthouses Can Heighten Security Concerns

The location of courthouses can contribute to security issues. In particular, court officials at one courthouse located near the Southwest border told us that they deal with a large number of immigration cases and cases that involve drug trafficking organizations. According to these officials, they can also have hundreds of defendants who have not previously been involved in U.S. court proceedings, making it difficult to obtain information on them. One judge at the courthouse noted that the Marshals Service took additional security measures, such as additional training and increased CSO presence as the judge entered and left the courthouse parking garage, to protect him after the Marshals Service received information from an informant that a drug-trafficking organization had threatened violence against the judge. Further, according to the judiciary, criminal cases related to immigration offenses jumped nearly 60 percent from about 17,000 in 2006 to about 27,000 in 2010, and the number of defendants in those cases rose by about 55 percent over the same period to about 28,000 defendants.¹⁹ According to the AOUSC, the growth in immigration cases is mostly from filings addressing improper reentry by aliens and involving fraud and misuse of visa or entry permits in the five federal judicial districts located along the U.S. Southwest

¹⁹Information is based on the period ending March 31, 2006, through March 31, 2010.

border.²⁰ The Marshals Service noted that defendants can be violent or have extensive criminal histories.²¹

According to AOUSC, courthouses can play a significant role in urban redevelopment efforts. Because of this, courthouses can be located in areas with higher crime rates, increasing risks at those buildings. For example, at one courthouse we visited, Marshals Service officials told us they had concerns about the neighborhood in which the courthouse was located because of crime, building disrepair, and suspicious activity occurring on properties near the courthouse. Officials noted that after receiving a report on a suspicious individual who could potentially be a threat to the courthouse, a CSO identified the person of interest moving barrels into a house adjacent to the courthouse. Marshals Service officials were concerned the barrels contained hazardous or explosive materials and coordinated with local law enforcement to investigate. Although the barrels were found to contain harmless materials, Marshals Service officials remained concerned about potential future security risks and worked with local authorities to require the landlord to maintain the house and yard or have the house demolished, which addressed the Marshals Service's concerns.

Building Design and Age, Including Historic Designations, Contribute to Security Concerns

Security has become an important element considered by federal stakeholders in the design and construction of new courthouses. In addition to the life-safety and health concerns common in all buildings, federal courthouses must adhere to numerous specific design guidelines for aesthetics, security, interior circulation, barrier-free access, and mechanical and electrical systems, among other things. According to courthouse design documents, federal stakeholders should consider security measures from the beginning of the design process for new courthouses by, for example, integrating security considerations with other building system controls, such as for fire safety and air circulation. Specifically, the *U.S. Courts Design Guide* notes that courthouse security is complex because of court operations and movement patterns for different groups of individuals within courthouses, such as prisoners, judges, court personnel, and the public, require varying

²⁰The five federal judicial districts along the southwest border are: the District of Arizona; the Southern District of California; the District of New Mexico; the Southern District of Texas; and the Western District of Texas.

²¹U.S. Department of Justice, *United States Marshals Service FY 2011 Performance Budget Congressional Submission Salaries & Expenses and Construction Appropriations* (Washington, D.C.: January 2010).

degrees of security. The guide notes that optimal security is a fine balance between architectural solutions, allocation of security personnel, and installation of security systems and equipment.²²

Although courthouse design has evolved in the last 20 years to address modern security needs, the infrastructure of the nation's 424 courthouses varies widely. According to GSA, 146 courthouses—about one-third—are historic facilities.²³ Under the National Historic Preservation Act (NHPA), as amended, federal agencies are to use historic properties to the maximum extent feasible, and when making infrastructure changes or rehabilitating a property, to retain and preserve the historic character of the property.²⁴ At one courthouse—considered a historic facility under NHPA—Marshals Service officials told us they identified the judge's parking lot as a potential security vulnerability because the area has one opening for entry or exit which could allow for an attack on a judge, and that a new guard post should be constructed to help mitigate that vulnerability. The security committee for the courthouse approved the project, but could not begin the project until a consultant from the state Architectural Board approved the design. Marshals Service officials told us that the process took a long time, in part, because the guard post had to be designed to blend with, and not detract from, the historic façade and not interfere with the original gate to the courthouse. According to the officials, the project was scheduled to be completed 4 years after it was initially approved at an additional cost of approximately \$20,000.

Furthermore, historic or aging buildings may not be able to support, or may make it more difficult to implement, recommended physical security enhancements such as barriers or setbacks from the street.²⁵ For example, in order to reduce the risk of a car bomb exploding close to the two historic courthouses we visited, the Marshals Service had restricted street parking and only allowed the Marshals Service or other court

²²Judicial Conference of the United States, *U.S. Courts Design Guide* (Washington D.C.: 2007). AOUSC officials noted that the Design Guide does not require retrofitting of existing courthouses to meet controlled circulation guidelines.

²³According to GSA, nearly one-fourth of the space in GSA's owned inventory is in historic buildings, which include federal courthouses.

²⁴40 U.S.C. § 470h-2; 36 C.F.R. § 68.3.

²⁵Setback refers to the distance between a structure requiring protection and another building, the curb, a vehicle, or another object.

personnel to park alongside the building. Making security changes to an historic or aging building itself can also be challenging. For example, Marshals Service officials at one historic courthouse stated that judges, prisoners, and the public currently use the same hallways. Marshals Service officials stated that there is a need for a dedicated judges' elevator and secured prisoner hallways to move prisoners through separate areas. The *U.S. Courts Design Guide* notes that an essential element of security design is the physical separation of public, restricted, and secure circulation systems and that trial participants should not meet until they are in the courtroom during formal court proceedings.²⁶

Marshals Service officials stated that the most effective way to address this vulnerability would be to add another elevator to the building solely for transporting prisoners, but doing so would be difficult given the building's age and historic designation. A Marshals Service official stated that retrofitting the building with more substantial permanent barriers would be difficult and expensive in order to comply with NHPA.

Courthouses Often House Other Federal Tenants, Requiring Additional Security Coordination

Of the nation's 424 federal courthouses, AOUSC reports that 201 share a building with other federal agencies which, together, occupy more than 25 percent of the building. According to AOUSC, the other 223 courthouses are considered primary courthouses, meaning court space comprises at least 75 percent of the building.²⁷ AOUSC officials stated that they designate facilities as primary courthouses for the purpose of security management. Officials from sites we visited told us it is generally the chief judges who make security related decisions, and the judiciary pays for enhancements. In the case of the 201 courthouses located in multitenant facilities, courthouses operate along with the other agencies in the building (e.g., the Internal Revenue Service, Department of Health and Human Services, Department of Agriculture) and face additional challenges not encountered by primary courthouses, since they must coordinate their security operations with the other federal tenants.

²⁶The *U.S. Courts Design Guide* states that judges should have a means to move from a restricted parking area to chambers, as well as to move between chambers, courtrooms, and other spaces through restricted corridors. The guide also states that jurors must be able to move between floors on restricted-access elevators without crossing public spaces or secure prisoner corridors and that the Marshals Service has a means to move prisoners without passing or entering public or restricted spaces.

²⁷Primary courthouses may have noncourt tenants.

Clarification of Roles and Responsibilities and Improved Risk Management Could Strengthen Collaboration in Securing Courthouses

Federal stakeholders, including FPS and the Marshals Service, have taken steps to strengthen their collaboration for securing courthouses. However, stakeholders have faced challenges related to fragmented implementation of roles and responsibilities, the use or participation in existing collaboration mechanisms, and lack of clarity regarding GSA's roles and responsibilities for courthouse security. Further, while federal stakeholders have taken steps to assess risks facing federal courthouses, they have not completed risk assessments as required by their own guidance and consistent with key practices for facility security.

Stakeholders Have Taken Steps to Improve Courthouse Security, but Face Challenges Implementing Their Roles and Responsibilities

Interagency Agreements and Mechanisms for Identifying and Coordinating Roles and Responsibilities

Various interagency agreements designate courthouse security roles and responsibilities for federal stakeholders, including FPS, the Marshals Service, GSA, and the judiciary. Our work on effective interagency collaboration has shown that collaborating agencies should work together to define and agree on their respective roles and responsibilities, including how the collaborative effort should be led.²⁸ This allows agencies to clarify who will do what, organize their joint and individual efforts, and facilitate decision making. One mechanism for doing so is an interagency agreement. The key interagency agreement for courthouse security is a 1997 MOA between the Marshals Service, GSA, and AOUSC. The MOA designates specific roles and responsibilities for each of these entities with regard to protecting federal courthouses and sets forth the federal framework for securing courthouses. This MOA was reaffirmed in 2004 to acknowledge the transfer of FPS from GSA to DHS, with DHS assuming those responsibilities in the MOA that FPS formerly performed under GSA. Table 1 summarizes each federal stakeholder's primary security responsibilities, as designated in the MOA.

²⁸[GAO-06-15](#).

Table 1: Federal Stakeholders' Primary Courthouse Security Responsibilities as Designated in the 1997 MOA and Reaffirmed in 2004

Federal stakeholder	Primary security responsibilities
FPS	<ul style="list-style-type: none"> • Provide general facility security and perimeter protection for GSA-controlled facilities housing judicial officers. • Conduct recurring facility physical security surveys (facility security assessments). • Respond to and investigate all reported criminal incidents and life-threatening events in all GSA-controlled facilities housing judicial officers. • Participate in court security surveys. • Participate in court security committees and facility security committees. • Provide additional protective personnel to respond to emergencies.
Marshals Service	<ul style="list-style-type: none"> • Develop a nationwide court security program. • Conduct court security surveys of all judicial facilities in cooperation with representatives of the federal judiciary and FPS. • Establish a court security committee in each district. • Contract for the installation and maintenance of judicial security systems and hiring of court security officers. • Provide perimeter access control for buildings occupied by judicial personnel. • Determine and provide the appropriate level of building access control.
GSA	<ul style="list-style-type: none"> • Provide security fixtures such as bollards and bullet-resistant glass. • Provide timely review of proposed plans provided by Marshals Service for new construction, renovations, and leased space projects. • Participate in court security surveys. • Participate in court security committees and facility security committees. • Provide proposed plans for new construction and renovation of court space in a timely manner for review and comment.
AOUSC	<ul style="list-style-type: none"> • Represent the policies and decisions of the Judicial Conference. • Transfer appropriated funds to the Marshals Service. • Monitor the effectiveness of security programs and use of appropriated funds. • Coordinate the review of plans for physical security, as needed.

Source: GAO analysis of MOA.

In addition to identifying specific roles and responsibilities for each federal stakeholder in protecting federal courthouses, the MOA recognizes areas in which the Marshals Service, FPS, and AOUSC stakeholders are to coordinate their security efforts. For example, the Marshals Service is to coordinate its activities to control access to space housing judicial personnel with FPS, and is to report to FPS and cooperate in FPS investigations of crimes committed in GSA-controlled facilities housing federal courts. FPS is to coordinate occupant emergency plans with the judiciary and Marshals Service and provide review of any Marshals Service proposed plans for new construction or renovation projects to determine facility perimeter security needs. Further, AOUSC is to provide the Marshals Service with space acquisition requests for the judiciary to ensure security systems are included in plans.

In recent years, federal stakeholders have taken various actions to strengthen their collaborative efforts to secure courthouses. For example, at the headquarters level, FPS established a position in 2007 to liaise between FPS and the Marshals Service on court security issues. This liaison serves as the focal point for FPS and the Marshals Service to raise and resolve issues with each other. According to Marshals Service and FPS officials, the liaison has helped to strengthen coordination and communication between the two agencies on court security. Also, at the headquarters level, the Judicial Conference's security committee meets twice a year with the Marshals Service Director and usually several additional times per year, as needed, with Marshals Service executive staff to, among other things, discuss threats to courthouse security. GSA also sponsors events three or four times a year where all federal tenants discuss portfolio-wide issues—one of which is security. According to GSA officials, FPS, the Marshals Service, the judiciary, and other stakeholders, such as the U.S. Attorney's Office, are invited to attend.²⁹ ISC also holds quarterly meetings, which include representatives from FPS, the Marshals Service, judiciary, and GSA. According to GSA officials, they use these meetings to coordinate and address court security issues.

At the courthouse level, federal stakeholders have established committees for coordinating their security activities. These committees

²⁹The 1997 MOA established an informal collaboration and oversight mechanism at the regional level. Specifically, the directors of the three key federal stakeholders are responsible for directing their security officials "to sponsor periodic regional meetings to share ideas and resolve key issues."

include Court Security Committees (CSC) and Facility Security Committees (FSC). According to the 1997 MOA, the Marshals Service is to establish a CSC in each judicial district comprised of representatives from the Marshals Service, clerk of the court, the U.S. Attorney, chief judge, FPS, and GSA, as appropriate. FSCs typically exist at multitenant facilities, where the courts are one of various federal tenants.³⁰ FSCs consist of a representative from each of the tenant agencies in the facility, and are responsible for addressing security issues at their respective facility and approving the implementation of security countermeasures. Depending on the district or individual courthouse, there can be either a CSC, an FSC, or both. In addition to these committees, coordination occurs at individual courthouses, as stakeholders implement their security roles and responsibilities. For example, officials told us that they typically coordinate on an as needed basis with each other on cases or demonstrations that draw large crowds.

Challenges Related to Roles and Responsibilities Have Hindered Federal Stakeholders' Efforts

Although federal stakeholders have defined their courthouse security roles and responsibilities and taken steps to strengthen their coordination, various challenges have affected stakeholders' efforts to secure courthouses. Specifically, we identified three main challenges federal stakeholders face in securing courthouses: (1) fragmentation in stakeholders' efforts to implement their security roles and responsibilities; (2) limitations in the use of or participation in existing collaboration mechanisms; and (3) lack of clarity on GSA's roles and responsibilities for courthouse security. Our prior work on interagency collaboration has shown that when multiple agencies are working to address aspects of the same problem, there is a risk that overlap or fragmentation among programs can waste scarce funds, confuse and frustrate program customers or stakeholders, and limit overall program effectiveness.

Fragmented Efforts to Implement Security Roles and Responsibilities

Federal stakeholders' efforts to implement their security roles and responsibilities at courthouses have been subject to fragmentation, as shown by stakeholders' dissatisfaction with the dual approach to security and, at select courthouses, duplication in security efforts or stakeholders' performance of security roles inconsistent with their responsibilities

³⁰DOJ's 1995 *Vulnerability Assessment of Federal Facilities* guidelines directed GSA to establish an FSC in each federal facility under its control.

identified under the MOA. First, according to AOUSC and other stakeholders, the federal government's approach to courthouse security in which the Marshals Service and FPS both provide security services has resulted in a bifurcated security environment with two lines of authority for implementation and oversight of security services. Additionally, the chair of the Judicial Conference Committee on Judicial Security has stated that the current approach to court security has resulted in two separate lines of authority, or chains of command, which in his view, diminishes the effective command and control over all components of the security program. Further, a key GSA management official involved with courthouse security told us that having one clear line of authority for courthouse security would have the advantage of reducing coordination challenges between FPS and the Marshals Service. FPS officials also told us that having multiple agencies responsible for courthouse security can be problematic because of overlapping jurisdiction, and that there is a need for clear lines of authority.

Second, officials at 5 of the 11 courthouses we visited brought to our attention examples of fragmentation—either duplication of command and control or stakeholders' performance of security roles inconsistent with responsibilities identified under the MOA.³¹ With regard to duplication, at one courthouse we visited, for example, both FPS and the Marshals Service had cameras pointed at the courthouse lobby. Marshals Service, FPS, and judiciary officials told us they considered this redundant. Marshals Service officials said that they installed cameras in the courthouse lobby because of past experience in which FPS cameras broke and took months to repair or replace, creating security vulnerabilities. At two other courthouses we visited, FPS and Marshals Service stakeholders each had their own staffed control rooms to monitor their cameras and alarms, and in some cases, each other's cameras. At one of these courthouses, the Marshals Service reported that having two control rooms was redundant. Further, at two other courthouses, stakeholders noted that the Marshals Service was performing duties ascribed to FPS in the 1997 MOA without written agreements documenting these changes, as specified below:

³¹The examples of duplication and varying roles and responsibilities were brought to our attention by officials at the courthouses. We relied on these officials to identify such examples and therefore cannot conclude that similar conditions either were or were not prevalent at other locations.

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- FPS and Marshals Service officials from one of the courthouses we visited told us that while FPS conducted perimeter security for the facility, the Marshals Service provided security at one checkpoint—a delivery ramp—which FPS did not staff. Neither Marshals Service nor FPS officials identified a specific reason why the Marshals Service performed these exterior perimeter security activities rather than FPS. A Marshals Service official told us this situation was of concern to them because the Marshals Service had to move staff from another courthouse in the area to provide staff for the delivery ramp, which the Marshals Service viewed as being a higher priority than security needs at the other courthouse.³² However, this movement of staff resulted in the other courthouse having fewer staff than the authorized staffing level, and a Marshals Service security review identified this as a critical concern. The officials told us they were in the process of developing an MOA to address this issue.
 - Marshals Service officials at another courthouse we visited monitored FPS’s five cameras at the courthouse, and the perimeter security functions FPS performed were occasional patrols around the exterior of the courthouse. Marshals Service officials told us that it did not make sense for FPS to have responsibility for the perimeter cameras because there was no regular FPS presence at the building and that the Marshals Service could monitor, repair, and replace those cameras more quickly as a result. Both FPS and Marshals Service officials told us that they had proposed that the Marshals Service take over responsibility for all perimeter cameras, but FPS headquarters denied this request.

FPS headquarters officials stated that the Marshals Service carries out the same types of duties as FPS at selected courthouses, but the officials did not provide a rationale or guidelines for when this arrangement would be appropriate. In situations like these, if a transfer of responsibilities is agreed to by FPS and the Marshals Service, having a local MOA outlining these responsibilities could help ensure greater accountability, clarity, and transparency. In discussing the prospect of developing a local MOA

³²The Marshals Service initiated an MOA to define the conditions under which FPS and the Marshals Service will share the responsibilities in securing the courthouse perimeter. This MOA would address the fact that the Marshals Service had assumed some FPS responsibilities sometime after 1995 but that no MOA was initiated or signed. Marshals Service officials told us the MOA had undergone a final review in October 2010, but that as of July 2011, the MOA has not been completed and signed.

outlining FPS and Marshals Service responsibilities, Marshals Service officials at one courthouse brought to our attention that another district, which was not one of our visited locations, had an MOA addressing these responsibilities. This local MOA outlined changes in responsibilities for perimeter security. Specifically, the Marshals Service agreed to be responsible for perimeter security at this federal building and courthouse, and FPS agreed to reimburse the Marshals Service for security services.

Limited Use of or Participation in Existing Collaboration Mechanisms

In addition to fragmentation of roles and responsibilities, federal stakeholders have not always used or participated in existing collaboration mechanisms, particularly security committees. We have previously reported that information sharing and coordination among organizations is crucial to addressing threats, and having a process in place to obtain and share information can help agencies better understand risk and more effectively determine what preventative measures should be implemented. CSCs and FSCs are intended to provide a means for federal stakeholders to discuss and coordinate their court security activities at the local level.³³ CSCs are also responsible for addressing security countermeasures recommended by the Marshals Service or FPS, and FSCs are responsible for addressing security countermeasures recommended by FPS. At 4 of the 11 courthouses we visited, officials noted one of the federal agencies on the CSCs or FSCs did not regularly participate in meetings.³⁴ Specifically, at 3 of the courthouses, FPS did not regularly participate in CSC meetings, though FPS was designated as a member of the committees and was responsible for perimeter security at these courthouses. FPS officials told us they had not been notified about CSC meetings and, as a result, did not participate in the meetings. In 1 courthouse, GSA did not regularly participate in CSC meetings, though GSA was designated as a member of the committee. In these locations GSA officials told us that they

³³DOJ outlined basic requirements for security committees in 1995 because specific security needs will inevitably vary from location to location, even among those at the same security level, due to local conditions and changing circumstances. However, DOJ stated that basic security requirements must be addressed at each facility and there must be a formal mechanism for ensuring that this occurs.

³⁴These examples were brought to our attention by officials at the courthouses. We relied on these officials to identify such examples and therefore cannot conclude that similar conditions either were or were not prevalent at other locations.

believed that issues discussed at the CSC meetings did not apply to them and, thus, did not attend. Without attending these meetings, agencies may be missing opportunities to share information and coordinate with stakeholders so that security risks are better understood and addressed. Information sharing and coordination are key practices in facility protection that we have identified, and these committees are intended to serve this purpose in the courthouse security area.

DOJ's Office of Inspector General (IG) also found participation problems related to the security committees. In November 2010, the IG reported that among six judicial districts visited, one did not have a CSC and another was not holding regular meetings.³⁵ The Chief Judge in the latter district stated that the CSC was generally not holding meetings due to poor communication between the Marshals Service and the judiciary. The DOJ IG recommended that the Marshals Service ensure all its district offices assign a principal coordinator to the district security committee and encourage the local judiciary to lead regular meetings. The Marshals Service concurred with the recommendation and stated they would emphasize the requirement and noted that existing policy directs the Marshals Service to serve as principal coordinator for CSC meetings and for Marshals Service judicial security inspectors to attend and participate in CSCs.

In August 2010 we identified lack of participation and other challenges associated with FSCs, which raised questions about their effectiveness as a collaboration mechanism.³⁶ We reported that FSCs have operated since 1995 without procedures that outline how they should operate or make decisions or that establish accountability. Further, we identified instances in which tenant agency representatives to the FSC generally did not have any security knowledge or experience but were expected to make security decisions for their respective agencies. We also reported that many FSC tenant agency representatives did not have the authority to commit their respective organizations to fund security countermeasures. This issue was brought to our attention at two of the

³⁵DOJ Office of the Inspector General, *Audit of the U.S. Marshals Service's Oversight of its Judicial Facilities Security Program*, Audit Report 11-02 (Washington D.C.: November 2010).

³⁶GAO, *Homeland Security: Addressing Weaknesses with Facility Security Committees Would Enhance Protection of Federal Facilities*, [GAO-10-901](#) (Washington, D.C.: Aug. 5, 2010).

courthouses we visited. In one location, the chair of the FSC said that FPS made a request for various security enhancements to the building, which were the first infrastructure enhancements in at least 12 years. However, none of the tenants had the authority to approve the increased costs. Additionally, court officials at another location we visited said the FSC works through a vote system, and each tenant agency gets the opportunity to hear the issue and to voice their vote. However, the officials said that tenant agencies could not commit to financial decisions at that level. ISC developed procedures for FSCs to use when presented with security issues that affect the entire facility.³⁷ These standards, which are being tested for a 1 year period, note that FSC members may or may not have the authority to obligate their respective organizations to a financial commitment, and FSC members are responsible for seeking guidance from their respective funding authority.

Lack of Clarity on GSA's Role in Security

According to Marshals Service, GSA, and FPS officials, GSA's courthouse security responsibilities have not been clearly defined since the transfer of FPS to DHS in 2003. The 1997 MOA identifies individual stakeholders' roles and responsibilities, as well as areas requiring collaboration, in securing federal courthouses, and was signed by DOJ, GSA (of which FPS was a part), and AOUSC. However, the 2004 reaffirmation was signed by DOJ, DHS, and AOUSC; GSA was not a signatory, and according to GSA officials, they were not invited by the other agencies to participate in the reaffirmation. The 2004 reaffirmation updated the 1997 MOA by acknowledging the transfer of FPS from GSA to DHS; it did not make any other modifications to the MOA. However, the reaffirmation did not clearly articulate which security responsibilities GSA—which has responsibility for managing all federal courthouses—retained and which specific responsibilities were transferred to DHS. GSA officials told us that this lack of clarity leads to confusion about which stakeholder is ultimately responsible for taking action. GSA officials told us that there have been instances in which they are consulted about security issues for which they do not have responsibility or they are excluded from security discussions where they have responsibilities. For example, the officials noted it is not uncommon for a U.S. Marshal or chief judge who is unfamiliar with the court security framework to approach

³⁷ISC, *Facility Security Committees: An Interagency Security Committee Standard* (Washington D.C.: July 6, 2011).

GSA and expect them to take action to address security concerns, even though it may be FPS's responsibility.³⁸ Further, GSA officials noted instances in which GSA has security responsibilities, such as installing bollards, barriers, and other physical changes to the building, but GSA was not always included in the security decisions. Lack of clarity in these types of situations can cause confusion, lead to implementation delays, and lengthen the amount of time needed to address vulnerabilities, according to GSA officials. Further, Marshals Service officials told us that there is a lack of clarity about GSA's roles and responsibilities, including the extent of GSA's participation in CSCs and FSCs. These officials also told us that updating the MOA would help address this issue and noted that there have been preliminary discussions between the stakeholders about doing so.

GSA headquarters officials also told us that they should have been a signatory to the reaffirmation because in addition to their security responsibilities, GSA is the landlord for all federal facilities that house judicial personnel. In June 2005 we reported on GSA's role in facility protection since September 11, 2001.³⁹ Prior to the creation of DHS, we reported that if DHS was given the responsibility for securing facilities, the role of integrating security with other real-property functions would be an important consideration. We later noted that it would be critical that GSA be well-equipped to engage in security related matters given that it is still the owner and landlord of federal facilities. According to GSA, permanent security enhancements, such as installing bollards and altering buildings to improve circulation patterns, are GSA's responsibility and cannot be implemented without GSA's involvement. Also in 2005, we recommended that GSA should establish a mechanism—such as a chief security officer position or formal point of contact—that could serve in a liaison role to address the challenges GSA faces related to security in buildings it owns and leases, and enable GSA to define its overall role in security given the transfer of FPS to DHS so it would be better equipped to address security related matters related to its federal building portfolio. GSA subsequently established such a position.

³⁸The 1997 MOA states that GSA is responsible for providing general security and law enforcement functions, including all exterior perimeter security requirements, but does not distinguish between GSA and FPS responsibilities since FPS was formerly part of GSA.

³⁹GAO, *Homeland Security: Actions Needed to Better Protect National Icons and Federal Office Buildings from Terrorism*, [GAO-05-790](#) (Washington, D.C.: June 24, 2005).

Furthermore, related to GSA's role, GSA and DHS have yet to complete a revised agreement of their own on security fees and protection responsibilities for all GSA buildings, including courthouses. DHS and GSA signed an MOA in 2006 that outlines the roles, responsibilities, and operational relationships between DHS and GSA, but progress has been slow in updating the document. DHS and GSA are renegotiating the 2006 MOA to, among other things, address communication and information-sharing issues and address service concerns by tenants. However, DHS and GSA have been working to update the MOA for more than 3 years. A number of issues remain to be worked out, including outlining what the basic security fee covers and the sharing of security assessments; GSA and DHS have a goal of completing the MOA by the end of fiscal year 2011.

These three challenges—fragmentation in implementation of roles and responsibilities, limitations in the use of existing collaboration mechanisms, and lack of clarity about GSA's security roles and responsibilities—have affected stakeholders' efforts to secure courthouses. It is difficult to directly link these challenges to specific security vulnerabilities, but further clarifying roles and responsibilities at the national and local levels, including GSA's security roles and participation in security committees, could help strengthen accountability, transparency, and coordination on courthouse security efforts among federal stakeholders. It could also help provide opportunities for federal stakeholders to identify and address any potential gaps or unnecessary overlaps in their security efforts and activities. In so doing, federal stakeholders may be better equipped to address security vulnerabilities that may arise.

Collaborating with FPS in
Assessing the Perimeter Pilot
Security Program Could Better
Inform Decision Making about
Whether It Should Be
Expanded

In 2008 Congress authorized the Marshals Service, in consultation with the AOUSC, to implement a Perimeter Pilot Security Program for the Marshals Service to assume FPS's responsibilities to provide perimeter security at selected courthouses participating in the program.⁴⁰ The purpose of the pilot program was to determine the feasibility of the Marshals Service providing perimeter security services at selected primary courthouses—federal facilities in which judiciary and judiciary related offices occupy at least 75 percent of rentable space. According to Marshals Service officials, the pilot program's goal was to eliminate duplication and system incompatibilities, streamline guard services and post orders, and provide clearer accountability for court security.

Beginning in January 2009, the Marshals Service began providing perimeter security at seven courthouses. Prior to initiation of the pilot program, the Marshals Service and FPS signed an MOA in 2008 defining the conditions of the pilot program and noting that the Marshals Service would conduct periodic reviews of the status and effectiveness of the program and share written status reports with FPS. At these courthouses the Marshals Service conducted on-site assessments to inspect the existing perimeter security systems and equipment to determine if they could be used "as is" or needed to be repaired, modified, or replaced to meet its standards. It also assessed the security guard requirements and proposed a plan that it thought would provide optimal security coverage. The Marshals Service assumed control of physical security of each courthouse in the pilot program with the understanding that it would be responsible for inspecting, adjusting, repairing, and replacing all FPS-owned surveillance cameras and associated equipment.

In October 2010, the judiciary issued its final evaluation report to Congress on the implementation and operation of the pilot program, recommending that the pilot program be expanded to all primary courthouses. The report noted that the general consensus of opinions

⁴⁰Under the pilot program, the Marshals Service is authorized to provide all of FPS's security services set forth in 40 U.S.C. § 1315, except for those services specified in 40 U.S.C. §1315(b)(2)(E). Thus, under the pilot program, the Marshals Service would not be authorized to conduct investigations of offenses that may have been committed against courthouses or against persons in the courthouses. See Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, § 307, Division D, Title III, 121 Stat. 1844, 1990 (2007); Omnibus Appropriations Act, 2009, Pub. L. No. 111-8, § 306, Division D, Title III, 123 Stat. 524, 648 (2009); and Consolidated Appropriations Act, 2010, § 306, Division C, Title III, 123 Stat. 3034, 3177 (2009).

expressed by judges, court officials, and district Marshals Service was in support of the pilot program. Specifically, the report noted that program participants had positive views about Marshals Service's consolidation of command and control over all aspects of physical security at the pilot sites, which they believed resulted in improved protection for both people and buildings. Participants stated that the benefits of the program included, among other things, improved quality of security services, security coverage, communication, stewardship and monitoring of security equipment, as well as unified command and control over courthouse physical security. Additionally, in November 2009, the Marshals Service conducted a survey at 5 of the 7 courthouses participating in the pilot program. Representatives at 4 of these courthouses stated that the pilot program was effective and supported the concept for wider implementation.⁴¹ Subsequent to completing this survey, Marshals Service officials at the fifth courthouse told us they endorse the program. Among the 11 courthouses we visited, 2 were participating in the pilot program. Marshals Service and court officials we spoke with at both courthouses generally expressed satisfaction with the pilot program.

The judiciary and Marshals Service conducted their evaluation of the pilot program by collecting information from the chief district judge, the district U.S. Marshal, and other court and Marshals Service staff at the seven courthouses participating in the program. The Marshals Service also inspected, adjusted, repaired, or replaced all FPS-owned security equipment, and at some sites additional equipment was added to

⁴¹In the fifth courthouse, Marshals Service district officials did not endorse the pilot program due to two main concerns. The first concern was that a 24-hour screening post that was previously maintained by FPS prior to the pilot project was no longer manned. Marshals Service officials contended that the post is essential and should remain because it prevents unauthorized access. Second, they expressed that an additional 24-hour post should also be established in the lobby area to monitor individuals entering the courthouse after hours. According to Marshals Service officials, staff were later assigned to this post.

enhance security.⁴² Further, AOUSC estimated additional costs that would occur if the pilot program was expanded to other primary courthouses, based on various options. In particular, the report estimated additional annual costs ranging from more than \$1.5 million for expanding the program to selected, large courthouses (i.e., primary courthouses with 11 to 20 judges each) and extra large courthouses (primary courthouses with 21 or more judges each) to about \$200 million for expanding the program to all primary courthouses. According to AOUSC, the initial pilot program was implemented in a cost-neutral manner, but stated that cost neutrality would not be possible if the Marshals Service were to assume responsibility at primary courthouses nationwide.⁴³

Although AOUSC has recommended expansion of the pilot program on the basis of its evaluation, additional analysis of the benefits and costs of this approach could better position the federal stakeholders and Congress to consider and determine whether to expand the pilot. Pilot programs can be one way to identify innovative efforts to improve performance, as they allow for experiences to be rigorously evaluated, shared systematically with others, and for new procedures to be adjusted, as appropriate, before they receive wider application. Key practices in assessing the results of pilot programs include a range of standards, such as having a clearly articulated methodology, a strategy for comparing results with other efforts, and a cost-effectiveness analysis to ensure that the program produces sufficient benefits in relation to its costs.⁴⁴ Additionally, having a process in place to obtain and share information

⁴²For example, the Marshals Service reported that under the pilot, it was able to repair or replace broken security equipment and to maintain and control all security systems and equipment at the pilot locations. Because the equipment that was repaired or replaced by the Marshals Service became Marshals Service property and was added to its equipment inventory, it was covered by its existing national security vendor contract, ensuring that the equipment would be maintained and repaired, if needed, on a timely basis. The report also stated that the Marshals Service provided consistent monitoring of the surveillance cameras, thus avoiding the lack of communication and miscommunication issues that occurred when FPS failed to inform the Marshals Service of incidents that FPS observed through the cameras.

⁴³The AOUSC report stated that cost neutrality occurred because the FPS contracted guard rate and the scope of services provided at each pilot program site varied, with the net result among the limited pilot program sites being that the cost savings from one location offset additional costs at other locations.

⁴⁴GAO, *Tax Administration: IRS Needs to Strengthen Its Approach for Evaluating SRFMI Data-Sharing Pilot Program*, [GAO-09-45](#) (Washington, D.C.: Nov. 7, 2008).

can help agencies more effectively make decisions and would be consistent with key practices in facility protection that we have identified. Expanding the pilot program and shifting to an approach for all primary courthouses in which the Marshals Service would be solely responsible for building security would fundamentally alter how courthouse security is managed, as FPS has significant courthouse security responsibilities. FPS management officials told us that AOUSC and the Marshals Service did not consult with them in evaluating the pilot, nor would AOUSC provide FPS with a copy of the completed evaluation when it was requested. These FPS officials also raised concerns that FPS's views were not discussed in the evaluation, including the protection of other federal tenants in these courthouses. They noted that FPS continues to have statutory responsibilities for providing security to those tenants not involved with court business. The officials also noted that the Marshals Service did not provide the required quarterly statistics on security incidents in a majority of regions where pilot program facilities were located. Furthermore, GSA officials told us that, as the building owner, they should have been involved in discussions on any expansion of the pilot program. Additionally, FPS and GSA are in the process of renegotiating the basic security fee structure all tenants pay to FPS.⁴⁵ By further assessing possible costs for expanding the pilot program and consulting with other stakeholders, such as GSA and FPS, the Marshals Service and federal stakeholders could consider additional information to help them better evaluate whether to expand the program and communicate this information to Congress.

⁴⁵In July 2011 we reported that FPS has not reviewed its fees to develop an informed, deliberate fee design and we recommended that FPS evaluate whether its use of a fee-based system or an alternative funding mechanism is the most appropriate manner to fund the agency. We also recommended that such an analysis include the examination of both alternative fee structures and a combination of fees and appropriations as well as the options and tradeoffs discussed in our report. GAO, *Homeland Security: Protecting Federal Facilities Remains a Challenge for the Department of Homeland Security's Federal Protective Service*, [GAO-11-813T](#) (Washington, D.C.: July 13, 2011).

FPS and the Marshals Service Have Risk Management Tools, but Significant Improvement Is Needed in This Area

FPS and the Marshals Service Have Developed Tools for Assessing Risks to Courthouses

Both the Marshals Service and FPS have developed tools, particularly risk assessments, to help identify security vulnerabilities and manage risk. The Marshals Service is required to conduct an annual security survey in each judicial district and develop security plans for every judicial facility.⁴⁶ FPS is supposed to conduct facility security assessments (FSA) to identify security vulnerabilities and make recommendations. FSAs are to be conducted on a regular schedule, and during this process FPS is required to conduct an on-site physical security analysis.⁴⁷ FPS assessments generally focus on building systems and perimeter and entry issues (e.g., emergency power systems; heating, air conditioning, and air intake systems; bollards and barriers, and building setbacks), while Marshals Service assessments generally focus on security issues within the court portions of the building and are supposed to include detailed information on courtrooms, judge's chambers and clerks offices, and prisoner movement. We have previously reported that allocating resources using risk management is a facility protection key practice.⁴⁸ More specifically, risk management involves a systematic and analytical process to consider the likelihood that a threat will endanger an asset (structure, individual, or function) and identify, evaluate, select, and implement actions that reduce the risk or mitigate the consequences of an event. Although applying risk management principles to facility protection can take various forms, our past work showed that most risk management approaches generally involve identifying potential threats, assessing vulnerabilities, identifying the assets that are most critical to protect in terms of mission and significance, and evaluating mitigation alternatives for their likely effect on risk and their cost. As such, using risk assessments for decision making serves as the backbone to a comprehensive facility protection program.

⁴⁶Marshals Service Directive 10.1, Judicial Security Directive.

⁴⁷DHS standards require that FPS complete FSAs every 2-4 years depending on the security level of the building.

⁴⁸[GAO-05-49](#).

The Marshals Service and FPS
Have Faced Difficulties in
Assessing Risks to Courthouses

The Marshals Service and FPS have not always conducted risk assessments of courthouses, as required by their respective guidance and directives. With regard to the Marshals Service, in 9 of the 11 courthouses we visited, the Marshals Service had not conducted risk assessments—what the Marshals refer to as court security facility surveys—for their judicial facilities. Marshals Service officials at 6 courthouses told us they assess security needs as part of the budget process. According to Marshals Service officials, each courthouse conducts an annual nationwide budget call to determine each court’s current and future requirements for CSOs. Although the budget process requires information about projected guard, security systems, and equipment needs, the Marshals Service Judicial Security Directive requires each court to have a completed court security facility survey based on a specific format outlined in the policy.⁴⁹ This format is more comprehensive and includes detailed questions on the types of weapons guards carry, the agency responsible for overall building security, and who monitors cameras—information which goes beyond what is required as part of the budget formulation process.

Similar to our findings, a November 2010 DOJ IG report⁵⁰ found that although court security facility surveys are required annually and the results are to be used to develop or update judicial security plans, these plans were not always updated as required, and in one instance had not been updated since 1983. The DOJ IG found that Marshals Service officials were not completing court security facility surveys in three of the six districts it examined. The DOJ IG recommended that the Marshals Service ensure all district offices regularly update their plans and ensure that court security facility surveys are performed at each district and judicial security plans are updated as required. The Marshals Service agreed with the recommendation and noted it will emphasize the requirements to ensure it is a component of the district audit program and the annual district self assessment.

⁴⁹According to the Marshals Service, the budget process represents the districts’ opportunity to request security equipment and CSO resources. Marshals Service officials told us that as part of this process, they meet with court personnel and physically inspect the security needs of each courthouse. The results of this review are used to inform a budget request that is submitted to the AOUSC for review and approval.

⁵⁰DOJ Office of the Inspector General, *Audit of the U.S. Marshals Service’s Oversight of its Judicial Facilities Security Program*, Audit Report 11-02 (Washington D.C.: November 2010).

FPS has also faced difficulties in preparing FSAs. For example, we have previously reported that FPS's assessments are vulnerable to subjectivity because they lack a vigorous risk assessment methodology, and inspectors' compliance with policies and procedures in conducting assessments is inconsistent.⁵¹ FPS initially tried to address these issues by implementing a new risk management program that was to incorporate a less subjective and time-consuming assessment tool. However the program, known as the Risk Assessment Management Program, experienced considerable delays, and FPS recently halted implementation.⁵²

Moreover, federal stakeholders have experienced disagreements about the sharing of completed security surveys and FSAs. We have reported that information sharing among organizations is crucial to producing comprehensive and practical approaches and solutions to address terrorist threats directed at federal facilities. Our work showed that by having a process in place to obtain and share information on potential threats to federal facilities, agencies can better understand the risk they face and more effectively determine what preventive measures should be implemented. At the two courthouses where the Marshals Service had completed risk assessments, the Marshals Service did not provide other stakeholders, including FPS, with a copy. Further, prior to fiscal year 2010 FPS officials told us that they shared the executive summaries of their FSAs, rather than the full FSAs, with other members of security committees because the FSAs were law-enforcement sensitive. At the courthouses we visited, FPS completed the FSA at each courthouse prior to fiscal year 2010. Marshals Service, GSA, and court officials told us that they did not consistently receive full FSAs from FPS at the courthouses we visited. For example, at five courthouses we visited, court officials stated that they did not receive executive summaries or full FSAs from FPS. At three courthouses we visited, Marshals Service officials told us that they also did not receive copies of FPS's full FSAs. In those cases when officials received copies of the executive summaries, they noted that the information contained in them was inadequate to inform security decision making. For example, one official told us that the executive

⁵¹[GAO-10-142](#).

⁵²GAO, *Federal Protective Service: Actions Needed to Resolve Delays and Inadequate Oversight Issues with FPS' Risk Assessment and Management Program*, [GAO-11-705](#) (Washington, D.C.: Aug. 15, 2011).

summaries did not contain sufficient evidence on which to base decisions. Moreover, we have previously found that GSA officials at all levels cite limitations with the executive summaries of FPS's FSAs saying, for example, that the summaries do not contain enough contextual information on threats and vulnerabilities to support countermeasure recommendations and to justify the expenses that would be incurred by installing additional countermeasures.⁵³

According to FPS officials, they began providing full versions of the assessments completed in fiscal year 2010 and after to security committee members, and they plan to document FPS's commitment to share full FSAs specifically with GSA in the update to the DHS and GSA 2006 MOA, which DHS and GSA plan to complete by the end of fiscal year 2011. GSA officials stated they have received some full FSAs from FPS among those completed. While these are positive steps, FPS has completed a small number of FSAs since fiscal year 2010 in part because of challenges faced by FPS in moving toward a new risk assessment and management system. For example, in July 2011 we reported that FPS's Risk Assessment and Management Program (RAMP) tool, which FPS was to launch in 2009 as a web-based risk assessment and guard management system, was behind schedule, over budget, and could not be used to complete FSAs. Among other things, we recommended that FPS develop interim solutions for completing FSAs. FPS concurred with this recommendation and reported that it is revalidating RAMP requirements with its stakeholders to strengthen future RAMP investments and assessing alternative programs.

Given the current challenges faced by the Marshals Service and FPS in conducting and sharing risk assessments, federal stakeholders lack the information needed to comprehensively assess and understand security risks both to individual courthouses and across the entire portfolio of courthouses. Without a comprehensive picture of risks, federal stakeholders face difficulties in prioritizing risks in light of available resources and in determining appropriate measures to mitigate those risks. We have reported that the capability to gauge risk across a portfolio of facilities and make resource allocation decisions accordingly represents an advanced use of risk management. The ability to compare risks across buildings is important because it could allow stakeholders to

⁵³[GAO-10-142](#).

comprehensively identify and prioritize risks and countermeasure recommendations at a national level and direct resources toward alleviating them. One possible mechanism for addressing these challenges could be for FPS and the Marshals Service to conduct joint security assessments, according to one FPS regional director. We have previously reported that in situations where agencies conduct similar but fragmented functions and provide results to the same recipients, agencies coordinating and integrating their efforts have the potential to achieve greater efficiencies. By ensuring that security surveys and assessments are completed and shared, FPS and the Marshals Service could strengthen their efforts to identify security vulnerabilities at courthouses, determine measures to help address or mitigate those vulnerabilities, and communicate information on vulnerabilities and security needs to relevant stakeholders, as appropriate.

Conclusions

Given the nature of judicial business and increased potential threats to federal courts, securing courthouses requires collaboration and coordination among the various federal stakeholders responsible for security and tenant agencies present in facilities that house federal courts. Federal stakeholders have taken action to define and implement their roles and responsibilities for securing courthouses and to mitigate threats and vulnerabilities. However, updating the MOA that identifies these roles and responsibilities to better incorporate accountability for federal agencies' collaborative efforts could strengthen the multiagency courthouse security framework. In particular, clarifying stakeholder roles and responsibilities, participation in security committees, and the parameters under which deviating from roles and responsibilities is agreeable to the stakeholders and would benefit from location-specific agreements, would strengthen the MOA. Furthermore, clarifying GSA's role in the current security framework and instilling greater accountability for security committee participation could be addressed in an MOA update. In addition to these areas of collaboration, risk assessments that are to be conducted by the Marshals Service and FPS are the primary tools for identifying and addressing security vulnerabilities at courthouses. As such, updating the MOA to help ensure that these assessments, referred to by the Marshals Service as court security facility surveys and by FPS as FSAs, are completed in a timely manner and the results shared with the other federal agencies responsible for courthouse security, could better equip federal stakeholders to assess courthouses' security needs and gaps and make informed decisions.

The pilot program, whereby the Marshals Service has assumed responsibility for security at a limited number of primary courthouses, explores a fundamental change in how courthouse security is managed. Although AOUSC has recommended expanding this program to other primary courthouses, additional information on the costs and views of other stakeholders, such as FPS and GSA, on expansion of the program could better position the federal stakeholders and Congress to evaluate expansion options.

Recommendations for Executive Action

We are making two recommendations to the Secretary of Homeland Security and the Attorney General. Recognizing that there are several stakeholders involved in courthouse security, we are addressing these recommendations to the Secretary and Attorney General because their departments have primary responsibility for courthouse security. However, as indicated below, implementation of these recommendations includes consultation and agreement with the judiciary and GSA.

First, we recommend that the Secretary and Attorney General instruct the Director of FPS, and the Director of the Marshals Service, respectively, to jointly lead an effort, in consultation and agreement with the judiciary and GSA, to update the MOA on courthouse security to address the challenges discussed in this report. Specifically, in this update to the MOA stakeholders should:

- (1) clarify federal stakeholders' roles and responsibilities including, but not limited to, the conditions under which stakeholders may assume each other's responsibilities and whether such agreements should be documented; and define GSA's responsibilities and determine whether GSA should be included as a signatory to the updated MOA;
- (2) outline how they will ensure greater participation of relevant stakeholders in court or facility security committees; and
- (3) specify how they will complete required risk assessments for courthouses, referred to by the Marshals Service as court security facility surveys and by FPS as FSAs, and ensure that the results of those assessments are shared with relevant stakeholders, as appropriate.

Second, to the extent that steps are taken to expand the perimeter pilot program, we recommend that the Secretary and Attorney General instruct

the Director of FPS, and the Director of the Marshals Service, respectively, to work collaboratively, in consultation and agreement with the judiciary and GSA, to further assess costs and benefits, in terms of enhanced security, of expanding the pilot program to other primary courthouses, and assess all stakeholders' views about the pilot program.

Agency Comments and Our Evaluation

We provided a draft of this report to DOJ, DHS, AOUSC, and GSA for their review and comment. In an email from DOJ's Acting Assistant Director for the Audit Liaison Group dated September 15, 2011, DOJ indicated that the Marshals Service concurred with the recommendations and would not be providing written comments. We received written comments from DHS, AOUSC, and GSA, which are reproduced in full in appendixes II, III, and IV, respectively. DHS also provided technical comments, which we incorporated as appropriate.

DHS concurred with our recommendations. With regard to the first recommendation, that FPS and the Marshals Service jointly lead an effort to update the MOA on courthouse security, DHS stated that it agrees that the current MOA should be reviewed and revised. DHS noted that it is committed to working collaboratively with all parties to further determine the conditions under which stakeholders may assume multiple and overlapping responsibilities. With regard to the second recommendation that FPS and the Marshals Service work collaboratively to further assess costs and benefits of expanding the pilot program, DHS agreed that continued collaboration and further review of pilot program results would enhance security at federal courts. DHS also noted that it did not agree with any suggested expansion of the pilot program to include additional facilities. We did not recommend or suggest that the pilot project should be expanded in this report. Rather, this report notes that further assessment of the costs and benefits of the project and further consultation with stakeholders could provide additional information to help better evaluate whether to expand the program.

During the comment period, AOUSC requested that we clarify the judiciary's role related to the recommendations. Specifically, AOUSC requested that the recommendations explicitly state that the Marshals Service and FPS should seek the judiciary's agreement when implementing them. We concluded that this change would help to clarify the recommendations, and we modified the recommendations to state that the Marshals Service and FPS should seek the agreement of both the judiciary and GSA as key stakeholders in implementing our recommended actions. In its written comments, AOUSC expressed

appreciation for our recognition of the judiciary's role in courthouse security.

GSA expressed similar concerns, during the comment period, about the first recommendation that the Marshals Service and FPS jointly lead an effort, in direct consultation with other federal stakeholders, to update the MOA on courthouse security. We informed GSA of our clarifications to the recommendations that the Marshals Service and FPS should seek agreement with the judiciary and GSA in implementing the recommendations. In its written comments, GSA requested that we revise the first recommendation to ensure that all stakeholders be involved in updating the MOA and that all stakeholders be included as signatories. We did not make further modifications to the recommendations in response to GSA's written comments for two reasons. First, the recommendation calls for the Marshals Service and FPS to jointly lead an effort to update the MOA on courthouse security in direct consultation and agreement with other federal stakeholders, specifically the judiciary and GSA. As such, we believe that this recommendation already ensures that stakeholders, including the judiciary and GSA, would be involved in the effort to update the MOA. Second, in our view, having the judiciary, Marshals Service, FPS, and GSA reach agreement on GSA's role, as a part of updating the MOA, would be a more cooperative approach to resolving this issue and would reflect key practices in interagency collaboration that call for federal agencies to work together to define and agree on their respective roles and responsibilities, including how the collaborative effort should be led. The recommendation states that the Marshals Service and FPS would need to seek GSA's consultation and agreement on whether GSA should be a signatory.

As agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution of it until 30 days from the date of this report. At that time, we will send copies of this report to the Attorney General, Secretary of Homeland Security, Administrator of the General Services Administration, Director of the Administrative Office of U.S. Courts, selected congressional committees, and other interested parties. In addition, the report will be available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions concerning this report, please contact Mark Goldstein at (202) 512-6670 or goldsteinm@gao.gov, or William Jenkins at (202) 512-8777 or jenkinswo@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors are listed in appendix VI.

Sincerely yours,



Mark L. Goldstein
Director, Physical Infrastructure Issues



William O. Jenkins, Jr.
Director, Homeland Security
and Justice Issues

Appendix I: Scope and Methodology

To identify the attributes of federal courthouses contributing to concerns about their security, we examined U.S. Marshals Service (Marshals Service) and Federal Protective Service (FPS) documentation of courthouse security challenges and vulnerabilities, such as security assessments and surveys of federal courthouses. We also visited 11 federal courthouses in 10 U.S. locations. We selected these courthouses based on a mix of criteria that included (1) geographic location, including courthouses in various U.S. Court regions, near U.S. borders, and in cities of different sizes; (2) age of courthouses, including historic courthouses; (3) size of courthouses; and (4) tenancy in facilities with courthouses, including courthouses located in multitenant and primary courthouse facilities; and (5) courthouses participating in the perimeter security pilot program. At each courthouse, we toured the facility and observed security gaps or vulnerabilities as well as countermeasures. We also obtained federal officials' information and views on the courthouses' security vulnerabilities by interviewing officials from the Marshals Service, FPS, the General Services Administration (GSA), and the courts, including court clerks and federal judges. The information we obtained from observing security activities at these locations and interviewing officials cannot be generalized across all federal courthouses in the United States. However, because we selected these courthouses based on a variety of factors, they provided us with an overview of security at federal courthouses, examples of security vulnerabilities, and challenges in protecting courthouses.

To assess the extent to which federal stakeholders have collaborated and used risk management practices to protect federal courthouses, we examined relevant statutes; and documentation from the Marshals Service, FPS, GSA, and the judiciary, including plans, reports, guidance, security assessments, and surveys.¹ In particular, we reviewed federal laws that set forth roles and responsibilities for protecting federal courthouses. Additionally, we reviewed documents such as memoranda of agreement and agency-specific guidance, such as Marshals Service and FPS memorandums and security directives. We observed federal stakeholders' implementation of these roles and responsibilities at the 11 federal courthouses we visited, and obtained views from Marshals Service, FPS, GSA, and judiciary officials at these locations and

¹We did not assess the reliability of the information obtained from the Marshals Service on potential threats since we obtained additional corroborating information on threats at federal courthouses during our site visits.

headquarters. At two courthouses, FPS regional officials with responsibility for protection of other courthouses in their regions provided us with examples of security arrangements at those other courthouses. We relied on officials to bring security issues to our attention at the individual courthouses. Therefore, we could not always determine whether these issues were present at other courthouses unless officials brought them to our attention. Further, we analyzed federal stakeholders' processes for conducting security assessments and surveys at federal courthouses and for coordinating courthouse security decision making and activities examining documentation of these processes and interviewing federal stakeholders at headquarters and our site visit locations. The information we obtained from our site visits cannot be generalized across all U.S. federal courthouses, but because we selected the courthouses based on a mix of criteria, they provided us with examples of federal stakeholders' implementation of courthouse security activities. We compared federal stakeholders' efforts to secure courthouses to criteria in our prior work on effective interagency collaboration and results-oriented government, key practices for facility protection, and key practices for assessing pilot programs.² We also compared the implementation of federal stakeholders' security roles and responsibilities with those designated in the 1997 courthouse security MOA as reaffirmed in 2004.

We conducted this performance audit from January 2010 to September 2011 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

²[GAO-05-49](#), [GAO-06-15](#), and [GAO-09-45](#).

Appendix II: Comments from the Department of Homeland Security

U.S. Department of Homeland Security
Washington, DC 20528



September 26, 2011

Mark L. Goldstein
Director, Physical Infrastructure Issues
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Re: Draft Report GAO-11-857, "FEDERAL COURTHOUSES: Improved Collaboration Needed to Meet the Needs of a Complex Security Environment"

Dear Mr. Goldstein:

Thank you for the opportunity to review and comment on this draft report. The U.S. Department of Homeland Security (DHS) appreciates the U.S. Government Accountability Office's (GAO's) work in planning and conducting its review and issuing this report.

The Department is pleased to note GAO's positive acknowledgement of the Federal Protective Services' (FPS's) collaboration efforts with the United States Marshals Service (USMS) to secure courthouses. For example, since 2007, FPS has had a full-time liaison with USMS to identify and resolve courthouse security issues of mutual interest, which both agencies agree has improved communication and coordination.

The draft report contained two recommendations directed at DHS, with which the Department concurs. Specifically, GAO recommended that the Secretary of Homeland Security and the Attorney General:

Recommendation 1: Instruct the Director of FPS and the Director of the Marshals Service, respectively, to jointly lead an effort, in direct consultation with other federal stakeholders, to update the MOA on courthouse security to address the challenges discussed in the draft report. Specifically, in this update to the MOA stakeholders should:

1. clarify federal stakeholders roles and responsibilities, including, but not limited to, the conditions under which stakeholders may assume each other's responsibilities and whether such agreements should be documented; and defining the GSA responsibilities and determining whether GSA should be included as a signatory to the updated MOA;

2. outline how they will ensure greater participation of relevant stakeholders in court or facility security committees; and
3. specify how they will complete required risk assessments for courthouses, referred to by the Marshals as court security facility surveys and by FPS as FSAs and ensure that the results of those assessments are shared with relevant stakeholders, as appropriate.

Response: Concur. DHS agrees that the current memorandum of agreement (MOA) among FPS, USMS, and the Administrative Office of United States Courts (AOUSC) should be reviewed and revised to clarify roles and responsibilities of all parties; to ensure greater participation of all parties in both the Court Security Committee and Facility Security Committee; and to outline responsibilities for completion of required assessments for courthouse security, as well as the appropriate mechanism for sharing assessments. DHS is committed to working collaboratively with all parties to further determine the conditions under which stakeholders may assume multiple and overlapping responsibilities.

Recommendation 2: To the extent that steps are taken to expand the perimeter pilot project, instruct the Director of FPS, and the Director of the Marshals Service, respectively, to work collaboratively, in direct consultation with other stakeholders including the judiciary and GSA, to further assess costs and benefits, in terms of enhanced security, of expanding the pilot project to other primary courthouses, and assess all stakeholders' views about the pilot program

Response: Concur. We agree that continued collaboration and further review of pilot program results will enhance security at federal courts. However, we do not agree with any suggested expansion of the pilot program to include additional facilities.

The protection of the people in the buildings and on the grounds of property owned, occupied, or secured by the Federal Government is an authority provided to the Secretary of Homeland Security by the *Homeland Security Act of 2002*. FPS is the primary federal agency responsible for patrolling and protecting the perimeter of General Services Administration-(GSA-) controlled facilities, including facilities housing federal court functions and judicial officers, as well as enforcing federal laws and regulations. FPS exercises the Secretary's authority and is responsible for the safety of more than 1 million people and for the security of more than 9,000 facilities nationwide each day, including, of course, courthouses.

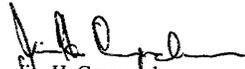
The transfer of FPS into the National Protection and Programs Directorate (NPPD) unified the Department's efforts to ensure security of the federal facilities sector within the Directorate, enabling DHS to provide a comprehensive infrastructure protection program under the guidance provided by, and in collaboration with, the Interagency Security Committee (ISC). In addition to those synergies, NPPD/FPS plans to leverage guidance from the ISC, which issued an interim standard in July 2011 titled, *Facility Security Committees: An Interagency Security Committee Standard*. This guidance will improve upon existing internal management of facility protection at federal courts among NPPD/FPS, USMS, and AOUSC. NPPD/FPS will continue to work closely with USMS, AOUSC, and GSA to ensure cost-effective law enforcement and security services are provided at all U.S. courthouses. NPPD/FPS will likewise continue its efforts to ensure improvement with coordination of

**Appendix II: Comments from the Department
of Homeland Security**

command and control, security roles and responsibilities, and meaningful participation in security committees.

Thank you for the opportunity to review and provide comment on this draft report. Extensive technical comments were previously provided under separate cover. We look forward to working with you on future Homeland Security related issues.

Sincerely,



Jijn H. Crumpacker
Director
Departmental GAO-OIG Liaison Office

Appendix III: Comments from the Administrative Office of the U.S. Courts



ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

JAMES C. DUFF
Director

WASHINGTON, D.C. 20544

September 14, 2011

Mr. Mark L. Goldstein
Director, Physical Infrastructure
U.S. Government Accountability Office
441 G Street, N.W.
Washington, DC 20548

Mr. William O. Jenkins, Jr.
Director, Homeland Security and Justice
U.S. Government Accountability Office
441 G Street, N.W.
Washington, DC 20548

Dear Mr. Goldstein and Mr. Jenkins:

I write on behalf of the Federal Judiciary to thank you for the opportunity to review and comment on the draft report entitled *FEDERAL COURTHOUSES: Improved Collaboration Needed to Meet the Needs of a Complex Security Environment* (GAO-11-857). We appreciate GAO's work in assessing the manner in which the security of federal courthouses is provided. The Judiciary takes seriously its obligation to be open and accessible to the public, while providing a safe and secure environment that protects judges, witnesses, defendants, employees, and visitors to courthouses. To fulfill this obligation, the Judiciary collaborates extensively with the United States Marshals Service (USMS), the Federal Protective Service (FPS), and the General Services Administration (GSA), all three of which provide courthouse security services. As you know, the funding for these services comes from the Judiciary's budget. In fiscal year 2012, these services will cost the Judiciary approximately \$500 million.

The Judiciary and the USMS have had a long-standing partnership on court security matters. Following recommendations made by the 1982 *Report of the Attorney General's Task Force on Court Security* and the endorsement of the Judicial Conference

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Mr. Mark L. Goldstein
Mr. William O. Jenkins, Jr.
Page 2

of the United States, the Judiciary provides funds for the Judicial Facility Security Program. The USMS administers the program, which provides security systems, equipment, and Court Security Officers (contracted guards) at courthouses. The Judiciary is satisfied that the public is well served by this arrangement.

We appreciate that GAO recognizes the Judiciary as an equal partner in courthouse security. It is our understanding that the final version of the report will ensure that all stakeholders, including the Judiciary, must be consulted with and agree to terms that will be memorialized in future Memoranda of Agreement.

We look forward to working closely with the other government entities to ensure the safety and security of our federal courthouses.

Sincerely,



James C. Duff
Director

Appendix IV: Comments from the General Services Administration



GSA Administrator

September 21, 2011

The Honorable Gene L. Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
Washington, DC 20548

Dear Mr. Dodaro:

The U.S. General Services Administration (GSA) appreciates the opportunity to comment on the draft U.S. Government Accountability Office (GAO) report titled, *Federal Courthouses: Improved Collaboration Needed to Meet the Needs of a Complex Security Environment (GAO-11-857)*.

GSA believes in the importance of U.S. Courthouses and their security. As the Federal Government landlord, it is our responsibility to ensure our buildings are safe and secure, while at the same time welcoming for all tenants and visitors. This requires a comprehensive understanding of the threats facing our facilities, the accurate and timely identification of vulnerabilities, and a clear understanding of the tools available to us to overcome the vulnerabilities and counter the threats. GSA works closely with the Judiciary, U.S. Marshals Service (USMS), and Federal Protective Service (FPS) to develop and implement policies and procedures to achieve this goal.

In this draft report, GAO recommends that the Secretary and Attorney General instruct the Director of FPS and the Director of USMS to update the Memorandum of Agreement (MOA) on courthouse security to address the challenges discussed in this draft report. GAO further recommends that FPS and USMS clarify Federal stakeholders' roles and responsibilities in this MOA.

Due to the importance of collaboration needed between FPS, USMS, the Judiciary, and GSA for effective courthouse security, GSA recommends that GAO revise this first recommendation to ensure that all of these critical stakeholders be involved in revising the MOA and included as a signatory. These relevant parties need to be included in the MOA decision making process and implementation to ensure success in achieving optimal courthouse security.

If you have any questions or concerns, please do not hesitate to contact me. Staff inquiries may be directed to Mr. Robert A. Peck, Commissioner, Public Buildings Service, at (202) 501-1100 or Mr. Larry Melton, Assistant Commissioner, Facilities Management and Services Program, at (202) 501-3677.

Sincerely,

A handwritten signature in black ink that reads "Martha Johnson".

Martha Johnson
Administrator

U.S. General Services Administration
1275 First Street, NE
Washington, DC 20417
www.gsa.gov

Appendix V: GAO Contacts and Staff Acknowledgments

GAO Contacts

Mark Goldstein, (202) 512-6670, goldsteinm@gao.gov
William O. Jenkins, Jr., (202) 512-8777, jenkinswo@gao.gov

Staff Acknowledgments

In addition to the contacts named above, Rebecca Gambler, Assistant Director; David Sausville, Assistant Director; Aaron Kaminsky, analyst-in-charge; R. Rochelle Burns; Andy Clinton; Ray Griffith; Brian Hartman; Delwen Jones; Susan Michal-Smith; and Sara Ann Moessbauer made significant contributions to this report.

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