

The Importance of Openness in an era of security

A conversation with
Supreme Court Justice
Stephen G. Breyer



By Jane C. Loeffler

Courts increasingly are called upon to strike a balance between protecting Americans from acts of terror and preserving civil liberties. For some jurists, who may be targets for terrorists and vengeful defendants alike, striking that balance in the design of court facilities brings the issue close to home. Each new attack brings calls for greater fortification and less public access—potentially threatening a core value of democratic government. Supreme Court Justice Stephen G. Breyer confronted these dilemmas working with Harry Cobb (of Pei Cobb Freed) in planning the John Joseph Moakley Federal Courthouse on Boston's Fan Pier [RECORD, March 1999, page 108]. Speaking at the dedication of the newly renovated John Adams Courthouse in Boston's Pemberton Square (CBT/Childs Bertman Tseckares, 2005), Justice Breyer renewed his call on public officials to consider the values associated with open public buildings before making security decisions of lasting import. Those remarks prompted this interview.

ARCHITECTURAL RECORD: How can government officials not heed advice from security experts?

STEPHEN G. BREYER: People in any government agency who are in positions of authority have to understand that the issue of security and the issue of openness are both important, and they sometimes argue in opposite directions. One is sometimes tempted simply to turn matters over to security officials. But security officials operate under pressures that force them to err on the side of security—even if that means closing off a building that was meant to be open to the public. This isn't a ground for criticizing them; that's their job. But it is a ground for criticizing the people in authority, because they must understand not only the importance of security but also the importance of openness.

Openness can make an enormous difference both symbolically and practically. It matters whether a public building is welcoming to the public or shuts itself off as a fortress. Persons in authority have to become informed about security needs to make decisions that require intelligent balancing. Their decisions should favor security if they conclude that the need for security is great

enough to warrant a departure from openness; but they should focus on the details and squarely face this issue.

AR: U.S. embassies are effectively closed buildings at this time. How do you argue for openness when security experts say the risk is too high?

SB: You have to be brave enough to turn them down. Or see to modifications when the circumstances call for it. If we are not brave enough to say no when security needs don't make much sense, then we'll end up with buildings that look like our embassy in Chile, which is my example of something that looks like a fortress. People in Santiago laugh at it.

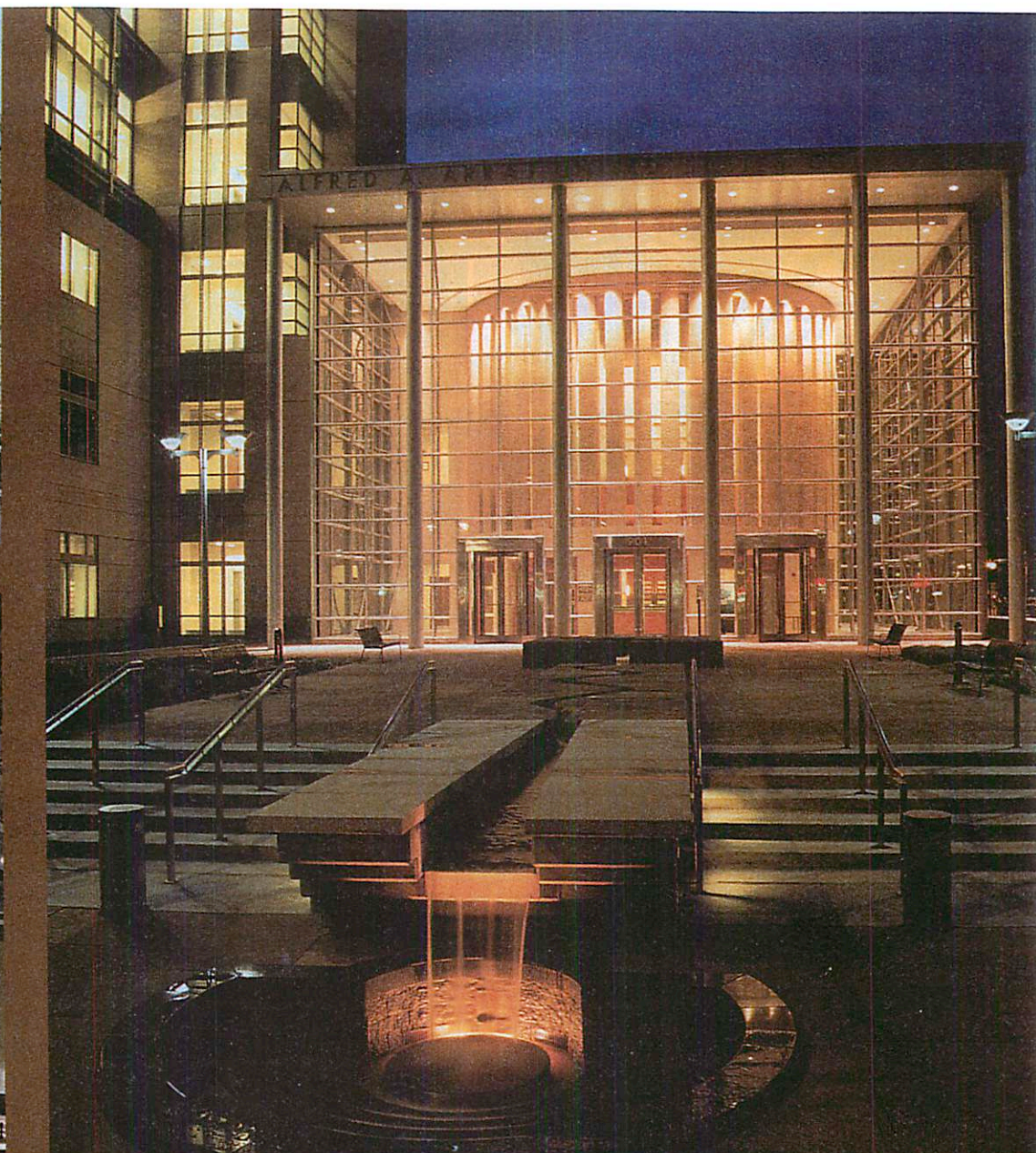
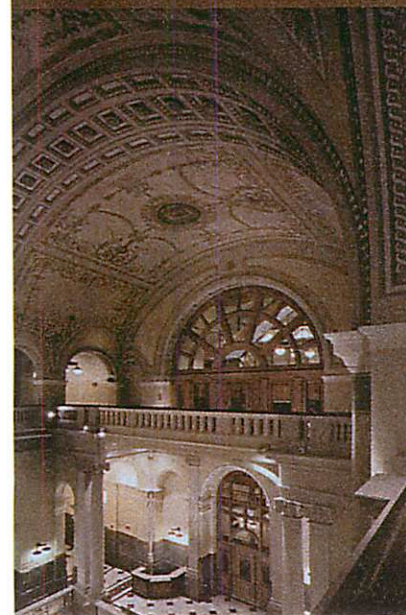
When I visited London last year, they were planning to close off the roads surrounding our embassy. I asked the embassy people why. The justification was that someone could approach the embassy with a bomb. Yes, that's true. You could turn every public building into a Fort Knox using such a theory. If the secretary of state or a deputy secretary of state actually looked into it, and heard the argument, and came to the conclusion that central London streets must be closed off, then I would respect that judgment. I think it's a matter that calls for careful consideration by such a high official before you close off a main street in central London.

It is very easy for anyone to appear to be very popular and responsible by saying 'I'm worried about human life.' Well, I'm worried about it, too. But our architecture must not wall off the government from the people. The Constitution permits people to govern themselves; the people are the government. The value of openness is such in a democracy that you should consider it carefully and give it considerable weight.

AR: How did your own experience in planning Boston's Moakley Federal Courthouse inform your views?

SB: When we built our courthouse in Boston, I felt strongly that it belonged to the taxpayers who paid for it. It should be apparent that such a courthouse—a public building, a beautiful building on a beautiful site—does not belong to the judges, nor to the lawyers. It belongs to the people of Boston. It's hard to work with bureaucratic institutions that are single-minded. Security people may be interested 99 percent in security; GSA [the General Services Administration that builds federal buildings] may be interested 99

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The architecture of Boston's John Adams Courthouse (restored this year by CBT/Childs Bertman Tseckares) dignifies the public's role in the courts (left three), in contrast to crude security measures installed at Lower Manhattan courts in New York (right). Security issues at the Alfred A. Arraj U.S. Courthouse in Denver (above) have been addressed in a publicly welcoming way by architects HOK, with Anderson Mason Dale.





At the Arraj Courthouse, the plaza and lobby pavilion are publicly welcoming, yet discourage vehicle bombs and limit a terror attack's damaging effects.

percent in saving money, and a group of judges may be interested only in courtroom acoustics. Yet it's possible to break through any group's single-mindedness to promote balance. I think the Boston courthouse is an example of how that can happen. Judge [Douglas] Woodlock and I spent a day a week for about three or four years working on that courthouse. Was it worth a day a week of our time? I think it was. It was an important project for the public.

AR: *What was the thinking behind the design?*

SB: Harry Cobb, the architect for our courthouse, showed us pictures of a courthouse in 17th-century Virginia. He also showed us beautiful Beaux-Arts-style courthouses built in the 19th century, of which the [John Adams] courthouse in Boston is an example. In each instance, the courthouse makes a statement that it is a public building, that the public gathers in that building, and that there is a judge who will carry out public business there. What works architecturally for a single-room courthouse can work when you have four or five courtrooms in a building, but it's very hard to design

when you have 20 courtrooms. Inevitably, the building begins to look like a hospital, an office building, or an apartment house. Cobb showed us an example of a courthouse in Los Angeles that looks like a prison. You would not want people to come into a courthouse that looks like a prison.

The challenge is to build a courthouse that tells people—through what it looks like and how it's used—that it isn't a prison, that it isn't an apartment house, and that it isn't a hospital. Rather, it is a public building where a high-level official—a judge—will deal face-to-face with the most humble, ordinary citizen of the United States and spend as much time on that citizen's problems as circumstances call for.

I learned more from Harry Cobb. Before that experience, I think I would have said that we should have a decorated building, and we should have Classical forms. I learned that buildings from many different periods can say many different things. You can have a lovely Modern building or you can have a bad one. You can have a lovely Classical building or one that looks tacky. Our consulate in Munich, for example, is a Modern building that is both attractive and interesting. It's a box, but an interesting box, one that has charm and is beautiful. One cannot automatically choose Classical over Modern styles. On the contrary, what matters, I believe, is the individual building.

AR: *Is there anything remarkable about the design of Moakley's courtrooms?*

SB: The courtrooms in Boston put the judge deliberately at the same level as the lawyers and focus on the area in front of the judge, the jury, and the witness. That focus promotes a conversation among all the participants. The best example I saw of that is in the Second Circuit courtroom designed by Learned Hand [in Cass Gilbert's 1936 Federal Courthouse in New York City]. It looks like a sitting room. The judges in that famous courtroom are at the same eye level as the lawyers. Why? When lawyers are

forced to carry on a conversation, the judge is more likely to get their truthful opinion, less likely to get playacting. The design facilitates the work of the court.

AR: *You are obviously proud of the product.*

SB: It shows what's wonderful about architecture. When you walk into a well-designed building you can feel your spirits rise. When a person walks into the Boston courthouse, he doesn't need to be an art connoisseur to appreciate the Ellsworth Kelly paintings. All he needs to do is open his eyes, and feel his spirits rise.

AR: *Was the Moakley courthouse altered after 9/11?*

SB: Yes, security required some changes. As I have said, security has to be taken into account, but you must try to strike a reasonable balance. You don't just ignore security.

AR: *Many architects equate openness with transparency. Do you think open architecture needs to feature glass?*

SB: No, that isn't what I had in mind. The plaza in front of the Supreme Court of the United States is open. Every citizen of the United States can walk across it, walk up the steps, and enter the building. We do have a security system; visitors must walk through an arms detector. That is an unfortunate but necessary concession to the problem of security that we face. But if we ever were to close off the plaza, or close off the building, I think we would do irreparable damage to the Constitution and to the country. It is important in a democracy that people be able to come into their public buildings, certainly the courts.

AR: *So you definitely want tourists to be able to visit the Supreme Court?*

SB: Absolutely. We used to have a million visitors a year. Unfortunately, because people are traveling less, because of concerns about security, and because of construction [at the adjacent U.S. Capitol Visitors' Center], the number of visitors has fallen to below half a million. I very much hope that it will go back up once the construction is finished. It is important that people use the building and see it, especially that children use it and see it. That's part of an education for them of how our democracy works. It encourages them to participate in our democratic government.

AR: *What was your reaction to Boston's newly renovated John Adams Courthouse that now houses the Massachusetts Supreme Judicial Court and the Court of Appeals?*

SB: I liked it. I think it's a beautiful courthouse. I'm so glad they restored it. The architecture, the murals in that huge hall—all of it shows the optimism that people felt about the country a hundred years ago.

AR: *Have you any suggestions on how we can better assess risk?*

SB: When I studied risk for my academic work, I learned that not all risks can be avoided. There are many tiny risks that are not worth eliminating. You cannot cure tiny risks at a large cost or the country will soon be bankrupt.

AR: *Should architects play a role in making security decisions?*

SB: I think they should try and get involved. The only thing we can do is create a procedure similar to the one that worked for us in Boston. That procedure involves the government decision maker, representatives of the various security agencies, and others working together with the architect. The architect must be present, because the architect can sometimes work out a way to diminish the risk while preserving other values, such as openness. That's an architect's job.

AR: *Can we balance security and openness?*

SB: Yes. But my experience tells me that there are no absolute answers. We can ask government policy makers to become involved in the process, to bring in the architects and listen to them, and talk to the security people. Everyone needs to understand that there are competing values at stake. The task is to work out a solution that respects all of those different values. That can be done. And it can lead to a superior solution and a better building. ■



Seattle's Federal Courthouse (NBBJ and Fentress Bradburn) presides over a green setback. A lobby water feature doubles as a personnel barrier.

