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WITNESS SECURITY PROGRAM

REPORT

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS

UNITED STATES SENATE

MADE BY ITS

PERMANENT SUBCOMMITTEE ON

INVESTIGATIONS



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(II)

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(III)

WITNESS SECURITY PROGRAM

DECEMBER 14 (legislative day, NOVEMBER 30), 1981.—Ordered to be printed

Mr. ROTH, from the Committee on Governmental Affairs,
submitted the following

REPORT

I. INTRODUCTION

The Senate Permanent Subcommittee on Investigations held hearings on the Witness Security Program on December 15, 16, and 17, 1980. The hearings were conducted under the authority granted the Senate Governmental Affairs Committee and its Permanent Subcommittee on Investigations by rule XXV of the Standing Rules of the Senate and by Senate Resolution 361, agreed to on March 5, 1980.

The Witness Security Program was created by the Organized Crime Act of 1970. Administered by the Marshals Service with the assistance of the Bureau of Prisons in the Department of Justice, the mission of the Witness Security Program is to protect Government witnesses and their families when there is reason to believe that because of their testimony their lives are in danger. Most of the prosecutions that require that witnesses be protected involve organized crime.

The Witness Security Program, known as WITSEC, provides Government witnesses and their families with a variety of services, including temporary protection, relocation, establishing a new identity, providing documentation to support the new identity and limited financial and employment assistance.

At the time of the hearings, about 3,500 witnesses and about 8,000 of their dependents were participating in the security program.

Senator Sam Nunn of Georgia, who was chairman of the subcommittee at the time of the hearings, commented on the value of the Witnesses Security Program. He said:

In general, the contributions of these [Government witnesses] to the war on organized crime cannot be overestimated. We can all appreciate this fact when we consider the courage it takes for a victim or a member of organized crime to come forward and testify against the mob. Their lives, and often the lives of their families, instantly become potential targets for reprisals.

These people face tremendous fear and pressure. They literally tear up their roots and move to new towns and cities, leaving their homes and most of their relatives behind. Even though they live in a new place, they walk the streets with an eagle eye for fear that someone from the past might recognize them and compromise their safety. They and their families are under constant pressure not to say anything about their past for fear of divulging their true identity.

When they start out anew under another name, they have no birth certificate, no driver's license, no social security number, no credit cards, no passport, no automobile registration—none of the things we all take for granted. They quickly become a people without a past.

The Government bears a high responsibility in protecting these people and starting them off on a new life. Safely relocating witnesses is a job in itself. Getting them on their feet in a new place is even more difficult, given the wrenching psychological adjustments that must be made. The job must be done in an efficient and professional way. If not, the witnesses are not the only ones who suffer. So does the fight against organized crime, and so do we all. (p. 2)*

While endorsing the Witness Security Program and commending the Marshals Service for its management of the program, Senator Nunn pointed out that many complaints had been lodged.

Former Government witnesses who had relocated said that they had not been given adequate documentation, that they were not fully briefed on what the program entailed and what services they could expect and that they were often unable to establish credit or obtain employment because of insufficient preparation by the Marshals Service.

Government witnesses who were incarcerated at the time of their cooperation with law enforcement said that prison authorities seemed insensitive to their unique situation. These witnesses said they were known among the inmates to have cooperated with prosecutors and that their lives were constantly in danger when exposed to the general population of most penitentiaries. Yet, they said, prison authorities assigned them, or tried to assign them, to these danger areas anyway.

In other instances, protected inmates said, they were held in solitary confinement or were given names so obviously fictitious—John Philip Sousa, for example—that the names in themselves made them conspicuous and suspicious to other convicts.

Senator Nunn added:

I would like to emphasize that we do not want to tear down the program. Quite to the contrary, we want to build it up, to strengthen it, to improve it to the point that no complaints will be heard or at least the number of complaints will be reduced and that key witnesses will have no compunctions about joining it.

... an efficient and effective Federal Witness Security Program is a vital tool in the fight against organized crime, but this tool must be kept oiled and running. It must not be allowed to corrode and fall apart. (p. 3)

*Unless otherwise indicated, page numbers in parentheses refer to pages of the printed hearing entitled "Witness Security Program," dated Dec. 15, 16, and 17, 1980.

II. SUBCOMMITTEE STAFF INVESTIGATION

The staff of the Permanent Subcommittee on Investigations studied the operations of the Witness Security Program. The result of the staff inquiry were given to the subcommittee in the testimony of Assistant Counsel Gregory Baldwin and Investigator Raymond Worsham. (pp. 4-59)

Baldwin, an attorney, worked for 5 years in the organized crime and racketeering section of the Justice Department. He was assigned briefly to the Washington, D.C. office and then to Rochester, N.Y. He also worked 1 year in the district attorney's office in Philadelphia, where, on leave from the Justice Department, he assisted in establishing a grand jury investigations unit and in creation of an electronic surveillance unit. As a Federal prosecutor, he sponsored the entry of 12 persons in the Witness Security Program.

Worsham was a veteran of 14 years in Federal drug enforcement. As a Federal drug agent, he sponsored the entry of four persons into the Witness Security Program.

Baldwin and Worsham identified the principal problems that confront the Witness Security Program. Their findings were based on information gained from hundreds of Federal prosecutors, agents, prison officials, marshals and protected witnesses and their families.

INACCURATE OR FALSE PROMISES

Subcommittee Assistant Counsel Baldwin said Government witnesses were not always given an accurate description of how they would be treated in the security program. Inaccurate or false promises were made prior to relocation by Federal prosecutors or investigative agents, or, on occasion, by members of the Marshals Service.

Some improvement had been made in providing potential witnesses with a realistic idea of what they could expect from the security program, Baldwin said. But abuses still occur.

Baldwin cited instances in which promises were made by agents and prosecutors who knew little or nothing about the security program but who, in their zeal to win the witness' cooperation, were willing to promise him anything.

To counter this kind of abuse, the Marshals Service was instructing its own personnel on the details of the program and was embarked on an educational program to better inform other Federal law enforcement officers, Baldwin said.

Witnesses' rights were also protected, Baldwin said, by the drafting of a memorandum of understanding in which both sides—the witness and the Government—stipulated the promises which had been made. However, Baldwin said, the Marshals Service did not consider the memorandum of understanding to be a binding contract and felt it could break it at any time without an explanation to the witness. Conversely, if the witness violated any of the provi-

sions of the understanding, the Marshals Service considered that to be grounds to expel the witness from the program, Baldwin said.

Witnesses complained that the Government did not keep its word, Baldwin said, adding, that for security reasons, witnesses and their families were not given copies of the memorandum of understanding. In addition, the witness may have signed the agreement at a moment of great stress in his life and without benefit of legal counsel. Baldwin explained:

This is not conducive to a clear understanding by the witness of exactly what has been promised, with the result that he may later feel tricked and betrayed. (p. 8).

SECURITY BREACHES ARE OFTEN MARSHALS' FAULT

Inexperienced or untrained members of the Marshals Service had caused serious breaches in security, the subcommittee staff found. Similarly, carelessness and thoughtless comments had endangered witnesses.

According to Assistant Counsel Baldwin, breaches in security rarely were caused by Marshals Service Witness Security Program Inspectors since they had been trained to handle witnesses and knew the program thoroughly. Rather, security breaches more often could be traced to the actions of the Deputy Marshals, since they were inadequately trained in security program procedures.

Mistakes can occur at any time and the slightest miscue can have devastating impact, Baldwin said. He cited one illustration in which a Deputy Marshal, assigned to protect a Government witness at a trial, made the chance remark in front of spectators that at the conclusion of the trial the witness would be returned to Minneapolis. Within minutes, the defendant knew where the witness was living. The witness and his family had to be relocated. It was an especially regrettable mistake, Baldwin said, because the man and his family had made a successful adjustment to their new home and community.

Security problems also have been caused when Deputy Marshals were assigned to witnesses whom they knew nothing about. Not only did the deputies know nothing about the witness, they also were ill-informed about the case he was involved in. Frequently, Deputy Marshals were not familiar with the geographical area and with the organized criminals who might pose a threat to the witness.

The result, Baldwin said, has been that poorly trained, uninformed deputies were given very sensitive assignments because of union rules requiring the uniform rotation of deputies so that all employees can have equal access to overtime pay.

Baldwin cited a case in which a deputy from the rural south was assigned to protect a witness in an organized crime prosecution in a northeastern city.

Baldwin said the Deputy Marshal, knowing very little about organized crime and nothing about the city he was in, housed the protected witness in a hotel which law enforcement authorities believed was controlled by mobsters.

The deputy had himself and his protected witness checked into adjoining rooms. Then the Deputy Marshal went downstairs to the hotel bar where he became acquainted with a prostitute. He took the prostitute to his room, told her who he was, what he did for a living and what his current assignment was, including the name of the protected witness, Baldwin testified.

In case there was any doubt that he was telling the truth, the deputy, trying to pay the woman with a check, showed her his badge, Baldwin said. Fortunately, the prostitute was an informant for law enforcement and apparently told no one but authorities of the Deputy Marshal's conduct. But, as Baldwin pointed out:

. . . the agent and the prosecutor in that area who were involved in the case could only shudder to think what could have happened had she not been an informant. (p. 56)

Baldwin said this was the kind of example that proved the necessity for having highly trained, intelligent Marshals Service personnel on the job and the importance of using deputies and inspectors in regions of the country they are familiar with.

A security breach caused by thoughtlessness, Baldwin said, was noted in the shipment of household goods from the witness's former residence to his new home. The goods were packed in boxes marked with the witness's real name and were transported by movers who were informed that the family was now in the Witness Security Program.

One of the reasons for such mistakes, Baldwin said, was that the Marshals Service was 40 percent undermanned and, because of its manpower shortages, must rely on untrained deputies to provide security and other services to witnesses. Baldwin said:

There are not enough marshals trained in security and witness protection to insure careful, secure operations in all cases. (p. 8)

INCOMPLETE OR DELAYED DOCUMENTATION

It was noted in the subcommittee staff's inquiry that documentation for the witness and his family was often incomplete or slow in arriving.

Assistant Counsel Baldwin said in too many cases the "cover story" was not established for the witness. He and his family found themselves in a totally new environment with no history. They cannot use their own names or refer to their own past. But they have no new history. They have no choice but to fabricate a past on their own. Then, belatedly, the Government documents arrive, contradicting much, if not all, of what they have told neighbors and creditors about themselves.

The Government's tardy response to the family's historical problems only compounds the equally serious problem of the psychological trauma that often accompanies relocation, Baldwin said.

Two witnesses already in the security program offered the subcommittee staff a partial solution. Baldwin said they recommended that before a witness is sent to his relocation site that he and his

one common criticism of the security program. They say there is no procedure enabling them to protest and seek redress for their perceived mistreatment.

Baldwin said no clear, effective method of making a complaint exists. He pointed out it was of little use to say a witness may complain through his assigned marshal when the complaint often is directed against that very person.

Because there is no established avenue to follow, witnesses file their protests with a variety of persons—sponsoring prosecutors, agents they cooperated with, officials in Marshals Service headquarters, Justice Department officials, Congressmen or news reporters. Some witnesses take their complaints to all of these and more, Baldwin said, noting the resulting “cacophony of complaints from divergent sources all converging on witness security headquarters.”

Baldwin said the subcommittee staff found that the lack of a reliable, centralized witness complaint system seriously interfered with the Marshals Service’s exercise of its primary witness security duties. Witnesses think it is unfair for them to have to file their complaints with the marshal assigned to them. They point out that it is often the very same marshal whom they are complaining about.

ALL PERSONS TREATED ALIKE

The Marshals Service claims that more than 90 percent of the persons in the Witness Security Program are either criminals or have been associated with criminals. But their degree of criminality or criminal association varies widely. Moreover, persons who have never been anything but law abiding, responsible citizens also enter the security program. The Marshals Service, dealing with the needs of a variety of persons, has been criticized for treating all witnesses in the security program alike—as if they were there only to avoid going to jail.

Baldwin said the person who suffers most from the Marshals Service treatment of all witnesses as being alike is the legitimate businessman who cooperates with authorities and must then be relocated. Baldwin explained:

This person with a college degree, highly developed job skills and a high social and economic standing in his community is treated in the same manner as the criminal witness who has no such background or skills. (p. 11)

Raymond Worsham, subcommittee investigator, who, with Baldwin, led the staff’s investigation of the Witness Security Program, testified about the impact of the Marshals Service capabilities on the willingness of prospective witnesses to cooperate.

Worsham said the Witness Security Program suffers from such a poor reputation that many law enforcement officers have become reluctant to recommend that persons, particularly law abiding citizens, participate in the program.

Summarizing the views of many Federal law enforcement officers whom he interviewed, Worsham said the Witness Security Program has been damaged by news accounts and media presentations represent-

ing the program’s shabby treatment of witnesses once they are relocated.

Worsham said several Federal agents informed the subcommittee staff that they simply will not use the Witness Security Program any longer as a way to protect cooperating persons who have no criminal past. Worsham said:

One agent told us just a couple of weeks ago [that] if he ever came across a witness like this again, he would walk away from the case rather than pursue it because he would not be responsible for ruining another person’s life such as he had done to this witness. (p. 51)

It was Worsham’s opinion that because the Witness Security Program is known for unfairly handling the law abiding witness the Government’s ability to prosecute complex financial crimes has been severely hampered. Worsham explained:

The program is really just not geared at this point to handle a certain sophisticated type of witness that you need for a very sophisticated type of case.

You have, say, an extortion victim, a high level executive, an accountant without criminal past. What do you tell this witness? You have to go to him with a proposition—if you are going to be truthful and honest, you have to say, “Mr. Witness, we would like you to cooperate with the Government so that we can prosecute those dangerous parasites out there. Now, all you have to do is risk your life, change your family name, sacrifice your career, give up all your friends and accept a much lower standard of living than you have now, and in exchange for that we will let you be of service to your country.” . . . Not many people will leap at a proposal like that. It is having a very negative impact on getting the type of assistance we need to pursue these types of criminal cases. (pp. 51-52)

EFFECT ON PERSONS NOT RELOCATED

Baldwin testified that the problems confronting the Witness Security Program affect people other than the witnesses who are relocated. The worst example of how citizens can be adversely affected, he said, is in cases involving child custody. Providing two particular examples, Baldwin said it sometimes happens that the family group of a relocated witness may include a wife or girlfriend who has custody of children by a previous marriage. He said that the children are often relocated apparently with no warning, consultation or explanation to the natural parent left behind. Baldwin referred to several witnesses who have expressed grave concern for the effect the witness program has upon the mental and physical health of the children in these cases, as well as that of the parent left behind. Baldwin quoted one witness as saying:

. . . there should be a recognition that the rights of innocent children are separate and distinct from those of relocated witnesses and/or adults who choose to be relocated along with them. (p. 35)

The tension between the conflicting rights of the parties involved is itself the problem faced by the witness program, Baldwin said, and it is made even more complex by the security aspects of any possible solution. Baldwin pointed out that "Any solution could involve a great deal of complexity, difficulty, manpower and even expense. This is a very tough problem." He added that the Marshals Service has been trying to address and solve this problem for 2 years. (p. 39)

NATIONAL OFFICE CONTROL IS LIMITED

Subcommittee investigator Raymond Worsham said the Marshals Service is 40 percent understaffed and lacks the needed funding to be adequately staffed. The Witness Security Program is understaffed in all aspects of its operations, Worsham said. Sixty-five percent of its personnel who actually operate the program are not subject to the control of the witness security section in Washington, D.C.

Explaining, Worsham said there are 129 field personnel working on the witness program. About 40 of these employees are called witness security specialists, or "Metros." Worsham said Metro's are controlled by the chief of witness security. He said that almost without exception the Metro's were praised by relocated witnesses as sensitive, dedicated and professional.

The remaining field personnel, Worsham said, are called witness security specialist-field, or "In-Districts." These personnel, who account for about 60 percent of the field employees in the security program are under the direct control of the U.S. Marshal in the Federal district to which they are assigned.

"In-Districts," working for the U.S. Marshal, are assigned duties such as Federal court security, as well as duties relating to relocated witnesses. Worsham said that since the U.S. Marshal is in charge of his district, his assignments may take priority over witness security needs. Worsham explained:

Should the two [duties] conflict, the U.S. Marshal will direct which has priority—and this is often done at the expense of the [security] program.

Moreover, the U.S. Marshal is a political appointee often having little knowledge and less sympathy with the program. He is far beyond the control of the director of the U.S. Marshals Service.

In fact, a U.S. Marshal can—and several have—refused to permit the relocation of any witness within their district. This can severely affect the choices of relocation areas.

Thus, while the chief of witness security [in Washington, D.C.] has the responsibility for providing services to relocated witnesses, in many cases he lacks the power to discharge that responsibility. (p. 12)

In addition to having limited control over field personnel, the chief of witness security has no control over the cooperation of other agencies within the executive branch, Worsham said, explaining:

We have been informed that no formal agreements exist with agencies such as the Veterans' Administration or the Social Security Administration, although the prompt issuance of documentation by them is vitally important to the witness. It has not been until the administrations of Attorney Generals Bell and Civiletti that any efforts have been made in this regard. (p. 12)

OVERSIGHT BY JUSTICE DEPARTMENT

Worsham said little oversight has been given the witness program by the Department of Justice. Many problems have been examined, he said, but few of them have been resolved. He said a committee within Justice had been created in 1978 to oversee the program but it had met only once.

Baldwin quoted an attorney, who told the investigations subcommittee staff, "The program is a prime example of how a bureaucracy can diffuse responsibility so broadly that no one is responsible ethically or morally anymore."

Summing up the subcommittee staff's view of the organization problems faced by the witness program, Worsham and Baldwin said:

No efforts seem to be made from any responsible departmental level to control or coordinate the efforts of the U.S. Marshals Service, the office of enforcement operations or the Bureau of Prisons. No centralized control of these various departmental components exists. The program operates like a body without a brain. (p. 12)

TRAINING IS INADEQUATE

The subcommittee staff found that personnel handling relocated witnesses are inadequately trained. Worsham said a training effort was made but it was not sufficient.

As a consequence of inadequate training, officials at the national office of the security program are overwhelmed with questions from field personnel, Worsham said. The most elementary decisions confound field personnel and they turn to Washington for direction, Worsham said.

In a better run security program where agents in the field were more informed as to how to proceed, the case managers in Washington would have the time to provide general supervision and anticipate problems that might develop. That should be the role of the case manager, Worsham said, but he doesn't have time for that because of having to concern himself with routine relocation and protection affairs.

The case managers must face another problem. It is the necessity of reviewing the many complaints that are sent to Washington by witnesses and their families who feel they are being mistreated. Worsham explained:

The staff has received many complaints that field personnel are careless or unsympathetic to the witness' needs. These complaints were made by the vast majority of witnesses interviewed by the staff. (p. 13)

Baldwin said case managers spend much of their time handling routine inquiries from field personnel and reviewing complaints from protected families. This leaves them without sufficient time to supervise the overall handling of the relocated persons, he said.

III. TESTIMONY OF PROTECTED WITNESSES

GARY HAAK HAD BEEN INVOLVED WITH GANGSTERS

When gang warfare broke out in 1977 in Rochester, N.Y., members of one of the feuding criminal organizations decided they needed the services of a technician who could help them build and explode bombs by remote control. They turned to Gary Haak, who, until then, he told authorities, had not been involved with criminals.

Haak provided the assistance and then, when confronted by law enforcement authorities, admitted his participation in the illegal activity and agreed to cooperate in prosecutions against the gangs. In return, he and his family were placed in the Witness Security Program.

Relocated in September of 1978, Haak told the subcommittee that he believed in principle in the Witness Security Program but he had many criticisms of it. (pp. 60-68)

Haak said the Marshals Service left himself, his wife and their two daughters in one room in a motel for 2 months. It was a time of great psychological stress and uncertainty. The Haaks had nothing to do and the marshals did nothing to help them find more suitable quarters until in desperation they found their own place to rent, Haak said.

Four inspectors from the Marshals Service had been assigned to them over the past 2 years, Haak said. He said one inspector was exceptionally attentive and capable. But one was totally unattentive and "almost impossible to contact." A third inspector insisted that all communication between the Haaks and the Marshals Service be in writing.

Haak said he has never received adequate documentation. He said he had had to devise his own methods for establishing credit and the Marshals Service had given him no financial advice in this effort. Because of inadequate documentation and planning, Marshals Service personnel went around to Haak's children's school, to his landlord and to his employer to inform them that the family was in the Witness Security Program. The marshals even gave the news to a veterinarian who was treating Haak's dog. But, Haak said, the marshals made no effort to help him establish credit.

The Marshals failed to make arrangements for the transfer of his previous participation in social security to a new account in his new name, Haak said. In addition, the new job résumé he had been given by the Marshals Service was so sloppy and unconvincing that no prospective employer would consider hiring someone after reading it. Such a job résumé is "worse than nothing," Haak said. Haak described his problems with the job résumé this way:

The worst part of this documentation problem is that it hits me in the worst possible place it could hit, and that's employment. It is almost impossible to get a job on my own because I have absolutely no background. I was told when I was re-

located that I would get a résumé that would show the kind of work I had done but for different companies, and it would reflect my new name. I was told this would all be backed up so that if a prospective employer contacted one of the companies on the résumé . . . someone would say yes, this individual worked here. But all of the information that they would provide would be completely accurate—my good points and my bad points and my work habits and the type of work that I did.

After I was relocated, I discovered that the marshals had just simply changed their mind without telling me or explaining why. They no longer provide, I was told, a real résumé or any sort of employment background. What they do provide is a "sanitized résumé." This is a xerox copy of the résumé that I gave to them when I was relocated. What they have done is to scratch off my name and the names of the companies I have worked for. Mr. Chairman, if I came to you with a résumé like that and asked you for a job, would you seriously consider me for more than 30 seconds? I don't think so, and . . . no one else will either. (pp. 67-68)

Haak said the Government had promised him that it would pay for new tools he needed to work in a new job. But when he asked the Marshals Service to buy the tools for him, a marshal went to his new employer and inquired in great detail about the need for such tools.

Haak said the marshal treated his new employer in such a heavy handed fashion that he could well have decided against hiring him. The employer, an understanding man, gave him the job anyway, Haak said.

Haak said it took him 2 years to find the job and, in all that time, he never received a single lead on finding work from the Marshals Service.

When he was settled in his new residence, Haak said, the marshals arranged for his furniture to be shipped to him. Most of his goods were destroyed or damaged in the move and he was forced to settle for 15 percent of the value of his furnishings, Haak said. To have forced the issue and threatened to sue the movers unless they compensated him more fairly, he would have had to reveal his true identity and, had he done that, he would have run the risk of being dropped completely from the Witness Security Program, Haak said.

In the moving controversy, and in so many other events that came up in his relocation, Haak said, the Marshals Service was unable or unwilling to help. The simplest tasks seemed insurmountable to the marshals, Haak said, adding that the marshals' most common responses were, "we won't help on that," or "we can't help on that."

Haak summed up his views on the Witness Security Program this way:

I don't want to spend the rest of my life this way. I don't want to have to rely on these people for the rest of my life. I can't understand why no one could provide me with some sort of background and school records. I'm not asking for anything phony or anything fake. All I think is that a re-

located witness should be provided with a decent background and school records and employment records that accurately reflect his true background. Not only this, but his children's also.

I think probably one of the basic difficulties with the program is that a witness has so little time to discuss it and think about it before he signs up for it. I also think that a witness should be given copies of everything that he has signed. After all, this is a written agreement between him and the U.S. Government. It is hard for me to understand how security aspects can prohibit me from having a copy of what I've signed, but at the same time security doesn't prohibit the inspector from telling schools, principals, teachers, the telephone companies and prospective employers that I am a relocated witness.

Also, as part of the background, I think a witness should be given a prior address or some sort of past cover story so that when a witness gets to the new place of relocation, he is able to say to neighbors and friends where he is from, what he did back there, why he came to this new city, and be able to intelligently discuss that old city that he has supposed to have come from. This is only common sense.

These are things that everybody needs just to survive in day to day life. If the program is actually protecting people, it should be able to provide at least this kind of background so that a witness knows how to maintain his own security when he gets to the new place of relocation. (pp. 69-70)

F. HARVEY BONADONNA RESISTED MOB OVERTURES

When organized criminals in Kansas City tried to force him to assist them in infiltrating a redevelopment project, F. Harvey Bonadonna went to the FBI and offered to cooperate. His father, himself an organized crime figure, had been murdered and so had several of his son's friends.

F. Harvey Bonadonna, whose testimony in court led to the convictions of high-level organized crime figures, was placed in the Witness Security Program. On May 1, 1980, Bonadonna testified before the Permanent Subcommittee on Investigations on the subject of mob violence in Kansas City.* He was asked to make an assessment of the witness security effort that had been mounted on his behalf.

Bonadonna's assessment of the security program and the U.S. Marshals Deputies and Inspectors who administer it was to the point. ". . . the kindest thing I can say is they are extremely ineffective," Bonadonna said. Those portions of his May 1980 testimony that had to do with the Witness Security Program were reprinted in the subcommittee's December 1980 hearings. (pp. 16-19)

Bonadonna said the marshals want to do a good job running the security program but that they don't have the expertise or the resources to do it.

*Hearings, Senate Permanent Subcommittee on Investigations, "Organized Crime and Use of Violence," May 1, 1980, pp. 179-223.

Relocated in a new community under a fictitious name, Bonadonna had no desire to return to Kansas City where mobsters, who had already murdered his father, might wish to retaliate against him. But, he said, the Witness Security Program was so ineffective and such a burden to him that he might be forced to go back to Kansas City.

Bonadonna said the documentation for his new identity was inadequate and slow in arriving. It took 2 years to get a new driver's license and about a year to obtain a new social security number, he said. He said he still had not established satisfactory credit in his new community.

Even though the program had been managed so poorly in his own situation, Bonadonna said he still felt that it was a very useful weapon to use against organized crime—if only the Government could manage it properly.

He said he knew several persons who were involved in organized criminal conduct who wanted to give up their illegal activities. They might be willing to cooperate with authorities, Bonadonna said, adding that they are watching what happens to him before making up their minds as to whether or not to make the break and work with the prosecutors.

Bonadonna went on to say:

If I succeed they will step forward. I talked to my aunt, one of my aunts. . . . She is like 80 years old. She tells me that there are people sitting back and they wish their sons could get into the Witness Security Program and get out of the mess they are in. They want out, but they don't know. They don't know where to go. (p. 19)

CALIMANO FAMILY OBJECTED TO BEING TREATED LIKE MOBSTERS

Frank Calimano, a heavily decorated military veteran, owned a heating and air-conditioning business in New York. A legitimate, honest businessman, Calimano had a strong sense of service to his country. He also had a deep distaste for organized crime since he blamed narcotics syndicates for the fate of his brother who suffered from a dependence on drugs.

When FBI agents asked Calimano to assist them in penetrating organized crime and labor racketeers, he agreed. According to his widow, Vivian Calimano, her husband believed he could do something to rid the country of crime. He knew that eventually he would be revealed and that then his life would be in danger but, nonetheless, he welcomed the opportunity to help his Government, Mrs. Calimano said.

The information Calimano turned over to authorities was of value. In turn, in keeping with the Government's assurances that it would protect Calimano and his family against retaliation by mobsters, he was placed in the Witness Security Program in December of 1978.

Calimano's experiences in the program were a disappointment to him. A patriotic man who tolerated no criticism of the United States, Calimano came to believe the government had betrayed him. He became depressed and underwent psychiatric care. Eventually, he committed suicide. His family blamed the Witness Security Program.

Vivian Calimano and their son, Steven Calimano, testified before the subcommittee. (pp. 80-104).

Looking back on their experiences in the security program, the surviving Calimanos said their first mistake was not taking a closer look at the agreements they signed with the Marshals Service upon entering the program.

Steven Calimano said he was "stupid" and "naive" to have entered into so many agreements without reading them carefully and without having an attorney to represent the family's interests.

But, Steven said, his father trusted the marshals and he trusted his father and so they signed all the papers they were asked to.

The marshals encouraged them to move quickly. They promptly sold their business and their home and prepared to be relocated.

The first signal that trouble might lie ahead was the attitude of the Marshals Service official who briefed them in a hotel room. The marshal treated them as if they were criminals who were being given a new lease on life, Calimano said. He said the marshal seemed to be saying, "You are getting a whole new chance to start over again."

Steven Calimano said the marshal's attitude was particularly disconcerting to his mother, who responded, "We didn't do anything wrong. You are not giving us another chance." Steve Calimano recalled that the marshals were "looking at us like they were doing us this fantastic favor." He added:

We didn't go there expecting to be treated like royalty, but we did expect a little more common courtesy. (p. 86)

Calimano said that in closing out their affairs in New York the family received no guidance or advice in financial matters from the Marshals Service. Nothing was done to prepare them to build a new financial base in their new community, he said.

The family was given inadequate documentation. Driving to their new residence, the family had such poor auto registration and licenses that they were in constant danger of having their true identities revealed.

In the new location, there again was confusion over the automobile ownership papers. Steve needed to install a telephone because the family was anxious to start a new business but the phone company wanted identification and the family had none.

Mrs. Calimano said they were joined by another son who was just graduating from high school. This son wanted to enter college but for that he needed school records. Mrs. Calimano testified that a year went by before the boy's school records arrived.

Each member of the family was given a new social security card—but they did not arrive until 6 or 8 months passed, Steven Calimano said. Mrs. Calimano said she never did receive a new marriage certificate.

Steve Calimano said that he has never been able to establish credit. Had his father not had some savings they could turn to, they could not have managed, Calimano said. Steve said his family was given no background papers or "cover story," no plausible explanation to tell neighbors and friends where they were from or how they ended up where they were.

Finally, Mrs. Calimano said, her late husband began using the story that he had been retired from the military.

Mrs. Calimano said that her husband grew more and more despondent and finally asked the marshals to arrange to have him admitted to a VA hospital. Eighteen months later the marshals did have Calimano entered into a VA hospital.

In the hospital, Calimano was treated by a psychiatrist but was also enrolled in a group therapy class where participants were expected to share personal information with each other, the one thing Calimano could not do. To do so, Calimano would have breached his own security which would have been grounds for the marshals to remove his family from the security program.

Mrs. Calimano said the other patients in the group kept saying they could not understand why Frank Calimano would not tell them what his problem was. "That was his problem," Mrs. Calimano said. "He could not talk about his problem." (p. 100)

The problems of documentation that plagued the family while Frank Calimano lived remained with his survivors when he died and the difficulties that should have been resolved persisted long into the future.

When her husband, who was a veteran, died, Mrs. Calimano tried to obtain information about entitlements due her under the Veterans' Administration and social security. Six months elapsed after her husband's death, Mrs. Calimano said, and still no response was sent. She said the Marshals Service was still trying to effect the appropriate name changes in VA and social security records.

Mrs. Calimano said that when her husband died she insisted that he be buried in New York under his true name. She said she and her family attended the funeral and moved about freely in their old neighborhood without protection from the marshals.

It confused her now, she said, that upon her and her family's visit to Washington to testify before the subcommittee the marshals assigned a protection detail to them. (p. 102)

ART BELTRAN REQUIRED PROTECTION IN PRISON

After a life of crime, Art Rocco Beltran, in August of 1978, began cooperating with law enforcement and became a protected witness. Beltran, who was in prison at the time he entered the Witness Security Program, had unique value to prosecutors because, as a Mexican-American, he was a high-ranking member of La Neustra Familia, an organized crime group composed primarily of persons of Mexican descent.

Testifying before the subcommittee (pp. 161-192), Beltran described the dangers that confronted incarcerated protected witnesses and what he felt were the inadequacies in the effort to protect him.

Beltran was particularly troubled by the Government's insensitivity to the constant threat protected witnesses face in prison of being murdered. Admittedly overly fearful, Beltran said inmates in the Witness Security Program have every right to be extremely suspicious because there are persons in prisons who, if given the opportunity, would kill them. That point—that death may come suddenly if the protected witness lets down his guard even for a moment—seems lost on some officers

of the Marshals Service and the Federal Bureau of Prisons, Beltran said.

Beltran said that when it came to retaliating against inmates who cooperate with police, organized crime groups often worked together to punish informants. He said that merely protecting him against retribution from Neustra Familia members was not enough, that Neustra Familia could readily put out a contract on his life to other crime groups such as the Mexican Mafia, the Brown Bears, the Aryan Brotherhood, the Nazis, the Black Guerrillas and other groups.

Having testified for the prosecution in many trials, including 19 murder cases, all of which resulted in convictions, Beltran was bitter about the treatment he had received from deputy marshals, prison officials and other representatives of Federal and State Governments. He felt that he had demonstrated his willingness to help law enforcement but that law enforcement had not lived up to its part of the bargain.

He said that all too often those persons assigned to protect him were either inexperienced or incompetent. Beltran said he would not recommend that other prisoners enter the Witness Security Program. The risks are too great, the protection too weak, he said.

Beltran cited several occasions when he was moved from his cell in the Federal Metropolitan Correctional Center to cities throughout California where he was to be used as a witness in a trial. In most of these excursions out of the security of the correctional center, Beltran went through severe anxiety because of what he considered to be careless, indifferent and stupid conduct on the part of those assigned to protect him.

Fearful for his life, convinced that Neustra Familia members were determined and plotting to kill him for testifying against them, Beltran told the subcommittee that the deputy marshals often were unconcerned about leaving him unprotected in the jails where he was sequestered during the trials. A number of times, he said, the deputies wanted to house him overnight in jails which also housed the very persons against whom he was testifying.

On other occasions, Beltran received threats from fellow inmates in local and county jails. Authorities verified the fact that Beltran did receive several threats.

In the local and county jails, the most elementary things in life became severe problems, Beltran said. He pointed out, for example, that other inmates are involved in the preparation and serving of food and that he, like most other protected witnesses, refused to eat meals in the county jails. Protected witnesses are convinced, he said, that their food has been purposefully soiled by vengeful inmates. Authorities have verified instances in which food served to protected witnesses in prison had been contaminated.

Beltran said he spent many sleepless nights in local and county jails, wondering when and how an attempt would be made on his life. He said organized criminals and friends of organized criminals knew he was in a certain jail for the night and, he said, he was fortunate so far to have avoided an attack.

Beltran, an articulate, self-educated man who hopes to be released from custody in 1984, said the marshals' insensitivity to the protected

witnesses' fears did not enhance the ability of the witnesses to testify for the government's side. He said, for example, that at one murder trial, after an especially frightful night in a county jail, he had difficulty concentrating during his testimony because he was still shaken from his experiences the night before.

Beltran, who served more than 12 years in prisons, said the inmates in most institutions know virtually everything that goes on in the jails. It is, he said, a simple matter for them to find out which prisoners are cooperating with authorities. Often, for instance, protected witnesses are confined on one floor of the facility and even the prison guards make no secret of who the protected witnesses are. In fact, Beltran said, some prison guards seem to adopt the same hostile attitude toward cooperating witnesses that the other prisoners do. Beltran said inmates have their own systems of communication within the facility.

Officials of the Bureau of Prisons and the Marshals Service have no true comprehension of what life is like in prison, Beltran said, pointing out that, even though they have assured him to the contrary, authorities would like to transfer him from a more protective metropolitan correctional center to a general population prison. When that happens, he said, he will be murdered.

Beltran said that within the general population area of a prison no inmate can be protected if other convicts want him dead. Some inmates will kill any prisoner even suspected of being an informer. In his own experience, Beltran said, at a time before he became a cooperating witness, he participated in a brutal assault on a convict within a few feet of a prison guard. Beltran said he did not have any ill feeling toward the prisoner he attacked but that he had joined in the beating because his peers expected it of him. By chance, the victim survived, Beltran said, but he could just as easily have died.

When he learned of a recent effort to shift him to a general population prison, Beltran typed out his own restraining order to petition a court to stop the proposed transfer. Beltran said six other inmates who were protected witnesses had also filed restraining order petitions to stop similar transfers.

It was typical of authorities' lack of understanding of the safety needs of protected witnesses, he said, that they would persist in trying to transfer them to general population prisons when the risks there were so magnified. Even when a protected witness is not actually assaulted, Beltran said, exposure to the general population of a prison causes so much mental anguish that it is nearly as debilitating as a beating.

Because of this lack of concern by marshals, prison officials and other government employees, Beltran said, fewer and fewer convicts are cooperating. News of the shortcomings in the Witness Security Program has circulated in prisons and in the criminal underworld, Beltran said, adding:

The government is never going to get people to continue to cooperate under circumstances like this. The word is spreading; people know what we go through; the prisoners in the jails all know what happens to us now. (p. 174)

When he was considering his decision to cooperate, Beltran said, government officials promised him that his wife and children would be protected and that they would be able to visit him from time to time. This was a major factor in his decision to cooperate.

But his family has been able to visit him only once. In addition, the deputy marshals who were supposed to help his wife find work made a point of going to her new employers and telling them about her status as being married to a protected witness.

Beltran said the marshals also told his wife's landlord who she was. Then they told a used car salesman she was buying an automobile from that she was in the Witness Security Program, Beltran said. More and more people seemed to know about her status. People began asking too many questions at work. Finally, his wife quit and got her next job on her own, hoping to keep the deputies out of her employment matters, Beltran said.

But the Deputy Marshal assigned to her case still offered to help her find work. She said no, she could handle it. Beltran said that the Marshals Service, interpreting her actions as signaling her lack of interest in working, terminated her participation in the Witness Security Program.

Beltran continued:

On top of my own problems, on top of the constant and consistent pattern of innocent mistakes by the marshals, I have to constantly worry about whether my wife has got food to feed my child, whether she has a dollar to buy some heat for the house, whether she and my child are safe. That's all I need at this point, and yet that's exactly what I've got. And the same thing keeps happening to many other prisoner-witnesses that I know.

We should have known in the beginning, we should have understood all of this. The problem is that there was absolutely no orientation from the program for me or for my wife. In fact, nobody ever sat down and told me what the protection program meant for my wife and family. They did sit down and explain it then to her but it was a very rush job. It was done very fast, and while she was in great fear because of my cooperation.

She knew as well as I did that the Neustra Familia would go after her and the kids just as quickly as they would go after me. She was so preoccupied with the fear that she really didn't understand what she was getting into. Yet she and I were never allowed to sit down and discuss this thing together, let alone discuss it together with a marshal or an attorney. We never had an opportunity to review the papers she signed. (p. 170)

IV. TESTIMONY OF PROSECUTORS, INVESTIGATORS, MARSHALS

VETERAN PROSECUTOR TERMED SECURITY PROGRAM INDISPENSABLE

A 17-year veteran of the Organized Crime and Racketeering Section of the Criminal Division of the Department of Justice, Michael DeFeo is one of the department's most experienced and respected officials. He has served as a trial attorney and as an attorney in charge of several field offices. At the time of his appearance before the subcommittee, DeFeo was Deputy Chief of the section. (pp. 106-116)

DeFeo told the subcommittee that he had been involved in the admission to the Witness Security Program of scores of witnesses in the past 10 years.

It was inevitable that problems would arise in the management of the program, DeFeo said. But it was also unarguable that, despite its many problems, the program had been a success. DeFeo said:

The Witness Security Program is an indispensable tool in achieving widespread and effective prosecution of organized crime, and without it there is no realistic prospect of institutionally neutralizing an organized crime group. The program as it exists has been a success, as demonstrated by its undeniably impressive results. (p. 114)

DeFeo said the Witness Security Program added a new dimension to the government's efforts to immobilize crime syndicates. Before 1970, he said, prior to passage of the Organized Crime Control Act of that year, law enforcement officers had no practical method to counter the would-be witness who pointed out that if he did cooperate he would surely be murdered. DeFeo said:

In that situation, wherein both you and the witness knew that death was a potential consequence of cooperation, appeals to civic duty could still be made, but their emotional appeal rang somewhat hollow. (p. 115)

With the creation of the Witness Security Program, DeFeo said, the government for the first time could offer the witness protection and the chance to reestablish himself in a new community with a reasonable expectation of success.

This was an historic development, giving prosecutors unprecedented opportunities to surface testimony and evidence from inside crime groups. Two important witnesses cited by DeFeo, F. Harvey Bonadonna and James Fratianno, were instrumental in major organized crime convictions and were both in the security program.

However, accompanying the program's successes were problems, problems of physical security, of financial support, credit, documentation and the recruiting and training of capable personnel to manage the program, DeFeo said.

Some of the difficulties were built into the program itself, DeFeo said, contrasting, for example, the different attitude held by persons who become protected witnesses after a lifetime of middle class respectability and those who enter after a lifetime of crime. He explained:

Almost inevitably, a substantial percentage of people in the Witness Security Program will be dissatisfied with its services. A person with a substantial criminal record or who has operated on the fringes of low level crime may feel that his status and future are being improved by being moved hundreds or thousands of miles from his home environment, and given 90 days' subsistence and a chance to start a new honest life if he desires.

However, any person of average social status and economic resources must find that treatment terribly demeaning, unsettling and unattractive. None of us would willingly accept a new identity without resources, credit, friends or promise of advancement, all in a strange environment.

Accordingly, we should not be surprised when virtually every witness except those on the very bottom rungs of the economic and social ladder rebel against the choice they have made in accepting relocation once the immediate threat of danger is no longer their dominant concern. (p. 115)

Making allowance for these attitudinal problems that are likely to emerge in many relocations, DeFeo said, there are still areas where improvement is possible and could be achieved if the resources of the government were more effectively utilized.

He said the overwhelming majority of employees of the U.S. Marshals Service he had dealt with were thoughtful, considerate, well trained and anxious to see the security program succeed. He said they were too professional to be rude to witnesses and their families.

But where the marshals had failed to adequately tend to the legitimate needs of the protected witness was invariably when inexperienced or temporary personnel were brought in, DeFeo said. In some of these instances, he said, simple thoughtlessness was to blame, as in situations in which a witness and his wife and their children are left with no car and no documentation in a crowded motel room for several days. The witness and his wife "are subject to the onset of insanity in direct proportion to the number of children confined with them," DeFeo said.

He said marshals needed to be reminded that family members in the security program are not themselves criminals and should not be treated as if they were. While most marshals do not make that error, some do, DeFeo said, adding that each mistake in this regard by a marshal "anywhere in a witness' handling is magnified by the witnesses, who are understandably in a dependent and sensitive emotional state." (p. 116)

Citing the need to obtain employment for the relocated witness as a top priority, DeFeo said the Federal Government sponsors or is otherwise involved in many job programs, most of which could be enlisted to help if the witness is not finding work in the private sector.

On the subject of documentation, DeFeo said it was one of the most trying problems the program faced. He said crucial Federal agencies in the documentation process—Social Security Administration, Small Business Administration, Veterans' Administration and Federal Housing Administration—had not been very responsive to the needs of the Witness Security Program because they did not feel they were part of it. DeFeo said:

... those agencies have no stake in the program whatsoever. They have received no credit for successes and they bear no responsibility for its failures and, therefore, they are simply not motivated to contribute when they have other program goals of their own. (p. 107)

More cooperation might be received from the documenting agencies if an executive order were given, if interdepartmental agreements were entered into or if specific legislation were passed requiring better cooperation, DeFeo said.

Another area where improvement was needed, DeFeo said, was in persuading the Marshals Service to develop a more flexible attitude toward the falsification of identities. DeFeo said he saw nothing questionable about government participating in the falsification process because, first, it would be undertaken to protect the witness' life and, second, it would be done with no intent to defraud or injure the public.

Describing the Marshals Service's "institutional reluctance" to violate local laws regarding false documentation and applications, DeFeo said the marshals could do more than they are doing to provide adequate documents for witnesses and still remain within the law. DeFeo's concept of an improved documentation process would be to give the witness official papers that reflect his true background and skills. DeFeo did not propose giving documents to the witness that would give an unrepresentative picture of his past. He also suggested a new law that would provide immunity in certain instances from any liability that would flow from use of changed identity.

DeFeo said he opposed having the FBI or the Drug Enforcement Administration manage a witness security program. Ethical considerations made it important that the investigative agencies not have responsibility for security programs, DeFeo said. If the investigators ran such programs, he said, questions of support payments and other services would arise as witnesses would charge they received less than others. Controversies would emerge over issues of fairness and propriety, DeFeo said.

DeFeo said he preferred keeping as much distance as possible between the protected witness and the investigating agent; and between the witness and the prosecutor, particularly in financial matters. DeFeo said:

That way the insinuation or the suggestion that a person is testifying less than accurately in return for payment can be minimized and I think it is a healthier situation. (p. 111)

DeFeo concluded his testimony this way:

Whatever the Congress may determine should be done concerning the structure of the Witness Security Program, one

conclusion is inescapable after 10 years of experience with its administration. The program has worked and has had a multiplier effect, magnifying each organized crime defection or successful protection of a victim or innocent witness.

Most countries do not tolerate organized gangs which can compete with civilized government for control over certain segments of society. Ours has until relatively recently. Programs like the Witness Security Program are inspiring to those of us involved in law enforcement and the administration of criminal justice because they represent the collective judgment of our government that we are willing to use the force and resources necessary to overcome organized crime and are no longer content to simply fight delaying actions against it.

Consequently, we are grateful for the legislation which initially made this tool available and hope that these hearings will even further enhance our capabilities. (p. 116)

UNIQUE PROBLEMS OF PRISONER-WITNESSES ARE DESCRIBED

Because of his work as a prosecutor in the Central Valley of California which has a large Mexican-American population, David Rodriguez could give the subcommittee an informed description of La Nuestra Familia and the special problems the organized crime groups like NF pose for law enforcement.

Rodriguez, an Assistant U.S. Attorney in Charge of the Fresno office of the Eastern District of California, said La Nuestra Familia is an organization composed largely of persons of Mexican descent who first came together in California prisons.

La Nuestra Familia originally organized prison vice activities such as gambling, narcotics distribution and male prostitution. Rodriguez said:

They formulated an organized power base in order to infiltrate, regulate and organize these vice activities. (p. 139)

Branching beyond prison walls, NF set up criminal syndicates throughout California, Rodriguez said, pointing out that membership in the organization was permanent, that the only way to stop being a member was to die and that members judged to have betrayed the organization were murdered.

Rodriguez said that there were about 350 inducted members of NF and about 750 associates, persons who are not formal members but who cooperate with the gang and assist it in various stages of crime.

NF's primary sources of income outside prisons are from robbery, extortion and narcotics, Rodriguez said. The gang uses profits from its criminal pursuits to invest in legitimate business, he added.

Rodriguez said more than 200 persons had been murdered in California prisons as a result of gang warfare that had broken out between inmates connected with groups like Nuestra Familia. Gang warfare has spilled out of the prisons into the cities where rival syndicates compete for narcotics and extortion victims, Rodriguez said.

A description of Nuestra Families was given by Art Rocco Beltran, who, as an NF member, was sponsored into the Witness Security Program by David Rodriguez, Beltran said:

... I became a member [of Nuestra Familia] in 1971 and rose to be one of its top ranking members. The NF is mostly centered in California, although it also extends into the nation of Mexico. It consists of mostly Mexican-Americans; however, it is not exclusive, and it can include other people as well. It began as a prison organization and it has spread throughout the entire federal prison system. It is not confined to prisons alone. It works on the outside as well. . . . (p. 162)

Not only a prisoners-code but also a very strict law of the NF says that if a member cooperates with the law, the price he pays is his own death and most likely the death of his own family. . . . (p. 164)

There is one thing that should be understood about these [prison gang] organizations, especially the NF. It includes entire families, wives as well as husbands. The men can be members and the women can only be associates, but both men and women without hesitation will carry out the orders of the NF leaders. . . . (p. 173)

If they [NF] seek an opportunity to kill me, they would do it anywhere, anytime. They would do it in this room if they thought they could. (p. 173)

[NF] may be even more violent [than the Mafia] and that would be . . . because these organizations are relatively young, they are hungry, they have young members. . . . They have a disregard for authority. They will do anything and everything to accomplish their goals. (p. 178)

The Witness Security Program has been of considerable value to law enforcement as it tries to control and prosecute NF and other gangs, Rodriguez said. The ability to obtain firsthand evidence and testimony from inside the criminal groups has been made possible by the security program.

However, Rodriguez said, all too often the security program has been insensitive to the perplexing cultural, social and economic problems that helped to give rise to the crime groups in the first place.

He cited one case in which Witness Security Program officials, oblivious to the most apparent ethnic consideration, relocated a Mexican-American woman and her children, who had been living in San Jose, Calif., by moving her to a community in Alabama that was almost exclusively black and poor. The family was subjected to racial harassment and physical assaults.

The mother, who spoke little English, tried to explain to the Marshals Service that her children were so intimidated by the abuse they were receiving that they refused to go to school, Rodriguez said.

He recounted that the Marshals Service Inspector assigned to the woman's case was about to relocate the family to Miami. But this too would have been unsatisfactory since it was at the time that thousands of Cuban refugees were settling in Miami.

Rodriguez said he objected to Florida as a relocation site for the family. So the Marshals Service Inspector, who was not getting along well with the woman, proposed Texas as a relocation site. The woman protested that, too, but failed to convey to the inspector what her objections were.

Rodriguez said she did not want to go to Texas because of the large Mexican-American community there, particularly because of the presence of two Nuestra Familia-like gangs, ETP and the Texas Syndicate.

Either deliberately or inadvertently, the inspector interpreted her unwillingness to relocate in Texas as evidence that she wasn't being cooperative, Rodriguez said, noting that the inspector reported his conclusion to his superiors and instructed the woman that if she wouldn't go to Texas she would have to remain in Alabama.

Rodriguez said he offered the Marshals Service a list of 47 different communities where the woman and her children could be relocated. By the time she was relocated, he said, the woman, so upset about the Alabama situation, had suffered a nervous breakdown.

Away from Alabama and settled in her new home in the new relocation site, the woman was impressed by the concern shown her and her family by the Marshals Service and she found it difficult to believe that her new control officer was from the same program as her first inspector, Rodriguez said.

Rodriguez described other cases in which the Marshals Service was poorly prepared to handle relocated families of Mexican origin. In these cases, he said:

The marshals placed a woman and her children on welfare, had them live in a low income housing project composed largely of black people and where the family received threats from neighbors. Rodriguez said the family's baby sitter was stabbed. The cultural setting was totally alien to what they were accustomed to.

The marshals arranged for a relocated woman to get two jobs but in both instances revealed to her new bosses that she was in the Witness Security Program. Her employers questioned her closely about how she got into the program. She quit both jobs.

A relocated family consisting of wife, child and mother-in-law were assured that certain social security disability payments would be continued in their new home but documentation was never completed and social security assistance was never resumed.

One of Rodriguez' important witnesses was Art Rocco Beltran, a high-ranking member of Nuestra Familia, whose testimony was essential in convictions of several murder prosecutions and other criminal cases. Beltran was also a witness before the subcommittee.

Rodriguez said Beltran was a very cooperative, articulate, informed witness but he was treated in a cavalier, uncaring, thoughtless manner by personnel of the Marshal Service and the Bureau of Prisons. Beltran was subjected to unnecessary physical dangers in being transported to various trials in California, Rodriguez said.

PRISON TIME SAID TO BE TOUGHER FOR COOPERATING WITNESSES

The special problem faced by the government in protecting imprisoned witnesses were also addressed by Robert J. Costello, Deputy Chief of the Criminal Division of the U.S. Attorney's Office for the Southern District of New York. (pp. 116-128)

In his testimony before the subcommittee, Costello said that, unlike other protected witnesses, prisoners in the security program are gen-

erally under the jurisdiction of the U.S. Bureau of Prisons. It is only when in transit from one facility to another, often in connection with testimony they are to give in trials, that the prisoners deal with the Marshal Service. (As noted in the testimony of David Rodriguez, the other occasion when the imprisoned protected witnesses deal with the marshals is when they have families on the outside who must be relocated and assisted in other ways by the Marshal Service).

The complaint most frequently voiced by protected witnesses in prison is that they are serving "harder time," Costello said. What the prisoners mean by that term, Costello said, is that they feel their imprisonment is made more difficult because of their cooperation with authorities.

Costello said the protected witnesses feel they receive less in the way of rehabilitation training, education, and privileges than do prisoners who are not cooperating with the government. Protected witnesses are understandably suspicious and they believe the Bureau of Prisons does not take adequate steps to prevent other inmates from finding out who they are and what assistance they are giving to the government.

Because of the highly efficient communication system prisoners utilize to communicate between themselves in a given facility and from prison to prison, Costello said, cooperating inmates are convinced their activities in support of prosecutions are, or soon will be, known at virtually any general population penitentiary to which they are assigned.

Meals, prepared in prison by, or with the assistance of, inmates, are another source of suspicion for protected witnesses, who believe their food is deliberately contaminated or soiled, Costello said.

One of the most immediate problems facing the Witness Security Program in the New York area is the absence of a facility to house female inmates who are cooperating with the government, Costello said. Women prisoners are confined in various State facilities where neither Bureau of Prisons nor Marshals Service personnel have control. Costello said a protective custody facility for female inmates should be established in New York.

Many protected male witnesses, held temporarily in the Metropolitan Correction Center in New York, complained because they were exposed to prisoners who were not in the program, Costello said, pointing out that whether they are in danger or not is not as important as the fact that they perceived themselves to be in danger. Costello said inmates in the protective custody area of the correctional center should not be required to share facilities with inmates who are not in the security program.

Mail to protected inmates is routinely routed through Washington, D.C., where it is placed in a different envelope and mailed back to the prison. Costello said unacceptable delays are caused by this system. He proposed routing the mail to a nearby facility run by the Marshals Service.

Visiting privileges and procedures were criticized by protected inmates, Costello said. He said family and friends of protected witnesses used the same facilities as visitors meeting with prisoners from the general population. This occasionally subjected witnesses' families to

insults from other visitors. Protected witnesses do not want their family members to be identified by other prisoners and their relatives.

Costello said protected witnesses also objected to having to meet their attorneys in the same visiting room where inmates meet their relatives. They would prefer more private quarters to discuss legal matters similar to the attorney meeting rooms available to the general population of the prison.

Costello said convicts in the security program complained of the need for privacy in their phone calls and of the absence of proper security provisions when they are treated for illnesses.

The Bureau of Prisons used the Metropolitan Correctional Centers, located in New York, Chicago and San Diego, as temporary facilities to house prisoners during that period when they are testifying in prosecutions. Costello said that once the trials are held it is the policy of the Bureau of Prisons to return the cooperating witness to a general population prison.

Costello said protected witnesses are deeply fearful of being returned to an ordinary prison. He said the Bureau of Prisons tries to assign the protected witnesses to institutions where there are no prisoners who have knowledge of their role in criminal prosecutions.

But the protected witnesses don't believe such a general population prison exists where information or rumors about their testimony in court have not circulated. Aware of the "incredible grape vine" that passes information from prison to prison, the protected witnesses suffer anguish at the prospect of returning to an ordinary prison in an unprotected environment.

Costello recommended that a wing of a Federal prison be set aside to confine protected witnesses. He recommended that the personnel assigned to the special section be there permanently and not rotated through the entire prison.

Serving as a protected witness and helping the government in criminal prosecutions may actually work against a prisoner's chances for parole, Costello said. The cooperating witness, testifying against organized crime figures, may reveal far more of his own criminal past than law enforcement knows about. Information about his past conduct drawn from his testimony may be brought to the attention of the Federal parole boards.

Parole boards, composed of examiners who may be more impressed with the admission of additional crimes than they are by his having cooperated with the government, reportedly have decided against parole for prisoners because of new information about their earlier transgressions. Costello stressed that he did not know for a fact that parole boards have acted in that fashion. But, he said, the protected witnesses think it happens and that makes it another factor discouraging convicts from cooperating with prosecutors.

"Salient factor score" is a formula parole examiners use in evaluating an inmate's suitability for release from prison. The salient factor score would include points gained or lost for an inmate's prior convictions, prior incarcerations, his age when he committed the crime for which he was imprisoned, the use of an automobile or check in the crime, reported involvement in narcotics, and whether or not he had been paroled before for an earlier offense and whether or not that parole was revoked.

Costello said the inmate's salient factor score is not improved by his participation in the Witness Security Program. Costello said:

. . . you receive one point for having committed a crime that did not involve the use of an automobile, but you receive no points for cooperating with the government and testifying against other high level criminals and, in fact, as a result of that testimony, being placed in a life threatening situation which requires your placement into the witness protection program. (pp. 122-123)

Costello recommended that the parole procedure be revised so that inmates who have cooperated with authorities have that consideration included in their salient factor score.

PROFILES GIVEN OF TYPICAL PROTECTED WITNESSES

As Chief of the Organized Crime Strike Force in Buffalo for 2 years and as an attorney with the same organization for 7 years before that, Richard D. Endler was the principal prosecutor in many organized crime prosecutions. In most of these cases, he said, there was at least one witness who was in the Witness Security Program.

In testimony submitted to the subcommittee (pp. 156-161), Endler said nearly all of the protected witnesses gave testimony which was crucial to the trial. Endler said that without the testimony of protected witnesses a substantial number of indictments and prosecutions could not be achieved.

Having been the sponsoring attorney for 20 witnesses and another 60 dependents who entered the security program, Endler said his experiences with the program had shown him the need for improvement in several areas. But his criticism of the Witness Security Program, he said, should not be interpreted as a blanket indictment.

Just the opposite was true, he said, pointing out that he is a firm believer in the security program and that:

I consider the Federal Witness Security Protection Program to be one of the most important tools at the disposal of the prosecutor/agent. . . . I am a strong advocate of the program. . . . I think the program is one of the most essential ingredients in a successful strike force program. (pp. 156, 161)

Endler cited several cases as examples of the kinds of personal tragedies that might have been avoided had endangered persons agreed to enter the Witness Security Program.

A young man, involved in a counterfeiting scheme, did not realize that some violent prone people did not approve of his conduct. He wanted to stay in Buffalo and live with his girlfriend. He didn't think anyone would hurt him. Two hired killers entered his bedroom while he slept and pumped six .45 caliber bullets into his chest.

A girl got on the wrong side of narcotics distributors. Her killer, wielding an axe, dismembered her body.

A government informant who was not protected died from multiple gunshot wounds.

Endler said the persons who enter the Witness Security Program can be divided into three categories—first, the member of an organized

crime group who, for any number of reasons, wants out; second, the incarcerated criminal who decides to cooperate with the government; and third, the victim of organized crime, or an innocent bystander who saw a crime take place but whose life would be in danger if he testified.

Endler said there were two major problems that arise in dealing with all three categories of protected witnesses. First, he said, there was the problem of insensitivity to the legitimate needs of the protected witness. Second, he said, was the unmet requirement of retraining the relocated witness for a new life.

The Marshals Service too often has treated protected witnesses abruptly, with little or no recognition of the obvious pressures they are living under, Endler said. In defense of the service, however, Endler pointed out that marshals are often overworked, frequently know very little about the witness and convey to him and his family an attitude of indifference.

Speaking of the initial stage in the relocation-protection process, Endler said:

The witness, familyless and friendless, depends on the marshal for his every need. Everything from dentistry and doctors to where's a good location to buy groceries. The marshal is at times busy on other matters and tells the witness, "I'll get back to you."

One day later the witness is on the phone with the [sponsoring] attorney threatening either that he gets help or he will refuse to testify. Every prosecutor probably has been threatened at least a dozen times prior to trial by his prospective witness with the spectre of refusal to testify if a certain need is not met. (p. 159)

Endler said the prosecuting attorney, busy preparing for the trial at which the protected witness is to testify, also ends up spending a considerable amount of time on the administrative details of assisting the relocated witness.

In a recent case, Endler said, a witness was relocated in another part of the country. The witness was given a subsistence of \$850 a month. He selected an apartment with a \$700 monthly rent. Endler said the landlord later sued the witness for nonpayment. The protected witness was subpoenaed into court for a determination of his net worth. The witness refused to reveal anything about himself in court, placing himself in a position of either being evicted from his apartment or held in contempt of court.

The most severe example of the marshals' insensitivity to a protected witness's predicament occurred in Buffalo, Endler said, citing a case in which the protected witness was confined during the trial in a cell directly adjacent to the cell of the man against whom he was testifying. Both the witness and the accused were extortionists.

Endler said the marshals refused to allow the protected witness to make phone calls or to receive any visitors—no family, no friends, no attorneys. The marshals wanted the witness to be treated exactly as if he were an ordinary prisoner, with no consideration for his testifying for the government, Endler said.

During a recess in the trial, the defendant, who was already serving time for a previous offense, was visited by his wife and many of his relatives. Endler described the scene this way:

We had the picture of the witness all alone and despondent in one cell, and the defendant receiving hugs and kisses and well wishes from his wife and family next door. Needless to say, the witness questioned the wisdom of his cooperation with the government. (p. 160)

Endler said the second major problem in the Witness Security Program—the inability to retrain relocated persons—was most apparent when the marshals were assisting a lifelong organized crime figure in finding legitimate employment.

Endler said the protected witness probably has little formal education, has never worked at honest endeavors and is naturally uncertain as to how to proceed when the deputy marshal assigned to him says, "Master burglar, convicted embezzler, we have found you a job as a bank teller."

Terming the situation "ludicrous" and "totally unworkable," Endler said the organized criminal might have been living on an income of \$100,000 a year. The bank teller's job pays considerably less. In a short time, Endler said, the relocated witness has begun stealing from the bank.

Endler said the Marshals Service had a poor record in finding suitable employment for witnesses. He said in some cases the investigative agency that dealt with the witness initially has found work for him.

Contrasting persons in prison with protected witnesses on the outside, Endler said that at least convicts are given a chance to learn a new skill in the penitentiary, an opportunity rarely afforded relocated witnesses. Endler said of protected witnesses with criminal pasts:

Even if the prisoner is trained to make license plates, he develops skills in metal working. The witness, however, has never worked a day in his life at an honest job. His prospects for finding gainful employment are less than realistic. We would be naive to assume that we can take a hardened criminal out of one city, put him in another, and then ask him not to engage in criminal act, but to be content as a sanitation worker. (p. 159)

Endler cited a questionable practice of the Marshals Service caused by inefficient use of limited funds. A witness, testifying in a trial in a city away from his permanent place of confinement, is flown in and out of the area each day. This happens because the marshals would have to be paid overtime if the witness stayed with them in the city where the trial is held.

Overtime money is scarce, Endler said, but the travel allocation is generous. As a result, Endler said, the Marshals Service will fly the witness from a great distance at considerable expense on a daily basis rather than spending the relatively small amount of money on overtime. Endler added:

. . . the marshals can fly the witness half way across the country twice a day, but they cannot keep him in the district

where the prosecutors are who want to review crucial points of testimony. The witness is not only tired and haggard from his constant state of travel, but also he is in no mood to talk to the prosecutor about details of the case. (p. 160)

SPONSORING AGENCIES REPORTEDLY CAN ASSUME MORE RESPONSIBILITIES

The task of finding relocated witnesses jobs rests with the Marshals Service. But, according to a former FBI agent who was involved in the placing of more than 60 witnesses in the security program, the Marshals Service did not find a single witness a job in his experience.

In his testimony before the subcommittee (pp. 128-138), Don Hartnett, a 28-year veteran of the FBI and the bureau's organized crime supervisor in Buffalo for 10 years, testified that:

The documentation provided simply does not enable a witness to go out and get a job on his own. He has to go through the Marshals Service, but, quite frankly, I am not familiar with any witness who has obtained employment through the Marshals Service. I am sure there are some, but I am not familiar with any case. Normally, it was the FBI, and not the marshals, who obtained jobs for the important witness.

The problem is that the marshals simply do not have the appropriate contacts in the business community. Agencies such as the FBI and DEA have such contacts. These agencies are in constant touch with the business community and thus have much better contacts and much better facilities to obtain employment. (p. 135)

Hartnett, who retired from the FBI in 1979, said the Marshals Service should take steps to increase its contacts in the business community. The marshals should also enlist the support of FBI and DEA agents, both retired and those on active duty, for help in the employment area.

His ideas on improving the capability of the Marshals Service were among a series of recommendations Hartnett put forward as means of improving the security program.

Hartnett said he would turn over to the agency which sponsored the witness's entry into the security program the responsibility for protecting him and his family when they are in the "danger zone," that area where he is most likely to be recognized and made a target for retaliation by organized crime figures. Hartnett explained:

Presently, the method of operation is to bring the witness into the danger area with a security detail composed of deputy U.S. Marshals. These deputies, however, may come from 500 to 1,000 miles away from the danger area. They have no knowledge of the city; they have no knowledge of the mob; they have no idea of who might endanger that particular witness. The witness knows but his protectors don't, and they must rely on the witness to point out danger. Should a witness fail to see something, that witness may be killed. A better system would be to have the agency responsible for the witness's relocation be responsible for the witness's security in

the danger area utilizing the assistance of the marshals.
(p. 136)

Another recommendation offered by Hartnett was that documenting protected witnesses could be expedited if Congress passed legislation immunizing from civil liability local, State and Federal agencies and private persons who have assisted in creating new identities for families in the security program.

Regarding delays in documentation, Hartnett contrasted the long periods of time it took the Government to establish a new identity for a witness with the relative speed and ease with which criminals and fugitives obtained needed papers.

He noted, for example, that radical fugitives, such as the Weathermen, and notorious criminals obtain Government documents certifying false identities much faster than relocated witnesses did.

The Government could take a lesson from the fugitive from justice. Hartnett cited one relocated witness, Charles Carlo, who received his new identification cards not from the marshals but from the FBI.

Carlo's situation was such that he could not wait any longer for the marshals to give him needed documentation. So the bureau "unofficially obtained" papers for Carlo, enabling him to sustain himself through the first summer of his relocation.

Next, Hartnett recommended creation of a special Witness Security Program staff working out of the Office of the Attorney General. The staff would step in to confront "more sophisticated problems" that arise in the relocation process, problems that involve documentation, employment or psychological adjustment and whose solution may require Cabinet-level coordination or intercession.

Hartnett recommended that the Marshals Service stop trying to give protected witnesses real documentation only. The marshals should recognize the fact that in many cases the best, if not the only, form of documentation will be fictitious, Hartnett said. He added:

. . . I am frankly somewhat perplexed that the marshals' explanation for delays in documentation usually rests on the fact that the documentation they provide is real and not fictitious. I believe that you cannot build a solid background for a relocated person without using some form of fictitious documentation. The only thing that real documentation permits is a subsistence level of existence, something that merely allows a person the use of a car, for example. This so-called real documentation, however, is just as subject to exposure as fictitious documentation.

The major fear of using fictitious documentation and providing such documentation is that a witness may use it in order to defraud people. However, he can use real documentation in the same way.

If there is some sort of civil liability upon the government because a witness uses his real documentation for the commission of a fraud, then the same holds true for fictitious documentation and vice versa. The solution must be that anyone who misuses the documentation is simply terminated from the program and the documentation is exposed to local law enforcement for what it is. (pp. 137-138)

Hartnett's final recommendation was to upgrade training, educational background requirements and pay for marshals assigned to the Witness Security Program. In addition, Hartnett said, the Marshals Service should have more money and personnel for all its programs.

Summing up his views, Hartnett said the Witness Security Program suffered from the marshals' preoccupation with physical security at the expense of assuring for the witnesses a semblance of psychological well being. Hartnett said:

I realize that there are many people who say that the problems with the program is the caliber of person who enters the program.

Many of the people who enter the program are themselves criminals. They are nevertheless human beings. They need help. They need guidance. They need somebody who they know cares about their problems and is grateful for what they are doing for the government.

We must keep in mind that the witnesses are providing the information necessary to prosecute professional criminals.

In addition, while some of [the protected witnesses] might be criminals, their wives and children most often are not, and it makes no sense to punish the wives and children because the husbands are criminals, especially when those husbands are cooperating with the government. This is something that must be kept in mind at all times with all witnesses, and particularly with prisoner witnesses. (p. 136)

POINT OF VIEW OF MARSHALS WORKING OUT OF DISTRICT OFFICES

A view of the Witness Security Program as seen by the marshals who protect the witnesses was given the subcommittee by John J. Partington and Frank W. Noe. (pp. 192-212)

Partington, the U.S. Marshal for Rhode Island, was a veteran of 22 years in the Marshals Service, 15 of them protecting witnesses. Noe retired after a 25-year career as a marshal. He spent his final 8 years in the Marshals Service as an inspector in the Witness Security Program.

Urging a reorganization of the program with final authority vested in the Office of the Deputy Attorney General in the Justice Department, Noe was of the opinion that unless the witness security effort is improved, its value will diminish. He said:

. . . the witness program is one of the most complex, most frustrating programs the Federal Government tries to administer. There is no doubt that in your recreating human existence you will encounter problems and criticisms.

I have discussed the weaknesses and the strengths of the witness program with many prosecutors and many law enforcement officers. They, without exception, uniformly agree that if we do not improve the program, it will no longer be considered an effective and efficient tool to fight organized crime. (p. 197)

Partington recalled that some 15 years ago, 5 years before the Witness Security Program was created as a formal Government entity,

he was given his first assignment in that area of endeavor. His first protected witness was a career criminal who had allegedly killed 23 persons in gangland style slayings.

The man and his family were put on an Atlantic Ocean island off the U.S. coast where they were guarded by himself and 11 other marshals, Partington said, recalling that, while relocation and protection procedures had changed considerably since then, the basic challenges and difficulties were still the same.

The witness himself was a high-ranking organized crime figure. His wife was unhappy because her usual comfortable lifestyle had been disrupted, Partington said. She no longer had a big car to drive or a country club membership or the services of her favorite hairdresser, Partington said.

The witness's little girl was not happy either, Partington said, because she missed her friends and her only playmates on the island were the marshals.

Partington said the witness himself deeply resented the deputy marshals. Partington said:

He hated us right from the start. He told me that on the street they control on fear and on the very first day I dealt with him he threatened me. He wanted to do a certain thing, walk to an area he was not allowed to go. I stopped him and he went into a tantrum, was going to eat my liver, bite my face, the whole bit. But he did not walk to this area.

You got to work out of respect. You got to go one on one. He has got to understand we wear the white hat, are doing the right thing. On the island I learned to understand the social aspect, especially in dealing from the small child to 16 deputies. (p. 195)

Partington said the problems he and the other deputy marshals faced on the island revealed to him that the Witness Security Program could not be limited to merely protecting the witness against physical harm. The job is more than that, Partington said, asserting that it requires the Marshals Service personnel to be social workers, baby sitters and financial consultants to families who never before had taken their financial obligations very seriously. Partington said:

Even the situation we had with their animals seems very small but very big in the program today. They had two German police dogs, two cats, two canaries and a seagull. The marshals became involved in everyday life of handling the animals. The strange thing was all the animals died and eventually the witness died, gangland style.

This still reflects on the wife and child [and] though it goes back 14 years I am still involved with the family. You never get out of touch with these people. Recently I had to go to the child and explain what he [her father] was and who I was and she did not accept either one. She is a very disturbed child today. The woman, in 14 years, still does not have the social security situation resolved.

I bring all this up because I think it goes beyond just protecting the body. We have become social workers. I think we should be trained as such. (p. 195)

Many protected witnesses, particularly those who have been lifelong criminals, have no sense of paying their bills, establishing credit and otherwise fulfilling the financial obligations most citizens meet, Partington said.

Many of the protected families have never led normal lives, he said, and as a consequence, it is often the deputy marshal or inspector assigned to them who, however reluctantly, must try to impart to them some of the more conventional middle class values they must adopt if they are to blend into their new environment and lifestyle successfully.

Partington said that, in addition to the social and educational demands that are placed on the marshals, they are also burdened by the Witness Security Program's haphazard organizational structure.

He said the Marshals Service must coordinate its activities in the security program with the Bureau of Prisons and with the U.S. Attorneys, the Strike Force attorneys and with any number of other federal components to whom they must turn to obtain necessary documentation for the witnesses and other forms of assistance.

The result, Partington said, is bureaucratic confusion, triggered by an organizational structure that should be revamped. He would place all authority in one centralized office at a senior level of the Justice Department.

Partington stressed the point that the Witness Security Program is not the sole responsibility of the Marshals Service but it is a project of the entire Federal Government.

Documentation and other services provided by various Federal agencies would be more readily forthcoming if the security program were controlled by the Deputy Attorney General, Partington said.

Next, he would centralize all records and files in the main headquarters in Washington, D.C., instead of having them stored in various offices throughout the Nation.

Endorsing what Partington proposed, Frank Noe went on to recommend that the position of Witness Security Program Inspector be upgraded and redefined to reflect the many complex skills it requires.

On the subject of employment, Noe said the security program benefited greatly from the assistance of an official of the U.S. Chamber of Commerce, who set up a program whereby the Marshals Service would be able to utilize contacts among corporate executives in finding jobs for relocated witnesses.

Unfortunately, for reasons unknown to him, Noe said, the program the Chamber of Commerce official set up, and which had shown such promise in its early stages, was abandoned at the direction of Marshals Service headquarters.

V. VIEWS FROM SOCIAL SECURITY, BUREAU OF PRISONS

SOCIAL SECURITY ADMINISTRATION CONFRONTS DOCUMENTATION PROBLEMS

Delays in obtaining documentation for relocated witnesses have caused the security program embarrassment and confusion. Frequently, relocated witnesses have a fictitious history to tell new neighbors and potential creditors, but no official papers to support it.

The social security card is one of the most critical documents in the relocation process. Virtually everyone has a social security number. Regrettably, however, relocated witnesses have had to wait months or years for their new cards.

In addition, some witnesses and family members have been especially anxious to receive guarantees that their previous participation in social security is correctly and promptly credited to their new card number.

Unfortunately, as the preponderance of testimony before the subcommittee revealed, the transfer of records from the old social security number to the new one is one of the most difficult and time-consuming procedures the Witness Security Program encounters. Despite the obvious necessity for the transfer to take place on a routine basis, the Social Security Administration does not automatically transfer earnings records but instead waits for a claim to be filed before even beginning the time-consuming process.

So cumbersome and unpredictable is the transfer procedure that widows of relocated witnesses have waited several months before they began receiving benefits due them. In one instance, according to one U.S. Marshal, a woman who was widowed while in the program is still not receiving her benefits and several years have gone by.

John Schwartz, Director of the Office of Security and Program Integrity in the Social Security Administration, testified before the subcommittee and discussed his agency's procedures in obtaining documentation for relocated witnesses and their families. (pp. 212-221)

Schwartz said statistics assembled by the Social Security Administration show that the average processing time for a new card and number for a witness is about 21 days. He said the shortest time for the issuance of a new card and number was 18 days; the longest was 29 days.

Schwartz said the agency had taken steps to assure that the new cards are not conspicuous or identified in any way to suggest that they would be used by relocated witnesses. However, Schwartz said, he did not think the time required to process the new cards could be substantially reduced. Schwartz didn't explain complaints of persons who were without cards for months or years.

When a claim is filed, the extra security safeguards preclude normal channels being used, Schwartz said. Claims which normally would be

filed in a district office must be taken directly to Schwartz by a marshal. This can cause delays, he said, particularly in light of the fact that the number of persons being redocumented under the Witness Security Program has grown rapidly in recent years.

To expedite the claims process, Schwartz said, the Social Security Administration is moving to a faster procedure in which a relatively senior officer of the agency who has a security clearance will personally cross reference the old identity with the new and will consolidate the earnings records.

Schwartz said the new system will be implemented on a pilot basis in 1981 with about 12 witness security cases. Ultimately, once the new system is working efficiently, relocated witnesses and their dependents who become eligible for social security benefits will be able to go directly to a social security field office and file a claim just as anyone else would do.

However, Schwartz said, there may still be a delay of about 2 years before the transfer from the old number to the new is completed. Schwartz explained:

Assuming this process works as we believe it will, our plan would be to consolidate the earnings records of those individuals whose identities have already been changed over a period of time and to consolidate the earnings records of future witnesses within 2 to 2½ years after the new social security number is issued. (p. 215)

Even when the new system is fully working, Schwartz said, there will remain one category that will still require special handling by the marshals, that being a situation in which the protected witness or dependent is eligible for benefits, or is receiving them, at the time of relocation.

Another case requiring special handling by the marshals, Schwartz said, would be one in which the witness or dependent qualified for disability benefits at the time of transition from the old identity to the new. Such special situations, Schwartz said, would constitute a small percentage of cases processed.

"HARDER TIME" ALLEGATION OF WITNESSES IS CONFIRMED

Norman A. Carlson, the director of the Federal Bureau of Prisons, confirmed the charge that imprisoned, protected witnesses frequently have a tougher time in prison than do inmates who are not cooperating with authorities.

Carlson, testifying before the subcommittee (pp. 224-233), said it is not possible to assure a protected witness' safety in a general population prison. As a result, the witness inmate must be confined to solitary or in the "hole" or otherwise be treated in a manner that, in the argot of the penitentiary, adds up to "harder time." Carlson said:

Unfortunately, it happens all too frequently. In essence, the protected witness is given less freedom, less opportunity than other inmates in the institution simply because we have no other vehicle to assure his protection. (p. 228)

Carlson said the solution to the problem could be found if there were two or three separate units in certain selected prisons where protected witnesses could be confined.

There were, as of December of 1980, 24,400 offenders in the custody of Federal prisons. Of this number, Carlson said, 251 were classified as witness protection prisoners and another 450 to 500 were persons who had been identified by Federal prosecutors as needing additional security due to their testimony for, or cooperation with, the government.

In 1978, the Bureau of Prisons established the inmate monitoring section within the central office of the bureau to coordinate witness protection matters, Carlson said. The inmate monitoring section has the responsibility to place protected witnesses in appropriate facilities.

Carlson said protected witnesses are assigned to one of three Federal Metropolitan Correctional Centers located in New York, Chicago and San Diego. Each of the MCC's has a specialized, secure witness protection unit. He said protected witnesses may also be assigned to other Federal prisons or to State institutions.

Sixty of the 251 protected witnesses were confined in an MCC; 163 were in other Federal prisons; and 28 were in State or local lockups.

Carlson said there are some protected witnesses who could never be safe in a general population prison. The Bureau of Prisons arranges for protected witnesses to have a name change for safety purposes in about 10 percent of the cases, Carlson said.

VI. MARSHALS SERVICE CITED IMPROVEMENTS IN SECURITY PROGRAM

RECENT CHANGES IN WITNESS SECURITY PROGRAM

Speaking for the U.S. Marshals Service at the subcommittee hearings was Howard Safir, the Assistant Director for operations and the Acting Chief of the Witness Security Section. (pp. 241-282)

Safir, without reference to any of his other qualifications, could point to a unique distinction. In the 10-year history of the security program, there had been 14 chiefs, few of them remaining in the job for long. As the 14th head of the unit, Safir had served, although in an acting capacity, for 2½ years, longer than any other director.

Safir said the Witness Security Program, established by the Organized Crime Control Act of 1970, was based on the authority given the Justice Department to maintain safe houses for government witnesses and to expend money on their behalf.

Safir said the legislation was not specific as to how protected witnesses were to be maintained and that "there was no precedence or experience factor for the [Marshals] Service to rely on as this was, to my knowledge, the first such program on a large organized scale that had ever been attempted." (p. 242)

It was originally anticipated that the witness program would have between 25 and 50 witnesses a year who would be kept in safe houses during their testimony and then would be able to return to their previous lifestyles.

The program grew rapidly. During its first 10 years, the government entered 3,515 principal witnesses, Safir said. Each witness had an average of 2.5 family members, which meant that the marshals had protected and relocated more than 12,000 persons, Safir said.

By mid-1975, the Marshals Service concluded that long-term confinement in safe houses was not a satisfactory way to protect witnesses and their families for long periods of time.

The safe house approach was discontinued. In its place, the Marshals Service instituted the concept of relocating witnesses with their families, giving them new identities and new documentation and helping them establish themselves in new communities far away from the "danger zone," that area where they had previously lived and where, if retaliation was to occur, it would probably take place.

The Marshals Service was not prepared for this new assignment, Safir said, explaining:

The philosophy of protection through relocation of witnesses and their families with the provision of new identities, the documents to support these new identities, as well as housing, employment, medical services and other social services was adopted.

Those individuals managing the program at that time had to call on all their talent and ingenuity to develop procedures to securely provide these services with a minimum of resources. Field personnel were not, at the time, adequately trained in how to handle witnesses, and the number of personnel dedicated on a fulltime basis to the program was totally inadequate. (p. 242)

New witnesses were being admitted to the security program at the rate of about 400 a year, Safir said. The Marshals Service, he added, found itself unable to satisfy many of the requirements of the relocated families.

A major effort was begun in the spring of 1978 to improve the marshals' ability to handle the security program adequately, Safir said. Since then, the Marshals Service, following hearings by the Subcommittee on Administrative Practices of the Senate Judiciary Committee and the issuance of 28 recommendations for corrective action by the Attorney General's Witness Review Committee, has been strengthened and better equipped to manage the security program, Safir said.

Safir said the significant areas of criticism of the program were (1) lack of documentation; (2) lack of proper explanation of the program to prospective witnesses; (3) lack of sensitivity of Marshals Service personnel; (4) lack of an appeals process; and (5) unclear or nonexistent procedures.

Safir said the Marshals Service has since 1978 improved its conduct and procedures regarding each of the five principal areas of criticism. He said the marshals have developed and published a Witness Security Manual which states a uniform national policy covering all facets of the program "from first contact with a witness to the day when he hopefully becomes a productive member of society and no longer needs our services." (p. 243)

One of the most frequently lodged complaints against the program, Safir said, was the charge by protected witnesses that promises were made to them that were not kept, that procedures were never adequately explained and that protected families were moved from city to city on very short notice and with little or no explanation as to the necessity for the move. Safir said this charge was true but that steps were taken to correct the problem.

He said that in 1978 more than half of the witnesses entering the program were "emergency" pickups; that is to say, defendants in the forthcoming trial learned of the protected person's intention to testify against them. ". . . [I]f they were not picked up immediately they would be killed," Safir said.

Most emergency pickups were the result of poor planning by investigative agencies and prosecutors, who had not alerted the Marshals Service with sufficient advance notice for a more orderly evacuation to be made, Safir said, adding:

Thus, the witnesses and the [Marshals] were both ill-prepared. This caused witnesses to lose money on the sale of cars, homes, et cetera, as well as causing extreme trauma for their families. They had no time to prepare for leaving behind a lifetime of friends and possessions. (p. 243)

Under a new procedure, Safir said, prosecutors are required to notify the Marshals Service well in advance of the indictments and arrests so there is ample time to brief the prospective witness and his dependents on what the security program is about.

The briefing now takes place in a "calm atmosphere" with plenty of time for questions to be answered and for a discussion of understandings which the witness may have about the program but which might not be true, Safir said. Promises which may have been made to the witness may be discussed and if the Marshals Service cannot live up to such promises, the witness is so informed, Safir said.

Following the briefing, the witness and his family then decide whether or not they are willing to enter the program. At the same time, the Marshals Service Witness Security Program Inspector makes his own recommendation as to whether or not the prospective witness "will be a workable case," Safir said.

Safir stressed that the inspector's recommendation, which is submitted to the Office of Enforcement Operations in the Justice Department, has nothing to do with the value of the government's prosecution, but only as to whether or not the witness and his family can be effectively made part of the security program.

If the witness is accepted into the program, Safir said, he and each adult member of his family must sign a 21-page memorandum of understanding. Each family member is urged to read every page so there is no misunderstanding of what is being agreed to.

Safir gave information and his views on several of the principal issues raised by the subcommittee's investigation.

INSPECTOR POSITIONS IN SECURITY PROGRAM

The position of Witness Security Program Inspector was created to train personnel as specialists in dealing with protected witnesses and their families.

In 1978, there were 27 full-time inspectors in 16 Federal districts, Safir said. Witnesses in the remaining districts were served by "contact deputies" on a rotating basis, Safir said. He explained:

Few of these deputies were trained and, as a result, their handling of witnesses was often inadequate. (p. 244)

Safir said the number of inspectors had been increased to 129 full-time witness security specialists and that they were working in 94 Federal districts.

He said that the Marshals Service's ability to assign inspectors to relocated witnesses had been enhanced and that each inspector undergoes a 1-month intensive training program in which he studies the many aspects of witness security.

Safir said the Marshals Service holds biannual training seminars in witness protection for inspectors and that a substantial part of the training has to do with working with people and the need for sensitivity in dealing with witnesses and their families.

In addition to the increase in the number of inspectors and the continuing training effort, the Marshals Service also enlarged its headquarters staff from 18 in 1978 to 28, thereby enabling more manpower at national offices to tend to witness protection affairs.

DOCUMENTATION PROBLEMS DISCUSSED

"Backstopping" is a term law enforcement officials use to describe the process by which a new identity for a relocated witness can withstand close scrutiny.

The concept is especially important for the Marshals Service because the more "backstopping" that is provided a given protected witness, the more time it takes to create his documentation.

For example, to use an obvious illustration, a protected witness is given a new birth certificate showing he was born to parents whose last name was the same as his. Adequate backstopping would mean that hospital records in the facility where the protected witness was supposed to have been born show that an infant of his name was born to parents of his name on the date of his birth.

In addition, steps would also be taken to demonstrate that the infant's parents also existed according to records able to be ascertained beyond the hospital.

The more backstopping for a fictitious person, the more time and resources must be provided by the marshals. Safir said that prior to 1978 the documents given to relocated witnesses were decided on a case-by-case basis. Some were backstopped, others were not, and the degree of backstopping varied from witness to witness.

Since 1978, Safir said, the marshals follow a policy requiring all witnesses to have a legal name change in a manner that precludes an inquiring party from finding out about it from public records.

Based on the legal name change, the marshals arrange for the issuance of a new social security card, a birth certificate or passport, driver's license, military discharge papers and other appropriate documents, Safir said.

All documents, he said, must be real and authentic and must have been issued by the appropriate State, local or Federal agency with which the Marshals Service has a cooperating agreement, Safir said.

Safir said there is a "tremendous backlog" of documents still to be provided to protected witnesses. The backlog developed because cooperating agencies have not responded on a timely basis and because the marshals have no way to provoke quicker action. "Some documents take as long as 1 year or more to be provided," Safir said.

In addition, Safir said, the Marshals Service now gives documents with more substantive backstopping safeguards. Documentation personnel have been increased from two in 1978 to six but the backlog has grown anyway.

Another problem cited by Safir is that 14 States refuse to cooperate with Federal witness protection efforts because they fear they will be held liable should a newly documented person use his new papers to perpetrate a fraud.

Safir said the Justice Department has been trying for 2 years to draft legislation that, if passed, would immunize States from liability in any such perpetration of a fraud. He said that the other 36 States which do cooperate in the documentation process are concerned about their liability in such cases but have chosen to continue to work with the Federal Government in the witness program despite their fears.

EMPLOYMENT PROBLEMS EXAMINED

Safir said Marshals Service policy called for finding the protected witness a job offer commensurate with his qualifications and background. He said the marshals had developed a job bank that draws on employment opportunities from more than 150 national corporations.

The marshals also negotiated an arrangement with the U.S. Office of Personnel Management to place a limited number of qualified witnesses in government jobs, Safir said.

Safir said many witnesses have little or no marketable skills and the only jobs available to them are at the bottom of the economic ladder. Job training courses are available to protected witnesses. He said that in the past 2 years the marshals had been instrumental in obtaining jobs for 409 witnesses. When a relocated witness is judged to be unemployable, the marshals help him go on welfare, Safir said.

More than 200 companies have expressed their willingness to help find jobs for protected witnesses, Safir said, adding that the problem in employment is not locating work opportunities but finding an appropriate position for a person who previously was a criminal.

Safir said it would be helpful to the marshals if there were a stronger commitment on the part of the U.S. Department of Labor to assist in the employment and training of relocated witnesses.

The marshals do not have a formal cooperative arrangement with the Labor Department but, Safir said, his people are in frequent contact with most State employment offices.

At the national offices of the Marshals Service, where the nationwide job bank is managed, the person in charge is a GS-11 whose formal education consists of a high school degree and a small number of college credits and whose specific training in employment services has been gained on the job, Safir said.

Acknowledging that this person does not qualify as a trained employment specialist, Safir said it would be beneficial to have personnel assigned to this task with more training and that instead of one person doing the job three more were needed.

Safir said Marshals Service personnel in the field are better able to develop job opportunities for protected witnesses. But he also admitted that field personnel don't have the time to devote to employment opportunities.

Senator Nunn said the Labor Department could be of considerable assistance to the marshals in the employment of protected witnesses. Safir agreed.

MARSHALS SERVICE RECORD ON PHYSICAL SECURITY

The first mission of the Marshals Service in the Witness Security Program is to protect witnesses and their families from harm. In that pursuit, Safir said, the marshals had an exemplary record.

The marshals provide some 3,000 witnesses a year with 24-hour protection for varying periods of time. Safir said no witness who was being protected has been murdered or harmed. He said that in the history of the Witness Security Program 13 protected witnesses were murdered but that each of these killings occurred when the witness himself violated his own security safeguards.

MARSHALS PROVIDE SOCIAL SERVICES AND OTHER HELP

Senator Nunn commended the Marshals Service for its good record when it came to protecting witnesses from physical harm. But, he said, where the difficulties arose was in those aspects of the security program which are not directly related to the bodyguarding function. Senator Nunn said:

I want to commend you on that because all the testimony is consistent on that point, that you have done by your record a good job in security. We have had various allegations that there were lapses that did not end up being favorable and I think you have to work on those lapses because any time you have a potential exposure, I think the chances are at some point it is going to catch up with you.

But the aspect of the program that you have done the best job on, I think, ought to be noted for the record; that is, protecting people's lives. Of course, that I am sure is your No. 1 priority, but a close No. 2 is making that life worth living. That is the area where I think we have all got to bear down.
(p. 254)

Safir agreed with the Senator's assessment. But he also made the point that the marshals were limited in what they can do to help a man rebuild his life and make it meaningful when the man's entire adult experience was in criminal pursuits. Safir said:

An individual's or a family's life cannot be restructured by the Marshals Service alone. . . . The type of individual who enters the program must adjust to a new and often more structured lifestyle. For most, this adjustment is difficult . . . the most important thing to realize is that this is a last resort program. Witnesses should only enter when there is no other alternative. Under the best of circumstances, there will be considerable trauma. The program does not have the capability to make a witness whole again.

It is a partnership between the witness and the Marshals Service. We can provide the tools to start a new life; the witnesses must be willing to use those tools in a noncriminal productive lifestyle. (p. 254)

To improve the ability of the Marshals Service to help the protected witnesses and dependents through the stressful adjustment to a new life, security program inspectors are able to make available to relocated families the services of psychiatrists and psychologists for counseling, Safir said.

Similarly, the inspectors are also being trained to recognize behavior traits in relocated persons which signal the existence of severe stress and the need for counseling. Safir said the Marshals Service was working with Yale University in the development of a stress profile which will more precisely describe those characteristics which reveal serious emotional problems.

According to Safir, 95 percent of the witnesses in the security program are from criminal backgrounds. Safir said for those remaining

few who were engaged in honest pursuits the relocation process is especially difficult.

Usually, these families have a home, have established credit and had led relatively normal lives. The Marshals Service, Safir said, cannot assure that these families will have everything they once had when they are relocated.

AVENUE OF APPEALS

Relocated witnesses have complained that they have no procedure which they can follow to formally appeal or object to decisions made by the Marshals Service and other government officials. As Senator Nunn pointed out, some protected witnesses say there is no adequate complaint system and that most complaints they may have must be processed through the very Marshals Service personnel whose decisions or conduct they are objecting to.

Safir said witnesses are not hesitant to complain and that frequently they complain to him personally. All relocated witnesses are given a central phone number they can call when things are not going as they feel they should, Safir said.

In addition, he said, when a witness is dropped from the security program—either because he is now able to live on his own or because he has violated the rules of the relocation agreement—he is given a form and asked to indicate on it any complaints he may have about how his case was handled. Safir said all such complaints are investigated.

Every effort is made by the Marshals Service, coordinating its complaint responses with the Office of Enforcement Operations in the Justice Department, to respond to the criticism in a fair manner, Safir said.

OVERTIME AND TRAVEL

The Marshals Service has been criticized for using inexperienced personnel in protection details. In addition, the Service has been criticized for giving witness protection duty to marshals who know nothing about the witness or the area.

Another practice cited by critics of the security program was the habit of marshals of having witnesses fly in and out of the site of a trial several times a week.

Safir acknowledged that these were problems. But, he said, there were underlying reasons for them not readily solved.

Regarding the use of inexperienced marshals and personnel from other regions on witness protection details, Safir said union rules required a certain amount of rotating of personnel for the purpose of assuring an equitable distribution of overtime pay.

Because security detail assignments are 24-hour duty, Safir said, employees receive overtime pay for this kind of work and the union insists that everyone have the opportunity to share in it.

Safir said the only way to get around the union requirement is to have witness security duties exempted from the collective bargaining agreement. He said the Justice Department was studying ways to achieve the exemption.

Budgetary requirements are responsible for the Marshals Service's decisions to fly witnesses in and out of the trial site rather than house them in the area for the duration of the trial, Safir said. Again, the overtime consideration is at the heart of the problem. He said that travel funds are more available in the budget than is money for overtime.

As a result, Safir said, marshals can save the Service considerable amounts of overtime by flying the witness to an area where he can be confined without the full-time presence of a bodyguard. What happens, then, is that a witness will testify in a trial, be returned to his permanent confinement facility or to the city where he is living, spend the night there and then be returned to testify at the trial the next day. Depending on how long and in what manner the trial progresses, the witness may have to make many trips back and forth in a given prosecution.

Obviously, more flexibility is needed in the expenditure of funds, Safir said, but, he added, as a practical matter, the marshals are prohibited from spending funds earmarked for one thing—travel, for instance—on another item, such as overtime pay.

"That does not really make much sense," Senator Nunn said, and Safir agreed, explaining that an increase in the Marshals Service budget would solve the problem. However, Safir said, that was not very likely. He said it was more likely that the Service's budget would be reduced in 1981.

The Witness Security Program costs the Government about \$21 million a year, Safir said. The figure includes Marshals Service salaries and witness expenses, he said.

APPOINTMENT OF U.S. MARSHALS

The U.S. Marshal in each Federal district serves at the pleasure of the President of the United States. The U.S. Marshal appointment is usually political; that is to say, there generally is not a competitive selection process.

The appointment usually follows a procedure in which the U.S. Senator of the President's political party recommends a nominee for the position. After a background check by the Justice Department of the Senator's choice, the person is usually nominated by the President for the job. In most cases, the Senate confirms the nominee.

Safir said that most U.S. Marshals selected under this patronage system were professional and highly supportive of the programs and policies of the Marshals Service implemented from Washington.

But a very small number of district marshals, perhaps because they did not work their way up through the system, refuse to cooperate in matters such as the Witness Security Program, Safir said. He said they simply will not handle witnesses in their jurisdiction.

Even those marshals who want to cooperate, and who do cooperate whenever they can, often are unable to because of other requirements in their district such as court security and other matters, Safir said. It is up to the marshals themselves to decide the assignments of their deputies.

This is a problem even in the allocation of Witness Security Program inspectors. They, too, work out of districts and must respond to local needs. For example, Safir said, there were 131 witness security inspectors but only 40 of them report directly to him.

Many prosecutors, agents, and Marshals Service personnel recommended to the subcommittee that the patronage system for appointment of the U.S. Marshal in each Federal district be abandoned and that a merit selection system be installed in its place.

Senator Nunn asked Safir what he thought about the idea of getting rid of the patronage system for U.S. Marshal appointments. Safir said.

My personal recommendation is: A law enforcement agency with a national mission should have merit selection professionals who report to a centralized headquarters. (p. 277)

VII. FINDINGS, CONCLUSIONS AND RECOMMENDATIONS FOR CORRECTIVE ACTION

SUMMARY

The subcommittee believes in the value and necessity of the Federal Witness Security Program. In its first 10 years as an established Government program, the witness security effort has proven to be one of law enforcement's most effective tools in the attempt to control and immobilize organized crime groups.

The Witness Security Program has given agents and prosecutors the opportunity to offer a prospective witness against organized crime protection against harm and a reasonable chance to live out the rest of his life secure in the knowledge that his family and he will not suffer retaliation from mobsters.

So essential has the security program become, in fact, that it is difficult to imagine Federal law enforcement without it. That is a high and well deserved compliment to pay a program that is only 10 years old—and a program that is replete with the potential for many problems of great magnitude.

Before passage of the Organized Crime Control Act of 1970 which led to creation of the Witness Security Program, Federal prosecutors were usually frustrated in their ability to win the cooperation of witnesses who believed their testimony would endanger their lives.

Prior to 1970—before there was a witness security program—there was no way to counter an organized gang's ability to intimidate potential witnesses and discourage cooperation. The Government's impotence in this regard was well known in the criminal underworld.

Prosecutors were often left without a response when a prospective witness against organized crime would tell them he might consider testifying except for the fact that if he did he would certainly be killed.

In its relatively short life, the Witness Security Program demonstrated that people, for a variety of reasons, some selfish, some altruistic, will testify against organized crime if they have a reasonable and realistic assurance that they will survive the experience.

The witness program also demonstrated that the Government, if it is imaginative, principled and operating within established, lawful procedures, can persuade organized criminals to testify against each other. As most prosecutors will agree, there is no better witness against organized criminals than the man who is one himself.

Many of the relocated witnesses were either organized crime figures themselves or were in some way associated with organized crime. In relocating these witnesses and their families, the marshals are often dealing with men and women who have never done an honest day's work in their lives.

Many of them were skilled criminals—burglars, embezzlers, arsonists, physical enforcers—accustomed to lucrative financial rewards and

a high standard of living. It is the task of the Marshals Service to protect these witnesses, find them homes, documentation and jobs and to advise them on how to go about establishing themselves in their new communities.

Ten years ago, the infant program, a totally new concept without precedent in the Nation's history, was handed to a group of men and women who had almost no preparation and training for the kind of skills that witness security and relocation called for.

It is true that there had been protected witnesses before but these were usually only in the most significant organized crime cases, and they were very few in number. Relocation was rare and done strictly on a case-by-case basis. In addition, the marshals had some experience in transporting Federal prisoners from penitentiary to penitentiary, or from prison to court. But, in most of these assignments, the marshals' duty was to assure that the prisoner did not escape.

The Marshals Service had other duties far removed from witness relocation such as Federal court security, the service of subpoenas and other matters related to the support of the judicial system.

The skills required for these duties were not difficult to learn and, as a consequence, the educational requirements for service as a deputy marshal were not demanding. Similarly, the pay grades were not substantial. Frequently, persons of ambition and noteworthy career promise in law enforcement did not go to the Marshals Service when looking for work.

However, there was logic to putting witness security in the Marshals Service. Law enforcement officers wanted the protecting and relocating agency to be in the criminal justice system but to be as far removed as possible from both investigating agents and prosecutors. That way the Government could more readily counter the charge that cooperating witnesses were being paid or otherwise unjustifiably compensated in return for their testimony.

It was correct not to give the security and relocation function to the FBI, to Federal drug enforcement agents or to any other investigating organization. A separate entity in the Justice Department was the appropriate Federal component to have the duty.

In giving the bulk of the security function to the Marshals Service, the Department of Justice should have, at the same time, begun a major effort to train marshals for their new, expanded and extremely difficult duties. No such training program was begun until very recently when a limited training effort was started.

The officials in the Department of Justice were slow to anticipate the problems the Witness Security Program would face under managers who were essentially untrained for their new mission and with personnel in the field who would have to learn on the job the art of successful relocation.

But Federal prosecutors, reporting to Main Justice, were not slow in anticipating the unprecedented opportunities the witness program afforded them. They had a new, powerful tool and they intended to use it.

For the first time, they could offer the prospective witness against organized crime an alternative to the threat of mob violence. They

began using the promise of protection and relocation as an encouragement to potential witnesses. Some of the prosecutors and agents went too far, and made promises the security program was not designed or equipped to meet. When that happened, all too often it was the Deputy Marshal on the scene who got the blame when promised benefits did not materialize.

In a larger sense, though, the program got away from the very people who were responsible for it. Even when prosecutors and agents made no inflated promises, protected witnesses and their families were unhappy with the marshals and with the program. They suddenly found themselves in a strange environment in the hands of men and women who often seemed as overwhelmed as the protected families were by the many challenges of relocation.

Understaffed by as much as 40 percent, the Marshals Service personnel were not only having to protect the relocated families against physical assault. They also had to offer leadership, guidance and assistance in obtaining housing, in finding employment, in actually recreating an existence.

Documentation problems were commonplace. Constrained by a policy that required them to issue only real documentation, the marshals had to rely on other Federal and State agencies for essential papers—social security cards, birth certificates, car registration, passports, school records. The other agencies sometimes did not place a high priority on issuing the new documents. The documentation process became known for its delays.

The marshals had to do things they not only were not trained for but which they didn't like doing. In some ways, they took on the duties of social workers. They had to be babysitters and chauffeurs. They had to listen and seem interested when their relocated family members told them their troubles. But they couldn't be too interested and concerned for fear that their need for professional objectivity might be compromised.

Once the immediate fear of being murdered subsided, once the relocated families had the time and the presence of mind to take stock of their situation, many of them came to the conclusion they had been used and exploited and that they deserved more subsistence or services or favors from the Government for whom they had testified.

Not surprisingly, they sometimes became angry and resentful. The person they blamed was the marshal assigned to their case. Often they complained to him and his boss and other times they went to their Congressman and Senators or to the news organizations.

If the marshals themselves had been better prepared for their assignment, they might not have made so many mistakes. But often, because their personnel were not trained and because resources were limited, they erred with frequency.

This subcommittee report has listed some of the more typical mistakes that were made. The two most common shortcomings were in the areas of documentation and employment. In addition, witnesses were sometimes exposed to potential physical danger by offhand, thoughtless remarks. Incarcerated protected witnesses were sometimes left unprotected in general population areas of prisons where the threat of retaliatory assault was ever present.

In other instances, marshals erred in not being more sensitive to the severe psychological stress that accompanies relocation. And they erred in occasionally seeming to treat protected family members as if they were criminals.

Yet, despite all the difficulties, the Witness Security Program has been a valuable tool for law enforcement. Its management is better today than it has been in the past. Marshals Service personnel are better trained. A new position, that of inspector, was created specifically for the Witness Security Program.

The Witness Security Program can and must continue to improve. The subcommittee has taken note of the assertion made by some agents and prosecutors that the program is so poorly run that they will no longer place witnesses in it. It is the subcommittee's belief that those agents and prosecutors can be won back to the program. Continued reform and improved procedures and training are called for.

RECOMMENDATIONS

The subcommittee makes the following findings, conclusions and recommendations for corrective action:

1. The Witness Security Program should be reorganized and be given central control with a direct line of authority, responsibility and accountability. All persons involved in the program must be made accountable to headquarters. To carry out this recommendation, the Department of Justice should create a special unit, separate from the marshals, or a special division in the Marshals Service itself, subject to the overall control and supervision of the Justice Department. The need for reorganization and centralization should be addressed. Ultimately, there should be a direct line of authority and responsibility from the office of the Attorney General to the Witness Security Program. There must be effective oversight, control and coordination of the Witness Security Program at the highest levels of the Justice Department. At present, the program does not receive the degree of attention it deserves.

2. The Witness Security Program should not be a program which can relocate only traditional criminals. It should be a program that is capable of assisting persons from all walks of life who, by inadvertence, happenstance or design, find themselves with information about organized crime that would be of great value to prosecutors. The Government's recent willingness to bring cases against more and more white-collar criminals and high echelon organized crime figures is creating a situation in which many more persons who have had no previous connection with illicit activities are entering the program. The witness program must be flexible enough to deal with people who have different backgrounds in a manner appropriate with their background.

3. Provisions should be made in the Witness Security Program to grant the investigative agency and the sponsoring prosecutor adequate access to the witness for the purposes of debriefings and preparation for grand jury and trial matters.

4. An adequate and formal complaint procedure should be established to enable witnesses with legitimate problems to obtain an objective, fairminded hearing.

5. The Department of Justice should consider the possibility of obtaining the assistance and advice of personnel from the sponsoring agencies when the Marshals Service is protecting a witness in the danger zone.

6. The Justice Department should study the feasibility of obtaining an exemption of overtime practices under the Fair Labor Standards Act to eliminate the problem which exists by the random rotation of inexperienced and poorly trained deputies on witness details.

7. Every effort should be made to allow the prisoner-witness to keep in contact with his family.

8. The Government should make an adequate effort to obtain employment for members of the families of prisoner-witnesses. In those situations where the family member is having difficulty finding work, the Government should consider providing financial assistance for a certain time period.

9. From time to time, there have been suggestions that a more effective Witness Security Program could be achieved if certain pieces of legislation were adopted. During the hearings, the subcommittee asked the Justice Department to make known any proposed legislative measures which would enhance the effectiveness of the security program. The Department sent no proposed bills to the subcommittee. The subcommittee is now making the same recommendation—that is, that the Justice Department draft proposed legislation to strengthen the Witness Security Program and make it available to the subcommittee within 60 days.

10. The Department of Justice and the U.S. Marshals Service should develop a workable and equitable policy concerning the relocation of children of divorced or separated parents. This policy must take into account the security of the parties, State court decrees relating to custody and visitation, and the individual rights of the children and the parents.

11. The Witness Security Program must attract and hire expert, well qualified professionals to assist relocated witnesses in complex matters such as employment, documentation, financial affairs and social services. The Marshals Service should make more of an effort to recruit capable personnel.

12. Before the witness is relocated, important considerations should be discussed and planned. Matters that should be worked out in advance include the assessment of what danger the witness will be in; the size and location of the criminal organization against whom the witness is testifying and the ability of the organization to reach the witness; and the realistic needs of the witness in the relocation process. In this respect the Government should be required to seek limited alternatives for each witness before employing the full witness relocation procedures.

13. The appropriate committees of the Congress should consider the possibility of using merit selection in the appointment of U.S. Marshals. In addition, all field personnel of the Marshals Service who are assigned to witness security should report directly to the national office of the Service.

14. The Department of Justice should seek a method to obtain adequate background documentation for a witness which will fairly re-

flect his past employment, credit and education but also will protect the witness' security. The background documentation should be backstopped by some system which allows a relocated witness' prospective employer, creditor or school principal to check the witness' record. This step alone would the dependence the witness and his family have on the Marshals Service.

15. Due to the severe stresses that accompany relocation, the Justice Department should study the feasibility of establishing interim relocation sites where witnesses and their families can be taken for briefings by law enforcement officers and counseled on financial, employment and social problems they may face. The interim relocation will enable the family members to devise an appropriate past for themselves and adequate documentation to support it before moving to their permanent relocation community.

16. The Justice Department should explore the possibility of calling upon the experience and expertise of other agencies which, in other circumstances, must resolve problems similar to those encountered by the witness program. The FBI and the Central Intelligence Agency may be of assistance in the problem of documentation and safe housing. The Labor Department may be of help in securing employment. Government resources are available; they should be sought out.

17. The Justice Department should resolve the question of whether or not the Government can provide access to Government loans and financing for these relocated witnesses who would otherwise qualify except for their cooperation with the Government and their relocation. If they could have qualified for a Federal loan before they entered the program, is it fair to deny it to them when they are relocated? That is the question which the department should answer.

18. With respect to the parole commissions and their treatment of witness-prisoners who petition for early release, the Department of Justice should see to it the cooperating inmate receives credit from the parole authorities for the work he has done for the Government. The fact that the witness-prisoner gave testimony that was used in organized crime trials should certainly be taken into account when the man's suitability for parole is assessed.

One of the most regrettable aspects of the parole procedure is that a prisoner's sentence is longer than it would have been had he not cooperated. As often happens in an organized crime prosecution, the cooperating witness reveals in his testimony the commission of more crimes than he has been convicted of and imprisoned for. This occurs because he is telling the jury how broad and varied are the illegal activities of the organized crime figure he is testifying against.

The protected witness has been encouraged to be candid, to reveal as much as he can recall about the crime figure's conduct. His testimony may be the principal consideration in a guilty verdict. The protected prisoner has done his job. The organized crime figure goes to prison. But the witness's testimony goes to the parole board. Upon seeing his many admissions about other crimes, parole authorities decide the man is more of a menace to society than ever. They have no interest in giving him parole. Cooperating prisoners should benefit from their cooperation, not be punished because of it.

By not more equitably rewarding cooperating witnesses, parole commission policy encourages the so-called prisoners' code of silence

and makes all the more difficult the task of persuading prisoners to testify against high level criminals.

The Justice Department should seek the understanding and cooperation of the U.S. Parole Commission. If this effort fails, the Department of Justice should seek corrective legislation.

19. The preponderance of testimony at the subcommittee's hearings indicated that inmates who cooperate with authorities and then enter the Witness Security Program end up serving "harder time" than their non-cooperating fellow convicts. Protected prisoners have less opportunity for retraining and recreational activities and, for security reasons, they frequently are placed in solitary confinement. In addition, they believe prison guards to be indifferent to the possibility that another prisoner will try to kill them.

The Bureau of Prisons should consider the feasibility of establishing separate facilities to house protected witnesses. This may be accomplished by constructing new facilities, using portions of existing prisons or using surplus military installations and other excess Federal buildings.

In these separate facilities, authorities should see to it that protected witnesses have recreational and educational opportunities. Efforts should also be made to show the protected prisoners that special security safeguards have been installed on their behalf. With such measures, the protected prisoners would begin to feel that they are adequately protected and they will be in an improved frame of mind. The Government owes them that much. The fair and careful treatment of these witnesses can also stimulate cooperation of similarly situated witnesses.

20. The Bureau of Prisons, in conjunction with the U.S. Marshals, should consider the feasibility of establishing safe sites in major metropolitan areas where protected witnesses who are also prisoners could be housed when they are being used in trials, hearings, grand jury appearances and debriefings. Prisoner-witnesses believe their lives are in jeopardy when they are confined in local and county jails. It is in the Government's best interest to confine the protected witnesses in safe houses rather than local and county jails. A sleepless night spent in fear of physical attack is poor preparation for a witness who must testify the next day in a major organized crime trial.

21. The Bureau of Prisons should assign specially trained personnel to work with and guard prisoner-witnesses. These employees should not be rotated through the prison and work with the general population. They should be persons who know what the Witness Security Program is about, who believe in it and who understand the unique opportunities and problems it creates.

22. When an inmate enters the Witness Security Program, an informed Bureau of Prisons official should meet with the witness and discuss with him in detail how the program will affect him as a prisoner. It would be wise to have a spokesman from the Marshals Service on hand for this briefing as well.

It should be noted that recommendations Nos. 19, 21 and 22, among others, were put forward at the hearings. The Bureau of Prisons indicated in letters to the subcommittee of January 13, 1981 and April 1, 1981, that it has initiated important aspects of these recommendations. (pp. 233-241) The subcommittee wishes to commend director Norman

Carlson and the Bureau of Prisons for its prompt efforts to improve its participation in the Witness Security Program.

23. The executive branch should encourage all Federal agencies to cooperate in a timely fashion with the Witness Security Program. Whether this is accomplished by Executive order or by written, formal agreements between the Marshals Service and each affected agency, the goal of better interdepartmental cooperation must be achieved. The subcommittee believes formal agreements should be entered into by the Marshals Service with essential agencies such as the Social Security Administration, the Veterans' Administration, the Small Business Administration, the Federal Housing Administration, the Department of Defense, and other essential Government entities.

24. With respect to State agencies that are necessary to assist the Witness Security Program in licensing, documentation and social services, the Justice Department should enter into specific written agreements with cooperating States to enable the program to work efficiently. The witness program should also develop a high level contact at each Federal and State agency involved in the relocation process. Such a contact will assure security and provide ready solutions to unanticipated problems which may require prompt attention.

25. The security program should have additional resources. The subcommittee is recommending to the appropriate committees of the Congress and to the Office of Management and Budget that special concern be shown for the witness program in the budgetary process.

The following Senators, who were Members of the Permanent Subcommittee on Investigations at the time of the hearings, have approved this report.

William V. Roth, Jr.
Warren B. Rudman
Charles H. Percy
Charles McC. Mathias, Jr.
John C. Danforth
William S. Cohen

Sam Nunn
Henry M. Jackson
Lawton Chiles

The Members of the Committee on Governmental Affairs, except those who were members of the Senate Permanent Subcommittee on Investigations at the time of the hearings, did not sit in on the hearings on which the above report was prepared. Under these circumstances, they have taken no part in the preparation and submission of the report except to authorize its filing as a report made by the subcommittee.

END