

STATEMENT OF MR. JAMES C. DUFF
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S. 4711
THE DANIEL ANDERL JUDICIAL SECURITY AND PRIVACY ACT OF 2020

December 7, 2020

On July 19, 2020, an assailant impersonating a package delivery driver went to the home of Judge Esther Salas of the District of New Jersey, opened fire, and killed Judge Salas's 20-year-old only child, Daniel, and seriously wounded her husband, Mark. The attacker was a disgruntled litigant who found her personal information, including her home address, on the internet.

The Salas attack is not an isolated event. Regrettably, this was not the first act of violence on a federal judge – but we must work to try to make sure it is the last. The murders of Judge John Wood (1979), Judge Richard Daronco (1988), Judge Robert Vance (1989), the husband and mother of Judge Joan Lefkowitz (2005), Judge John Roll (2011), and now the son of Judge Salas demand action be taken to improve judicial security.

In June of 2013, Chief Judge [Timothy Corrigan](#), of the Middle District of Florida, was targeted by a gunman who purchased his address on the internet for \$1.95. The gunshot, fired into the Judge's Florida home, missed his ear by less than two inches. Last month, a judge's address was circulated on social media, urging people to gather outside his home while the judge was hearing a high-profile case. Most recently, an armed intruder entered a judge's chambers in California, threatening to kill the judge. The assailant fled after the judge, who was physically unharmed, was able to call 911.

Courthouses also have been attacked. A drive-by shooting on May 29, 2020, at the Ronald V. Dellums Federal Building and Courthouse in Oakland, California, killed Protective

Security Officer David Underwood. On September 15, 2020, at the Sandra Day O'Connor Federal Courthouse in Phoenix, Arizona, the federal judiciary again was attacked by a drive-by shooter who opened fire on a United States Marshals Service's Court Security Officer outside the courthouse.

Threats and violence against the judges have become all too common. The danger to judges and the federal courts is getting worse. According to the U.S. Marshals Service, in recent years, security incidents targeting judges and other non-law enforcement personnel who play integral roles in federal court cases rose nearly 500 percent. The number of threats and inappropriate communications has risen from 926 in fiscal year 2015 to 4,449 in fiscal year 2019.

These vicious acts of violence against the judiciary, at home and at work, underscore the urgent need for immediate Congressional action to address the critical security needs of federal judges, court employees, those who protect our courthouses across the country, and the safety of the public at our nation's courthouses. Following the tragic murder of Judge Salas's son, the Judicial Conference of the United States, its Committee on Judicial Security, and the Administrative Office of the United States Courts immediately undertook a review of security procedures and requirements. Thereafter, the Judicial Conference of the United States adopted and delivered to Congress a comprehensive set of [proposals](#) to improve judicial security. These included:

- Protect and maintain privacy of judges' personally identifiable information (PII);
- Ensure improved USMS capability to provide security to the federal judiciary;
- Support funding for improved home security systems;
- Support funding for the U.S. Marshals Service for additional deputy U.S. Marshals;
- Support funding for upgrade of outside security cameras at U.S. Courthouses.

These provisions are addressed in S. 4711, The Daniel Anderl Judicial Security and Privacy Act of 2020, and related appropriations requests. S. 4711 was introduced on September 24, 2020, by Senator Robert Menendez and Senator Cory Booker and is cosponsored by Senate Judiciary Committee Chairman Lindsey Graham and Ranking Member Dianne Feinstein. The bipartisan bill protects judges' personally identifiable information from resale by data brokers. The legislation allows federal judges to secure the redaction of personal information displayed on federal government internet sites and will prevent publication of personal information by other businesses and individuals where there is no legitimate news media interest or matter of public concern. It encourages states, through a grant program, to protect personal information; improves the ability of the United States Marshals Service to identify threats; and authorizes improvements to home and courthouse security technology, although Congress would still need to provide funding for these provisions. A more detailed bill summary is attached.

S. 4711 is carefully crafted to respect the First Amendment right of the press to report on matters of public concern, and balances that right with an interest of the highest order – to protect the security of judges. The legislation recognizes and protects the press's right to report on judicial malfeasance or other newsworthy information regarding federal judges and immediate family members or to investigate and inform on newsworthy matters. The bill is also narrowly tailored to further a compelling government interest - the safety of federal judges and the derivative ability of the judiciary to function.

In response to the killing of Judge Salas' only child, Daniel, the Governor of New Jersey signed into law similar legislation that protects judges' personal information. It is known as Daniel's Law. The federal "Daniel's Law" legislation remains pending in the Congress – but it is ready to be enacted. This legislation is important to the judiciary; these issues are critical.

Lives have been lost and threatened because judges' addresses and phone numbers are available online and bad actors are using that information to do harm to judges and their families.

This bill is supported by the [Federal Judges Association](#), the Federal Magistrate Judges Association, the National Conference of Bankruptcy Judges, the [Federal Bar Association](#), the [Hispanic National Bar Association](#) and the New York Intellectual Property Law Association. In addition, Judge Salas has made numerous media appearances to discuss the need for action. Links to letters and articles of support as well as to broadcast media appearances are attached for your reference and review.

It is crucial in our system of justice that judges decide cases without fear for their safety and that of their family. We implore Congress to act on these critical safety measures now, during this lame duck session. There is no time to wait. Every day that goes by leaves our judges, court personnel, and the public exposed to continued violence.

SUMMARY OF S. 4711

THE DANIEL ANDERL JUDICIAL SECURITY AND PRIVACY ACT OF 2020

Section 1 – Short Title

The bill is named after the murdered son of Judge Salas, Daniel Anderl.

Section 2 – Purpose and Construction

1. To improve the safety and security of Federal judges and their immediate family.
2. The Act shall not be construed to restrain lawful investigation or reporting by the press or to limit reporting on matters of public concern.
3. The Act shall not be construed to impair access to decisions and opinions from a Federal judge.
4. The Act shall not be construed to apply to personal information that a Federal judge or immediate family member has made public
5. The Act shall be construed broadly to favor the protection of personal information of Federal judges and their immediate family.

Section 3 – Findings

This section includes findings for the need for this legislation, documents the increase in threats over the past five years, and describes facts of the attack on Judge Salas' family.

Section 4 – Definitions

The bill defines the following terms:

1. At-risk individual – Federal judge, including senior, recalled, or retired Federal judge.
2. Data broker – commercial entity that collects and sells personal information
3. Federal judge – follows definition of 28 U.S.C. 451
4. Government agency – any department enumerated in section 1 of title 5 of the US Code
5. Immediate Family – spouse, child, parent, other familial relative who lives with judge
6. Personally Identifiable Information – address, phone numbers, SSN, etc.
7. Social Media – online electronic medium or live-chat system
8. Transfer – sell, license, trade personal information of a judge or family member.

Section 5 – Protecting Judges’ Personally Identifiable Information in Public Records

(a) Government Agencies:

The bill provides that federal judges may file a written notice for themselves and their immediate families with federal government agencies and ask the agencies to mark judges’ personally identifiable information as confidential. It also provides that government agencies shall not publicly post or display publicly available content that includes judges’ personally identifiable information. Once an agency receives a written request from a judge, it shall remove their personally identifiable information from publicly available content within 72 hours.

Personally identifiable information includes home addresses, telephone numbers, personal email addresses, social security numbers, driver’s license numbers, address on voter registration information, bank account or credit or debit card information, addresses displayed on property tax records, vehicle registrations, identification of minor children, full date of birth, photographs of any vehicle that displays license plate numbers or of homes that display addresses, names and address of schools and day care facilities attended by judges’ children, and name and address of employers of judges’ immediate family members.

(b) State and Local Governments

The bill provides that the Attorney General is authorized to make grants to state and local governments, or agencies that operate a state or local database or registry that contains personally identifiable information, to prevent the disclosure of personal information of judges or their family. The legislation requires regular GAO reports on amounts spent under this provision.

(c) Data Brokers and Other Businesses

It shall be unlawful for a data broker to knowingly sell, license, trade for consideration or purchase the personally identifiable information of an at-risk individual (judge) or immediate family. The bill prohibits other people, businesses, and associations from publicly posting or displaying on the internet a judge’s personally identifiable information if the judge has made a written request of that person, business, or association not to disclose the judge’s personally identifiable information. The legislation provides an exception to these restrictions if the personal information is relevant to a news story or matter of public concern.

After a person, business, or association has received a written request from a judge, the entity shall have 72 hours to remove the judge's personally identifiable information from the internet. The entity may not transfer the judge's personally identifiable information, nor may they post it on any other website or subsidiary website controlled by them, subject to the exception discussed above.

(d) Delegation of Authority

The Director of the Administrative Office of the United States Courts, upon request of a judge, may act as an agent and provide government agencies, data brokers, or other businesses and individuals with any notice or request required or authorized by the Act. In addition, the Director may, in lieu of individual notices or requests, provide a consolidated list of those judges who have made a request of the Director to act as their agent. The Director may delegate his agency authority to officers and employees of the judicial branch.

(e) Redress and Penalties

Under this bill, a judge whose information is made public in violation of the bill may bring an action seeking injunctive or declaratory relief in any court of competent jurisdiction. The bill also creates a private right of action for judges and their family members who are aggrieved by a knowing and willful violation of the data brokers subsection. A prevailing plaintiff in this action shall be awarded damages not greater than three times the actual damages to the plaintiff and not less than \$10,000.

Section 6 – Home Intrusion Detection System Program

The bill authorizes sums necessary to provide security monitoring services for federal judges, including any method designed to provide security through a system of interworking components and devices such as integrated electronic devices working together with a central control panel, including doorbell cameras, outdoor cameras, and motion detection devices.

Section 7 – Training and Education

The legislation authorizes sums necessary for biannual security training for federal judges and their immediate family, including best practices for using social media and other forms of

online engagement and for maintaining online privacy; home security program and maintenance; understanding removal programs and requirements for personally identifiable information; and any other judicial security training that the United States Marshals Service and the Administrative Office of the United States Courts determines is relevant.

Section 8 –Threat Management Capability

The Administrative Office of the United States Courts is authorized to perform all necessary functions consistent with the provisions of this Act, and to support existing threat management capabilities within the United States Marshals Service and other relevant federal law enforcement and security agencies. The bill authorizes to be appropriated to the federal judiciary such sums as may be necessary to carry out the purposes of the Act.

There is authorized to be appropriated such sums as may be necessary to the United States Marshals Service to expand the current capabilities of the Office of Protective Intelligence of the Judicial Security Division to increase the workforce of the Office of Protective Intelligence to include additional intelligence analysts, United States Deputy Marshals, and any other relevant personnel to ensure that the Office of Protective Intelligence is ready and able to perform all necessary functions, consistent with the provisions of this Act, in order to anticipate and deter threats to the judiciary. Not later than one year after enactment, the Department of Justice, in consultation with the Administrative Office of the United States Courts, shall submit to the House and Senate Committees on the Judiciary a report on the security of federal judges.

Section 9 – Severability

If any provision of this Act or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this Act and the application of such provision to any person or circumstance shall not be affected thereby.

Section 10 – Effective Date

This Act shall take effect upon enactment except for section 5(b)(1), section 5(c), and section 5(e) which shall take effect on the date that is 120 days after the date of enactment of this Act. The delay gives states, data brokers and business time to plan for compliance with the Act.

RELATED LETTERS AND MEDIA REPORTS

S. 4711 – THE DANIEL ANDERL JUDICIAL SECURITY AND PRIVACY ACT OF 2020

Letters issued:

[American Bar Association Letter](#)

[Federal Bar Association](#)

[Federal Judges Association](#)

[Federal Magistrate Judges Association](#)

[Hispanic National Bar Association](#)

[National Conference on Bankruptcy Judges](#)

[New York Intellectual Property Law Association](#)

Print News Articles:

[ABA Journal 1](#)

[ABA Journal 2](#)

[The Hill](#)

[NBC News](#)

[NowThis news](#)

[NPR](#)

[Orlando Sentinel](#)

[Post and Courier](#)

[WGN9 TV – Chicago News](#)

Broadcast Links to Interviews with Judge Salas:

[ABC Good Morning America Video Interview with Judge Esther Salas \(10/6/20\)](#)

[ABC News Video Interview with Judge Esther Salas \(10/7/20\)](#)

[NPR Audio Interview with Judge Esther Salas \(11/19/20\)](#)

[NBC Today Show Video Interview with Judge Esther Salas \(11/23/20\)](#)

[MSNBC Video Interview with Judge Esther Salas \(12/2/20\)](#)

[CNN Video Interview with Judge Esther Salas \(12/3/20\)](#)

New York Times Opinion-Editorial

Opinion piece by Judge Salas

United States Courts News Articles at <https://www.uscourts.gov>

<https://www.uscourts.gov/news/2020/12/04/judiciary-calls-passage-security-legislation>

<https://www.uscourts.gov/news/2020/09/15/all-too-frequent-tragedies-demand-action>

<https://www.uscourts.gov/news/2020/09/09/congress-urged-adopt-judicial-security-measures>

<https://www.uscourts.gov/news/2020/08/14/judicial-conference-approves-measures-increase-security-federal-judges>