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DISTRICT OF COLUMBIA APPROPRIATIONS FOR 1999

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HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTH CONGRESS

SECOND SESSION

SUBCOMMITTEE ON DISTRICT OF COLUMBIA APPROPRIATIONS

CHARLES H. TAYLOR, North Carolina, *Chairman*

MARK W. NEUMANN, Wisconsin
RANDY "DUKE" CUNNINGHAM, California
TODD TIAHRT, Kansas
ANNE M. NORTHUP, Kentucky
ROBERT B. ADERHOLT, Alabama

JAMES P. MORAN, Virginia
MARTIN OLAV SABO, Minnesota
JULIAN C. DIXON, California

NOTE: Under Committee Rules, Mr. Livingston, as Chairman of the Full Committee, and Mr. Obey, as Ranking Minority Member of the Full Committee, are authorized to sit as Members of all Subcommittees.

AMERICO S. MICONI, *Staff Assistant*

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Public Witnesses	493
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DISTRICT OF COLUMBIA APPROPRIATIONS FOR 1999

THURSDAY, JUNE 18, 1998.

FISCAL YEAR 1999 BUDGET

WITNESSES

HON. MARION BARRY, JR., MAYOR, DISTRICT OF COLUMBIA
HON. LINDA W. CROPP, CHAIRMAN, COUNCIL OF THE DISTRICT OF COLUMBIA
ANDREW F. BRIMMER, CHAIRMAN, D.C. FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY

Mr. TAYLOR. Good afternoon. I am pleased to call to order this first hearing of the House D.C. Appropriations Subcommittee for the second session of the 105th Congress to receive testimony on the fiscal year 1999 budget for the District of Columbia. We are pleased to hear this afternoon from Mayor Barry, District Council Chairman Linda Cropp, and Financial Management Board Chairman Andrew Brimmer.

I would like to apologize for having to reschedule this from yesterday but we had an 8-hour appropriations meeting, and then they had to reschedule the Interior Subcommittee meeting. So I appreciate your coming today.

Before we begin, I want to thank Dr. Brimmer and the other control board members, Joyce Ladner, Steve Harlan, Connie Newman, and Ed Singletary for their service to the Nation's Capital and the Congress.

Now while we have not always agreed, I want you to know that we appreciate your service and the fine attitude that you have had, even in our disagreements. I want to also welcome the Mayor and to say we appreciate our relationship with you in the last year and a half.

CONTROL BOARD PROJECTIONS $500 MILLION IN ERROR

During this Congress, the Nation has seen significant changes in the Nation's Capital, not all of them for good. First the city and control board submitted a fiscal year 1997 budget with a $99 million deficit, which turned out to be a $186 million surplus. Then the city had a fiscal year 1998 budget in balance, which is turning out to have a surplus of $254 million. Half a billion dollars off in just 2 years. Not bad for government work.

Had the fiscal year 1999 budget, which you bring to us today, held the line on increased spending, it would have shown a surplus of $508 million instead of the $41 million now proposed. And yet, the budget increases spending, and you are asking for new massive

doses of Federal funds for infrastructure. We will be reviewing that very carefully.

ACCUMULATED DEFICIT

This year's budget does make strides in eliminating $254 million of the accumulated deficit. However, while the budget shows a surplus of $41 million, there remains $37 million worth of accumulated debts. We will look closely at why this accumulated deficit—the results of years of overspending—is apparently carried on for another year when the budget shows an operating surplus.

REVITALIZATION ACT IMPACT $1 BILLION

Last year, in the D.C. Revitalization Act, the American taxpayers relieved the city of a billion dollars in annual spending. Congress took over the pension system, the courts, prisons, and increased to 70 percent the Federal share of Medicaid payments. Although there is no longer a—and I put this in quotes—a "Federal payment" to the city, you may be assured that this Chairman is very much aware of the vast amount of Federal tax dollars poured into the city daily, and he takes seriously the constitutional charge of the Congress to exercise exclusive jurisdiction over the Nation's Capital. In that spirit, we will review this proposed budget.

OPENING STATEMENT OF CONGRESSMAN MORAN

I will now call upon our Ranking Member, Jim Moran, to make any opening statement. Jim.

Mr. MORAN. Thank you very much, Mr. Chairman. I am glad that you have had this hearing and I am pleased to see the leaders of the District of Columbia before us. I do want to say, since this is apparently the last hearing we will have with Mayor Barry, I want to thank him for his many years of public service to the city and to the country.

I also want to thank Dr. Brimmer. I understand that even though you will be continuing for a few months, that you intend that to be a relatively short period of time. I think you have done a very fine job and I want to thank you for your judgment and leadership as well, Dr. Brimmer, particularly if we don't get another opportunity to do this for the record.

And I am looking forward to working with Chairwoman Cropp.

The areas of interest that I hope that we can cover will include what, in addition to the Revitalization Act, the Federal government can properly be doing to help the District develop its tax base. One thing, for example, in the original bill, we had a provision where the Federal government would pay for 400 miles, I think it was, of roads within the District; there was some provision in the recent highway bill, and I would like for you to address that. I think that maintaining the Metro system throughout the entire region, particularly since it is a radial system that originates in D.C., is critical to the financial health of the District, and I hope we will address that because we have $100 million per year now in maintenance costs that are going to have to be gotten throughout the region.

TAX REFORM AND BUSINESS REGULATORY RELIEF

The D.C. tax reform measures are measures that this committee felt quite strongly about, in addition to the regulatory relief that we had proposed, and if you have any comments on that, I would like to hear them; because in looking at the difference, for example, between Northern Virginia, my district, and the District of Columbia, it made it a pretty easy decision for a lot of businesses to locate in Virginia. Now with those changes, it is a tougher decision and I think that is in the best interest of the entire region. We want to play fair.

COMMUTER TAX

There is a matter of a commuter tax that we are undoubtedly going to disagree on, but I would like to understand the ramifications of that and your planned implementation date, if you feel that is going to go forward. I suspect the Congress may want to assert its role in that issue because it is something that we don't feel is in the long-term best interest of the region as a whole.

RESIDENCY REQUIREMENT FOR EMPLOYMENT

We don't think we ought to have residency requirements in our own suburbs. I don't think it should be in Alexandria, Arlington or Fairfax County that I represent; I don't think it should be in the District of Columbia either. I think we want to get the very best people and leave it to them to decide where they want to live. But I would like for you to address that.

Beyond that, I think enough has been said, probably more than needed to be said, about the proposal. Dr. Brimmer ran up the flag pole on three managers or commissioners to manage the District and apparently you have perhaps taken that down from the flagpole after it got shot up a lot, I don't know; I will leave that to you to address.

PUBLIC SAFETY AND OTHER ISSUES

But we are going to talk with the Police Department. I understand we are going to have a separate hearing, so we won't get into that specifically. We have a lot of issues, obviously, on public safety in the schools. But I am looking forward to your testimony and I am looking forward to continuing with your leadership, Madam Chairwoman. And, again Marion, thank you for all the time and effort and energy and personality and everything else that you have contributed to the District of Columbia. And thank you, again, Dr. Brimmer.

Mr. BRIMMER. Thank you.

Mr. TAYLOR. Do other Members have statements? Mr. Cunningham.

OPENING STATEMENT OF CONGRESSMAN CUNNINGHAM

Mr. CUNNINGHAM. Just a very short one. I join with my colleagues in welcoming you, and I think that whether you have a tax, whether it is a city, a State, or at a Federal level, I guarantee you the bureaucrats will spend it. And the efforts that your group, Mayor, have made on doing it better and doing it smarter has been

noted. And I think that is the direction we should go, because what we found is a higher tax usually means more work and more problems on your constituents, and then it just is not effective. There is a curve where that is a point of diminishing return, I realize. But I want to thank you for that.

I look forward to working with you, and I think in the last meeting, you will find that the Committee is willing to bend over as much as we can and work with you, within the limits of the Constitution.

WATERFRONT ISSUES

I live in DC when Congress is in session, and I would like to talk to you individually about some infrastructure down on the waterfront, and the law enforcement problem that we had, where they drew down a lot of law enforcement in the wintertime because they said there would be ice on the water. But there was no ice, and yet we still had the same problems. And I want you to know, your chief of police worked with us and did a very good job and limited the number of law enforcement that moved away. He realized we need sound policies on law enforcement on the job which is very important. But I would like to work with you in talking to you about some issues on the waterfront, and I think where the infrastructure can help all of us, realizing there are limited funds, especially after I said no new taxes.

WAIVING DAVIS-BACON FOR SCHOOL REPAIRS

Another area I would like to work with you on is education. We support children and they support helping children. By just waiving Davis-Bacon for school construction and repairs, with your 60-year-old schools—which the majority, up to 70 percent of union members wish to do—can save you 30 to 35 percent on school construction and repairs. Those are ways in which I think that we can make investments and give a little ground on each side. It doesn't mean we have to waive Davis-Bacon across the country, but they have done it in some States. But for the schools and education and considering the shape they are in, it is one area I would ask you to take a look at, realizing the political pressures in doing that. Other than that, I welcome the control board and thank you, Mr. Chairman.

Mr. TAYLOR. Thank you.

Mr. Tiahrt.

CONGRESSMAN TIAHRT'S REMARKS

Mr. TIAHRT. I want to welcome the panel to the committee and I appreciate you, Mr. Chairman, for holding the hearings. I want to congratulate Mayor Barry on his new venture and I wish him the best. I am ready to proceed.

Mr. TAYLOR. Thank you.

Mr. Aderholt.

CONGRESSMAN ADERHOLT'S REMARKS

Mr. ADERHOLT. I don't have anything to add. I just thank you for being here today. And of course being a new Member not only to

Congress but to this committee, I have enjoyed working with this committee over the past year, and I look forward to another year. So thank you for being here today.

RESIDENCY REQUIREMENT—CONGRESSMAN MORAN

Mr. MORAN. Mr. Chairman, can I make a slight correction in my statement? I mentioned the commuter tax, but I didn't discuss that; what I discussed was the residency requirement, which was the second thing. I don't want to confuse people. The residency requirement is actually on track here from D.C.'s perspective. I don't think that the Congress is in full agreement with that, and I would like to hear from you. I think we discussed the commuter tax in depth, but really the residency requirement is something I know you are taking very seriously. But, again, I think there is a lot of discussion about that.

Thank you, Mr. Chairman.

Mr. TAYLOR. Certainly. The Congress on the residency requirement cannot be in full agreement, but many of us appreciate that.

We will proceed with the Mayor first and then Chairman Cropp and then Dr. Brimmer.

SWEARING IN OF WITNESSES

It is our procedure to swear in all witnesses before the subcommittee, at all times. If the witnesses will stand and raise your right hands.

[Witnesses sworn.]

Mr. TAYLOR. Thank you.

We have written statements that will be included in the record. I would suggest that you summarize as much as you can, and if it's agreeable, we will hold questions until all witnesses have testified.

Mr. Mayor.

OPENING STATEMENT OF MAYOR BARRY

Mayor BARRY. Good afternoon, Mr. Chairman and members of the subcommittee. First of all, let me thank the members of the committee for those kind words in terms of my own departure from my 40 years of service. It has been a labor of love during this period and I intend to be not doing the same thing but I will be around. I want to thank you for the opportunity to share my views on District finances and to place in the appropriate context the 1999 financial plan. I would like to ask that the entire 20 pages be entered into the record.

Mr. TAYLOR. Without objection.

Mayor BARRY. The committee has it.

NEW CHIEF FINANCIAL OFFICER—EARL C. CABBELL

First, I would like to introduce my newly appointed interim chief financial officer, Mr. Earl C. Cabbell. Stand up. He is our interim CFO. He is a certified public accountant. He has served as deputy chief financial officer of financial operations and systems since 1996. He was previously the deputy director of finance and chief accounting officer for the City of Detroit. He brought them into an

unqualified audit for the first time in the history of that city. He has also served as director of finance for the State of Maryland's Department of Transportation, a position he assumed in 1992 after serving as the accounting systems director for the City of Baltimore. In the past 2 years, he had successfully handled the challenge of helping to bring financial stability to the District, so I would like to welcome him here. I am in the process of looking nationally for a candidate that I can recommend to the Financial Management Systems Authority, but Mr. Cabbell has full authority to move ahead, and he will continue to keep us financially disciplined and carry on the work that was carried on by his predecessor, Tony Williams.

BUDGET DEVELOPMENT

Mr. Chairman and members of the committee, the development of a budget provides an opportunity to reflect on the past, to measure progress, and to plan for the future. The fiscal year 1999 budget is the last budget I will present to the executive and legislative branches of the Federal Government.

PROBLEMS CONFRONTING THE DISTRICT

Before I comment on the fiscal year 1999 budget request, I would like to present a contextual framework relative to the inherent problems confronting the District.

Many of us may have forgotten about the fact that more than 25 years ago, we were given a home rule charter that was structurally and fundamentally flawed. I think the Revenue Commission has come to the same conclusion and Carol O'Cleireacain came to the same conclusion about the disfunctionality of that structure. We were so enthusiastic about getting any kind of representation that we did not look as carefully at the structure as we should have, and we have now learned.

In fact, the Revitalization Act of 1997 was a clear indication there was a relationship that had to be changed between the Federal government and the District government. No other city has a municipal, county, and State function. These are real: 41 percent of our budget goes to a State function, and more importantly, there are 40-some agencies reporting to the Mayor, and all of us know that is a span of control that is almost impossible for anybody to effectively manage. With the restructuring of our government, the Revitalization Act sort of lessened that management span of control.

FEDERAL TAKEOVER OF HEALTH SYSTEM/MEDICAID

More needs to be done and we need to look further at the Federal Government taking over for the financing and operation of our health system, which is clearly a State function, and some other changes in the Medicaid. We still pay 30 percent over the other cities in America. New York City only pays about 15 percent and California and Los Angeles and San Francisco don't pay any; the county pays 2 percent and the State pays 98 percent.

TAX BASE CONSTRAINED

Also, when we came into the office in 1979, as indicated on page 3 of my statement, Carol O'Cleireacain clearly stated in her book that the District's tax base is severely constrained because it is the Nation's Capital. Forty-one percent of the property tax is exempt from property taxes. Sixty-five percent of the people who work in the city live elsewhere and do not contribute to the income tax base. Congress has not allowed the District to impose a nonresident income tax to pay for the services provided to commuters during their work day. The District does not collect taxes on the income of a large number of military personnel. I happen to agree with her as we look at the structural relationship.

FINANCIAL MANAGEMENT—DISMAL RECORD

Also, Mr. Chairman, on the view that the District really wasn't interested in financial management or was not interested in balancing the budget prior to the Control Board, nothing could be further from the truth.

In 1979, when I first took office, the finances of the District were in total disarray. We had not been audited in 100 years. In 1976, Arthur Andersen had called the District's financial management system unauditable. I say that to show that we have been committed to balancing the budget and working hard, as clearly indicated on page 6. You will find starting with 1981 up until 1988, there were balanced budgets and smaller surpluses every year under my previous administration. You also will find that in 1990, there was a $118 million deficit. But at that time the Council refused to reduce spending and so we ran up a deficit. But the point I am making is we have been committed to balanced budgets for a long time.

POLICE DEPARTMENT

On page 7, we talk about some of the things that have been done in the last few years. Let me also say there is great program turnaround, Mr. Chairman, in the District of Columbia. The police department is working better. You will hear from my chief later. Crime is the lowest in 20 years. Twenty years. Murders are lowest in 10 years. You can get a driver's license now in about 25 or 30 minutes, as opposed to the 3 or 4 hours it used to take sometime back. The streets are cleaner, alleys are being cleaned, the environment is better.

PUBLIC SCHOOLS

The only point that we have to do a lot more work in our public schools. We had 18 months of downhill. Ms. Ackerman is here now. She brings to bear, I think, a lot of ideas on reform, a lot of finesse and a lot of energy, and we are going to see major changes. In fact, we have seen test scores going up this year compared to last year. And I predict they will be higher again next year and the next year until we get to the point where they are the national average. In fact, one of our public schools, Benjamin Banneker, an academic high school, had 105 graduates, and all 105 of those graduates are going to college, and they had scholarships totalling $5 million,

which means there are a number of things happening, even in spite of the change of superintendents and the back and forth. We have enough people getting out of here with a lot of the skills and who want to become America's outstanding members.

MUNICIPAL SERVICES

So the quality of services in our city are greatly improving. Our employees are being awarded for that in the sense that this budget contains a pay increase. We all know that if employees are not paid commensurate with the rate of inflation, the morale goes down and they don't work as hard as they would ordinarily be working, so I would just point that out.

DEFICIT OF $335 MILLION IN FY 1994

Also, Mr. Chairman and members of the committee, when we came into office in 1995—and some of you were here, when we had a deficit of $335 million from 1994. And that deficit, quite frankly, was a trigger to Congress to impose this Control Board on us. We were not allowed to go to the Treasury to borrow money, and the Control Board was put into place.

[**CLERK'S NOTE.**—Regarding the preceding statements by Mayor Barry, the following excerpts of testimony presented by former Mayor Sharon Pratt Dixon Kelly and former Council Chairman John A. Wilson provide a perspective of conditions in the District after Mayor Barry's 12 years as mayor and include Chairman Wilson's remarks that the City Council had a hard time getting information because "* * * the (Barry) Administration was not forthcoming with the Council in most situations. We have a hard time getting information". The excerpts are taken from hearings before the House Subcommittee on D.C. Appropriations:]

FY 1992 HOUSE HEARINGS ON D.C. APPROPRIATIONS

Part 1, pages 8 and 9

May 21, 1991

Mayor Sharon Pratt Dixon

"When I took office on January 2, 1991, (after former Mayor Barry's 12 years as mayor) my first order of business was to drastically cut this city's budget, Faced with a $316 million deficit I had no choice but to act * * *"

* * * * * * *

"Much more needs to be done. I remain determined to change the work ethic that now dominates our government. This government can no longer be seen as the employer of first resort. And, attitudes that lead a few workers to believe that every job is permanent and every task is at their leisure have got to go * * *"

* * * * * * *

"We must restore financial discipline to the District's budget * * *"

FY 1993 HOUSE HEARINGS ON D.C. APPROPRIATIONS

Part 1, pages 37 and 768–770

May 27, 1992

Mayor Sharon Pratt Dixon Kelly (page 37)

"When I took office almost 17 months ago the District budget had hit an iceberg. We were sinking in red ink. The 1990 $118.2 million deficit (Mayor Barry's last full fiscal year in office prior to his sabbatical) had brought the accumulated deficit to over $331 million and we were facing an operating deficit for 1991 of over $316 million (based on budget prepared by Mayor Barry prior to his sabbatical).

Council Chairman John Wilson (pages 768–770)

"We have tried every way we know to identify and cut vacant funded positions * * * I do not know what happened to them. That is my business * * * It is difficult, because the Administration (referring to the Barry Administration) is not forthcoming with the Council in most situations. We have a hard time getting information."

"* * * in the previous Administration (referring to the Barry Administration), they hired about 3,000 people a year, and the escalation would go up around 4,000 on the fourth year of the term. So you added over that period of time almost 10,000 people to the (D.C.) government in what we called the good years."

"Mr. DIXON. From 1981 to 1990, the average increase in revenue over the previous year was roughly 10 percent.

"Mr. WILSON. That is right.

"Mr. DIXON. In one year it was 19.6 percent higher."

* * * * * * *

FY 1995 HOUSE HEARINGS ON D.C. APPROPRIATIONS

Part 1, page 101

May 11, 1994

Mayor Sharon Pratt Kelly

"Part of cleaning house has got to be to ferret out corruption. And I was very quick to forge a partnership with the FBI and other Federal authorities * * *".

* * * * * * *

"There was no training in this government. None. There were no job descriptions. None. No automation. None. And when you have a massive government in desperate need of it and you look like you have walked through the door in a time warp, you have got to begin to prioritize where you can put that effort."

[**CLERK'S NOTE.**—Regarding Mayor Barry's remarks on the deficit, see news article on pages 1619–1620, volume 2, FY 1996 hearings before the House Subcommittee on D.C. Appropriations, which documents changes in the District's projected deficit for FY 1995, and then Chairman Walsh's remarks on page 1544, of the same volume summarizing the inconsistency of Mayor Barry's deficit numbers as follows: "According to the press, District officials told Wall Street investors the City has run a budget deficit of $25 million to $40 million in fiscal year 1994. The deficit turned out to be ten times that amount—$335 million. The City also said it expected a budget gap of $129 million in fiscal year 1995. Then the estimate jumped to $500 million, then $531 million, then $600 million; and finally, in February 1995, the Mayor said it would be $722 million. It went from $129 million in December to $722 million two months later".

ALLEGED REDUCTION OF 9,000 PERSONNEL OR 27 PERCENT

Mayor BARRY. And also there is a view that we have had this big government and have not done much about it. Let me just say that since 1995, we reduced almost 9,000 people off of the D.C. government's payroll, a decrease of 27 percent. Dr. Brimmer talked about this before the Senate and we all agree that is unprecedented. New York took 5 years to get down to about a 16 percent reduction. And Philadelphia didn't lose anyone off the payroll because they just made changes in the way the union operated. But I think we ought to be commended for taking the bold initiative to do this, and in some instances, it did lessen service in the area because you can't have 9,000 people off a payroll without impacting services in someplace or another. Either they weren't working or something was happening, so we were seeing a decrease and now we made some adjustments and the service area is increasing.

SURPLUS OF $186 MILLION IN FY 1997

Also, there was some growing pains with the Control Board and with the CFO that I think you will find now they are working very, very closely together. We had a vision plan that is working. As the Chairman pointed out, we went from a $99 million projected deficit to a $186 million surplus, which is a $250-some million turnaround. That is no small achievement. That took the work of the District working awful hard, being disciplined, making tough decisions on the part of the policymakers and implementing those decisions, and so I want to commend our workers for being that disciplined to achieve this.

[**CLERK'S NOTE.**—The FY 1997 surplus resulted from the Chief Financial Officer collecting additional revenues and the turnaround in the national economy; very little, *if any,* of the surplus was due to "tough decisions" on budget reductions.]

NEW MCI CENTER

Also, the economy is growing. We have a new MCI Center, as you probably know, and unfortunately, the Washington Caps couldn't beat the Detroit Red Wings, but they did beat Ottawa and Buffalo and I predict they are going to win the Stanley Cup next year. I go out and cheer them on. Downtown is moving ahead. You will have before you sometime some of the legislation bills of our Convention Center. So a lot of things are happening for our economy as we go forward.

FY 1999 CONSENSUS BUDGET

Let me just say that the 1999 budget is a consensus budget. It took a lot of work on the part of the Council, the Financial Management Assistance Authority and the Mayor's Office to come to this conclusion because in some instances, we had philosophical and program differences, and where you stand in some instances, also depending on where you sit, you looked at those policy areas and spent about 7 days, almost 5 or 6 hours a day going back and forth with those, on page 17, and we talked about what those were.

[**CLERK'S NOTE.**—The FY 1999 budget is by no means "an austere budget"; it reflects increases of almost $400 million in new/enhanced operating programs.]

ELIMINATE ACCUMULATED DEFICIT

And one of our main focus points was to eliminate the accumulated deficit to budget surpluses, reduce it, reduce the cost to government, and you will find we have gone to a potential $500-and-some million deficit, a real deficit, to $41 million. Now I think that we won't find that happening anywhere else in America, whether it is at the State level, the county level, certainly not at the Federal level where the turnaround has been that drastic in 1 year to go from a $500-and-some million accumulated deficit down to $41 million. I think that is tremendous.

SPECIAL EDUCATION

At the same time as we did that, we still funded some very priority programs, such as our summer job program, gave our employees wage increases and we gave the schools an $81 million increase. I am sure that you all recognize that special education is

driving the school board crazy. An $81 million increase. We have 1,400 young people in special education, in schools, Mr. Chairman and members of the committee, outside of Washington, averaging a cost of $48,000. We had a court order to do this in 50 days. The evaluation of the judges placed these young people in these very expensive places outside of our city, and we in some instances don't know exactly whether or not those young people are getting the kind of care they need and we are working awful hard to try to bring a number of those young people home by having programs in the city and in the suburbs that could take care of those young people. Forty-eight thousand dollars is a lot of money to be paying for the education of one person.

SPECIAL EDUCATION—TRANSPORTATION COSTS

Our transportation system has cost us $10,000 per student to transfer these students for the school year. There are instances of one bus and one attendant with one student. So we wanted to try to meet with the judges and others to try to get that changed. That is $105 million we have spent this year on special education, another $145 million for next year. So I hope you are able to work with us in trying to figure out a way to keep these judges from imposing these unreasonable standards on us. We believe our young people's special needs ought to be adequately taken care of, but not at this cost and in this manner.

CONSENSUS BUDGET

This is truly a consensus budget. Last year was a functionary consensus budget. The Council had a budget, along with the Mayor, the Control Board had a budget. As a tactical move, we decided to go with the consensus budget so we could work together, so it is safe for you to see this is truly something we all believe in. And when you have a consensus budget, each person gives up something they want. I lost a few things I wanted, but it worked well, and I would commend Dr. Brimmer, Ms. Cropp and the Board for putting that time in and doing that.

INFRASTRUCTURE NEEDS

In terms of infrastructure, you will hear some discussion about a need there. As you all know, there are 1,100 miles of streets in the District and we only qualify for about 400 in Federal funds. A lot of these streets are beat up by the 300,000 cars that come into our city. Three hundred thousand cars come into our city every day—I won't go into the taxes—and don't contribute to the infrastructure. We get the same kind of Federal funds other States get, so we are not getting anything special by being in the District now.

STREET REPAIR—DEFERRAL OF LOCAL MATCH

What the Congress did that was special was allow us to spend the Federal money for the last 2 years, 1995 and 1996, without a match, without abating that match back, and we spent over $235 million on infrastructure. Some of you may come down Constitution Avenue, which was full of potholes but it has been fully repaved now. In fact, we filled to the tune of about 65,000 potholes; there

are about another 9,000 or 10,000 to go, so our streets are less bumpy now. There is still a lot of work to be done because the streets have been neglected for years.

WATER AND SEWER AUTHORITY INFRASTRUCTURE

The water and sewer side of the role, the good news is that the Water and Sewer Authority would issue bonds where they are going to do a major amount of work on our infrastructure in terms of cleaning these pipes out and other kinds of things and making this possible for our water to be safe. And incidentally, the Water and Sewer Authority is working very well to find representatives from the suburbs and they have gotten an A bond rate for their bonds, so things are happening in that regard.

CONCLUSION OF MAYOR'S STATEMENT

I want to thank the committee for allowing me to testify. We are not out of the woods yet financially. Certainly we have made great progress between this time last year and this time 2 years ago or this time in 1995, January 22nd, my first appearance before Congressman Davis' subcommittee when we talked about a $722 million potential deficit. Now we are down to $41 million. This is truly a successful budget.

And, finally, members of the committee, I would urge you all to practice as much democracy—well, practice full democracy to honor and respect this budget. As you know, last year we had some differences about these amendments that were attached to the House side of the budget. Our own view is these amendments ought to be taken through the regular process, through the authorizing committees, hold hearings and let that be the process for any amendments, because many of those amendments we did not agree with. So I urge you all not to attach any amendments to this budget. Look in depth at this budget and ask all the questions you want, demand all the answers we are supposed to give to you, and in the final analysis, respect these local elected officials and appointed officials and adopt the consensus budget. Thank you for the opportunity to be here.

Mr. TAYLOR. Thank you, Mr. Mayor.

PREPARED STATEMENT OF MAYOR BARRY

[Mayor Barry's prepared statement referred to follows:]

Testimony of the Honorable
Marion Barry, Jr.
Mayor
District of Columbia

before the
House Appropriations
Committee on the
District of Columbia

Regarding the
Fiscal Year 1999
Financial Plan and Budget

June 18, 1998

GOOD MORNING, MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE. I THANK YOU FOR THIS OPPORTUNITY TO SHARE MY VIEWS ON DISTRICT FINANCES AND TO PLACE IN THE APPROPRIATE CONTEXT THE FY 1999 FINANCIAL PLAN AND BUDGET.

FIRST, I WOULD LIKE TO INTRODUCE THE NEWLY APPOINTED INTERIM CHIEF FINANCIAL OFFICER, MR. EARL C. CABBELL. MR. CABBELL, A CPA, HAS SERVED AS DEPUTY CHIEF FINANCIAL OFFICER FOR FINANCIAL OPERATIONS AND SYSTEMS SINCE 1996. HE WAS PREVIOUSLY THE DEPUTY DIRECTOR OF FINANCE/CHIEF ACCOUNTING OFFICER FOR THE CITY OF DETROIT. HE HAS ALSO SERVED AS DIRECTOR OF FINANCE FOR THE STATE OF MARYLAND'S DEPARTMENT OF TRANSPORTATION, A POSITION HE ASSUMED IN 1992 AFTER SERVING AS THE ACCOUNTING SYSTEMS DIRECTOR FOR THE CITY OF BALTIMORE. IN THE PAST TWO YEARS, HE HAS SUCCESSFULLY HANDLED THE CHALLENGE OF HELPING TO BRING FINANCIAL STABILITY TO THE DISTRICT.

THE DEVELOPMENT OF A BUDGET PROVIDES AN OPPORTUNITY TO REFLECT ON THE PAST, TO MEASURE PROGRESS, AND TO PLAN FOR THE FUTURE. THE FY 1999 FINANCIAL PLAN AND BUDGET IS THE LAST BUDGET I WILL PRESENT TO THE EXECUTIVE AND LEGISLATIVE BRANCHES OF THE FEDERAL GOVERNMENT.

BEFORE I COMMENT ON THE FY 1999 BUDGET REQUEST, I WOULD LIKE TO PRESENT A CONTEXTUAL FRAMEWORK RELATIVE TO THE INHERENT PROBLEMS CONFRONTING THE DISTRICT AND TO CLARIFY FOR THE RECORD MY ADMINISTRATION'S COMMITMENT TO MANAGEMENT EFFICIENCY, QUALITY SERVICES AND BALANCED BUDGETS.

IN OUR ENTHUSIASM TO GOVERN OURSELVES, DISTRICT RESIDENTS ACCEPTED A HOME RULE CHARTER TWENTY-FIVE YEARS AGO THAT WAS STRUCTURALLY AND FUNDAMENTALLY FLAWED. IT NEVER DREW A CLEAR LINE BETWEEN THE FEDERAL GOVERNMENT'S RESPONSIBILITY AND THAT OF THE NEW GOVERNMENT. WE WERE CHARGED WITH A MIXED BAG OF MUNICIPAL, COUNTY, STATE, AND EVEN FEDERAL FUNCTIONS, BUT NO MATCHING REVENUE STREAMS. THIS IS STILL AS TRUE TODAY AS IT WAS IN 1973.

IN OTHER WORDS, THE GOVERNMENT DESIGN SADDLED THE DISTRICT WITH A FULL RANGE OF NON-MUNICIPAL RESPONSIBILITIES, ESPECIALLY THOSE TYPICALLY ASSIGNED TO STATES, SUCH AS MEDICAID, PENSION, AND CORRECTIONS. THESE STATE FUNCTIONS HAVE PRODUCED SOME OF THE MOST VOLATILE COST PRESSURES IN

THE PUBLIC SECTOR, AND THEY HAVE BEEN ASSUMED WITHOUT IDENTIFICATION OF ADEQUATE RESOURCES. CAROL O'CLEIRACAIN CLEARLY STATES IN HER BOOK, *THE ORPHANED CAPITAL*, THAT:

> *THE DISTRICT'S TAX BASE IS SEVERELY CONSTRAINED BECAUSE IT IS THE NATION'S CAPITAL. FORTY-ONE PERCENT OF THE PROPERTY TAX IS EXEMPT FROM PROPERTY TAXES. SIXTY-FIVE PERCENT OF THE PEOPLE WHO WORK IN THE DISTRICT LIVE ELSEWHERE AND DO NOT CONTRIBUTE TO THE INCOME TAX BASE. CONGRESS DOES NOT ALLOW THE DISTRICT TO IMPOSE A NONRESIDENT TAX TO HELP PAY FOR PUBLIC SERVICES PROVIDED TO COMMUTERS DURING THEIR WORKDAY. THE DISTRICT DOES NOT COLLECT TAXES ON THE PURCHASES OR INCOME OF THE LARGE NUMBER OF MILITARY PERSONNEL AND FOREIGN DIPLOMATS LIVING AND DOING BUSINESS HERE. FINALLY, THE FEDERAL GOVERNMENT DOES NOT PAY SALES TAX ON PURCHASES OR PERSONAL PROPERTY TAXES ON ITS EQUIPMENT.*

THUS, THE STRUCTURE OF THE FEDERAL RELATIONSHIP INHERENTLY PROVIDES FOR UNFUNDED MANDATES IN TERMS OF THE SERVICES THE DISTRICT IS REQUIRED TO PROVIDE.

THERE WERE, AND CONTINUE TO BE, SOME IN CONGRESS WHO QUESTION MY COMMITMENT TO SOUND FISCAL AND PROGRAMMATIC MANAGEMENT PRACTICES. MY RECORD DEMONSTRATES THE EXACT OPPOSITE. IN 1979, I WAS THE DISTRICT'S SECOND ELECTED MAYOR IN MODERN TIMES. I INHERITED A STAGNANT BUREAUCRACY, STAGGERING INEFFICIENCY AND WASTE. MY PLATFORM WAS PREDICATED ON MY COMMITMENT TO IMPROVE CITY SERVICES, IMPROVE MANAGEMENT AT ALL LEVELS, AND INSTITUTE SOUND FINANCIAL MANAGEMENT PRACTICES. MY ADMINISTRATION WAS ABLE TO ATTRACT SOME OF THE MOST QUALIFIED PROFESSIONAL MANAGERS IN THE COUNTRY.

THE BARRY ADMINISTRATION HAS ALWAYS DEMONSTRATED ITS COMMITMENT TO BALANCED BUDGETS. IN 1979, WHEN I FIRST TOOK OFFICE, THE FINANCES OF THE DISTRICT OF COLUMBIA WERE IN TOTAL DISARRAY. THEY HAD NOT BEEN AUDITED IN 100 YEARS. IN 1976, ARTHUR ANDERSON HAD CALLED THE DISTRICT'S FINANCIAL MANAGEMENT SYSTEM UNAUDITABLE. IN FY 1979, FOR THE FIRST TIME SINCE THE ENACTMENT OF THE HOME RULE ACT, I ORDERED AN INDEPENDENT AUDIT OF THE DISTRICT'S BOOKS. THE AUDIT REVEALED THAT THE DISTRICT HAD AN ACCUMULATED DEFICIT OF $248 MILLION.

DURING MY TENURE, WE PRODUCED THE FIRST AUDIT IN 100 YEARS AND ACHIEVED EIGHT (8) YEARS (OUT OF ELEVEN YEARS) OF REDUCING THE

ACCUMULATED DEFICIT. WE ALSO ACHIEVED A BALANCED BUDGET BY 1981, AND CONTINUED TO BALANCE THE BUDGET FOR EVERY YEAR BUT TWO BETWEEN FY 1981 THROUGH FY 1990, AS THE FOLLOWING CHART DEMONSTRATES:

SUMMARY OF GENERAL FUND RESULTS
($ MILLIONS)

FISCAL YEAR	REVENUES	EXPEND	BOND SALES &TRANSFERS NET	SURPLUS (DEFICIT)
9/30/79	N/A	N/A	N/A	N/A
1980	1,732	(1,735)	(102)	(105)
1981	1,908	(1,733)	(107)	68
1982	2,000	(1,875)	(112)	13
1983	2,208	(2,078)	(117)	13
1984	2,402	(2,289)	(96)	17
1985	2,635	(2,775)	165	25
1986	2,815	(2,706)	(89)	20
1987	3,055	(2,941)	(94)	20
1988	3,364	(3,302)	(76)	(14)
1989	3,489	(3,703)	(64)	5
1990	3,680	(3,703)	(95)	(118)

IT IS IMPORTANT TO NOTE THAT THE AUDIT IN 1980 REVEALED THAT THE FEDERAL GOVERNMENT OWED THE DISTRICT APPROXIMATELY $279 MILLION. DISTRICT TAXPAYERS HAD TO ASSUME THIS DEBT .

NEVERTHELESS, DURING THIS TIME, FINANCIAL DISCIPLINE WAS MAINTAINED AND THE DISTRICT RECEIVED A SERIES OF CLEAN AUDITS. THE DISTRICT REALIGNED ITSELF STRUCTURALLY, IMPROVED ITS MANAGEMENT CAPACITY, CONTINUED TO ATTRACT PROFESSIONAL MANAGERS, AND REAPED THE BENEFITS OF AN ECONOMIC BOOM. THE BARRY ADMINISTRATION OVERSAW AN ACCELERATION IN NEW CONSTRUCTION THAT LED TO A RADICALLY ALTERED DOWNTOWN SKYLINE, THE ADDITION OF 23 MILLION SQUARE FEET OF OFFICE SPACE IN 10 YEARS, AND THE TRIPLING OF PROPERTY TAX REVENUE TO $700 MILLION ANNUALLY.

WHEN ALL IS SAID AND DONE, DURING THIS TEN YEAR PERIOD, THE BARRY ADMINISTRATION:

- HELPED REBUILD THE DISTRICT'S DOWNTOWN

TRANSFORMED WASHINGTON INTO A THRIVING METROPOLIS AND A COSMOPOLITAN CITY.

- GAVE MORE THAN 100,000 YOUNG PEOPLE SUMMER JOBS.
- INCREASED SUPPORT FOR SENIOR CITIZEN PROGRAMS.
- PROVIDED A CATALYST FOR THOUSANDS OF JOBS FOR AFRICAN-AMERICANS AND OTHERS WHO HAD BEEN LEFT OUT.
- FOUGHT CONSTANTLY AND TIRELESSLY FOR HOME RULE AND DEMOCRACY FOR THE DISTRICT.
- WAS A BOOSTER FOR THE CITY, TRAVELED WIDELY SPREADING THE WORD ABOUT WHAT THE CITY HAS TO OFFER, AND WORKED CLOSELY WITH BUSINESS LEADERS TO BRING INCREASED COMMERCE AND RECOGNITION TO THIS, AMERICA'S FIRST CITY. ENCOURAGED COMMUNITY EMPOWERMENT AND COMMUNITY PARTICIPATION IN THE OPERATION OF GOVERNMENT.

THE PROSPERITY OF THE 70s AND 80s HID MANY OF THE FUNDAMENTAL FLAWS. THE LEAN TIMES OF THE 90s NOT ONLY EXPOSED THE CRACKS IN OUR FOUNDATION, BUT HAVE LED TO DIRE CONSEQUENCES IN SERVICE, PROFITABILITY, SAFETY, AND OTHER FACTORS THAT INFLUENCE FAMILIES, BUSINESSES, AND TOURISTS.

FURTHERMORE, DURING THIS PERIOD, COURT ORDERS AND MANDATORY EXPENDITURES WERE GROWING AT A RATE THAT FAR OUT-STRIPPED REVENUES. EXPENDITURES SUCH AS THE PENSION LIABILITY, DEBT SERVICE, MEDICAID AND AFDC COULD NOT BE CUT. TAX REVENUES DECLINED AS THE DISTRICT LOST POPULATION TO THE SUBURBS. MEANWHILE, THE FEDERAL PAYMENT ROUTINELY FELL SHORT OF COMPENSATING THE DISTRICT FOR THE NET IMPACT OF THE FEDERAL PRESENCE. YET, THE DISTRICT'S DISCRETIONARY SPENDING WAS UNDER CONTROL AND FINANCIAL DISCIPLINE WAS STRICTLY ENFORCED

RECOGNIZING THE NEED FOR REASSESSING THE OPERATION OF GOVERNMENT TO ENSURE THE CONTINUED DELIVERY OF QUALITY SERVICES, AND FISCAL STABILITY I ESTABLISHED THE *COMMISSION ON BUDGET AND FINANCE PRIORITIES OF THE DISTRICT OF COLUMBIA*, CHAIRED BY ALICE M. RIVLIN. THE COMMISSION'S REPORT HIGHLIGHTED IMPENDING FISCAL CRISIS AND RECOMMENDED MANAGEMENT REFORM. UNFORTUNATELY, THE KELLY ADMINISTRATION FAILED TO IMPLEMENT THE COMMISSION'S RECOMMENDATIONS.

DURING THE KELLY ADMINISTRATION, FROM FY 1991 THROUGH FISCAL YEAR 1994, MANDATORY SPENDING REMAINED OUT OF CONTROL, WITH THE IMPOSITION OF ADDITIONAL COURT ORDERS, A FAILING ECONOMY LEADING TO HIGHER WELFARE SPENDING AND AN EVER-INCREASING

PENSION LIABILITY. AS A RESULT, THE DEFICIT BALLOONED TO $335 MILLION BY THE END OF FY 1994, DESPITE THE KELLY ADMINISTRATION RECEIVING CONGRESSIONAL APPROVAL TO BORROW $331 MILLION FROM THE U.S. TREASURY TO RETIRE THE ACCUMULATED DEFICIT FROM FY 1990.

WHEN I RETURNED TO OFFICE IN JANUARY OF 1995, I DISCOVERED AND ANNOUNCED TO THE CITIZENS THE DESPERATE AND SORRY STATE OF THE DISTRICT'S FINANCES: THE PREVIOUS ADMINISTRATION HAD OVERSPENT BY $335 MILLION, AN AMOUNT THAT IF LEFT UNCHECKED WOULD HAVE SPIRALED INTO A $722 MILLION SHORTFALL. GETTING OUR FINANCES IN ORDER WAS ONE OF THE HIGHEST PRIORITIES OF MY ADMINISTRATION. TO AVOID THIS DEFICIT THAT WOULD AMOUNT TO 26 PERCENT OF THE GENERAL FUND, SEVERAL DRASTIC MEASURES AND STRATEGIES WERE EMPLOYED. THESE INCLUDED:

1. REDUCING AGENCY SPENDING BY $229 MILLION – WHICH INCLUDED THE REDUCTION OF PERSONAL SERVICES EXPENDITURES BY $79 MILLION BY ROLLING BACK EMPLOYEE WAGES BY 12 PERCENT, AND IMPLEMENTING FURLOUGHS, VOLUNTARY SEPARATION PROGRAMS AND MASSIVE REDUCTIONS IN FORCE.
2. RESTRUCTURING THE DEBT FOR A $70 MILLION SAVINGS.
3. MOST IMPORTANT, A CALL TO THE PRESIDENT AND THE CONGRESS TO ASSUME SOME OF THE NON-MUNICIPAL SERVICES THAT WERE INHERITED BY THE DISTRICT BY HOME RULE.

THE FY 1995 EXPENDITURE REDUCTION PLAN WAS LARGELY SUCCESSFUL IN THAT THE FISCAL YEAR ENDED WITH A $54 MILLION DEFICIT, INSTEAD OF THE POTENTIAL $722 MILLION SHORTFALL. THE ANNUAL INDEPENDENT AUDIT CONFIRMED A NET REDUCTION IN EXPENDITURES OF $151 MILLION FROM THE PREVIOUS FISCAL YEAR.

THIS REPRESENTED THE LARGEST TURN AROUND OF ANY LOCAL GOVERNMENT IN THE SAME SITUATION, AND FOR THE DISTRICT, THIS TURNAROUND REPRESENTED THE FIRST TIME IN THE HISTORY OF HOME RULE, THAT EXPENDITURES IN ONE FISCAL YEAR WERE LOWER THAN THOSE OF THE PREVIOUS FISCAL YEAR. MIND YOU, THIS WAS ALL BEFORE THE CREATION OF THE DISTRICT OF COLUMBIA'S FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY AND INDEPENDENT CHIEF FINANCIAL OFFICER.

AFTER CONTAINING THE HEMORRHAGING, MY ADMINISTRATION EMBARKED ON A SYSTEMATIC QUEST TO CRAFT A TRANSFORMATION PLAN. IN 1996, APPROXIMATELY ONE YEAR AFTER MY RETURN AS CHIEF EXECUTIVE OF THE DISTRICT OF COLUMBIA, AND ONE YEAR AFTER I

EXPOSED THE EXTENT OF THE DISTRICT'S FISCAL CRISIS THAT THE DISTRICT WAS IN, I PRESENTED A BOLD NEW DIRECTION FOR THE GOVERNMENT OF THE DISTRICT OF COLUMBIA AND THE PEOPLE OF THE DISTRICT.

THE UNDERLYING BASIS OF THIS TRANSFORMATION WAS THE IMPLEMENTATION OF PERFORMANCE-BASED PRINCIPLES AND PROGRAMS – BOTH IN THE BUDGET DEVELOPMENT AND EXECUTION PROCESSES, AND IN THE SERVICE DELIVERY SYSTEMS.

DESPITE SETBACKS IN THE IMPLEMENTATION OF THE TRANSFORMATION PLAN, WE MADE CONSIDERABLE PROGRESS. WE CONTRIBUTED TO BALANCING THE BUDGET, AND SET THE STAGE FOR MANAGEMENT REFORM. WE ACCOMPLISHED MUCH AND WERE ON THE PATH OF REFORM. WE:

- REDUCED THE SIZE OF GOVERNMENT BY MORE THAN 7,500 FTEs FOR A SAVINGS OF $165 MILLION, WHICH ALSO REPRESENTS A 27 PERCENT REDUCTION IN THE SIZE OF THE WORKFORCE OVER A PERIOD OF TWO AND A HALF YEARS.
- OUTSOURCED CITY SERVICES, THE MOST NOTABLE BEING THE CORRECTIONAL TREATMENT FACILITY.
- REDUCED AFDC BENEFITS, UNEMPLOYMENT BENEFITS AND WORKERS COMPENSATION COSTS IN AN EFFORT TO BRING THEM MORE IN LINE WITH THOSE OF NEIGHBORING JURISDICTIONS.
- CREATED A DEPARTMENT OF HEALTH AND A PUBLIC BENEFITS CORPORATION THAT DRAMATICALLY IMPROVED HEALTH CARE IN THE DISTRICT AT A LOWER COST.
- IMPROVED PUBLIC PROTECTION BY ADOPTING A COMMUNITY POLICING MODEL, EVEN BEFORE THE INITIATION OF THE MOU PROCESS.
- ESTABLISHED A "WARD-BASED" SANITATION SYSTEM AND INCREASED THE NUMBER OF SOLID WASTE INSPECTORS.
- CREATED AN INDEPENDENT, REGIONAL WATER AND SEWER AUTHORITY WITH THE ABILITY TO RAISE THE NECESSARY REVENUES THROUGH A MUCH NEEDED RATE INCREASE AND MORE IMPORTANTLY, ENHANCED BORROWING AUTHORITY, RESULTING IN MUCH NEEDED REPAIRS TO OUR DRINKING WATER SYSTEM.
- FOCUSED ON THE DISTRICT'S FINANCES, GOING FROM "JUNK" BOND STATUS TO THE ABILITY TO SELL MORE THAN $230 MILLION IN GENERAL OBLIGATION BONDS AT A VERY COMPETITIVE RATE.

THE DISTRICT'S PRECARIOUS FINANCIAL CONDITION HAS PRESENTED DYNAMICS THAT HAD NEVER BEEN ENCOUNTERED BEFORE – I.E. ECONOMIC DOWNTURN EXPERIENCED BY MOST CITIES, THE FINANCIAL

MISMANAGEMENT OF THE PREVIOUS ADMINISTRATION, AND INHERENTLY FLAWED FISCAL STRUCTURE. THE CONGRESS OF THE UNITED STATES RESPONDED BY ENACTING THE FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY ACT, AND CREATED AN IMPLEMENTING AUTHORITY. THE ACT ALSO CREATED AN INDEPENDENT CHIEF FINANCIAL OFFICER AND EMPOWERED THE INSPECTOR GENERAL. IT IS IMPORTANT TO NOTE THAT SEVERAL ACTIONS TAKEN BY THE FINANCIAL AUTHORITY WERE NOT CONSISTENT WITH THEIR ORIGINAL MISSION AS FINANCIAL ASSISTANCE ADVISORS OR WITH ACCOUNTABILITY TO THE CITIZENS OF THE DISTRICT - I.E., RELEGATING THE ELECTED SCHOOL BOARD TO AN ADVISORY STATUS.

ALTHOUGH THERE HAVE BEEN SOME "GROWING PAINS" ASSOCIATED WITH OUR RESPECTIVE ROLES AND RESPONSIBILITIES, I THINK THAT IT IS FAIR TO SAY THAT WE ALL SHARE A COMMON COMMITMENT AND VISION OF A HIGHER QUALITY OF LIFE FOR THE RESIDENTS, BUSINESSES, AND VISITORS OF THE NATION'S CAPITAL.

THE DISTRICT'S RECOVERY INVOLVES MUCH MORE THAN A FINANCIAL AUTHORITY AND A CHIEF FINANCIAL OFFICER WITH INDEPENDENT AND BROAD POWERS. WE DEMONSTRATED THE STRONG WILL AND ABILITY TO REDUCE PERSONNEL COSTS BUT THE COST DRIVERS FOR THE DISTRICT CONTINUE TO BE MOSTLY THOSE FUNCTIONS THAT ARE TYPICALLY PERFORMED BY A STATE. UNFORTUNATELY, THE DISTRICT INHERITED MANY OF THESE FUNCTIONS AT THE INCEPTION OF HOME RULE IN 1973. THE SITUATION WAS COMPOUNDED BY THE RESTRICTIONS ON THE DISTRICT'S TAXING CAPABILITIES MENTIONED EARLIER.

IN 1995, I FIRST SUGGESTED MANY OF THE REFORMS WHICH EVENTUALLY RESULTED IN THE NATIONAL CAPITAL REVITALIZATION AND IMPROVEMENT ACT. MANY PEOPLE RIDICULED MY PLAN FOR THE DISTRICT. YET, TWO YEARS LATER, MUCH OF THE PLAN WAS ADOPTED BY PRESIDENT CLINTON.

HOWEVER, THE CITIZENS OF THE DISTRICT DID NOT EXPECT, THAT AS PART OF THE REVITALIZATION ACT, THE LOSS OF HOME RULE. AS I HAVE SAID MANY TIMES SINCE JULY 1997, IT IS CLEAR TO ME THAT THESE ANTI-DEMOCRATIC REFORMS WENT WAY BEYOND WHAT I BELIEVE WAS ORIGINALLY ENVISIONED BY THE VARIOUS STAKEHOLDERS. THE FINANCIAL AUTHORITY'S ACTIONS IN MOST CASES WERE IN THAT THEY FAILED TO WORK COOPERATIVELY WITH THE LOCAL ELECTED OFFICIALS. THUS, THE FINANCIAL AUTHORITY HAS CREATED A FRACTURED GOVERNANCE STRUCTURE OF UNEQUAL, UNELECTED, INDEPENDENT PARTS.

NOTWITHSTANDING THE GOVERNANCE ISSUES, THE ASSUMPTION OF THE COSTS FOR THESE STATE FUNCTIONS, COUPLED WITH A STRONG ECONOMY, RESULTED IN ADDITIONAL FUNDS BEING AVAILABLE FOR PROGRAMMATIC AND INFRASTRUCTURE INITIATIVES.

RECENT ACCOMPLISHMENTS INCLUDE:

- THE PAYMENT OF VENDORS DOING BUSINESS WITH THE DISTRICT ARE WITHIN SIX WEEKS, NOT THE EIGHT MONTHS MANY COMPLAINED ABOUT PREVIOUSLY.
- THE TIMELY REMITTANCE OF TAX REFUNDS WITHIN 15 DAYS, RATHER THAN FOUR MONTHS.
- THE UPGRADE OF THE CITY'S BOND RATING.
- A SKYLINE DOMINATED BY BUILDING CRANES RELATED TO COMMERCIAL CONSTRUCTION.
- A NEW CONVENTION CENTER IS PLANNED.
- THE MCI ARENA.
- THE RETURN OF TOURISTS IN RISING NUMBERS – 22.4 MILLION IN 1997, AN 8 PERCENT INCREASE FROM 1996.
- THE RISE OF HOME SALES BY 33 PERCENT IN 1997, FUELED PARTLY BY A $5,000 TAX CREDIT FOR FIRST-TIME BUYERS.
- INCREASED EFFORT IN IMPROVING MUNICIPAL SERVICES, AS EVIDENCED BY THE MANAGEMENT REFORM PROGRAM OF 1998.

IT IS IMPORTANT TO NOTE THAT THE ACT CREATING THE FINANCIAL AUTHORITY MANDATED A TEDIOUS AND PROTRACTED BUDGET DEVELOPMENT PROCESS THAT RESULTED IN THE MAYOR AND CITY COUNCIL, AND FINANCIAL AUTHORITY SUBMITTING SEPARATE BUDGETS FOR FISCAL YEAR 1998. THE REVITALIZATION ACT SOUGHT TO REMEDY THE INHERENT ROADBLOCKS IN THE BUDGET DEVELOPMENT PROCESS AND STIPULATED THAT A CONSENSUS BUDGET WAS TO BE SUBMITTED TO THE PRESIDENT AND CONGRESS.

THUS, THE DEVELOPMENT OF THE FY 1999 FINANCIAL PLAN AND BUDGET DEMONSTRATES THAT A CONSTRUCTIVE AND FUTURE-ORIENTED BUDGET RESULTS FROM A COLLABORATIVE PROCESS THAT SUPPORTS THE MUTUAL GOALS OF IMPROVED SERVICE AND FINANCIAL PRUDENCE. EACH STAKEHOLDER BROUGHT THEIR OWN PRIORITIES TO THE NEGOTIATIONS WHICH PRODUCED THIS CONSENSUS BUDGET. WHILE NO ONE GOT EVERYTHING THEY WANTED, THE RESULTING CONSENSUS BUDGET IS ACCEPTABLE TO EVERYONE.

IN FEBRUARY 1998, THE MAYOR, FINANCIAL AUTHORITY, AND THE CITY COUNCIL MET AND AGREED UPON TEN (10) KEY BUDGET DECISIONS, THE RESOLUTION OF WHICH LARGELY SHAPED THE BUDGET FOR FY 1999

AND BEYOND. THESE KEY BUDGET DECISION ARE AS FOLLOWS:

- MEETING FINANCIAL MANAGEMENT TARGETS.
- ELIMINATE THE ACCUMULATED DEFICIT THROUGH BUDGET SURPLUSES.
  - ESTABLISH A POSITIVE FUND BALANCE
  - MAINTAIN A BALANCE BETWEEN REVENUE AND EXPENDITURE RATES (STRUCTURAL BALANCE)
  - MODERATE THE DEBT BURDEN
  - ACHIEVE INVESTMENT GRADE BOND RATINGS FROM ALL THREE RATING AGENCIES
- FUND MANAGEMENT REFORM
- DEVELOP LABOR STRATEGY
- RESTRUCTURE TAX POLICY
- DEFINE DISTRICT/FEDERAL RELATIONS
- DEFINE CAPITAL FINANCING PRIORITIES
- RETURN RECEIVERSHIPS TO DISTRICT CONTROL
- FUND D.C. PUBLIC SCHOOLS
- DEFINE HEALTH AND HUMAN SERVICES
- ADOPTION OF PROGRAM ENHANCEMENTS AND SERVICE IMPROVEMENTS

THE BUDGET FOR THE DISTRICT OF COLUMBIA REFLECTS A RESOLUTION OF THE FINANCIAL EMERGENCY THAT THE CITY HAS FACED IN RECENT YEARS. THE DISTRICT STILL FACES MANY DIFFICULT CHOICES. NEVERTHELESS, THE BASIC ELEMENTS OF THE BUDGET CLEARLY TELL A STORY OF IMPROVEMENT AND REVITALIZATION. THE FY 1999 FINANCIAL PLAN AND BUDGET ESTIMATED REVENUES OF $5.231 BILLION AND TOTAL EXPENDITURES OF $5.189 BILLION TO ACHIEVE A $41 MILLION BUDGET SURPLUS. THE SURPLUS IS PROJECTED TO BE $254 MILLION IN FY 1998. MOREOVER, THE DISTRICT IS MAKING SIGNIFICANT INROADS IN REDUCING THE ACCUMULATED DEFICIT THAT HAS DRAINED FUNDS AND HINDERED ACCESS TO CAPITAL MARKETS. THE FINANCIAL PLAN AND BUDGET PROJECTS THAT, BY SEPTEMBER 30, 1999, THE DISTRICT'S ACCUMULATED DEFICIT WILL AMOUNT TO $37.5 MILLION – DOWN FROM AN ACCUMULATED DEFICIT OF MORE THAN $500 MILLION ON OCTOBER 1, 1996.

THE STAKEHOLDERS ESTABLISHED CERTAIN PRINCIPLES REGARDING THE NATURE OF EXPENDITURES FOR FY 1999. MOST IMPORTANT WAS THE INSTRUCTION GIVEN TO AGENCIES THAT NO ACROSS-THE-BOARD SPENDING INCREASES WOULD BE APPROVED. RATHER, ALL REQUESTS FOR BUDGETARY INCREASES – EXCEPT THOSE IN INSTANCES IN WHICH SUCH PROGRAM INCREASES WERE MANDATED – WOULD HAVE TO COMPETE FOR AVAILABLE FUNDS. SPENDING INCREASES, WHERE

JUSTIFIED, WERE TO BE GRANTED BASED ON THEIR EXPECTED CONTRIBUTION TO THE IMPROVEMENT OF PUBLIC SERVICES AND MUNICIPAL PRODUCTIVITY. THE FY 1999 BUDGET ALSO INCLUDES A 2 PERCENT REDUCTION IN AGENCIES' BUDGETS OTHER THAN FOR FIXED COSTS AND TRANSFERS. THIS REDUCTION DID NOT APPLY TO THE MPD OR DCPS. AGENCIES ARE EXPECTED TO CONTINUE THEIR CURRENT LEVEL OF SERVICE WITH LESS FUNDS BY INCREASING PRODUCTIVITY.

IN ACCORDANCE WITH SECTION 202 OF THE DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY ACT OF 1995, I HAVE SUBMITTED TO THE PRESIDENT OF THE UNITED STATES, THE DISTRICT OF COLUMBIA'S OFFICIAL FY 1999 FINANCIAL PLAN AND BUDGET.

IN CONCLUSION, I APPEAL TO YOUR SENSE OF DEMOCRACY TO HONOR AND RESPECT THE CONSENSUS AND COLLABORATIVE PROCESS THAT CREATED THE BUDGET BEFORE YOU NOW. PLEASE RESIST THE TEMPTATION TO USE THE APPROPRIATION PROCESS TO CIRCUMVENT THE WORK OF DISTRICT ELECTED OFFICIALS, AS WAS DONE LAST YEAR.

THEREFORE, WE URGE THE CONGRESS OF THE UNITED STATES TO SUPPORT AND ADOPT THE CONSENSUS BUDGET OF THE DISTRICT OF COLUMBIA. THIS BUDGET REFLECTS THE UNDERSTANDING OF THE LOCALLY ELECTED AND APPOINTED OFFICIALS OF THE DISTRICT'S REAL NEEDS. IT REFLECTS THE TRUE APPRECIATION OF THE NEEDS AND CONCERNS OF THE RESIDENTS OF THE DISTRICT. MOST IMPORTANTLY, IT IS A SOBER ALLOCATION OF THE LIMITED RESOURCES AVAILABLE TO THE DISTRICT.

THANK YOU FOR THE OPPORTUNITY TO TESTIFY BEFORE THE COMMITTEE.

Mr. TAYLOR. Chairwoman Cropp.

OPENING STATEMENT OF CHAIRWOMAN CROPP

Ms. CROPP. Thank you very much, Chairman Taylor and other members of the House Appropriations Committee. I am here to testify on the District's fiscal year 1999 budget and financial plan. This is done on behalf of the citizens of the District of Columbia, who happen to be residents of the number one city on the East Coast, and it is with great pride and pleasure that I can say that.

WORK DONE ON BUDGET

This budget, balanced and unanimously approved by the Council, was a result of months of hard work, tough decisions, and protracted negotiations. It is no small feat that this consensus budget, bargained by the Council with the Mayor and the Financial Authority, illustrates the story of how District stakeholders can get together to design something good for our city. This $5.2 billion spending plan, with tax relief increases, funding for the schools, a $41 million accumulated deficit reduction, and pay adjustments for city employees, proves that the District's fiscal condition is improving and it can now focus on more rehabilitation and service delivery.

We worked many hours, Saturdays, Sundays, weekends, all of us, from the Council, the Mayor, and the Financial Authority, to come together on this consensus budget. I also have a copy of the Council's committee reports that I would like to submit for the record.

[CLERK'S NOTE.—The reports referred to have been retained in the Committee's files.]

Ms. CROPP. I will not go through all of them, but I think that you will find and see the hard work that the committees of the Council did in order to reach our decisions with regard to the budget.

COUNCIL'S FOUR BASIC PRIORITIES

Prior to receiving the fiscal year 1999 budget in early March, the Council had already developed its platform to achieve a balanced budget—premised upon four basic priorities espoused by the Council at a retreat that we held in January: The four priorities are to improve service delivery to the citizens in the District of Columbia; to eliminate the accumulated deficit; to invest in our work force with appropriate compensation; and to also begin our process for tax relief and restructuring.

FINANCIAL AUDITS/INFRASTRUCTURE/SERVICE DELIVERY

The financial audits show that we ended 1997 with an operating surplus of $186 million. However, this is not a true surplus. And I caution us, Mr. Chairman, members of the committee, we still have much more work to do, and we must succeed because it is the rehabilitation of our financial position that becomes the underpinning for service delivery efforts, and then these efforts will provide the foundation for economic growth. We don't have a true surplus until our infrastructure is repaired, until our buildings for our

schools are done, until the service delivery for our citizens have been done properly.

In addition, we anticipate $254 million available for a deficit paydown for this fiscal year, although the numbers are not final yet. This new-found prosperity is not just because of our strong economy, but more important, it demonstrates how the District can get back on its own two feet financially, by adopting sound budgeting procedures, conducting stringent fiscal oversight, and exerting prudent control over our spending.

IMPACT OF REVITALIZATION ACT (PUBLIC LAW 105–33)

And I want to say to you that while I think the Revitalization Act certainly will have an impact on helping the District move to recovery, I want to remind you that the $186 million surplus that was found in the District's budget for last year was pre-Revitalization Act. So what we see from the Revitalization Act will be growth, more growth. What we saw last year was due to other efforts that had been done prior to the Revitalization Act.

Y2K PROJECTS

Let me also say that the Council has taken the initiative to finance some long-term capital projects, for example, the Year 2000 compliance that certainly everyone is going to be dealing with. Besides saving the District's money in years to come, this action reflects our determination that no financial good fortune will be squandered unwisely.

DEFICIT SAVINGS DUE TO NOT BORROWING TO FUND

Likewise, when we decided not to borrow $110 million to pay down our accumulated deficit as initially planned, the District saves $16 million in annual debt service costs.

PERFORMANCE MANAGEMENT HEARINGS

In this budget, the Council and its standing committees devoted many hours to discussion and spent much time and effort in judiciously reviewing the agency's performance and numerous budget and legislative oversight hearings, and in fact, we had performance management hearings earlier, prior to the regular budget hearings we held, because we wanted to make sure that our work force is kept to certain standards with regard to performance measures. The Committee of the Whole proceeded to take more revisions in order to bring the budget into balance.

But be it program enhancements for the schools or young people, or net reductions, let me reiterate the Council has supported additional funding for the schools and directed $2.3 million for youth programs. We were able to discipline our spending by allocating some $41 million for deficit reduction. Prompted by this first unqualified audit or clean bill of health in several years, the Council took steps to jump-start the rehabilitation of our city.

PUBLIC WORKS PROJECTS

For example, we pushed for $7 million worth of public work projects to transform our neighborhoods and enrich our living envi-

ronment because we care about houses lined up on smooth streets without potholes. We don't care for unsightly garbage and recycled trash littering our corners. We care about a better community, and better community policing. We don't care for criminals and prostitutes lurking around our residences. We care about spaces for our kids to play and frolic in. We don't care for violence and drug markets.

In sum, we care about building an idyllic district, because as one of the most overburdened taxpayers in America, we deserve it.

TAX RELIEF REFLECTED IN BUDGET

And for the city employees who have labored to produce the surplus and contributed directly with layoffs and benefit reductions, I am pleased to say that we want to invest in our work force, who have been without a pay raise since 1994.

In this budget package, we have offered $11 million worth of tax relief to the residents and businesses and hope to encourage people to move back to the District by eliminating motor vehicle excise tax for our new residents.

PUBLIC SCHOOLS—$62 MILLION DEFICIT

We originally intended to give more tax reductions, if not for the news in late April that the schools had a $62 million deficit, and the escalating special education and transportation cost that could not be ignored, due to court orders, and had indicated some $12 million worth of pre-kindergarten programs might have to be cut.

This tax relief, however, is just one small step in our joint efforts to resuscitate the Nation's Capital. It is, I believe, a down payment on the future tax reform program because we have to make the District a friendlier and more welcome place to live and do business in.

TAX REVISION COMMISSION

Last week we had a public hearing with the D.C. Tax Revision Commission, which the Council had the foresight to create in 1996. It presented its proposal, "Taxing Simply, Taxing Fairly", for the city. Because we cannot tax Federal or foreign-owned properties, which accounts for 41 percent, 41 percent of our property base, we inflict a high 10 percent gross receipts tax on utilities. Because we cannot tax non-residents' District income, we burden D.C. taxpayers and businesses with higher tax rates. If we don't do anything about this onerous taxation, we will lose more businesses and taxpayers.

REVAMPING TAX SYSTEM

The Council is not close to making any decisions on how to revamp our tax system, but we are examining a good tax system that will pay for government services by taxing broad bases at lower rates. And I have a copy of "Taxing Simply, Taxing Fairly," that was produced by the tax commission that the Council brought about, and I would like to introduce that and submit that for the record.

[**Clerk's Note.**—The document referred to has been retained in the Committee's files.]

Ms. CROPP. The Council also hopes to be making recommendations on that issue fairly soon.

NEW ECONOMIC INITIATIVES $100 MILLION FEDERAL FUNDS

To further recharge the District, we need to install a new economic engine. In other words, we need to invest the $100 million as promised by the President in new economic initiatives. More specifically, we need a locally charged corporation to lure more businesses into the District. We envision a new Convention Center that the Council passed yesterday, so that the District can compete with other cities across this country and stop the exodus of businesses, which in turn hurt our hospitality industry and ourselves.

You know, government is the number one business in the District, but the hospitality industry is the number two business and it is extremely important for us to have our Convention Center, so we can strengthen our hospitality industry, because that is in fact a strong, strong, part of our economy. We need to upgrade some of the city's most deteriorated buildings and streets. We need to improve the quality of life for the District, period. All of these needs cost money.

Given the present improved financial situation, this money should be given to us so that we can transform the District into a thriving metropolis, and this goal cannot be achieved without these funds. Let's face it, economic development is going to be an antidote that propels this city to a fiscal veracity and physical wellness. No doubt, we are in better economic times, but we must be prudent and strive to find other resources to establish an accumulated surplus to cushion us against the next economic slowdown.

What I have described in our process is akin to what your budget process in the House will be. While you strived to fund your priorities, the Council did likewise. While you agonized over the budget reductions, the Council endured the same. While we empathize with your considerations, we implore you to recognize the fact that we need more Federal funds to help change this city. This request is a fine line in the Federal budget item. We besiege you to consider favorably the Federal fund portion of our budget request, as you successfully approve a balanced budget for our Nation.

REQUEST FOR $254 MILLION IN FEDERAL FUNDS FOR INFRASTRUCTURE FUND

We urge the Congress to grant our $254 million infrastructure request. This fund is intended to support the city's existing infrastructure needs of over $3 billion. This fund can further alleviate our financial and structural burden so that the District can provide and perform efficiently all of the State, county and city functions.

RESIDENCY REQUIREMENT FOR FUTURE HIRES

Congressman Moran asked about specific issues, one was the residency requirement. The Council did recently pass legislation asking for residency requirement on all future hires in the District of Columbia. More than 50 percent of those people who work for

the District of Columbia Government, and I am not talking about the Federal Government nor the private sector, but people who work for the District of Columbia Government, live outside of the District of Columbia. There is some sense of inequity there. We are talking about people who work for the government. They should leave some money back in the city. They take the city's money, and some money should be left in the city. It imbalances our economy considerably.

You know, when you live in Chicago or work in Chicago, and you live outside of Chicago, the State of Illinois still gets part of those dollars, and it helps Chicago in their infrastructure. If you work in Richmond, but you live outside of the City of Richmond, Virginia still helps with the problems, the urban problems of that city, of Richmond.

Washington, like every other city in this Nation, has a population that is older, sicker, and poorer, and because of that, it costs us more to deal with that population. We have some of our suburban jurisdictions who actually bring some of those people to the District of Columbia for us to pay the cost of their needs. We become like every other urban center, the place to send your older, sicker and poorer population who is in need. Yet, at the same time, we cannot even tax those people who work for the District to help pay the cost. That is problematic.

If you work in Philadelphia, you still pay taxes to Pennsylvania, and they can help Pennsylvania and Philadelphia. But if you work in Washington, D.C. but you live outside, then we pay for the people who live in Baltimore and Richmond, and that is wrong.

COMMUTERS—USE OF ROADS AND HIGHWAYS

With regards to the roads and highways, I believe the Mayor stated there were about 300,000 cars that come into this city every day. That type of burden—very few other urban cities have that type of burden. Because we are the Nation's Capital, and I am proud that we are the Nation's Capital, we are overburdened. That is the bitter sweetness of being the Nation's Capital because people want to come to the capital of the best Nation in the world. But when they come, they tear up our streets, and when they tear up our streets, the burden is on the taxpayers of the District of Columbia to pay for them. That is why you see in our budget a request for infrastructure costs, so that we can keep the streets of the Nation's Capital beautiful, the way we would all want them to be.

REGIONAL TRANSPORTATION PROBLEMS

I recently attended a regional conference on transportation. Congressman Moran also asked us to address that issue, and the transportation issue certainly is an issue of great concern to us in this entire region.

It is my belief that we must take a regional approach to address that issue. We have the Council of Governments working on it, there is a special committee within the Board of Trade who is working on it, and you may hear back from us as we talk about our regional transportation problems.

I am going to put it on another level for us in the District, why it would be important for us to improve our transportation prob-

lem. As we deal with welfare reform in the District and as we look at trying to get individuals who were on welfare back to work, the unemployment rate in the District is still unreasonably high. It is much, much too high. I believe it is 9 percent. And while our employment rate is extremely high, there are jobs to be had in Maryland and Virginia. However, these same welfare recipients don't have the transportation to get to these jobs. So it is extremely important for more reasons than one for us to resolve our transportation problems that are there.

TAX ISSUES

The tax issue that was asked that we talk about, I did submit that to the committee, the tax issues, our report. It is our hope we will be looking at the way to restructure our taxes in the District.

I want you to take note that the District of Columbia, even during our worst and most crucial and critical financial times, we did not increase taxes because we very clearly understand that, when we increase taxes, it truly exacerbates the problem and, in the long run, we end up sending more people out of the District of Columbia.

We do believe and understand——

RESTRUCTURING OF TAXES

Mr. CUNNINGHAM. I knew you were a Republican.

Ms. CROPP. Not really. But we do believe that we need to restructure our taxes so that we can come up with a way to help our economy grow, and you will see more restructuring of our District taxes in the very near future.

CONCLUSION OF COUNCIL CHAIR CROPP'S STATEMENT

I want to say, in conclusion, that I join with the Mayor in his request that the committee please do not add any attachments or riders to this budget. Please do not deal with the social issues that impact the District of Columbia and our citizens. We work very hard in the District to give our citizens access to their local elected leadership so that we can meet their needs. And while we are meeting their needs, I think you will see by our budget, by our financial condition, by the fact that we are improving in the city, that we have done this without overspending.

So we ask that the Committee not attach riders. Let us handle our social issues in the District. We do ask, we do implore, that you join with the Mayor, the Financial Authority, and the Council and support this consensus budget that we have worked extremely hard to accomplish. It is a good budget that will keep us moving towards the path of financial stability and financial health. I truly believe that, for the District of Columbia, if we stay on this track, the best is yet to come.

Thank you so very much.

Mr. CUNNINGHAM [presiding]. Thank you, Madam Chairman.

PREPARED STATEMENT OF COUNCIL CHAIRMAN LINDA CROPP

[Council Chairman Cropp's prepared statement referred to follows:]

COUNCIL OF THE DISTRICT OF COLUMBIA
WASHINGTON, D. C. 20001

LINDA W. CROPP
Chairman

TESTIMONY

by

Linda W. Cropp

Chairman

Council of the District of Columbia

House Appropriations Subcommittee
Hearing on the District of Columbia
Thursday, June 18, 1998
11:00 am - 1:00 pm
U.S. Capitol, Room H-144

For questions about this testimony or to obtain copies, please contact:
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Chairman Taylor and other members of the House Appropriations Subcommittee, I am here to testify on the District's Fiscal Year 1999 operating budget and financial plan.

This budget--*balanced and unanimously approved by the Council*--was a result of months of hard work, tough decisions, and protracted negotiations. It is no small feat that this consensus budget, bargained by the Council with the Mayor and the Control Board, illustrates the story of how District stakeholders can get together to design a cow and not produce a camel. This $5.2 billion spending plan--with tax relief, increased funding for the schools, a $41 million accumulated deficit reduction, and pay adjustments for city employees--proves that the District's fiscal condition is improving and it can now focus more on the rehabilitation of service delivery.

[I've here a copy of the Council's committee report on the Budget Request Act and I would ask that it be made part of the record.]

Prior to receiving the FY 1999 budget in early March, the Council had already developed its platform to achieve a budget that is balanced and premised upon four priorities espoused by the Council at their January retreat. The four priorities are:

i) Improve service delivery
ii) Eliminate the accumulated deficit
iii) Invest in our work force with appropriate compensation
iv) Begin tax relief and restructuring

The financial audit showed that we ended 1997 with an operating surplus of $186 million. However, this is not a true surplus; Mr. Chairman. We *still* have more work to do. We must succeed because it is the rehabilitation of our financial position which becomes the underpinning for our service delivery efforts and, then these efforts will provide the foundation for economic growth. We insist on translating this surplus into improved services and not just let it be something on paper to the citizens.

In addition, we anticipate a $254 million available for deficit pay down for this fiscal year, although the numbers are not yet final. This new found prosperity is not just because of our strong economy, but more important, it demonstrates how the District can get back on its own two feet financially by adopting sound budgeting procedures, conducting stringent fiscal oversight, and exerting prudent control over our spending. In fact, the Council has taken the initiative to finance some long-term capital projects, e.g., the Year 2000 Compliance with operating funds, i.e., current revenue, NOT borrowed money. Besides saving the District money in years to come, this action reflects our determination that no financial good fortune will be squandered unwisely. Likewise, when we decided not to borrow the $110 million to pay down our accumulated deficit[1] as initially planned, the District saved $16 million in annual debt service costs.

During this process, the Council and its standing committees devoted many hours of discussion

[1] At the end of the FY 1997, the accumulated deficit remains at $333 million.

and spent much time and effort in judiciously reviewing the agencies' performances in numerous budget and legislative oversight hearings. After reviewing and scrutinizing the agencies' past budgets and spending patterns during the budget mark-up sessions, the committees were challenged to hold the line on expenditures, make reductions or enhancements where possible and feasible and, yet balance the budget without shortchanging our citizens of basic services.

Thereafter, the Committee of the Whole, proceeded to make more revisions in order to bring the budget into balance.[2] Be it program enhancements for schools or young people or net reductions (and let me reiterate--the Council supported additional funding for the schools and directed $2.3 million for youth programs), we were able to discipline our spending by allocating some $41 million for deficit reduction.

Prompted by this first unqualified audit or clean bill of health in several years, the Council took steps to jump start the rehabilitation of the city. For example, we pushed for $7 million worth of public work projects to transform our neighborhoods and enrich our living environment..... BECAUSE.....we care about houses lined up on smooth streets sans potholes. We don't care for unsightly garbage and recycled trash littering our curbs. We care about better community policing. We don't care for criminals and prostitutes lurking around our residences. We care about the "breathing spaces" for our kids to play and frolic in. We don't care for violence and open air drug markets. In sum, we care about building an idyllic District because--as one of the most overburdened taxpayers in America--we deserve it!

And for the city employees who had labored to produce the surplus and contributed directly with lay-offs and benefit reductions, I am pleased to say that we are going to invest in our work force with a pay raise, the first since 1994 for most workers.

In this budget package, we have offered $11 million worth of tax relief[3] to residents and businesses and hope to encourage people to move to the District by eliminating the Motor Vehicle Excise tax for new residents. We had originally intended to give more tax reductions if not for the news in late April that the schools had run up a $62 million deficit, had escalating special education and transportation costs that could not be ignored due to court orders[4], and had indicated that some $12 million worth of pre-kindergarten programs might have to be cut. This tax relief, however, is just one small step in our joint effort to resuscitate the Nation's Capital. It

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[2] A summary of the Committees' actions and recommendations, gleaned from our Committee of the Whole Report, can be found in Attachment A.

[3] The tax reductions refer to utilities gross receipts, insurance taxes, conformity to federal income tax changes, and the motor vehicle excise tax exemption for new DC residents.

[4] The Petties court order mandated that DCPS, by January 1998, be required to transport children in school buses instead of unmarked vans. This transportation function caused a $8.4 million shortfall because the schools had to lease 300 buses. In addition, DCPS had to provide education services to 500 children currently served by the LaShawn Receivership and 70 children served by the Department of Mental Health.

is, I believe, a down payment on a future tax reform program because we have to make the District a friendlier and more welcoming place to live and do business in.

Last week we had a public hearing where the DC Tax Revision Commission--which the Council had the foresight to create in 1996--presented its proposal "*Taxing Simply, Taxing Fairly*"[5] for the city. Because we cannot tax federal or foreign-owned properties, which accounts for 41 percent of our property base, we inflict a high 10 percent gross receipts tax on utilities[6]. Because we cannot tax non-resident income, we burden DC taxpayers and businesses with high tax rates. If we don't do anything about this onerous taxation, we will lose more businesses and taxpayers to the suburbs. The Council is not close to making any decisions on how to revamp our outmoded tax system. But we are definitely examining a good tax system that will pay for government services by taxing broad bases at lower rates.

[I've here a copy of "*Taxing Simply, Taxing Fairly*" and I would ask that it be made part of the record.]

To further recharge the District, we need to install a new "economic" engine. In other words, we need to invest the $100 million, as promised by the President, in new economic initiatives. More specifically, we need a locally-chartered corporation to lure more businesses into the District. We envision a new convention center so that the District can compete with other cities and stop the exodus of business which, in turn, hurt our hospitality industry and ourselves. Not to sound trite or facetious, it has been said that other mayors and city councils are happily gobbling up Washington's million dollar lunch!

We need to upgrade some of the city's most deteriorated buildings and streets. We need to improve the quality of life in the District. PERIOD. All these needs cost money. Given the present improved financial situation, this money should be given to us so that we can transform the District into a throbbing metropolis with bright gleaming buildings. And this goal cannot be achieved without these funds because, let's face it, economic development is going to be the antidote that propels this city toward fiscal veracity and "physical" wellness. No doubt, we are in better economic times. But we must be prudent and strive to find other resources to establish an accumulated surplus to cushion us against the next economic slowdown.

What I have described in our process is akin to your budget process in the House. While you strive to fund your priorities, the Council did likewise[7]. While you agonize over budget

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[5] This report can be obtained at no charge from the DC Tax Revision Commission and can also be electronically downloaded from its web site at http://www.dctrc.org/finalreport/TOC.html

[6] According to the Brookings Institute study, the District is losing $609 million in property tax revenue IF taxable (based on the current commercial property tax rate of $2.15 per $100 of assessed value).

[7] This allocation of our budget seeks to serve all of our citizens, i.e., Human Services - 43%, Public Safety & Justice - 18%, Public Education - 17%, and Public Works - 6% (see Attachment B).

reductions, the Council endured the same. While we empathize with your considerations, we implore you to recognize the fact that we need more federal funds to help change this city. Since this request is a small line item in the federal budget, we beseech you to consider favorably the federal fund portion of our budget request as you successfully approve a balanced budget for our nation.

Finally, we urge the Congress to grant our $254 million infrastructure request. This fund is intended to support the city's existing infrastructure needs of over $3 billion. This fund can further alleviate our financial and structural burdens so that the District can provide and perform efficiently all the state, county, and city functions. Mr. Chairman, this is ***the*** budget that will move the city forward. This is ***the*** budget to endorse--because we want you, Mr. Chairman, to join the consensus for a better DC.

ATTACHMENT A

A List of Recommendations made by the Council and its standing committees

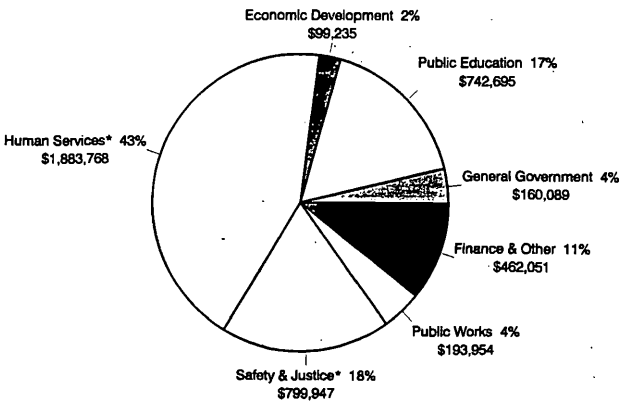
AGENCY	($000)	COMMENTS
GENERAL GOVERNMENT & PUBLIC SAFETY		
Mayor	-293	Shifts funding back to the Office of Communications. This negates the action by the Committee on Government Operations which had intended to transfer Communications to the Mayor's office. In addition, the CONADA dues are also included.
Communications	+340	Restores funding back to this office.
Inspector General	-80	Savings from renegotiating the lease at the 717 14th Street office premises.
Human Resources	+112	Committee's transfer of funds for training purposes from DOES.
Procurement	-638	Net adjustment of the Committee's actions after consolidating all procurement staff city wide.
Real Property	+2,267	Represents a shift of one FTE, funding back to the DAS CFO, and transfer of property maintenance functions from DPW to this office.
Contract Appeals	+10	To fully fund the lease at the 717 14th Street office premises.
CFO	+3,176	Restores the Council's reduction and includes the Electronic Benefits funds/function from Human Development to CFO.
Elections & Ethics	+30	Compensates for an error in the baseline budget submitted by the agency.
Financial Authority	-500	Base reduction.
Debt Service	+738	Revised estimate of when bonds will be sold.
Pay Go/Master Lease	+19,242	Expenditures in Pay Go projects & Master Equipment Lease.
Optical & Dental	-4,000	Eliminates the benefits for non-union employees.
Pay Adjustment	-36,500	Distribution of pay raise for union and non-union employees.
Police	+4,300	For program enhancements.
Corp Counsel	-1,242	Reduces Committee's enhancements.
Claims & Suits	+3,205	Restores cuts made by the Judiciary Committee except for the amount of $500 to National Guard.

Corrections	-5,500	Adjustment based on the District's definition of a sentenced felon.
PUBLIC WORKS & ECONOMIC DEVELOPMENT		
Public Works	-3,068	Transfers DMV operations out of DPW.
Dept Motor Vehicles	+10,944	To set up DMV as a separate agency and for program enhancements.
DHCD	+1,840	To fund the Home Program and marketing efforts for DC.
CRA	+5,222	For moving expenses to North Capitol Street.
PSC	-4,575	Shifts funding to private and other. No longer part of local funds.
People's Counsel	-2,501	Shifts funding to private and other. No longer part of local funds.
PUBLIC EDUCATION		
Public Schools	+78,113	Additional funding for general education reforms, special education, and other academic enhancements.
Charter Schools	+11,000	To fund 10 to 15 new charter schools.
UDC	-1,673	Reduction to Committee's increases.
Library	-1,361	Reduction to Committee's increases.
HUMAN SERVICES		
Human Development	+1,981	Reverses Committee's reorganization plan for the financial office. Included a transfer of funds/function (Electronic Benefits) from DHD to the CFO's office.
Health	+2,025	For proposed new lease at North Capitol Street.
DOES	+1,231	For program enhancements. Of the funding in DOES, the Committee directs that $2 million be used for the Summer Youth Employment Program and $331 for the Youth Leadership Institute Program.
PBC	+1,962	For program enhancements.
RECEIVERS		
LaShawn Receiver	+5,000	To fund program enhancements to meet court order.
Mental Health	+10,000	To fund program enhancements to meet Dixon court order.

ADDITIONAL RECOMMENDATIONS
Council: The COW accepts the transfer of $500 to the Council's budget, recommended by the Government Operations Committee. As per the Committee on Government Operations, COW directs that these funds be used to enhance the Council's budgetary and analytical capability. The exact allocation of these funds will be determined prior to the beginning of the fiscal year.
DC Public Schools: The COW supports full funding of pre-kindergarten, full-day kindergarten, school counselors, and librarians. The Committee suggested that the Superintendent should evaluate the level of funding for the following items: i) $11.6 million for pre-kindergarten; ii) $22.6 million for full-day kindergarten, and; iii) $6.4 million and $4.7 million for local school librarians and local school counselors respectively. Regarding Special Education, funding is most problematic. DCPS has improved in assessing the needs of potential Special Education students. However, the costs are significant. As proposed, the costs are not clear and the Council has requested that those dollars be reviewed and revised. There is concern about how and if DCPS could hire *all* FTEs by the start of the academic year. Therefore, the salary lapse could be used to fund these academic needs.
Corrections: The COW supports requesting that the Federal Government be financially responsible for the incarceration of District felons, in accordance with the local definition of such felons.
Department of Employment Services: The COW directs that $2 million be allocated for the Mayor's Summer Youth Employment Program and not more than $331 be funded for his Youth Leadership Institute Program.

ATTACHMENT B

Council of the District of Columbia
Committee of the Whole Recommendations Gross Budget



PREPARED STATEMENT OF CONTROL BOARD CHAIRMAN

Mr. CUNNINGHAM. Dr. Brimmer, we will place your prepared statement in the record at this point.

[The prepared statement referred to follows:]

DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY



Statement of Dr. Andrew F. Brimmer

United States House of Representatives
Committee on Appropriations
Subcommittee on the District of Columbia

Fiscal Year 1999 Operating Budget and Financial Plan
for the District of Columbia

Andrew F. Brimmer
Chairman

Stephen Harlan
Vice Chairman

Constance Newman
Authority Member

Robert P. Watkins
Authority Member

June 18, 1998

Mr. Chairman and Members of the Subcommittee:

Thank you for inviting me to testify on the Fiscal Year 1999 District of Columbia Financial Plan and Budget (FPB). This morning I will briefly summarize the overall projected results of this budget, discuss the process used to formulate the budget, outline some key factors in the revenue projections, and present the critical expenditure components of the budget.

I am pleased to report that this budget reflects a resolution of the financial emergency that the District has faced in recent years. To be sure, the District still faces many difficult choices, and its return to fiscal solvency remains precarious. Nevertheless, the basic elements of the budget clearly tell a story of improvement and revitalization. First, the FY1999 FPB estimates total revenues of $5.231 billion and total expenditures of $5.189 billion to achieve a $41 million budget surplus[1]. This comes on top of a FY 1998 surplus projected to be $254 million[2] in FY1998. Moreover, the District is making significant inroads in reducing the accumulated deficit that has drained productive funds and hindered access to the capital markets. The budget projects an accumulated deficit of $37.5 million—down from a gap in excess of $500 million in 1996.

[1] The revenue and expenditure projections incorporate $728.6 million in Enterprise Funds, including the Water and Sewer Authority, the Lottery and Charity Games Board, and D.C. General Hospital.

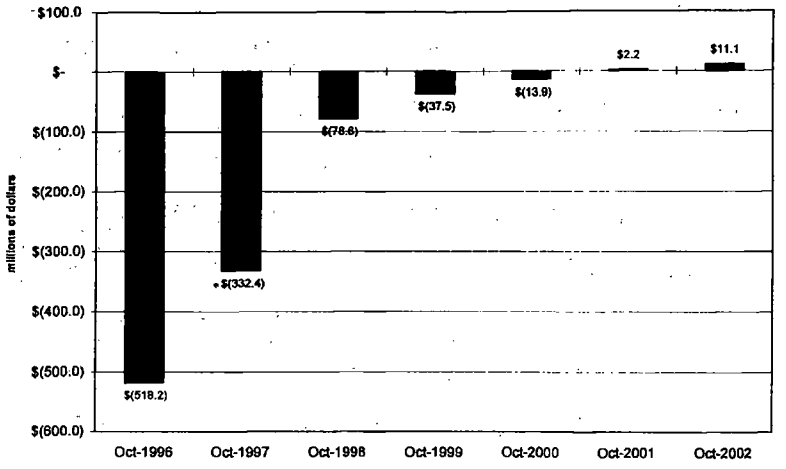
[2] The large surplus projected in FY 1998 is partially due to the one-time Federal payment of $198 million that was approved as part of the D.C. Revitalization Act.

The development of this budget demonstrates that a constructive and future-oriented budget can result from extensive cooperation among all principals, and it continues efforts from Fiscal Year 1998 to improve service delivery and maintain fiscal stability. I would note that the budget represents the combined views of all parties, a change from previous years when the Authority has disapproved the budget submitted by the Mayor or the Council. Such a step was mandated if the Authority concluded that the budget did not meet the requirements of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 ("Act") (P.L.104-8). This year, based on the agreements reached on all fundamental issues and changes to the budget process contained in the Revitalization Act, the Authority has concluded that the FY1999 budget is in conformance with the Act. The budget will promote the financial stability of the District government and further the interests of the people of the Nation's Capital.

The outyear projections, included in the Financial Plan for Fiscal Years 2000 to 2002, show a modest growth in total revenues and expenditures. If achieved, this would result in annual budget surpluses of $24 million, $16 million, and $9 million in fiscal years 2000, 2001, and 2002, respectively. These surpluses would eliminate the accumulated deficit by the end of FY2001 and produce an $11 million accumulated surplus by the end of FY2002. The

progress in reducing the accumulated deficit is shown in Figure 1.

Figure 1
Elimination of the Accumulated Deficit



Part of the budget improvement is the result of a more vigorous economy, which has provided significant increases in tax revenues to the District. The better budgetary climate also comes from structural changes in spending that occurred as a result of the National Capital Revitalization and Self-Government Improvement Act ("Revitalization Act"), enacted in August, 1997. Although that law effectively eliminated the annual federal payment of $660 million to the District, it did provide a one-time Federal contribution of $190 million plus $8 million to help pay for Management Reform projects.

The FY1999 FPB also represents a major shift in the funding of the District's capital improvement plan. Historically, the District has primarily funded its capital improvement with long-term general obligation bonds and loans provided from the U.S. Treasury. The recommended FY1999 Capital Improvement Budget and Six-Year Capital Plan (FY1999 - FY2000) identifies a variety of financing sources to address the huge capital infrastructure deficit that exists within the District. The capital budget for FY1999 represents $324 million in new funding sources. This includes $172 million in long-term financing, $65 million in alternative medium- and short-term financings, $28 million in equipment leases, $42 million in revenues generated from the sale and lease of school buildings, $5.3 million in federal grants, and $12 million in current operating funds ("PAYGO"). The agencies receiving the largest amounts of local capital funds are the District of Columbia Public Schools ("DCPS") with $97 million and the Metropolitan Police Department ("MPD") with $47 million.

The Budget Process

The Revitalization Act also changed the process by which the District formulates and approves an annual budget during control years. In previous years, a cumbersome process of approvals and rejections within set time periods reduced the flexibility of District officials to reach consensus in the budget

process. The Revitalization Act streamlined that process, which now provides for a more effective set of procedures to encourage greater cooperation among parties. Under this process, the District produced a consensus budget that was approved by the Council on May 20, 1998, signed by the Mayor, and forwarded to the Authority. On May 28, 1998, the Authority approved the FY1999 FPB and submitted it to the Congress, well in advance of the June 15th statutory deadline.

The Authority, in conjunction with the Mayor and the Council, established certain principles regarding the nature of expenditures for FY1999. Most important was the instruction given to agencies that no across-the-board spending increases would be approved. Rather, all requests for budgetary increases—except in those instances in which such program increases were mandated—would have to compete for available funds. Spending increases, where justified, were to be granted based on their expected contribution to the improvement of public services and increased productivity of the City's workforce. The FY1999 budget also includes a 2 per cent reduction in agencies' budgets other than for fixed costs and transfers. This reduction did not apply to the MPD or DCPS. Agencies are expected to continue their current level of service with less funds by increasing productivity.

Revenues

The FY1999 FPB projects total revenues of $5.231 billion. For comparion purposes, figures for FY 1997 and FY 1998 are also shown in Table 1. For FY 1999, the estimates include:

- Local fund revenues of $2.907 billion,
- Federal grants of $1,203 billion,
- Private and other revenues of $304 million,
- Intradistrict revenues of $88 million, and
- Enterprise revenues of $729 million.

Table 1
Revenues by Type
(dollars in millions)

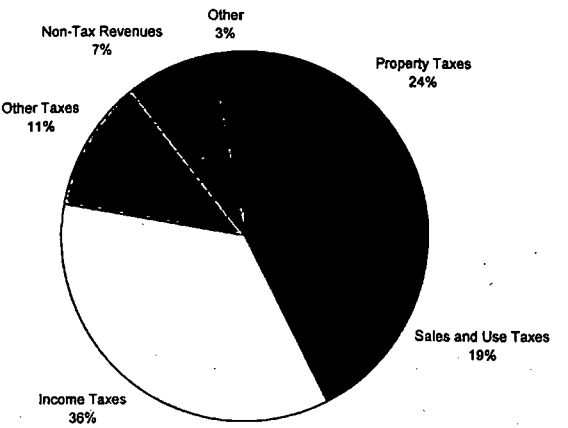
Revenue	FY 1997 Actual	FY 1998 Revised Budget	FY 1999 Requested Budget
Taxes:			
Property Taxes	$ 688	$ 670	$ 675
Sales and Use Taxes	$ 541	$ 558	$ 565
Individual Income Taxes	$ 753	$ 812	$ 835
Other Taxes	$ 508	$ 535	$ 547
Total Taxes	$ 2,490	$ 2,575	$ 2,622
Non-Tax Revenue	$ 212	$ 194	$ 217
Other Local Sources	$ 123	$ 69	$ 69
Federal Payment	$ 666	$ 198	$ -
Federal Grants	$ 888	$ 1,072	$ 1,203
Private and Other Grants	$ 196	$ 140	$ 304
Intra-District Revenue	$ 99	$ 102	$ 88
Enterprise Funds Revenue	$ 661	$ 690	$ 729
Total Gross Revenue	**$ 5,333**	**$ 5,040**	**$ 5,231**

Note: Totals may not agree due to rounding

The Chief Financial Officer ("CFO") certified the District's FY1999 local source

general fund revenues to be $2.907 billion. This is a 2.4 per cent increase over the $2.838 billion expected to be collected in FY1998. Both of these amounts should be compared to $2.773 billion actually collected in FY1997, which was a 4.6 per cent increase over FY1996. These projections are reasonable—given that most economic forecasts anticipate continued growth in the nation's and the District's economy. Moreover, there is still room for continued improvements in tax administration. Figure 2 shows the source of these local revenues.

Figure 2
Sources of Local Revenue for FY1999



The financial plan does not address the impact of possible tax or regulatory reform on the District's revenue structure. A number of studies have argued for comprehensive and extensive tax reform, while a comprehensive report to the Authority by the District of Columbia Regulatory Reform Project

laid out a full menu of regulatory reform. The financial plan does not address the potential impact of tax increment financing, linked to economic development districts, on future revenue growth. Both tax and regulatory reform have long-term revenue implications for the District, including a number of justifications for federal payment-in-lieu of taxes, which the present budget and financial plan do not address. Restructuring the District's tax system, improving tax administration, and rationalizing the structure and collection of fees, fines, and charges would significantly affect the District's ability to remain fiscally sound. The Authority will examine seriously all such plans in the context of fiscal stability and growth. These tasks remain open for the outyears of the current Financial Plan.

Expenditures

The FY1999 gross budget requests $5.189 billion in expenditures, which includes $728.6 million in enterprise funds. Table 2 below shows requested expenditures by function for FY1999, as compared with the two previous years.

Table 2
Expenditures by function
(dollars in millions)

Function	FY1997 Actual	FY1998 Revised Budget	FY1999 Requested Budget
Government Direction, Financing, Safety, and Justice	$ 1,661	$ 1,324	$ 1,418
Economic Development, Regulation, and Public Works	$ 332	$ 366	$ 402
Public Education System	$ 754	$ 683	$ 745
Human Support Services	$ 1,788	$ 1,781	$ 1,579
Receiverships	$ -	$ -	$ 319
Productivity Savings	$ -	$ -	$ (10)
Financial Authority[3]	$ 3	$ 3	$ 8
Enterprise Funds	$ 620	$ 653	$ 729
Total	**$ 5,158**	**$ 4,812**	**$ 5,189**

note: Totals may not agree due to rounding

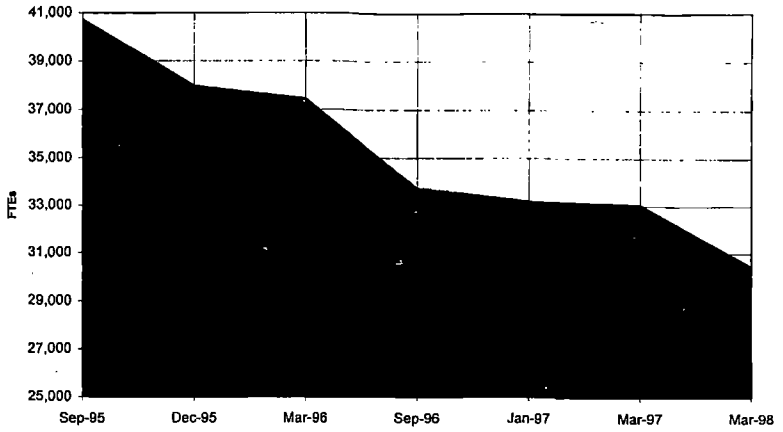
Next I will outline some critical components of the expenditures in the FY1999 FPB. The most significant budget driver is the cost of personnel. As of March, 1998, the District government had about 30,449 full-time-equivalent employees. Personnel costs are a significant portion of total District expenditures, and they account for the overwhelming majority of total expenditures for many key agencies, including police, fire, and the schools. Total personnel and benefit compensation in the FY1999 budget is projected at $1.8 billion or 44 percent of the District's total General Fund expenditures. Effective management of these resources is an extremely important component of the District's fiscal and management recovery.

[3] The Authority's budget has been increased from $3.220 million in FY1998 to $7,840 million in FY1999. The line item covers the core activities of the Authority and its component Office of the Chief Management Officer. Specifically, the Authority's core budget is decreased $500,000 to $2.720 million, and its component Office of the Chief Management Officer's core allocation is $5.120 million.

The FY1999 budget builds on past progress in reducing the workforce as well as on new legislation to improve human resource management that was enacted last year. The FY1999 budget begins to address the District's salary disparities and increased funding is provided for upgrading the skills of the workforce through training and other initiatives. However, the District still must develop a comprehensive labor strategy that addresses problems resulting from the District's large number of unions and bargaining units. In addition, it is critical that the District implement a modern automated human resource management system.

The District has made substantial progress in reducing the number of personnel. When we began our service, we were presented with a draft budget for FY 1996 that would have raised the District's Full-Time Equivalents (FTEs) from 43,000 to 45,000. This provision was unacceptable. Therefore, one of the first recommendations of the Authority in August, 1995, was to reduce the number of FTEs by 5,600. During FY 1996, an actual reduction of 5,239 was achieved. To date, nearly twice this number of FTEs have been eliminated. Specifically, since September, 1995, the District has reduced the FTE level 10,285, or by more than 25 percent. Of this reduction, 6,053 have been through shifts of programs to independent enterprises or to the federal government. More than 4,200 FTEs have been eliminated through reductions in on-going District agencies. Figure 3 highlights the reductions in the District's workforce.

Figure 3
District of Columbia FTEs
September, 1995 - March, 1998



A critical area in which the Authority will continue to focus funds and attention is the DCPS. Although much progress has been made in improving the quality of education and safety of our schools, much remains to be done. For FY1999, the Authority recommends $648.2 million in gross funds, an increase of $81.1 million (14.3 per cent) over the $567 million appropriated in FY1998. This is the largest dollar increase for an agency in the FY1999 budget. Principal increases in this budget are the result of a renewed emphasis on Special Education programs, improved transportation initiatives, and the funding of certain health related measures that heretofore were functions and responsibilities of the LaShawn Receiver overseeing the foster care program.

Other major initiatives include increasing staff accountability and continued support of students who do not demonstrate basic skills through such programs as expanded summer school.

One of the most essential services a jurisdiction provides is for the public safety of its residents and visitors. Recognizing that public safety is a prerequisite for a stable, vibrant community, it has always been one of the Authority's foremost priorities. For FY1999, the Authority recommends $300.3 million in gross funds for the MPD, an increase of $30 million (10.2%) over the $272.4 million appropriated in FY1998. The Authority, in conjunction with the Criminal Justice Coordinating Council ("CJCC"), recently hired a new Police Chief for the District. Chief Charles Ramsey will continue to focus the MPD's resources on reducing crime and the fear of crime in the District. The initiatives range from increased police activity to eliminate open-air drug markets to placing more than 400 additional officers on the street. Police efforts have led to a dramatic decrease in major crime in the District, with homicides at the lowest level in a decade. This budget leverages improvements already made in fighting crime, and it funds certain initiatives (including an additional pay raise) that will expand MPD's capacity to fight crime, and which—in turn– will improve the City's quality of life.

The Department of Corrections ("DOC") is undergoing vital transformation

as a result of the Revitalization Act. By December 31, 2001, the federal government will assume total control over most sentenced felons, and the prison system at Lorton, Virginia, will be closed. The temporary management of the District's prison system is being carried out, in part, by a Federal Corrections Trustee. The Trustee has recommended a budget of $185 million for FY1999. However, the Authority has determined that this amount seriously underfunds the projected costs of running the system. Consultants to the District's Budget Office have indicated that the true cost of running the system for FY1999 is approximately $204 million, leaving a funding gap of $18.5 million. In addition, other direct and indirect costs to the District associated with the sentenced felon population totals $25.4 million, for a total underfunding of $44 million. As part of the FY1999 FPB, the Authority is asking the Federal Government, which is now responsible for the system transfer, to assume the proper costs by appropriating an additional $44 million.

We would also note that the Authority considers infrastructure/public works improvements to be crucial to the quality of life and economic development opportunities in the District. The Authority has supported the restoration and enhancement of basic services such as bulk trash collection, tree trimming, and pothole repairs that are contained in the budgets of the Mayor and Council. The operating budget for Public Works for FY1999 is $153

million, an improvement of $4 million[4]. It includes initiatives such as: implementing the District's recycling program, replacing street signs, and continuing to fix local and Federal streets.

In connection with public works improvements, the District's capital budget is critically important to the overall upgrading of the infrastructure. The District's financial crisis in recent years has frequently prevented the District from adequately funding and maintaining capital improvements. Thus, infrastructure improvements have been routinely neglected or underfunded. The Authority was most concerned about the infrastructure deficit that has been amassed over the years because of neglect and the lack of appropriate spending on capital projects. Immediate improvements are necessary not only in vital areas such as streets and bridges, but also in government facilities, in major technology-driven systems, and in the public schools. To this end, the Authority is requesting that the federal government appropriate $254 million to the District for desperately needed infrastructure improvements. If this amount is appropriated to the Authority, it would be used to finance a range of projects, including repairs and modernization of schools, resurfacing and reconstruction of local streets, and rehabilitation of police and fire department facilities.

[4] For FY 1999, the Department of Motor Vehicles has been separated from Public Works. In FY 1999, the Public Works budget is $140 million and the Department of Motor Vehicles budget is $13 million.

As previously reported in the Authority's report on the Fiscal Year 1999 FPB, the Authority has adjusted the amounts to be allocated from the District's one-time surplus to support and fund the management reform initiatives. The previous reported amount of $130 million allocated during FY 1998 has been changed accordingly:

- $88,902,343 of new FY 1998 Operating Budget authorization;

-$66,262,311 of additional FY 1998 Capital Budget authorization;

-$1,340,000 of additional debt service;

for an aggregate total allocation of $156,504,654 from the $201,090,000 one-time surplus. The balance of $44,585,346 should be available to reduce the accumulated deficit during FY 1998. The management reform program is being coordinated by the Chief Management Officer on behalf of the Authority.

I would also note that, with respect to spending of the one-time surplus for management reform, many of the projects were multi-year in nature. It was always the Authority's intention to spend funds that do not expire at the end of the fiscal year last in order to ensure the effective use of all funds and to preserve the flexibility of so-called "no-year" funds. The Authority intends to allocate and spend any remaining funds under its control during fiscal year 1999.

Finally, it is important to consider the impact that court orders, receivers,

and special masters have on the structure and effectiveness of the District's budget. Through inadequate funding and program mismanagement, the neglect of effective public services has forced increasingly larger portions of the District's programs to be placed under court orders. This situation was exacerbated by the financial crisis, which further eroded the level of service provision given to populations such as sentenced felons, mental health care recipients, special education students, and others. The presence of court-ordered receivers and others directing sections of the District's budget presents numerous problems for the District in its efforts to plan and execute a budget effectively. Today, there are 41 court orders and mandates affecting District programs, 22 of which have current budgetary impacts. The FY1999 FPB allocates $319 million to the various receivers and other administrators.

To implement the FY 1999 budget more efficiently, the Authority is requesting additional flexibility in the reprogramming of funds among District programs. Current law requires most reprogrammings of funds between District functions to be approved by the Congress. Last year, the Congress allowed the Authority flexibility in reprogramming funds from the budget surplus. The Authority used some of these funds for debt reduction, collective bargaining agreements, and improvements in the schools. Having this flexibility is of vital importance to the District, and we strongly urge Congress to provide it for FY1999.

In summary, the FY1999 FPB submitted by the Authority marks a turning point in the reform effort of the District by programming a budget surplus. The FY1999 FPB also reduces the accumulated deficit, meets the objectives of the Act, and adheres to the major programmatic objectives of the Authority, the Mayor, and the Council. This budget will accelerate the return of the Nation's Capital to financial stability and lead to further improvements in the delivery of public services.

Before concluding, Mr. Chairman, I would like to note one other issue. The Authority is concerned that statutory limitations on the time limit allowed any independent auditor selected to undertake the annual audit of the District significantly reduces the interest of qualified firms to bid on this contract. Essentially, we have found that the legal limitation, which is three years, is having the unanticipated effect of limiting competition for this important work. Therefore, the Authority respectfully recommends to the Congress that the law be changed, and that firms be allowed to conduct the annual audit for up to five years instead of the current three-year limit. We believe that the additional time period would provide firms with greater incentive to bid on the contract, and would increase competition.

Mr. Chairman, this concludes my prepared statement. I would be pleased to respond to any questions you or Members of the Subcommittee may have.

OPENING STATEMENT OF CONTROL BOARD CHAIRMAN

Mr. BRIMMER. Thank you very much, Mr. Chairman and members of the Committee.

My colleagues have described the process by which this budget was put together. I will not repeat that. Let me say that, in terms of the mandate given to the Authority with respect to the budget, this budget meets all of those standards. It also puts us further on the way of achieving the financial stability, which went beyond the size of the budget. Above all, we were mandated when we dealt with the financial affairs of the city to seek to re-establish access to the capital markets. That was achieved last year. With respect to that mandate, it is already a goal that has been achieved.

$254 MILLION IN FEDERAL FUNDS FOR INFRASTRUCTURE FUND

What I would like to do is to review a brief summary of the report which indicates some places where additional material will be supplied to the Committee. I also want to address somewhat more fully the reasons why, among other things, we end up asking for an appropriation of Federal funds of $250 million for infrastructure. My colleagues have mentioned that the physical infrastructure is one of the most critical priorities facing the city.

Mr. Chairman, I have summarized the financial dimensions of the budget in two tables in my remarks.

On page 6, you will note there is a table on revenues. There are a couple points I would like to make and call the committee's attention to this table.

GROWTH IN REVENUES

First, you will note that there is very, very little revenue growth embedded in this budget. Moreover, if you look at tax revenue, you will note that there is even less growth.

I also call the committee's attention, specifically, to the individual income taxes. There is some growth in 1998. Compared with 1997, there is a sizable amount of growth. For 1999, much less growth.

That reflects the fact of the yield of the income tax. Not that incomes are not rising. Quite to the contrary. Personal income earned in the District has been rising significantly at a substantial rate. The projection is that it will rise at a substantial rate through 1999. The point is that only between 30 to 33 percent of any growth in income in the District accrues to District residents. And I want to say something about that later.

What it means is that, as economic growth takes place in the District, that we are growing, income is being generated, but a substantial fraction of that income is received by persons who work here, earn here, but live outside the city. So revenue growth is a serious problem facing the city, and the income tax yield also is a problem facing the city.

EXPENDITURE PROFILE

Mr. Chairman, the expenditure profile in this budget is described in table 2 on page 9 of my statement. I will call the committee's attention to several features.

First, you will note that the expenditures for government direction, financing, safety and justice—in other words, substantially bureaucratic functions—that those expenditures grow virtually not at all, very, very little. The substantial growth is in public education, I want to stress that, and in human support services.

SPECIAL EDUCATION EXPENDITURES

I will call the committee's attention particularly to public education. Virtually all of that growth that is projected here reflects the mandated expenditures for special education. For example, in 1998, the public schools are spending about $105 million on special education. For 1999, the level of expenditures for special education is projected at just under $160 million. That is mandated. It is a problem that is very serious. Much of that expenditure, much of that activity, is under court orders, we see this, and it is imposing substantial inflexibility. In terms of budget making, it is the Court who decides on that. It is a serious problem, you need to look at it, and we will talk more about it.

REDUCTION IN PERSONNEL

I would now like to mention, Mr. Chairman, with respect to what we have done in terms of personnel. As the Mayor said, over the last several years, there has been a substantial reduction in personnel. When we assumed office in the summer of 1995, we were handed a budget, for fiscal year 1995 with a full-time equivalent position count, of 43,000. A projection in the proposed fiscal year 1996 budget that would rise to 45,000. That was a number which we found unacceptable, and we ordered a reduction of 5,600. We actually achieved a reduction of 5,200.

As the Mayor said, there have been further reductions over time, and my numbers suggest 25 percent reduction. The Mayor's numbers are 27 percent, but those are just rounding differences.

The point is, in substance, there has been a substantial reduction in the number of employees. Nevertheless, this government still has some way to go. As productivity improves, as training improves, there can be further reductions in the number of employees.

[CLERK'S NOTE.—Virtually all of the personnel reductions are illusory and have been achieved by (1) transferring the function "off budget", e.g., the Water and Sewer Authority; (2) "privatizing" the function, i.e., the service is still being provided by the District government but payment is made to a "contractor" instead of to District government employees; or (3) eliminating authorized positions that were vacant. See also page 92, this volume, for personnel increase of 1,330 in FY 1999 budget.]

DEPARTMENT OF CORRECTIONS BUDGET

Also, I want to mention a problem that is left over from the Federal Government's assumption of responsibility for the prisons. The Committee might recall the Federal Government took responsibility for sentenced felons, and there is a trustee who is already responsible for their oversight. That trustee prepares the budget, the component of the Federal government's budget covering corrections in the District.

The trustee has recommended a budget for 1999 of $185 million. However, the Authority has determined that this amount seriously

underfunds the projected cost of running the system. The District's budget office has indicated that the true cost of running the system for 1999 is approximately $204 million, leaving a funding gap of $19 million. In addition, other direct and indirect costs to the District associated with the sentenced felon population totals $25 million, for a total underfunding of $44 million.

Now, as part of the city's 1999 financial plan and budget, the Authority is asking the Federal Government, which is now, as I said, responsible for the system transfer, to assume the proper cost by appropriating an additional $44 million. The function has to be before—and if the Federal Government does not reimburse the District, then the city has to cover that extra cost, and that is an effective budget cut of $44 million. If we do not get assistance this budget is going to be much bigger, and I wanted to stress that.

INFRASTRUCTURE FUND—$254 MILLION FEDERAL FUNDS

I also want to stress for a moment the infrastructure question. A detailed description, illustrative description, of the kinds of projects on which the funds will be spent is provided in the operating budget on page VII–6.

[The exhibit on page VII–6 referred to follows:]

Exhibit 1: Proposed National Capital Infrastructure Fund ($000)			
Agency	**Project**	**FY 1999 Requirement**	**Total**
Schools	Asbestos Abatement	4,000	
	ADA Compliance	18,000	
	Window Replacement	10,000	
	Structural Repairs	1,000	
	Roof Replacement	6,000	
	Plumbing Modernization	14,000	
	HVAC Replacement	5,000	
	Emergency Generators	1,500	
	Boiler Replacement	14,000	
	Carpet Program	1,000	
	Facility Modernization	17,000	
	Major Equipment	15,000	
	Emergency Projects	5,700	
	Electrical Upgrades	20,000	
	Subtotal		132,200
DPW-Local Streets	Roadway Resurfacing	62,000	
	Roadway Reconstruction	25,000	
	Subtotal		87,000
Police Department	Facility Rehabilitation	25,000	
	Subtotal		25,000
Fire & EMS	Facility Rehabilitation	10,000	
	Subtotal		10,000
TOTAL			**254,200**

ROADS AND BRIDGES

Mr. BRIMMER. In addition to public school and public safety facilities the roads and bridges have deteriorated.

Now the Federal Government will permit the city to use a substantial part of its Federal highway system to shore up many of the bridges, but not all. There are local matching requirements. Let me assure you, there are far more bridges in this city that are not just in danger of collapsing but are already exposed to a substantial deterioration, and the traffic over them, is adding substantially to the problem.

Mr. Chairman, there are other parts of this government that are decrepit. In particular, in the schools where there are dozens of boilers, that simply have to be replaced. There are numerous buildings and other facilities in this city that are so ancient that they cannot accommodate basic systems—the wiring systems cannot accommodate the new computers and so on. Communications must be improved. Many of these needs are identified on page vii–6 of the operating budget as well.

I once thought of asking staff to get some pro bono assistance so we can make a video of these conditions in this city. The Committee would be quite taken with what they would see. This city's infrastructure is literally falling apart.

RESIDENCY REQUIREMENT

Mr. Chairman, I mentioned the court orders, and I won't say any more about that. But let me take up the one question Congressman Moran asked about, about the residency. I have the results of an analysis I have asked our staff to undertake with respect to residents versus nonresidents and city employees, and this has a direct barring on the measure that is now before the Congress that the Council passed, and we are sending it forward to you without objection.

WHERE D.C. EMPLOYEES LIVE

This analysis shows the status of District employees of the last pay period. There were 39,000 employees—these are not FTEs, but employees, people who get paychecks—39,000 employees in the last pay period. 18,000 lived in the District; almost the same number, 17.6 in Maryland; 3,000 in Virginia. But, the District accounted for only 47 percent of those employees. 45 percent lived in Maryland, 8 percent in Virginia, and the rest in West Virginia or some other place.

SALARIES RECEIVED BY NON-RESIDENT EMPLOYEES

The total annual salaries received by those employees in the District was $609 million. $691 million went to employees who lived in Maryland, $139 million to employees who lived in Virginia, for a total of $1 billion, 442 million. About 42 percent of their salaries, of the salaries paid, went to District employees, 42.2 percent. Forty-eight percent of the salary amounts were received by employees who live in Maryland.

AVERAGE SALARIES OF NONRESIDENTS

The thing I found particularly striking is the District employees have lower average salaries, $33,000. Employees in Maryland have $39,000 average salaries and, in Virginia, $42,000.

Mr. Chairman, as I look at these facts, I was taken with the disparities. So, as Ms. Cropp said, what this amounts to is that taxes are being levied on District residents, some of those taxes are used to pay salaries and compensation to people who live outside of the District and who return nothing to the District.

"COMMON" TAX REVENUE

I asked the staff an additional question. I said, what if the employees who live in Maryland and Virginia were subject to the same tax rate as residents of the District? What would the impact be? I was told that the amount of District income tax paid by District residents was 7 percent. Using that percentage, if the District employees who live in Maryland and Virginia and other States paid income tax—paid District income taxes, the amount of any common tax revenue generated would be $59 million. That is a significant fraction. That would be a significant fraction of the total income tax receipts in the District.

So, Mr. Chairman, those figures, I believe, go a long way to demonstrate that careful consideration needs to be given by the Congress to the measure that the Council sent to the Congress.

I will stop at this point, Mr. Chairman. Thank you very much.

Mr. TAYLOR. Thank you, Mr. Brimmer.

Mayor BARRY. Mr. Chairman, could I speak to something in my opening statement?

Mr. TAYLOR. Sure.

RESIDENCY REQUIREMENT IN OTHER CITIES

Mayor BARRY. Congressman Moran, in terms of residency, let me point out that if you work for the City of Chicago every employee has to move into the city within a 6-month period or not work for the city. The same is true for the City of Boston. The same is true for the City of Detroit. The same is true for the City of New York. And there has been no evidence that any cities have had any great difficulty attracting the right employees. In fact, our Police Chief, Chief Ramsey, came from Chicago, and that system works very well.

TAXING NON-RESIDENT DC EMPLOYEES

We need to turn this around. And then it is compounded by the fact, as these numbers point out, the fact we can't tax non-D.C. residents. These persons are getting taxpayers' money and taking it to Maryland and Virginia, mostly Maryland, and spending almost $700 million primarily in Maryland. Where you live usually determines where you buy your food, where you buy your clothes. So we would urge you to do that.

EXCEPTIONS TO RESIDENCY REQUIREMENT

On the other hand, this measure allows for exception in hard-to-fill positions. Which means if we are looking for a computer spe-

cialist, et cetera, and you find you can't fill it, the measure allows the Mayor to make a determination this is a hard-to-fill position.

So you get this example all over the country where residency has worked, and you all may know we had it at one point, before the Congress moved us away from it. Most of the positions found qualified people to do work. It is working well in those cities where you have it. It does not mean you don't get the brightest and the best. It means that once you decide you are going to work for the District, you have 6 months to move in. And in many of our neighborhoods the price of housing is substantially lower.

RESIDENCY OF NEW POLICE CHIEF

Mr. TAYLOR. You and I agree on that. Where does the Chief live, by the way? Our new Police Chief?

Mr. BRIMMER. The Chief is in the process of moving in. He is living temporarily in an arrangement, but the Chief has assured me that he will live in the city.

Mr. TAYLOR. Within the 6 month time period?

Mr. BRIMMER. Oh, he will be in the city in a much shorter time than that.

RESIDENCY OF SCHOOL SUPERINTENDENT

In that regard also, Mrs. Ackerman, the CEO/Superintendent of public schools, who came in from outside, is already living in the city and will remain in the city.

So, at that level, it is clearly understood that living in the city is the thing that is preferred. On the other hand, I should say, what the Mayor just said, about flexibility, they recognize that.

CHAIRMAN'S POSITION ON RESIDENCY ISSUE

Mr. TAYLOR. Well, the employees you need can come from anywhere in the country, but I agree, within a reasonable period of time, which you are providing, they should reside in the District. I maintained that same position last year, and I think it is important for not only the revenue but for the community. If you are losing half of your employees, it looks like, to the suburbs, it is difficult to build a city together. That is important. But we will get into that debate, I am sure, in a moment.

Mr. MORAN. Let me join this debate a bit here, too, Mr. Chairman.

Mr. TAYLOR. Let me do this. Jim and I probably have—we have a difference of opinion on this issue, but we will take that up at another time. I will focus my questions in other areas.

GAO OPINION ON OVERPAYING CONTROL BOARD'S EXECUTIVE DIRECTOR AND GENERAL COUNSEL

First of all, the GAO has found that the Board has been overpaying two employees—your executive director and the general counsel—in violation of the Control Board Authorizing Act, Public Law 104–8.

We will insert a copy of the GAO report in the record at this point.

[The GAO report referred to follows:]

GAO

United States
General Accounting Office
Washington, D.C. 20548

Office of the General Counsel

B-279095.2

June 16, 1998

The Honorable Charles H. Taylor
Chairman, Subcommittee on
District of Columbia
Committee on Appropriations
House of Representatives

Dear Mr. Chairman:

This responds to your letter dated April 7, 1998, asking whether the District of Columbia Financial Responsibility and Management Assistance Authority (the Authority) has complied with the limitation provided in section 102 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (the Act), Pub. L. No. 104-8, 109 Stat. 97 (1995), in paying the Authority's staff. You asked that we consider all Authority staff who received pay for any period from the Authority's inception through March 31, 1998.

We requested information from the Authority concerning its staff compensation, held several meetings with Authority staff, and reviewed personnel and pay records of a number of Authority employees. As explained in detail in the attachments to this letter, we conclude that for some or all of the period in question, the Authority has paid four of its staff members at rates exceeding the pay limitation established by section 102.

Section 101(a) of the Act establishes the Authority as an entity within the government of the District of Columbia, and not as a department, agency, establishment, or instrumentality of the United States government. The Authority consists of five members appointed by the President who serve without pay, one of whom the President designates to serve as Chair. Sections 102(b) and (d) of the Act. The Act provides that the Authority shall adopt by-laws, rules, and procedures governing its activities, including procedures for hiring experts and consultants. Section 102(e).

The Act provides that the Chair with the consent of the Authority shall appoint an Executive Director, who "shall be paid at a rate determined by the Authority, except

that such rate may not exceed the rate of basic pay payable for level IV of the Executive Schedule." Section 102(a) (emphasis added). The Act also provides that, with the approval of the Chair, the Executive Director may appoint and fix the pay of additional personnel, "except that no individual appointed by the Executive Director may be paid at a rate greater than the rate of pay for the Executive Director." Section 102(b)(emphasis added).

Section 102 in subsection (c) provides wide latitude to the Authority in appointing and fixing the pay of the Executive Director and staff. However, section 102 in subsections (a) and (b) also clearly establishes the maximum rate at which the Executive Director and the staff may be paid, i.e., the rate of basic pay for level IV of the Executive Schedule.

The Executive Schedule pay rates to which section 102 of the Act refers are established pursuant to 5 U.S.C. chapter 53, subchapter II, for certain senior federal officers and employees. Under this authority, the annual rates of basic pay payable for level IV during the period in question were $115,700 from January 1995 to January 3, 1998 and $118,400 from January 4, 1998 to the present.

In February 1997, the Authority increased the salaries of the Executive Director and the General Counsel to $122,700 and $121,900, respectively. As a result of the increases, the Executive Director and the General Counsel received (and continued to receive through the period covered by your request) a rate of pay exceeding the rate of basic pay for Executive Level IV. The Authority characterized the increases as "locality pay" adjustments. In addition, in February 1997, the Authority made lump-sum payments to the Executive Director and the General Counsel in the amounts of $12,500 and $12,000, respectively. The Authority characterized these payments as retroactive locality pay for the prior 18 months, that is, from the inception of their employment with the Authority in July 1995 through January 1997. Also, in March 1998, the Authority employed an Interim Deputy Management Officer under a temporary appointment for a period of approximately 6 months at a rate that equates on an annual basis to $120,000, which exceeds the level IV rate of $118,400.

As we explain in detail in Attachment I, there is no basis for the Authority to pay regular salary payments to any of its staff at rates exceeding Executive Level IV. Characterizing the excess payments as locality pay does not provide a legal basis for exceeding the level IV limitation established by section 102 of the Act. Also, there was no basis for the Authority to provide the Executive Director and General Counsel with the retroactive payments.

In addition to the three employees discussed above, in January 1998, the Chair of the Authority appointed an individual to the position of Chief Management Officer to assist in carrying out additional duties placed on the Authority by the District of

Columbia Management Reform Act of 1997. The Authority's agreement with the Chief Management Officer provides for an annual salary of $155,000, plus other payments. The Authority asserts that the section 102 pay limitation does not apply to the Chief Management Officer because the Executive Director did not appoint the Chief Management Officer. The Authority told us that it inferred from the Management Reform Act of 1997, and the circumstances surrounding its enactment and implementation, the authority to pay the Chief Management Office at a rate greater than level IV. As we explain in detail in Attachment II, we do not find these arguments persuasive and conclude that there is no statutory basis for the Authority to pay the Chief Management Officer in excess of the pay limitation provided in section 102 of the Act.

We trust that this responds to your request.

Sincerely yours,

Robert P. Murphy
General Counsel

Attachments - 2

Attachment I

PAY OF THE EXECUTIVE DIRECTOR, THE GENERAL COUNSEL, AND THE INTERIM DEPUTY MANAGEMENT OFFICER

The Authority provided us listings of their employees and their annual "salary" rates for fiscal years 1995-1998.[1] The listings show that in fiscal year 1995, when Congress established the Authority, the Authority set the Executive Director's salary at $115,700, the basic rate of pay then applicable to Executive Level IV,[2] with the next highest salary being that of the General Counsel, $115,000. Effective in February 1997, the Authority raised the Executive Director's salary to $122,700 and the General Counsel's salary to $121,900. As a result, the rates for these two individuals exceeded the Executive Level IV rate then in effect of $115,700. The Authority continued to pay the Executive Director and the General Counsel at the rates of $122,700 and $121,900, respectively, through March 31, 1998. These rates also exceed the $118,400 Executive Level IV rate that became effective in January 1998.[3] In addition, the Authority made lump-sum payments in February 1997 to the Executive Director and the General Counsel in the gross amounts of $12,500 and $12,000, respectively.

The Authority asserts that the salary increases were based on granting these individuals so-called locality pay. Similarly, the Authority characterized the lump sum payments as retroactive locality pay for the prior 18 months, i.e., retroactive to the inception of the two individuals' employment with the Authority in July 1995.

In addition, in March 1998, the Authority employed an Interim Deputy Management Officer under a temporary employment agreement for a term of approximately 6 months at a salary of $58,500. The Authority indicates that the $58,500 salary equates on an annual basis to a rate of $120,000. Thus, the Interim Deputy

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[1]The Authority identified several individuals as consultants to the Authority under contracts with consulting firms. The Authority has the authority to hire experts and consultants, and to enter into contracts to carry out its responsibilities. The Act, §§ 101(e)(1) and 103(g); and the District of Columbia Management Reform Act of 1997, Pub. L. No. 105-33, Title XI, Subtitle B, § 11103(a), 111 Stat. 251, 731 (1997). As consultants, they are not subject to the limitation on pay of Authority staff provided by section 102. See e.g., B-231565, Nov. 14, 1988, and cf. B-237117, July 12, 1991. Thus, they fall outside the scope of your request.

[2]See Executive Orders No. 12944, Dec. 28, 1994, 60 Fed. Reg. 309; No. 12984, Dec. 28, 1995, 61 Fed. Reg. 237; and No. 13033, Dec. 27, 1996, 61 Fed. Reg. 68987.

[3]See Executive Order No. 13071, Dec. 29, 1997, 62 Fed. Reg. 68521.

Management Officer also is being paid at a rate that exceeds the current Executive Level IV rate of $118,400. The Authority has told us that its justification for this rate is that it also includes some amount for locality pay. The Authority's pay and personnel records, however, do not refer to locality pay for this employee.

In its response to our inquiry, the Authority relied on an August 1996 opinion of the Authority's General Counsel to the Executive Director to justify paying salaries in excess of Executive Level IV.[4] The General Counsel's opinion does not focus on locality pay, but rather on the scope of the limitation provided by section 102 of the Act. The General Counsel states that section 102 adopts terminology from provisions of Title 5 of the U.S. Code applicable to federal civil service employees, such as "rate of basic pay, which are terms of art and refer to base rates, not total compensation." He indicates that the federal pay statutes authorize the head of a federal agency to pay a cash award to an employee based on certain criteria, and that such an award is considered to be in addition to the regular pay of the recipient (5 U.S.C. §§ 4502, 4503, 4505). With respect to locality pay, he states only that there are specific provisions applicable to the federal civil service for payment of locality-based comparability pay under 5 U.S.C. § 5304, and other types of hardship allowances, which are not limited by the rate of basic pay, but rather are adjustments to it. While he recognizes that these provisions do not apply to the Authority, he indicates that they are indicative of the fact that there are several ways to compensate employees over and above their rate of basic pay. Thus, in his view, since Congress used concepts drawn from title 5, U.S. Code, it did not intend to exclude these alternative methods of compensation for Authority employees.[5]

Authority staff advised us that in 1995 and 1996, the Authority had included locality pay in setting Authority staff salaries, but not necessarily in the same percentages

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[4]After receiving the 1996 opinion and meeting with Authority staff, we invited the staff to supplement its explanation of its legal authority. We have not received any additional explanation or analysis.

[5]The Authority provided information showing that in fiscal year 1996, in addition to their salaries, 12 employees were paid bonuses, ranging in amount from $500 to $4,000. The information indicates that none of these employees received a salary at a rate in excess of the Executive Level IV rate then in effect ($115,700), with the employee who received the largest bonus ($4,000) also receiving the highest salary rate ($110,000) of the 12. Payment of these bonuses apparently also was based on the General Counsel's August 1996 opinion. Although the federal statutes he analogizes to do not apply to the Authority, an entity in the D.C. government, there is authority to make performance-based awards to D.C. employees in amounts not exceeding $5,000. D.C. Code Title 1, § 1-620.1.

applicable to federal employees. They also advised us that in later years the Authority has not granted locality pay increases to its employees due to cuts in the Authority's budget. They noted that the Authority has the discretion under the Act to set employees' pay rates without regard to federal civil service laws and rules, and that, therefore, the Authority had the discretion to determine whether and in what amounts to give employee pay increases. They also advised us that they do not consider the Authority subject to the limitation in 5 U.S.C. § 5304(g) that generally limits basic pay plus locality pay for federal employees to no more than the rate for Executive Level IV. To support this position, they furnished us a January 1998 opinion from outside counsel.

We agree with the Authority's contention that it has broad discretion to set the pay rates of its employees. Section 102(c) of the Act provides that the Executive Director and staff of the Authority may be appointed without regard to the provisions of title 5, U.S. Code, governing appointments in the competitive service, and paid without regard to the provisions of Chapter 51 and Subchapter III of Chapter 53 of title 5 relating to classification and General Schedule pay rates, and appointed and paid without regard to the provisions of the District of Columbia Code governing appointments and salaries. We believe, however, that the Authority's pay-setting discretion is limited by subsections (a) and (b) of section 102 of the Act, prescribing the maximum rate payable to Authority staff. For those employees earning less than Executive Schedule Level IV, the Authority's characterization of an employee's salary as including locality pay has no legal or practical consequences. We find no basis for the Authority to use the concept of locality pay to exceed the section 102 limitation.

The plain language of the section 102 limitation does not support the General Counsel's view that the limitation applies only to basic pay. Section 102 states that the Executive Director "shall be paid at a rate determined by the Authority, except that such rate may not exceed the rate of basic pay payable for level IV," and no individual appointed by the Executive Director "may be paid at a rate greater than the rate of pay for the Executive Director." (Emphasis added.) The provision does not limit only the Executive Director's and staff's rates of "basic pay," as the General Counsel reads the statute. Rather, the limitation is on the Executive Director's "rate of pay." Section 102 uses the term "basic pay" only to describe the level IV limit it sets.[6] Since the level IV basic pay rate in effect during the period in question here was initially $115,700, raised to $118,400 effective January 1998, the

[6]The Executive Level IV rate is set pursuant to 5 U.S.C. chapter 53, subchapter II, which establishes the Executive Schedule pay rate system. Adjustments to Executive Schedule rates are authorized by 5 U.S.C. § 5318, but this provision does not incorporate the locality-based increases authorized under the separate provisions of 5 U.S.C. chapter 53, subchapter I, into the Executive Schedule rates.

Authority has paid these three employees "at a rate greater than" the rate of basic pay for level IV.

The General Counsel seeks to justify increasing these employees' pay above Executive Level IV by reference to the federal locality pay system and treating locality pay as a separate payment independent of basic pay. In so doing, the General Counsel overlooks the close connection between basic pay and locality pay.

The locality pay system applicable to federal employees covered by the General Schedule pay system (5 U.S.C. Chapter 53, Subchapter III) and certain other federal employees is established by statute as part of the pay comparability system. One of the principles underlying this system is that "Federal pay rates [should] be comparable with non-Federal pay rates for the same levels of work within the same local pay area," and "any existing pay disparities between Federal and non-Federal employees should be completely eliminated." 5 U.S.C. § 5301. To achieve these goals, 5 U.S.C. § 5303 provides for annual nationwide adjustments to statutory pay schedules, and 5 U.S.C. §§ 5304 and 5304a (and implementing regulations found in 5 C.F.R. Part 531, Subpart F) provide for locality based comparability payments. The specific purpose of the locality payments is to reduce disparities between the government's nation-wide pay rates and nonfederal pay identified in specific localities. The amount of the comparability payment determined to be payable within any particular locality during a calendar year is computed based on statutory criteria, is stated as a single percentage uniformly applicable to covered positions within the locality, and is computed by applying that percentage to covered employees' scheduled rates of basic pay. 5 U.S.C. § 5304(c)(1). Such a payment is considered to be part of basic pay for purposes of retirement, life insurance, premium pay, overtime pay, compensatory time off, standby duty pay, severance pay and advances of pay; and such pay is to be paid in the same manner and at the same time as basic pay. 5 U.S.C. § 5304(c)(2), and 5 C.F.R. § 531.606(b). Except for certain prescribed positions, such locality-based comparability payments may not be paid at a rate which, when added to the employee's rate of basic pay, "would cause the total to exceed the rate of basic pay payable for level IV of the Executive Schedule." 5 U.S.C. § 5304(g)(1).

Implicit in the General Counsel's opinion is that Congress intended the Authority to adopt a pay system under section 102 comparable to that provided for high level officials in the executive branch, such as members of the Senior Executive Service (SES). We recognize that under the federal pay system, SES and certain other executives whose basic pay may not exceed level IV of the Executive schedule receive locality pay. 5 U.S.C. § 5304(g). However, this is specifically provided for by statute, and this statute specifically caps these individuals' combined basic pay and locality pay at executive schedule level III. 5 U.S.C. § 5304(g)(2), (h). In addition, under 5 U.S.C. § 5304(h)(1)(iii), positions under the Executive Schedule (5 U.S.C. Chapter 53, Subchapter II) are not covered by this locality pay entitlement,

although 5 U.S.C. § 5304(h)(2) authorizes the President to make exceptions. Not only is there no basis for the implications raised by the General Counsel's opinion in the text or the legislative history of the Act, but, as explained below, the concept of locality pay does not have meaning in view of the Authority's statutory pay scheme and, in fact, the Authority did not include a locality pay component in its pay system in any systemic fashion.

Unlike the federal pay system, all of the Authority's employees are in a single locality, Washington, D.C. Also unlike the federal system, the Authority has broad discretion to set employees' pay rates without regard to the structured pay schedules applicable to federal agencies. Since the Authority may set pay rates at a level it believes to be appropriate in its locality–and not at a fixed nationwide level–there would never be a reason to adjust pay rates to recognize rates in a local area. Perhaps for this reason the Authority has not been consistent in its use of the concept of locality pay. Our review of a number of employees' pay and personnel records indicated that in setting some employees' salary rates the Authority characterized some amounts as locality pay, but this separate amount was subsequently removed from employee pay records and only the total salary was shown. For other employees no indication appeared in the pay or personnel records that the Authority included locality pay in the pay rate. Also, the information we reviewed did not show any regular increases based on locality pay comparable to the regular increases that occurred under the federal system during the same period, nor does the Authority's written "Personnel Policies and Procedures" refer to locality pay. We conclude that the Authority did not institute a locality pay system in which receipt of such pay becomes an entitlement once the amount payable is determined for a particular locality under the statutory guidelines. Instead, the Authority considered locality pay a discretionary item to include or not include as it chose in setting an employee's salary.

In any event, the fact that employees did not receive locality pay in some years and some employees did not receive it in any year casts doubt on whether the Authority actually had a locality pay system in place. Instead, the Authority used locality pay as a separate increment of salary as a basis for increasing the Executive Director's and General Counsel's pay, and then later for establishing the salary of the Interim Deputy Management Officer, beyond the level IV limits.[7]

The General Counsel's view, and the Authority's implementation of it, has the logical effect of emasculating the section 102 limitation. The Executive Schedule is not adjusted for locality pay and the basic rate of pay of the Executive Levels increases only in accordance with specific authority in title 5, United States Code.

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[7]Compare 68 Comp. Gen. 363 (1989); and B-205284, Nov. 16, 1981, concerning compensation of Tennessee Valley Authority executives.

Yet, by making retroactive payments, the Authority in effect increased the Executive Level IV limitation of $115,700 as soon as it became effective on the Authority in 1995. Because, under the Authority's argument, there is no constraint on the amount the Authority denominates as locality pay, the Authority, in effect, could exceed the section 102 limitation to an extent that makes the limitation meaningless. Nothing in the law or its legislative history indicates that Congress intended for the Authority to be so unrestrained in paying salaries to its officers and employees.

In conclusion, we believe the Authority violated the section 102 limitation when it increased the salaries of the Executive Director and General Counsel beyond the level IV rate, made the retroactive payments in February 1997 to, in effect, increase their pay retroactively for their first 18 months on the job[8], and set the Interim Deputy Management Officer's salary at a rate that exceeds level IV.

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[8]Although the Authority designated these payments as retroactive pay for pay periods in fiscal years 1995, 1996 and 1997, they were made in a lump sum apparently entirely from funds appropriated to the Authority for fiscal year 1997.

PAY OF CHIEF MANAGEMENT OFFICER

The Authority advised us that its Chair, with the approval of the Authority, appointed an individual to the position of Chief Management Officer in January 1998. The Authority specially created the position to assist it in carrying out the additional responsibilities enacted by the District of Columbia Management Reform Act of 1997, Pub. L. No. 105-33, Title XI, Subtitle B, 111 Stat. 251, 730. The Authority's agreement with the Chief Management Officer provides for a five year term with an annual salary of $155,000, eligibility for a bonus after one year in an unspecified amount, payment of $25,000 over a mutually agreed period to reflect retirement benefits she forgoes by leaving her previous employment, and the sum of $12,000 to cover "transitional expenses," including moving and transitional housing in Washington, D.C.. In addition the Authority agreed to contract with the ICMA Retirement Corporation to provide her a "defined contribution of $25,000 per year or ten percent of total compensation, whichever is less, and deferred compensation of up to $8,000 per year."

The Authority staff advised us that they believe the Management Reform Act of 1997 provides authority for the establishment of this position. They base this opinion on the fact that the Management Reform Act places additional responsibilities on the Authority Chair or his "designee" which they state means that the Authority may create the position in question and appoint an individual to serve in the position. They assert that Congress understood that the new statutory responsibilities would require the appointment of a Chief Management Officer and it would be necessary to pay the market rate to obtain a person with the requisite skills and experience to fill the position. They also indicate that because the Authority, not the Executive Director, appointed the incumbent, and because she reports to the Authority, not the Executive Director, she is not a staff person subject to the limitation on pay in section 102 of the Act since the limitation applies only to personnel appointed by the Executive Director.

The provisions of the Management Reform Act of 1997 to which the Authority staff refer as authority for the Chief Management Officer's position are found in section 11104. This section establishes management reform teams to implement management reform plans for the District of Columbia. Section 11104(a) provides that these teams shall consist of (1) the Authority Chair "(or the Chair's designee)," (2) the District of Columbia Council Chair "(or the Chair's designee)", (3) the Mayor "(or the Mayor's designee)," and (4) with respect to plans involving a specific department, the head of the department involved. While section 11103(a) specifically requires the Authority to enter into contracts with consultants to develop the management reform plans required by section 11104, the Management Reform Act contains no provision creating a new position to be filled by the Chair's

"designee," nor waiving the pay limitations provided by section 102 of the 1995 Act.

In our view, the common understanding to be afforded to the Management Reform Act's reference to "designee" is that the Authority Chair may be represented on the management reform teams by someone of his choosing rather than performing the related duties personally. The use of a "designee" is a common device that gives a high level official the flexibility to perform certain duties through a subordinate rather than performing the duties personally to the detriment of other required duties and responsibilities. In this regard, the Act provides the authority to have a "designee" on the management reform teams not just to the Authority Chair, but to other high ranking officials of the District - the Mayor and the Council Chair. We do not agree that by providing that the explicit authorization of the Authority Chair to participate in the management reform teams through a "designee" authorizes the Authority Chair to establish a position for his designee that pays a salary exceeding the specific pay limitation applicable to the Authority under section 102. Finally, we found no reference in the legislative history of the Management Reform Act, nor has the Authority referred us to such, indicating that Congress created (or authorized the creation of) a new position free from the level IV pay limitations applicable to Authority staff members.

The Authority reasons that it avoids the pay limitation by creating a position filled directly by, and reporting to, the Authority, rather than appointed by the Executive Director with the approval of the Chair. The implication of this view is that the Authority may create positions, directly appoint the staff to fill the positions, and pay them without regard to any limitation, in effect rendering the section 102 pay limitation meaningless. Obviously, this would be contrary to Congress's purpose in enacting section 102. In our view the reference in the 1997 statute to a designee to whom the Chair may delegate certain functions or duties is not sufficient to overcome the specific pay limitation in the original statute establishing the Authority and providing for the appointment and pay of an Executive Director and additional staff.[9]

Since the Authority's budget currently is under review, the appropriations process for fiscal year 1999 provides an opportunity for Congress to consider whether the appointment of a Chief Management Officer with pay and benefits in excess of the limitation provided in section 102 of the Act is desirable, and if so, to enact additional legislation to specifically so provide. However, in the absence of such

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[9]To adopt the Authority's position in this regard would, in effect, require construing the provisions of the Management Reform Act to impliedly amend the section 102 pay limitation provision. Amendments of statutory provisions by implication are not favored and will not be upheld in doubtful cases. See Sutherland, Statutory Construction, Vol. 1A, § 22.13, (5th ed. 1991).

legislation, the pay arrangements the Authority made with the Chief Management Officer are contrary to section 102 of the Act.[10] 5 U.S.C. § 5304(h)(2)

[10]In addition to the Chief Management Officer's $155,000 salary exceeding the section 102 limitation, certain of the other benefits the Authority agreed to provide her such as the $25,000 payment to reflect lost retirement benefits from her prior employment, the contract with ICMA Retirement Corporation for a contribution of $25,000 or ten percent of total compensation, and deferred compensation of up to $8,000 per year may be viewed as pay supplements in violation of section 102. See Supplemental Retirement Benefits of President of Radio Free Europe/Radio Liberty, Inc., 72 Comp. Gen. 321 (1993).

STATUS OF EFFORTS TO CORRECT SALARY OVERPAYMENTS

Mr. TAYLOR. Now, does this budget contain provisions to reduce the pay of those staff who are being paid more than the law allows and to secure from these individuals a repayment to the taxpayer of the excess salary?

Mr. BRIMMER. I will address that, Mr. Chairman.

First, the GAO report is not reflective of the actual situation. There were two main points made by the GAO, the general counsel of the GAO, in his opinion to this Committee. First, it asserts that the Authority had no legal basis for appointing a chief management officer or for paying the chief management officer compensation in excess of the rate for the executive level rate four.

That is an interpretation that is in error. I have responded to those comments in some detail.

The key point is that—and I will submit a copy of my statement for the record, along with some additional material.

NEED FOR CHIEF MANAGEMENT OFFICER

It was clearly understood when Congress transferred to the Authority the oversight of the nine departments and the four governmentwide functions that we would need administrative assistance in carrying out those responsibilities. I said so in hearings. I said so on the day of the signed order and said we would proceed promptly to recruit such a person.

The Congress took note of that, of the need for such a person. In the Appropriations Act for fiscal 1998, adopted by the Congress in September, 1997, there is a statement which said that up to $8 million of appropriations was to be used to cover part of the cost of management reform and the activities of the CMO. And that has been documented. And at least on the Senate side last week I asked the Chair of the Appropriations Subcommittee whether our recollection and our reading of the record was correct. He said, yes, and he invited me to provide a recommendation for legislation to make certain that it is done, and we were asked to supply drafts of that legislation, and we are doing it.

I have also said that we would recruit nationally for that position and we would be prepared to pay competitive compensation. That is exactly what we did. That is exactly what we had to do, and so that is the position with respect to the CMO.

LOCALITY PAY FOR EXECUTIVE DIRECTOR AND GENERAL COUNSEL

The GAO also made the statement that said, we, the Authority, did not have any basis for providing locality pay which resulted in a payment to the executive director and to the general counsel at rates above the rate four. Actually, the reference made by the GAO, in effect, amounts to modifying the reference in section 102 of the statute, which reads, the executive director shall be paid at a rate to be determined by the Authority, except that the rate—that it may not exceed the basic rate of pay that is payable to level four.

Actually, what the GAO did, in effect, was to take "basic rate of pay" and read it as "aggregate compensation," and that is not correct. If you look at the ultimate source of the reference which the GAO adopted in its letter, you will notice that—and this is from

the civil service regulations—that "aggregate compensation" is composed of several components, of which basic pay is only one. It is the most important piece. It is the first piece cited. But locality-based comparability pay—you must read the whole thing. Locality-based comparability pay—that is the second item, sir—then a whole list of others.

So in administering the compensation of employees at the Authority—and this is my responsibility. I have administered that compensation policy on the basis of providing competitive compensation, compensation necessary to enable us to attract the level of skills and competence which we feel are needed to help carry out our responsibilities.

COMPENSATION FOR EXECUTIVE DIRECTOR AND GENERAL COUNSEL

So when I reviewed the position of the executive director and the general counsel with respect to compensation I focused on aggregate compensation, not just base pay. And in that regard—and the documentation shows it was entirely in keeping with the best, not just good, but the best of compensation practices, not only in this neighborhood but nationally.

So, Mr. Chairman, I do not accept the GAO's argument. I feel in both cases, with respect to the CMO and with respect to comparability pay and notice, comparability pay was to narrow—the purpose of it in the Federal statute was to narrowly get between compensation for comparable positions in the private sector and positions in the Federal Government. It had nothing to do with geography. It had to do with the gap between the compensation in Federal—the Federal job and in the private sector.

In that regard and in that framework, the decisions I made were entirely in keeping with, and help to carry out the purpose of the statute.

Mr. TAYLOR. It is your case and you are sticking to it, I know.

NOT FIRST TIME CONTROL BOARD IGNORED LAW

This is not the first time that the law has been ignored since I have been on this Committee, and I can appreciate the fact that it may be changed in the future and that it might be competitive. But I am going to ask our Committee to investigate it. I would like to ask your counsel to appear with the GAO and this Committee and look at it, and we will take whatever action we think is appropriate. Because all of us take an oath to obey the law, and if we interpret it in a way that flaunts it, then that is a serious consideration.

Mr. BRIMMER. May I add one point? In my written statement, which I will share with the Committee, we also had not just the view of our inside counsel but the matter was referred to an outside law firm, and there is an opinion.

What I would like to do is to offer the Committee the entire package of the legal position, our counsel's opinion with substantial documentation and the outside counsel, our own outside counsel's opinion.

OUTSIDE COUNSEL OPINION REQUESTED AFTER DECISION MADE

Mr. TAYLOR. Did you get that opinion before you broke the law or was it after?

Mr. BRIMMER. I did not break the law.

Mr. TAYLOR. I will keep that in parentheses.

Mr. BRIMMER. The outside counsel opinion came later.

The basis on which I made my decision, not only the written opinion but the documentation, and I want to stress this, this was not a frivolous, spur-of-the-moment decision.

[**CLERK'S NOTE**.—High level government officials such as Assistant Secretaries, Chief Financial Officers, Inspectors General and Chief Information Officers of the major departments of the Federal government are paid at Executive Level IV. The General Counsels of the executive departments of the Federal government also are Executive Level IV positions. They do not receive locality pay because there is no explicit statutory authority for those positions to receive locality pay. Similarly, there is no explicit statutory authority for control board personnel to receive locality pay.]

Mr. TAYLOR. Mr. Brimmer, we have a lot to move ahead on, and I will certainly withhold judgment until we get the report from your counsel as well as any reports you have here as well as GAO and anything else on that issue.

MANAGEMENT IMPROVEMENT—POOR RETURNS

While the budget does make some progress, it seems that increases in spending are automatically categorized as "management improvements". Is this a euphemism for we are going to spend a lot more? Because, in looking at the improvements, which, by the way, are piled on many years of improvements since we have been here in the last 3 years, and yet the returns versus what we spent for management improvements are minuscule compared with what is being spent for that efficiency.

One thinks you can put a dollar in and get a hundred times or ten times or something, but when you put a dollar in and you get 10 cents for efficiency, it is going the wrong way, isn't it?

Mr. BRIMMER. I would not characterize the process as you do.

First, I would ask the Chair to recall while we were already engaging in a series of efforts to improve management and productivity we were mandated by the statute in the summer of 1997 to engage outside consultants to undertake a program of management reform using consultants. We carried out the law, as required by the Revitalization Act. We did that.

SURPLUS FOR MANAGEMENT IMPROVEMENT AND DEFICIT REDUCTION

As a result of that, we got a series of recommendations from the consultants. The mandate to us was take actions to implement the management reform plans and that is what we have been doing. And let me assure you—and we said that if you permitted us to use some of the net benefit from the Revitalization Act which had been forecast, we would use some of it to improve management and use some to reduce accumulated deficit. That is going forward.

FINANCIAL MANAGEMENT SYSTEM

Mr. TAYLOR. Let me ask you—and we had this conversation last year—you are asking for $43 million for financial management

computer systems. Against my better judgment and others, we allowed the control board to go forward last year with $26 million for the District's financial management system. At that time, we were told everything was set and that it would be—that was all of the money that was required.

Now, have you spent the $26 million? And what is this $43 million? Are we going back over the same tier?

I am for efficiency, but you all are running it into the ground, it seems like.

Mr. BRIMMER. Mr. Chairman, you recall our discussion of the Financial Management System. That is the FMS system. That is a separate operation, and it is already under way. The plans are under way.

I have a report here on the status of those. I will submit that report for the record.

[The information follows:]

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Chief Financial Officer

June 18, 1998

Mr. John W. Hill, Jr.
Executive Director
District of Columbia Financial Responsibility
and Management Assistance Authority
One Thomas Circle
Washington, DC 20005

Dear Mr. Hill:

As requested by the District of Columbia Financial Responsibility and Management Assistance Authority in preparation for Dr. Andrew Brimmer's upcoming testimony, the following information provides basic data on the current status, schedule, and funding for the ITS and the FMS Projects.

Financial Management System (FMS)

Current Status: The FMS is currently on target with its design, development and implementation (including successful implementation in 5 pilot agencies) plans. The FMS Staff with the prime contractor, KPMG Peat Marwick, have developed complete "As Is" and "To Be" models for the District's overall financial operations and practices (see Attachment 1-FMS). These models incorporate world class practice standards and are the basis for the system design. Initial work on FMS began in mid September 1997, with initial pilots systems launched in February 1998. System interface work is scheduled to be completed by August 1998, and Performance Budgeting components should be ready by September 1998. In operation, the FMS will provide standardized, coordinated and reliable financial management capabilities including accounts payable, accounts receivable, general ledger and budget execution. District agencies, with FMS, will be able to effectively manage their finances and provide timely and accurate reports to appropriate authorities.

Schedule: Implementation of the system through the remaining 35 District agencies is continuing; this final effort will capture the financial management and accounting systems for the entire the District Government. This work will be completed

by October 1, 1998 and work is progressing according to schedule. The Project staff is concurrently developing interfaces with the procurement processing systems and the payroll and personnel processing systems. This interface work will also to be completed by October 1, 1998. Fiscal Year 1999 Budget data will be loaded into the new system for the Office of Budget to use in tracking and controlling spending during the year.

Funding: Funding authority for the FMS Project was initially approved by Congress in the amount of $28.0 million. Actual funds to date have been acquired through General Obligation Bond sales by the District. The FMS Project is scheduled to be complete in 5 years ending in FY 2002. Initial estimates of basic contract costs were in the range of $26.0 million with the remaining amount allocated to Project Management and staff administration. Capital Funding for the Project was approved in the FY 1997 budget ($25.3 million) and 1998 budget ($26.1 million). Since 1997 some $14.0 million have been encumbered with $8.2 million expended.

Integrated Tax System

Current Status: The Request for Proposal for the ITS was issued by DCFRMAA on February 5, 1997. One vendor, Andersen Consulting, responded with an Initial Proposals by March 4, 1997. Andersen Consulting conducted a detailed review of operations within the Office of Tax and Revenue and developed a Final Proposal based on that review which was submitted on September 19, 1997. Following Source Selection approval and DCFRMAA review, Initial Contract Discussions with Andersen Consulting began on December 2, 1997. Due to Andersen Consulting concerns about benefits-based funding mechanisms and risk exposure, the course of discussions was delayed while back-up funding was secured for the District through the Management Reform Plan (now included in the FY 1999 – 2004 Capital Improvement Plan).

The initial contract approach provided for project funding based on financial benefits generated by the project itself, with a 'Time and Materials plus a Cap' format to determine actual costs. The Office of Tax and Revenue requested a delay in the negotiation process to validate action to date. The Internal Revenue Service was invited in to conduct a program review. Senior IRS Procurement executives favorably reviewed and endorsed the ITS Procurement Process and progress made through May 1998 and offered additional advice.

Based on that advice, ITS is pursuing an Indefinite Delivery/Indefinite Quantity (ID/IQ) contract form to minimize risk for both parties, and to provide enhanced project management capabilities (e.g., task orders approach, smaller project components, flexibility) to the District. Based on IRS recommendations, the Project is pursuing contract discussions with an Integrated Project Team. This approach includes all interested and relevant parties, including the vendor where appropriate, to establish clear scope and requirements as well as a foundation for a formal contract agreement. This approach is consistent with relevant DCMR and Federal Acquisition Regulation procurement standards and principles and retains both performance based and benefits funding characteristics.

Schedule: All preliminary and preparatory work for ITS has been completed by the Project Staff including Business and Acquisitions Strategies as well as System Requirements Definitions (See Attachment 2 - Integrated Tax System). The IPT has been formed and a basic contract template, which is currently undergoing internal legal review, has been completed by ITS and OTR staff. Formal contract negotiations with Andersen Consulting are scheduled to resume on July 6, 1998. Contract discussions should be complete by August 30, 1998. The ITS Project Staff, OTR and the vendor are poised to begin work as soon as a contract is completed and approved.

Funding: FY 1998 funding for the Project ($15.7M) has been approved as part of the FY 1999-2004 Capital Improvement Plan as designated Project CA – CSP 04. Lifetime authorization for spending is $83.4 million over those 5 years. Initial funding to support contract discussions and to improve initial vendor cash flow has been approved by the District of Columbia Financial Responsibility and Management Assistance Authority as Asset Management Project AM –12.

Please do not hesitate to contact me should you require any additional information.

Sincerely,

Earl C. Cabbell
Interim Chief Financial Officer

Enclosures

FMS ON "VERY CLOSE SCHEDULE"

Mr. BRIMMER. Let me summarize it quickly to say that that part of the plan with respect to the Financial Management System is under way. It is being prosecuted very vigorously, and it is on or very close to the schedule.

Mr. TAYLOR. Does that mean that you spent all $26 million?

Mr. BRIMMER. The expenditures are being made as the program proceeds.

Mr. TAYLOR. When did you find that you were $43 million off, when you said that the $26 million was all that was required, that it would fix the problem?

MANAGEMENT REFORM FOR COMPUTERS

Mr. BRIMMER. Mr. Chairman, the money for the management reform for computers and so on are not the same project that you and I have just been discussing.

Remember, this applies to all of the departments and all of the cost-cutting functions. In virtually every one of the management reform recommendations the consultants found efficiencies with respect to computers, communication equipment; and the money for management reform is being used to finance those activities.

FUNDING FOR Y2K PROBLEM

Let me give one example which was clearly not focused on here last year, the so-called year 2000 problem with information systems. The District is far behind with respect to trying to resolve that problem. It is going to cost a lot of money. We have something in here now, at least $10 million. Mr. Chairman, these systems permeate the whole District. There is virtually no aspect of management that can be implemented today without adequate systems. We have to spend money on that.

Mr. TAYLOR. Our investigation showed last year that it would be pouring money down a rat hole because the invoice and vouchers were being stuffed into drawers. It wasn't a computer problem at that time.

And what you are saying now, "we spent $26 million, and we have another $43 million for the financial management computer systems, and we don't know whether that will bring us any closer."

If you follow the investigation that we had last year, it won't. Next year, it will be $70 million. That is something that we want to get more information on certainly, and you can send it at another time because it is difficult for us to analyze all of it here at one sitting.

Mayor BARRY. In that regard, conceptually to separate out the Financial Management System, which is a calendar-keeping track of money and the control system from the technology infrastructure, we have a number of computers that are old, antiquated. They don't talk to each other. A lot of the money is going to hardware.

Mr. TAYLOR. It is not a Financial Management System, it is for anybody else that has a computer?

Mayor BARRY. Not anybody. What happened is we had a Management Reform Committee on IT, the technology, and the Chair

will recall Council Chairman Ambrose went through in great detail. And, believe me, no one is as critical about this money as I have been, and we do have a need to move into the 21st century, and it does include the delivery of services.

TRAINING FOR EMPLOYEES

Mr. TAYLOR. I can tell you from personal experience, you can spend whatever you want to and you can't make me productive on a computer because I missed that generation and I am just hunting and pecking on the computer keyboard. So if we spend $43 million and we have not trained the people, we have the same procedures, the same systems, and then expect that we are going to be having efficiencies. It would be futile.

Ms. CROPP. That is the issue. That is the management reform that we are talking about. That is the very crucial part that we are talking about. When we did the management reform, if you look at that, one important element that goes through everything, we had to retrain our work force if necessary in order to improve the service delivery. You are absolutely right. It is a component of it, and all of that is included in the management reform. We haven't had training.

Mr. TAYLOR. Then you wouldn't be against my sitting on this for another year, the $43 million, while you trained the employees on the existing computers?

Y2K PROBLEM

Ms. CROPP. We have another problem, Mr. Chairman. We have that year 2000 problem that is coming up, and all of the dollars that are invested in the IT—quite frankly. I was shocked to find the amount of dollars that needed to be invested for us to deal with that. If we sit off of that, if we don't do anything with that, not only, quite frankly, will the citizens suffer, but so will our whole transportation system with all of our streetlights. That will all be impacted when none of our streetlights work.

I would like to refer you, and if we have another opportunity even beyond this hearing, to the management reform that we did—and, again, this was a consensus effort between the Mayor, the Council and the Financial Authority. I submitted our committee reports for the record. I would like the staff to look at the committee reports, and it will show how the Council even reduced it because of those things that could not be done that were needed in management reform. But this is for service delivery, for us—to bring us into the world so we can do those things that you have always said that we need to do in the District of Columbia.

Mr. TAYLOR. I need to go on with this. I want to recognize, though, the Delegate from the District of Columbia, Congresslady Eleanor Holmes Norton, and I would also like to recognize City Council member, Hilda Mason.

Ms. MASON. Right here.

RESIDENCY REQUIREMENT FOR EMPLOYEES

Mr. MORAN. Should we start with the residency requirement? We have been trying to develop, in perception and reality, a construc-

tive, cooperative relationship with the District of Columbia, particularly among the suburban members, whether it be Tom or Stephanie, Al, Connie, Frank. And this is the kind of thing that erodes that constructive relationship.

Now, if you were going to get it, it still might make sense. But I will buy you lunch, the three of you, if you can get this residency requirement enacted. I feel that strongly. I know that you are not going to get it. In fact, we will let Marion pick the restaurant because he knows the restaurants, the most expensive ones. But it is not going to happen, and that is really the problem with it.

I think it sets a very bad precedent, in addition to eroding the kind of constructive relationship that we are trying to establish.

The numbers that you read off, Dr. Brimmer, of the number of people who have left the District who were working for the District and where they went, that correlates exactly with what has happened to the middle class in the District of Columbia. And as you know, they are leaving because they want better schools and safer streets, and that is what it is all about. And for the most part they are going to Prince George's County. Some are going to Virginia but not so many that it is going to have any real impact on us or our society.

I don't want to represent their interests, and I believe people should be able to live where they want, and it is not going to make that much difference. But it is going to make a difference to the District of Columbia, because our principal objective, it seems to me, has got to be to get the best possible people working for the District of Columbia. And every time you foreclose their options, you make it more restrictive, more difficult to work for the D.C. government, you limit the number of people, the pool from which you want to attract the best people.

I am sure that there are a lot of people that have now bought homes in the suburbs who are going to look for alternatives to working for the D.C. government if this is passed. I don't really blame them, and I don't argue with your ultimate objective. We have that objective.

I will use Alexandria for example. When we approve a major residential project, we get the developer to set aside a certain number of units at subsidized sales prices I am suggesting it to you, but we do it in Alexandria.

For people who work for the Alexandria Police Department, if you live in one of these residential developments, you can buy a home for $100,000 versus $160,000. A great deal. The developer is happy. We made it as part of the contract anyway, so we have the same objective. We want people working within our jurisdictions, but we feel very strongly it would be counterproductive if we use the stick approach rather than the carrot.

RESIDENCY PROPOSAL APPLIES TO FUTURE EMPLOYEES

Mr. BRIMMER. First, the legislation grandfathers everybody currently on the payroll. It would apply only to future employees. It would be so that those who are currently employed and living outside of the District would not be required to move into the City.

Next, I shared with you the result of the first piece of the puzzle. I asked staff to examine this question. The other piece was prac-

tices in the surrounding jurisdictions. I have not gotten all of the results. But the first permutation, and it ought to have some variation with a new mayor, what was the requirement in Alexandria? Did the city have a residency requirement?

NO RESIDENCY REQUIREMENT IN SUBURBS

Mr. MORAN. Absolutely not. We had incentives like I just described, but no residency requirement. And none of the suburbs have a residency requirement. So you would be the only one with a residency requirement. Just like when you put restrictions on housing, you discourage people. You limit the number of people that you are able to recruit from, and that is why I oppose it, really. It is not going to affect my district.

DISTRICT EMPLOYEES WHO LIVE IN DISTRICT

Mayor BARRY. Congressman, one thing is when you look at the numbers of people who live in Maryland and Virginia, without being scientific, the great majority have never lived in the District.

Mr. MORAN. How do you know that? It seems to correspond with residency.

Mayor BARRY. Because I have looked at a number of records. Police officers have the lowest numbers; 31 percent live in the District. I know that from following it over the last 16 years. We had residency, but there were police officers who never lived here, and once it was taken off and new ones came in, they never lived here. Chicago——

Mr. MORAN. But Chicago is a much bigger city.

Mayor BARRY. It has to do with people's interest in working. When we had it, we did attract the best and brightest. You may not think so, but——

Another thing, Congress would have to pass it in the House and the Senate and be signed by the President, and we certainly shouldn't allow the President to veto this. So somebody should lose this bet.

Mr. MORAN. I would be shocked if it goes through.

STATE ASSISTANCE TO CITIES

Ms. CROPP. Congressman, if I may add, when you talk about Alexandria and you were saying that Alexandria did not have workers there, a residency requirement, and they may live in Fairfax. When I talked about this issue, when they live in Fairfax, they are still paying taxes to the State of Virginia. So Alexandria still benefits from those workers.

People who may live in Baltimore, if they don't have—work in Baltimore, they may not have a residency requirement if they live in Baltimore County or Howard County or Montgomery County, but they still pay taxes to the State of Maryland and, therefore, Baltimore City benefits.

The same with Richmond. I bet in Richmond you will find many people who work in Richmond and live outside Richmond, but they live in Virginia and Richmond benefits, and Richmond has an urban population that is older, sicker and poorer.

And Philadelphia, if you work in Philadelphia and if you live outside of Philadelphia, you have to pay part of your taxes to Philadelphia to offset their cost. You pay part of it, and you can still live where you want, but you have to pay something where you work.

More than 50 percent of our workers live outside. And when they move outside, unlike these other jurisdictions, they are not moving into a State that still gives the city money. They move into the Commonwealth of Virginia or the State of Maryland, and we get absolutely nothing, and that is what it is all about.

Mr. MORAN. They should be paying taxes where they are sending their children to school and where they are most reliant on public safety, because those are the greatest public expenditures.

Mayor BARRY. Do you support a tax on D.C. employees?

Mr. MORAN. I think the argument is less compelling in opposition to that. I think the principle still holds. I don't want to Balkanize the metropolitan region.

PER CAPITA EXPENDITURE—MISMANAGEMENT

[See Appendix, pp. 743–897, this volume, for copy of report "The Necessity and Costs of District of Columbia Services."]

You have a $5 billion expenditure. You have 500,000 people. That is $10,000 a person—per capita. You say we are maintaining a State and local government. The $10,000 per capita is more than any other jurisdiction requires. It is the greatest infusion of public funds. And not only do I not think that either a residency requirement or commuter tax is a silver bullet to the problem, but I think they expose you to further criticism that the money isn't being well spent. And that is the principal reason that you are not going to get a commuter tax, because the suburbs don't trust that the money is going to be spent effectively, at least at this point in time.

TRANSPORTATION TAX

I think you would be better off with a regional transportation tax. A gas tax would benefit the District of Columbia, because you can rely on the Metro system, and the Metro system would greatly alleviate your other expenditures if we can find a regional source to pay for that.

Also roads—roads are a service that people outside the District of Columbia use. There was a proposal to pay for those. I think you can justify doing that. This 400 miles of main roads out of a total of 1,100—you could make a legitimate case that there ought to be more Federal compensation for the maintenance of the District's road and bridge system.

But you are going up—these aren't going to work, the residency requirement and commuter tax. I know that we have taken up a lot of time. I had a lot of other issues. I had a suspicion that if I brought this one up, it would take more than 5 minutes.

PHILADELPHIA RESIDENCY REQUIREMENT

Mr. TAYLOR. We asked the mayor of Philadelphia last year when he was here if he had a residency requirement, and you mentioned it is not exactly that. He said yes.

One of the things that he said, if your city police go home and they experience the same things, such as crime, it will serve as a motivation for them to protect their own kids at the same level that we want all of our kids protected. That is what I was saying. It is more than just money. I think it helps build the city, but we will have this debate, Jim and I and the whole committee, and we will act on the issue.

I would like to yield to Mr. Cunningham.

Mr. CUNNINGHAM. Thank you, Mr. Chairman.

It is an interesting issue. I am surprised that there isn't a constitutional problem with that kind of requirement, as they have in other cities. Maybe there is not.

REASONS PEOPLE MOVE FROM CITIES

But Mr. Moran made a statement which I happened to agree with. When we take a look at a lot of different inner cities—Los Angeles, Chicago, New York—a lot of times people flee out of the area because the schools have declined. And the crime and drugs also forces businesses out, which forces your jobs out, which means that there are more crimes and more poverty. And that is a self-contained system that I think we have tried to eliminate in the welfare reform bill. But let me speak to a couple of things that I think can help.

SPECIAL EDUCATION PLAN

I sat as chairman on the K through 12 education two Congresses ago, and I puffed out my chest when the President signed the plan for special education. But I did that in parentheses because—I don't know if you have ever tried to take two cats that don't like each other and put them in a hot car together. That is kind of like it was, taking the parent groups and the school groups together to try to bring together a compromise to get through a special education bill.

We know that special education costs the schools too much. The problem is that every day a parent, thinks they are going to have a little homecoming queen or a football star or academic champion, all of a sudden is forced into a situation where their child is physically or mentally handicapped. And that is a very emotional thing.

SPECIAL EDUCATION—ATTORNEY FEES

The special education issue is very contentious. The intent of the bill was for better education. I didn't want lawyers to be there when the parents met with the school for the first time.

What I wanted is a parent group to come to the school for the first time and sit down and talk and say, can you help my child without a lawyer, and see if they could work it out. But, unfortunately, that doesn't work. And I found out since we signed the bill that the lawyers are presigning them up with the activists and circumventing the whole issue. I don't know how we can help you, but it is not just your problem, it is a national problem.

Mayor BARRY. We all want the best education for our children, regardless of their condition. But after the evaluation, after the

50th day, on the 51st day they are lined up at the door requiring the expenditure of thousands of dollars in legal fees——

Mr. CUNNINGHAM. And they usually sue for five or six items, and they usually only qualify for one. I understand.

Ms. CROPP. They go to the school. They are waiting outside of the school.

21ST CENTURY CLASSROOMS ACT—UPGRADING COMPUTERS

Mr. CUNNINGHAM. I know. There is an area where I think you can help yourself. I also puffed up my chest—the President signed in his budget the 21st Century Classrooms Act which allows businesses to give computers to the school.

But what we do in California, we use a nonprofit; and it serves two purposes. The business gets a tax break. The school computers go to Detweiler. They use the prison labor to upgrade those computers, so it teaches the inmates a skill, and then the school receives that computer ready to plug in.

I understand that you have a problem with the infrastructure, the wiring and the cables. That is something to look at. We have the Detweiler program now in 29 States, and it is working well, and it will enable us to give upgraded computers. I am trying to get California on a rotational system where business turns it over every 2 years so we keep upgraded computers in our school system. That might be something that you want to look at for your schools.

DAVIS-BACON—STEALS FROM CHILDREN

Something else I would recommend—maybe in your politics, just like Mr. Moran says, you can't do this. But Davis-Bacon steals from our children. Here is my wallet. Without Davis-Bacon, there is 35 percent more money in there for your schools to build them and repair buildings. I think you would grab it. If I offered you two wallets, one with 35 percent more and one with 35 percent less, if you can help us waive Davis-Bacon just for school construction you get the wallet with 35 percent more. That will help. The unions will hate it and fight us.

OFFER TO VISIT SCHOOLS

I will help you. I live right down on the waterfront. I offered in the past to visit your schools, and I have yet to get a single request to do so. My wife is a principal. I was a teacher in high school and college and a dean of a college, and I would love to go into those schools and sit with the children.

Let me empathize a little bit. And I say the $10,000 per capita, when you have a system that you are building from the ground up, you need a certain amount of money. But when you have a system that you have to tear down and build up, you may need a little more money, if you understand what I mean, because of the neglect. Not a lack of investment, but a lack of wise investment. It is the same reason why we have a concern about putting brand new computers in without trained people to use them. They are going to sit there, and they are not going to bring the productivity and the better investment. I think we have come a long way in the last 2 years.

TRAINING AND COMPUTERS

Mr. BRIMMER. May I say quickly, the funding says computers, but it also includes training. A substantial part of all of the management reform expenditures we are making reflects accumulations of human capital and training.

Mr. CUNNINGHAM. Let me say two things. One, if I hire somebody, I am going to make sure that they are computer literate so I don't have to make that investment.

Secondly, I supported Eisenhower grants to bring teachers up to a higher level. Because if I want a teacher to teach a child in the 21st century, she can't teach at her present level. But my wife does it on her own nickel. She says I want to be more professional, so there is a curve there also.

Mr. BRIMMER. Aside from the physical infrastructure is training the teachers. So we are supplying substantial detail.

Mr. CUNNINGHAM. My time has run out, but one of the issues before the Senate right now, which I saw in the papers, is, in some ways, unfortunate, the tobacco legislation. We see it as an increase in tax and making trial lawyers rich.

DRUG AND SMOKE-FREE ZONES IN SCHOOLS

But is the school system—Mayor Barry, are you doing things to make sure that you have tobacco—I see young kids smoking around the schools. I don't smoke. My family doesn't smoke. You don't smoke in my house or car. I believe in the right to smoke but not in the schools or around kids.

Are they doing anything for drugs and tobacco, and I include tobacco as a drug, in those free zones? If we want to focus as a nation on things, I remember when we used to throw papers out as a kid. The country was shrouded with paper. Now you throw a piece of paper out, and I bet somebody is going to honk their horn and scream an obscenity. It is an attitude change.

I would like to see the schools focus on drug and smoke-free zones, and I include tobacco. I don't want tobacco ads or alcohol ads that focus on kids.

Ms. CROPP. We have legislation before the Council now—and, in fact, I introduced one piece of it that deals with that issue that you are talking about. We hope to have hearings fairly soon, and we are working with children's groups and with the schools in order to get the appropriate information. We have had a lot of research done on that, and we hope that the legislation will be passed fairly soon.

Mr. CUNNINGHAM. I thank the Chairman.

Mayor BARRY. Just yesterday I was at a press conference in southeast Washington where the community had gotten the majority of merchants to voluntarily agree not to sell cigarettes to anybody and cigarette papers and other things, butts of cigars that they make cigarettes out of, and we launched a major campaign last fall against smoking among teenagers.

Also, we have a moratorium on certain classes of liquor licenses. We have tried to stop the proliferation of Class B licenses.

Mr. CUNNINGHAM. The San Diego Chargers talk to kids at every event about staying away from drugs and smoking to the sports

athletes—and not just the sports athletes but the academic athletes as well. I support those kinds of programs that go into the schools, because kids listen to them better than they listen to their parents. I know that with my own two daughters.

Ms. CROPP. Teenagers are God's way of helping us let go of our children.

1,330 INCREASE IN NUMBER OF EMPLOYEES IN FY 1999

Mr. TAYLOR. It is my understanding that the District continues to employ far more employees per capita than any other city or county and State in the Nation. We have 30,000 more or less. And, in fact, our numbers show that most of the reductions have been as a result of transferring functions to the Federal taxpayer or off-budget to enterprise funds. I am astounded that the District's population is dropping and you come to us with a request to increase city employees by 1,300. How can you bring that before us?

Ms. CROPP. We will do a tag team here.

The D.C. public schools—in the Mayor's testimony, he talked about the significant increase in the schools, $81 million. A lot of it is court mandated, and what you will see is a herculean share of the increased positions being in the schools, and we don't have choices, to some extent, to that.

I would like to also state the Mayor has also suggested in his testimony that we have reduced—and I think Dr. Brimmer also, that we have reduced our work force significantly over the past several years. We are now trying to readjust that and make sure that we have the appropriate workers in the appropriate areas.

DISPROPORTIONATE INCREASE IN SCHOOL POPULATION AND EMPLOYEES

Mr. TAYLOR. If I am correct, the city population from last year is 248 increase and the increase in employees is 1,330, so the great proportion is not inside the schools, although we could get into that. What we seem to have is a bottomless pit, and I haven't broken those down, but still it is a small percentage increase in the number of students.

Ms. CROPP. Most of it is going into special education for the schools; and, in fact, the school system is reducing the number of administrators.

Mr. TAYLOR. 248. I don't know how that——

Mayor BARRY. I respectfully disagree with you on the numbers about per capita. I have seen some studies, and I don't know where they are now, but if you take Baltimore, take all of the functions that the City of Baltimore, take all of the help that the county gives, add the State, and you find that you will find more people per capita for the City of Baltimore than you do in Alexandria or Richmond.

So just take those raw numbers without looking at——

POLICE OFFICERS PER CAPITA (SEE REPORT ON PP. 846–847, THIS VOLUME)

Also, I can refer you to a study that the Greater Washington Research Center did, and I can give it to your Committee staff tomor-

row, but it talks about the level of employees per capita compared to other places, and the only area that we are really down in is police. We have almost four times the police officers per capita than any other city in America. Almost seven police officers per 1,000 people.

EMPLOYEES—INCREASE FOR SCHOOLS

More importantly, if you look at the budget, the actual employees in the city schools are 9,374, and we are asking for 10,000 for the school. So if you look, the school asked for a thousand more people. I think the basic premise is wrong. It really is.

Ms. CROPP. But the thousand—the people that the schools are asking is mandated. So, in many instances, we don't have the choice with regard to increasing the budget actually. It is court mandated.

EMPLOYEES INCREASE FOR CORPORATION COUNSEL

Mr. TAYLOR. The 232 employees that you are adding to the Office of the Corporation Counsel, that sounds excessive, and that has nothing to do with the schools nor is it court mandated. I could go through and break it down more, but what about——

You have a declining population. The Mayor and I were talking about the city and county functions. We could also get into questions of the maintenance of that 41 percent Federal property. Those employees are paid for by the Federal Government, and so there are a lot of people working here in form and functions that most cities do not have.

But without getting into the particulars, can't we make further reductions rather than adding? If we get in and look at the schools and put those aside for a moment, can we not go down in the number of overall city employees?

Mayor BARRY. A major part of the increase is transferring the child support function. There are over 130 positions where the Corporation Counsel this year is administering the child support function in the District, as in Texas, and you will find that the great majority of those increases are transfers from the Department of Housing.

Mr. TAYLOR. There is still an increase in employment, but we will be glad to——

Mayor BARRY. It is the FTEs.

Mr. TAYLOR. I would love to have any defense you have and here again spend a little time on it, because it is going to be hard for us to increase employment, especially after this enormous amount of burden that the Federal taxpayer has taken over for the city in the Revitalization Act.

Ms. CROPP. Mr. Chairman, if you have issues like that such as the Mayor pointed out where there were transfers, contact us and let us know.

CONTRACTING OUT COSTS

Let me tell you another place where you may see some increase in our employment. I am trying to remember from a couple of years ago when we had the ceiling that was imposed on us and we had

to do some contracting out. What we found out was that, in some instances, it actually ended up costing us more dollars in the long run where, as we reduced our number of employees, not all, but in some areas it ended up costing us more money, and we were forced to reduce our employees, and I could share with you some of that.

So you may see instances where we may have increased employees, but in doing that it makes it more cost-effective for the District to run the government and, overall, it is much cheaper. So I would ask for that opportunity to share that also.

Mayor BARRY. Those specific budgetary increase kinds of questions, would you submit questions and we will do the research?

Mr. TAYLOR. Sure. We will operate with the best facts. I would like to end since we are probably going to have another vote.

Mr. Dixon, do you have any questions?

Mr. DIXON. Thank you very much.

I don't have any questions; but, in listening to the conversations, it doesn't seem that I missed anything. These discussions have been going on for 18–20 years. The lines of questions and the line of responses seem to be just about the same.

SALARY OVERPAYMENTS—EXECUTIVE DIRECTOR AND LEGAL COUNSEL

Let me ask, Mr. Chairman, I did read with interest the GAO letter and report on the salaries, and although I wasn't here for Dr. Brimmer's testimony, he was kind enough to send it to me, and I have read it. The staff tells me that you intend to have a special hearing on that issue, and so I don't have any questions today. Is that correct?

Mr. TAYLOR. Yes. We would like to go into that some and ask the counsel from the committee and GAO.

Mr. DIXON. So we will have a hearing on that issue?

Mr. TAYLOR. It may be just bringing in all of the members of the committee rather than a public hearing, but we would like to get to the bottom of the legalese.

Mr. DIXON. I suspect that there is more to this than the GAO report and more to this than the response, and I think we have to get to the bottom of it.

Mr. TAYLOR. Thank you.

Congressman Moran.

SPECIAL EDUCATION—RIP-OFF OF 50-DAY RULE

Mr. MORAN. Let me say that this 50-day rule on special ed; it is a rip-off. People are gaining from the system. If you are living in the District of Columbia, middle or upper class, and you claim that your child is in some way challenged, you know that the D.C. government doesn't have the ability to review it within 50 days. So you end up sending them to a very expensive school at public expense. They are getting away with it, and it should not be done. It is depriving the other children of needed resources. The stupid 50-day requirement——

Ms. CROPP. We changed that. We passed emergency legislation.

Mr. MORAN. So it is now 120 days which is uniform with the rest of us?

Ms. CROPP. Yes.

Mr. MORAN. Good.

TAX AND REGULATORY CHANGES

The other thing that I hope that you can get through are these tax and regulatory changes. I understand that a lot of them have bogged down at the D.C. Council level, is that true? The recommendations that were made on the professional license tax, the unincorporated business tax, corporate franchise?

Mr. BRIMMER. Those are recommendations. You might recall that Congress mandated that the control board—

Mr. MORAN. We wanted you to do more than just look at them.

Mr. BRIMMER. There were a number of orders and recommendations that were made. The Council Chair and I were discussing that.

Ms. CROPP. They were in the document that I passed out to the committee. The Council is reviewing it. We wanted to wait until we got the report of the tax revision commission. We had a hearing last week, and they just reported back to us, and we wanted them to have an opportunity to make their recommendations.

Mr. MORAN. That bolsters your case substantially. Because, right now, as you know, D.C. is so uncompetitive when businesses are trying to decide where to go, given the tax situation.

MEDICAL MALPRACTICE ISSUES (SEE PP. 898–966, THIS VOLUME)

The last thing, I hope you look at some of the medical malpractice issues. There are other ways to deal with it. For example, we have a Federal liability scheme that you may be able to employ. There is virtually no OB–GYNs in the neighborhoods that need them the most, and that is not fair to the citizens.

I don't want to get into issues that will prolong the hearing, because we do have a vote.

Mr. TAYLOR. Thank you very much.

Mr. BRIMMER. Thank you.

Mr. TAYLOR. We may have you back or we may personally correspond with you.

The hearing is adjourned.

WEDNESDAY, JUNE 24, 1998.

D.C. PUBLIC SCHOOLS

(INCLUDING PUBLIC CHARTER SCHOOLS)

WITNESSES

MAUDINE R. COOPER, CHAIR, EMERGENCY TRANSITIONAL EDUCATION BOARD OF TRUSTEES
WILMA HARVEY, PRESIDENT, D.C. BOARD OF EDUCATION
ARLENE ACKERMAN, SUPERINTENDENT, D.C. PUBLIC SCHOOLS
JOSEPHINE C. BAKER, CHAIRPERSON, D.C. PUBLIC CHARTER SCHOOL BOARD

U.S. GENERAL ACCOUNTING OFFICE

GLORIA L. JARMAN, DIRECTOR, HEALTH, EDUCATION, AND HUMAN SERVICES ACCOUNTING AND FINANCIAL MANAGEMENT ISSUES; ACCOUNTING AND INFORMATION MANAGEMENT DIVISION

OPENING REMARKS OF CONGRESSMAN CUNNINGHAM

Mr. CUNNINGHAM [presiding]. Good morning. I'm Duke Cunningham. For the second year that I have been on the committee, the chairman has allowed me to chair the education issues in Committee. I was a former teacher in high school and a coach. I was a teacher and coach in the college level, and I was dean of a college. My wife, who has her doctorate degree in education, is an elementary school principal of two different schools. So you can imagine what workload she has. My sister-in-law has just been named a principal in a special education school. So we have got education in our family throughout, and it is a personal interest of mine and has been for a long time.

I think, not just in D.C. but across the country, if you want to take over a business, instead of taking over a good business, if you can take over a business that was not doing well and make it a good business, then I think you can really make your mark. And I think that that is what all of us are trying to do here is restore a school system. Let me say first, I have been through D.C. and I have seen some very good teachers. I have seen some very good schools. But if you look across the country and overall, I think we would all agree that we would not give our school system an "A." And I think that that is the only direction that we can go is give our schools an "A."

We have got a lot of testimony today. We have got not only education, but corrections, public safety, and on down the line.

INCREASE OF $85 MILLION FOR PUBLIC SCHOOLS

The D.C. school budget request for $545 million for fiscal year 1999 is an $85 million increase over fiscal year 1998. So three-quarters of the increase, or $69 million, is identified as mandatory

increases, the result of court orders and mandates for special education.

SPECIAL EDUCATION AND ATTORNEY FEES

Now, when I was K through 12 chairman on the Education Committee—I do not know if you have ever tried to bring a Siamese and a Persian cat together, but that is what it was like trying to bring together parents of special education children and the schools. It was a very difficult bill to get through. And where both sides were not completely happy, we got a bill through that we thought was an improvement. It lacked some of the improvements that the schools wanted. We found also that the lawyers are trying to circumvent the system, in many cases costing the schools, not just in D.C. but across the country, too much money that should be given to other children. We are going to try and fix that too.

CHILDREN FIRST

We have got to put children first. That is more than just a statement. Your commitment shows that you do. And I would hope that throughout the year that we can get more of our colleagues and allies to put away the politics and sit down and take a look and say, "What is really good for each individual child within the school system?" Because they are all different. I have got three children and I guarantee you they are different critters. Each and everyone of them. [Laughter.]

TEST SCORE IMPROVEMENTS

The good news is that D.C. school children are scoring better on the Stanford 9 standardization reading and math tests. That is fantastic. When you take a look at the move and the general direction that the city is making itself, and then the education system, any positive move, that is good and you can take credit for that. But we have got a long way to go. I think all of you agree with that.

PUBLIC/PRIVATE PARTNERSHIPS

One of the recommendations that I would wish you would take a look at, the President signed the bill that I put forward. It's called the 21st Century Classroom Act. And what that does is encourage some businesses to donate more quality computers to schools. But, in some cases, when a school got a donated computer, it didn't have the right software. It may be a computer from a bank. The teachers and the professional people did not know how to upgrade them. So they basically sat in a corner, useless. What we do in California and 29 other States, we give it to a nonprofit organization called Detweiler. Detweiler takes the computer from business. It has to be within two years old. They then let prison labor upgrade it, which teaches the prisoners a skill so that maybe they are not going to end up back there in the prison. And then they upgrade those computers with the software ready to plug into the school. Now the business gets an expanded tax break. So it is a benefit. You teach the prisoners. And then the school gets a computer ready to use, upgraded for that year. And we are trying to get California schools and businesses on a two year cycle, all busi-

nesses. So that that way we have upgraded computers in our school system from private sources. And it has been a big success. And it is one area in which I think you can take a look at.

PRESIDENT VETOED SCHOLARSHIP ACT FAVORED BY D.C. RESIDENTS

Last month, the President vetoed legislation that would have given many school children real hope, The D.C. Opportunity Scholarships Act. The day after the President's veto, the *Washington Post* published a poll indicating that D.C. citizens supported these opportunity scholarships by a 56-to-36 margin, and especially the African-American community which supported it 2 to 1. And these are scholarships for children that if you have a child in an area that just has no hope in that school, then as a parent you want that child out of that area. Last October, the Washington Scholarship Fund did announce monies available, $1,000 scholarships for children of low-income families. The Fund received applications from 7,573 children. So there is a need out there and I think that when we take a look at whether you support vouchers or what, there are some children in areas that we need to reach out to and help.

CHARTER SCHOOLS—BUDGET NOT FAIR

I think the budget does not treat the charter school students fairly and equally. You may want to take a look at that. It has been a big success in California where I am from, and supported by the Governor.

SPECIAL EDUCATION—ATTORNEY FEES

We want to make a real difference. But that difference, especially in special education, again, should take the money out of the lawyers' pockets and put it into the schools' pockets.

DAVIS-BACON—WAIVER WOULD SAVE 35 PERCENT

Let me give you a couple of other examples in which I think we can save money, and where I am talking about where people really put children first instead of politics. For school construction, you can save 35 percent in school construction if we can waive Davis Bacon. Now, it is a big union issue. It is a powerful issue. But if we really want to focus on the children, here is a chance. I am not asking the unions to waive Davis Bacon across the United States. I am talking about D.C. schools, just for the construction and maintenance of our schools systems that are over 60 years old. If I was going to offer you 35 percent more money for your grocery bill or to go to Nordstroms, I think you are going to take it. And I think that we can do the same thing for our children.

ELECTRICAL POWER DEREGULATION

With respect to electrical power needs, by putting those out to bid, we can save money and be very successful. And I think it is supported by many of you. It has been estimated we can save up to $2 million in that. And that money would go into the school system.

So I am here to listen to your ideas, and to offer some ideas that we have found in different school districts that can help. We call it D.C. Power for Children, and I think we all support that as well.

I see Mr. Moran is not here yet, but when he comes, I will ask if he would like to make a statement.

ELECTRICITY PILOT PROGRAM FOR D.C. SCHOOLS

At this time, I would like to enter into the record this D.C. Power for Children information and you'll get copies if you would like.

[The material referred to follows:]

Briefing Book
"Power to the Children"

DC Schools Electricity Pilot Program

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To achieve cost savings for the District of Columbia public schools, the Committee proposes to establish a retail access pilot program for the procurement of electricity for a period of two years.

What Does the Pilot Program Do?

Under the "Rebuild America" program, the Department of Energy has evaluated the D.C. schools energy infrastructure. The Committee recognizes that D.C. has entered into innovative programs to achieve savings and increase efficiency in electricity procurement. So, the Committee seeks to build on this by starting a pilot program with a proven track record for savings. A competitive bid just for the schools allows the superintendent to choose the electricity supplier: the best deal-- within guidelines set to ensure reliable service and other criteria.

What is the Track Record of Pilot Programs Like This?

Schools across the country have benefited from similar programs. Let's help the D.C. Schools save money on utility bills. Currently, D.C. schools spend approximately $16 million per year on electricity and natural gas. According to the American Association of School Administrators, retail access pilot programs are successful tools to offer school districts lower prices and to learn more about electric retail competition.

How Does this Affect the Incumbent Utility (PEPCO)?

D.C. Schools comprise less than 1 percent of PEPCO's rate base (in fact it is 0.67%). Currently DC schools spend approximately $16 million per year on electricity and natural gas. According to the American Association of School Administrators, retail access pilot programs are successful tools to offer school districts lower prices and to learn more about electric retail competition. A pilot program for a specific, controlled environment of electricity consumers does not change any aspect of generation, transmission and distribution of electricity to other consumer classes in the District of Columbia.

Implementing the Electricity Pilot Program allows

D.C. Schools To Achieve.....

Saving$ on Utility Bills

and

Reliable, Efficient Service

without harming the tax base or the incumbent utility,

without affecting other customer classes,

.... it is a good idea for D.C.

What Are the Real Tax Implications?

There is no significant impact on the D.C. tax base.

D.C. schools comprise less than 1% of PEPCO's rate base. The generation revenues, not the transmission or the distribution revenues, are the only revenues that potentially could be reduced.

This pilot is narrowly focused. It reaches only a specific customer in the District of Columbia. The schools have a compelling need to lower costs. This proposal will result in more savings to the schools than any other single effort, short of cutting services.

Clearly, if the Committee would be considering a national electric utility restructuring measure that would offer retail choice on a larger scale to all customer classes -- that proposal would have tax implications. ***This proposal simply is not extensive enough to have such implications.***

(MEMBER TALKING POINTS)

Yes, I believe a retail access electricity program for D.C. Public Schools would benefit the District of Columbia.

A pilot that is narrowly drawn to address a compelling need of the city's public schools -- lowering utility bills for the schools -- is a proposal that has a proven success rate of lowering prices and does not harm anyone:

not the reliability of the city-wide electric grid;

not the tax base;

not the incumbent utility.

The proposed pilot program is not an experiment. Pilot programs are valuable tools for schools across the country. Competitive bids drive prices down in every pilot program in the Nation.

Pilot programs serve to educate consumers (and suppliers) on the operational and fiscal expectations of retail markets, yield high customer satisfaction and always lower prices. These achievements are even more stunning given the initial opposition to retail access pilot programs.

What is important to remember is that (1) reliability is the first priority -- and pilot programs do not interfere with the reliability of the grid; (2) pilot programs of this nature are no longer an experiment -- dozens of school districts are benefitting from the results of participation in pilot programs; (3) prices go down -- plain and simple; (4) D.C. consumer protection regulations and all other local rules and regulations remain in place.

HELPING DISTRICT OF COLUMBIA SCHOOLS BY LOWERING ELECTRIC COSTS

- District of Columbia schools spend approximately $16 million per year on electricity and natural gas.

- The District of Columbia school system is badly strapped for funds. A pilot program, narrowly drawn to focus on a compelling need of the schools, would deliver savings, improve efficiency and build on current programs underway at the schools.

- Conservative estimates suggest schools could save 10-20 percent ($1.2 to $2.4 million) if they had the ability to purchase electricity on a competitive basis. Unfortunately, District of Columbia schools have no choice but to buy from the utility monopoly (PEPCO), at whatever rate the monopoly charges.

- District of Columbia schools pay approximately 8.5 cents per kilowatt-hour for electricity. At a hearing held by the Energy and Power Subcommittee in Chicago, Illinois last spring, a school administrator from Madison, Wisconsin testified that her schools pay only 4 cents.

- Nationwide, schools spend $4.25 billion on electricity. If all schools had the ability to purchase electricity on a competitive basis, and achieved only 15 percent savings, they would save $637 million. These savings could go to buy books or computers, or repair and improve our schools.

- District of Columbia law bars schools from choosing their electricity supplier. A pilot program would allow competitive bids for schools -- lowering prices and improving service.

Solution

- *Implement a pilot program allowing District of Columbia public schools to purchase their electricity competitively for just two years.*

In addition to bottom-line savings for the schools, this pilot program will achieve three important objectives:

(1) provide actual data for electric utilities to understand the technical, institutional, and financial implications of local retail access;

(2) educate the District's consumers about retail competition;

(3) provide the incumbent utility and other potential suppliers the opportunity to gain the experience needed to best serve the schools as a retail market.

A Track Record of Success

Iowa – the Iowa Association of School Boards has initiated a program called IJUMP or Iowa Joint Utility Management Program. Savings estimates for the program were $1.75 to $2 million for its inaugural year, 1997-98. For 1997-98, 290 school districts, eight regional agencies, and 10 community colleges were expected to participate. Because of utility resistance only 150 school sites ultimately participated; however, the results were excellent. Savings ranged from 2 to 20 percent with an average of 10 percent. The effort was so successful that an additional 350 more school sites have already asked to join for 1998-99. The program currently only offers natural gas.

Georgia -- the Fulton County Schools and some other school systems in Georgia are allowed to purchase their electricity competitively under provisions of the Georgia Territorial Electric Service Act of 1973. Schools located in municipalities and those with a direct connect load of less than 900KW cannot competitively purchase power. As a result, according to Mike Vanairsdale, Assistant Superintendent for Support Services for Fulton County, schools that can competitively bid pay up to 50 percent less for their power than schools that cannot. Schools that competitively bid pay a rate of $.035 - $.045 KWH, while schools that cannot pay $.0806 - $.0987. Vanairsdale testified before Congress that "even this limited competition has resulted in significant savings."

New England -- the Association of Independent Schools in New England (AISNE) has entered into a cooperative purchasing agreement. Boston based energy consultant John Howatt estimates their savings on gas and electricity in the 10-15 percent range. For these 160 small schools that means savings of at least $500,000 annually.

New York -- from the testimony of Stanley Packman before Congress, 5/15/96: "The school districts of Suffolk County expend approximately $30,000,000 per year on electricity. Our conservative estimate is that we could save 30 percent of that expenditure. This $9,000,000 savings could be used to stabilize the property tax rate, purchase new textbooks and outfit the schools with the latest in technology hardware and software...The net revenue impact on LILCO will be approximately $2,000,000 out of approximately $3,000,000 in gross revenue."

WHAT DO LOCAL SCHOOLS PAY?

Virginia	
Fairfax County Schools	6.1 cents
Maryland	
Prince Georges County Schools	7.8 cents
D.C. Public Schools	**Over 8 cents**

OPINION

A Bright Idea to Save Schools Money

Millions could be saved with break-up of electric utility monopoly

By Congressman Dan Schaefer

America's schools are literally falling apart. Rising enrollments, aging buildings and a constriction of maintenance funds are combining to create facility problems in most of the nation's school districts. The majority of K-12 school buildings are more than a quarter century old — and one-third of all schools were built prior to World War II. As the buildings age, they require more maintenance and repairs, which requires more money. Unfortunately, as we all know, that is something that is hard to come by.

Federal, state and local officials are struggling to ensure that adequate financial resources are available to ensure that students have the resources they need to learn. The debate about whether more taxpayer revenues are necessary to meet that goal and what level of government they should come from is ongoing. It is a difficult balance and striking it will take time. In the meantime however, it would be most beneficial to look in other places for relief.

For example, we should not overlook ways to free up existing funds that schools must now spend on overly inflated costs. Electricity is one of these expenditures. In fact, utility bills are the largest non-Ebor expense schools face. Nationwide, K-12 public schools spend more than $4.25 billion each year on electricity. For example, in 1996, Fairfax County, Virginia spent $30 million. In Chicago, just on electricity, they spent $40 million. Of particular interest to me, the schools in my district spent well over $10 million on electricity. Jefferson County spent over $5 million, the Cherry Creek school district spent approximately $3.5 million, and Arapahoe County spent over $2 million. This figure does not even include the Denver Public Schools!

Today, everything, except electricity costs, is a negotiable expense by school districts. Schools routinely join together to shop for pencils, computers, books and other supplies — and get the best price. Yet, in the case of electricity, most schools are barred by state law from shopping around for the best bargain. They are bound to the electricity rate dictated by the monopoly utility whose service area they are located within. Short of holding classes in the dark, they have no choice but to pay whatever bill the local electricity utility monopoly sends them. As a result, the precious dollars schools have to spend do not stretch nearly so far as they might have otherwise.

Congress is currently debating changes to the electric utility industry that will provide choice for all classes of consumers. In addition, the American Association of School Administrators and the National School Board Association are endorsing customer choice for electricity consumers. It is the schools that stand to be one of the greatest beneficiaries of this effort. Direct savings on electric bills are estimated to range from 25 to 40 percent. For inner-city school districts in states with high electricity costs, such savings — freed up for use on upgrading infrastructure, or paying additional teachers — could make a real difference. If competition lowered electric bills by 15 percent — and many economists project the long-term savings to be far greater — the electric bills paid by America's schools would decrease by $635 million each year.

At a recent Illinois field hearing, a school superintendent testified before the House Commerce Energy and Power Subcommittee, that Chicago schools could save as much as $20 million per year if they could „shop„ for electricity. Unfortunately, under state law, they can't choose their electric supplier. As a result they are forced to pay some of the highest rates in the country. The superintendent from Madison, Wis., told the subcommittee that, with even a small savings in her schools' electric bill, she could hire five teachers to ensure basic literacy for 60 more 6- and 7-year olds who cannot read.

The over-inflated electric bills schools presently pay, actually contribute to the crumbling of our school infrastructure. According to the American Association of School Administrators, when utility bills exceed budgeted amounts, 40 percent of schools immediately tap their maintenance budget to pay the difference. That results in deferred maintenance and a physical deterioration of our schools.

There are many creative things Congress can look at doing to help solve the nation's school infrastructure dilemma. Helping schools stretch the resources they already have is one such solution.

Greenwood Village Factoid

Question: On I-225 just east of Yosemite Street is a bridge way department made an agreement with the farmer to build a

LINCOLN MERCURY DOES BUILD AN AFFORDABLE ENTRY LEVEL CAR



Electricity Deregulation Could Save Schools Millions

New Legislation

State and local education officials around the country may want to take note of utility deregulation legislation moving through Congress; if a deregulation measure is enacted, supporters say schools nationwide could save more than $635 million annually on their electricity bills.

The leading electricity deregulation bill in the House (H.R. 655) would require that all consumers of electricity be given the right to choose among competitive suppliers of services by Dec. 15, 2000.

Rep. Dan Schaefer (R-Colo.), the chairman of the House Subcommittee on Energy and Power, is the chief sponsor of the legislation.

"Today, everything, except electricity costs, is a negotiable expense for school districts," Schaefer said recently. "Congress is currently debating changes to the electric utility industry that will provide choice for all classes of consumers. Schools stand to be one of the greatest beneficiaries of this effort."

The Potential Impact

During recent House subcommittee hearings on the bill, Michael Vanairsdale, assistant superintendent for support services at the Fulton County (Georgia) Board of Education, told legislators that an electricity deregulation bill that promotes competition would free up millions of dollars for use in the classroom.

Vanairsdale said that the largest line-item in a typical school district budget is personnel, followed closely by utilities, primarily electricity.

For example, Fulton County schools will spend about $6.5 million on electricity in the coming fiscal year. If the proposed deregulation is implemented and the expected savings of about 15 percent are realized, the district would save nearly $1 million, Vanairsdale said. With that money, the district could hire 20 additional teachers, he told lawmakers.

A handful of states, including Georgia, have implemented their own utility deregulation measures, but supporters of the current legislation say federal action is needed to ensure that all schools nationwide can take advantage of competitive electricity rates.

Education Community Lends Support

Leading educational associations, like the National School Boards Association and the American Association of School Administrators, are working to get a deregulation bill in place.

Nationwide, K-12 public elementary and secondary schools spend about $4.25 billion each year on electricity, and the potential savings could put much-needed resources back into the classroom, education advocates assert.

Andy Rotherham, a policy analyst with the American Association of School Administrators (AASA), told *EFN* that the association's work on this issue has taken a two-pronged approach. In addition to working at the federal legislative level, AASA is informing its members about the new resource opportunities that this legislation could present.

Rotherham explained that school officials have traditionally been working to reduce utility expenses through energy-efficiency activities, such as adopting new technologies. However, he said this new legislation would give officials a savings opportunity that doesn't exist now.

Classroom activities, such as reading instruction, he said, are value-added. The more money invested in reading teachers, the more return you see in student performance, he said. But electricity is different.

"The benefits are the same, no matter who provides the service," Rotherham said. "Electricity is electricity. This is not a value-added cost. It simply makes sense for our members to spend as little on it as possible.

"The infrastructure is already in place. Without adding a single new electricity line, we could save 15 to 20 percent. All we need to do is change the law," Rotherham continued. "If we get it [electricity costs] under control, we'll see a real benefit to kids."

Some Hurdles To Overcome

Rotherham acknowledged that there are some serious policy questions to overcome, but he said that

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ED Finalizes Selection Criteria For Technology Grants

Educational Technology

The Education Department has published the selection criteria and application procedures that will apply to the Technology Innovation Challenge Grants program, the $18 million initiative that provides competitive grants to help consortia develop and implement comprehensive educational technology programs.

In March, ED began accepting applications for FY 97 grants, but has just announced the final criteria and review process that will be used to select grantees. Under the program, grants are awarded to consortia that include at least one low-income LEA to support activities that bring technology into classrooms. Applications for FY 97 awards are due May 30, 1997. *(See EFN April 9, page 5.)*

According to the May 12 *Federal Register* announcement of selection criteria, ED will evaluate applications using two unweighted criteria: significance of the project and feasibility.

Unweighted criteria will allow proposal reviewers to more easily use their own expertise to screen applicants, officials say. In addition, they can request additional information on proposals in response to specific questions raised during the evaluation.

Because applicants will not be scored, the department has established a three-tiered review process. In each stage of the review, field reviewers will give proposals a qualitative grade of A, B or C, passing along only the best proposals for further review. The Education Department will make the final grant selections from among the applications with the highest grades.

The selection criteria and application procedures take effect on June 11, 1997.

For additional information, contact the Technology Innovation Challenge Grants program, Office of Educational Research and Improvement, (202) 208-3882. ♦

Support for Electricity Bill Increasing, Advocates Say

(continued from page 7)
momentum for a deregulation bill is increasing and the debate has moved from 'should we do it,' to 'how should we do it.'

However, critics of deregulation say it will bring problems of service reliability.

But Rotherham said that even industry officials acknowledge that most problems with outages result from acts of God, such as trees falling on power lines. In fact, in Georgia, the state's deregulation project has resulted in improved services, according to Vanairsdale. "We believe this competition results in better services; we have not encountered reliability problems," he said.

Another problem is how to deal with "stranded costs and benefits." This term refers to current benefits that result from federal regulations, such as environmental protections, and existing assets owned by the utility providers, such as long-term contracts with schools and other users. Rotherham said that these issues are legitimate policy questions but that the problems are not insurmountable.

Finally, some opponents have argued that federal control of utilities violates states' rights. However, Rotherham contended that power lines run across state lines and that electricity is a national industry.

"We want to ensure that all schools have the benefits [of deregulation]," he said. "It is bad public policy if it becomes a patchwork system. Federal legislation would ensure a smooth transition."

Prospects Look Good

There seems to be a lot of support among federal policymakers, as well as educators, to enact an electricity deregulation bill. A spokesperson for Rep. Schaefer said that the subcommittee hopes to mark up the bill this summer and that the representative is confident that legislation will be enacted this session.

Now that schools — as well as other consumers of electricity — have started registering their support for the bill, the impetus is growing, the spokesperson said. There are several similar electricity deregulation bills pending in the Senate. EFN will keep readers up to date on this legislation. ♦

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DC POWER FOR THE CHILDREN: SELECTED CONGRESSIONAL TESTIMONY FROM SCHOOL ADMINISTRATORS SHOWING HOW CHOICE FOR POWER WORKS WELL AND SAVES SCHOOLS MONEY, HOUSE COMMERCE COMMITTEE

STATEMENT OF MICHAEL VANAIRSDALE

Mr. VANAIRSDALE. Yes sir.

Mr. Chairman, members of the subcommittee, my name is Mike Vanairsdale, I am the Assistant Superintendent for Support Services for Fulton County Schools. I am pleased to be here today to represent the American Association of School Administrators and school districts across the country who believe that deregulation of the electric utility will allow them to spend more money in the classroom and less on electricity.

Please allow me to give you a brief overview of the average school district's budget. The largest line item in the budget is personnel—the people who teach the students, feed the students, get the students to and from school, maintain school facilities, coordinate all these activities. Public school personnel are called upon to do a lot of things and consequently their salaries and benefits consume a large portion of our budgets.

The second largest budget item, right after personnel, is utility costs, primarily electricity. That is why we are interested in deregulation. Electricity is a significant expense for us, there is real money to be saved. In fiscal year 1998, my school system will spend approximately $9.5 million on utilities. Approximately 70 percent, or $6.5 million of that will be spent on electricity. If we could save only 15 percent each year as a result of deregulation and the ensuing competition for our business, that would mean nearly $1 million that could be spent in the classroom to help kids, rather than on electricity. A million dollars would provide salaries and benefits for 20 teachers in Fulton County schools. And because of our size, my system's bill is relatively low. In Chicago, a city I understand you will be visiting next month, public schools spend approximately $40 million every year on electricity. A 15 percent savings for them would mean $6 million each year they could spend on programs to help their students.

Mr. Chairman, certainly you can do the math, but allow me to provide you some additional data. Nationwide kindergarten through 12 public schools spend about $42.5 billion each year on electricity. If we could save 15 percent each year through deregulation, the result would be a nationwide savings of more than $635 million, which local districts would be able to spend to address classroom needs.

In Georgia, because of the Georgia Territorial Electrical Services Act of 1973, utilities compete for the business of new schools as they come on line. To demonstrate the savings that competition can provide, let me give you a comparison between recent rates recorded under this limited competition and our average rates of Fulton County Schools. Our lowest rate on an elementary school we opened last fall is about 3.5 cents per kilowatt hour, while our average rate is about 7.5 cents per kilowatt hour. The highest rate we pay, among seven different suppliers, is almost 10 cents per kilowatt hour. As you can see, even this limited competition results in significant savings as we bring these schools on line. Furthermore, we have not encountered reliability problems, as I have heard used as a barrier to competition.

A second obstacle mentioned is the assertion that no one will want to market to schools and other small consumers. I have found the opposite to be true. As I mentioned, we are served by seven suppliers. Further more, as I understand the situation, utilities and power marketers, including giants like the Southern Company, Enron and UtiliCorp are actively marketing themselves to secure the business of school districts even though competition is currently allowed only in a few States. As I stated earlier, school districts nationwide use more than $4 billion in electricity annually, so I am not concerned that we will be left out.

But Mr. Chairman, we will not see these savings or opportunities nationwide without Federal action. As I mentioned, right now in Georgia, schools enjoy a small degree of competition for their business, however, most of my colleagues across the country cannot shop around and find out who will give them the best deal on their electricity. School districts can buy everything from chalk to school buses to natural gas competitively, but not electricity. And based on my understanding of the issue, without Federal action, including a date certain for competition to begin, it will never come.

Mr. Chairman, I spent 26 years in the United States Army before retiring as a Colonel last July. One of my responsibilities was to develop efficient means to save money and them implement those plans. Now, as an assistant superintendent for support services for Fulton County Schools, I do the same thing. But, I cannot implement savings on electricity without your help. I believe that if we leave the deci-

sion about whether to implement competition to the States. Many or my colleagues around the country will never be able to take advantage of the opportunities that competition offer. But, with Federal legislation, I believe deregulation can be implemented in a way that benefits all customers.

In closing, I am reminded of a remark that Willie Sutton once made when asked why he robbed banks. Sutton responded that he robbed banks because that is where the money is. As someone who is charged with saving my school system money, I need to look for where they money is. In my area, that money is in high utility costs. We could be spending the money saved on kids and not on electricity.

Again, Mr. Chairman, thank you for inviting me to appear before your subcommittee. If I can be of further service, please do not hesitate to call on me.

[The prepared statement of Michael Vanairsdale follows:]

PREPARED STATEMENT OF MICHAEL VANAIRSDALE, ASSISTANT SUPERINTENDENT FOR SUPPORT SERVICES, FULTON COUNTY BOARD OF EDUCATION

Mr. Chairman and members of the subcommittee, I am pleased to be here today to represent The American Association of School Administrators and school districts across the country who believe that deregulation of the electric utility industry will allow them to spend more money in the classroom and less on electricity.

Please allow me to give you a brief overview of the average school district's budget. The largest line item in that budget is personnel—the people who teach the students, feed the students, help keep the students healthy while they are at school, provide services to the students, get the students to and from school, maintain school facilities, and coordinate all these activities. Public school personnel are called upon to do a lot of things, and consequently their salaries and benefits consume a large portion of our budgets.

The second largest budget item, right after personnel, is utility expenses, primarily electricity. That is why we are interested in deregulation—electricity is a significant expense for us—there is real money to be saved. In fiscal year 1998, my school system will spent approximately $9.5 million on utilities. Approximately 70 percent, or $6.5 million of that will be spent on electricity. If we could save 15 percent each year as a result of deregulation and the ensuing competition for our business, that would mean nearly $1 million dollars that could be spent in the classroom, to help kids—rather than on electricity. In Fulton County, a million dollars would provide salary and benefits for 20 additional teachers. And, because of our size, my system's bill is relatively low. In Chicago, a city I understand you will be visiting next month, the public schools spend approximately $40 million every year on electricity. *A 15 percent savings for them would mean $6 million dollars each year that they could spend on programs to help their students.*

Mr. Chairman, certainly you can do the math, but allow me to provide you additional data. Nationwide K–12 public schools spend about $4.25 billion each year on electricity. If we could save 15 percent each year through deregulation the result would be a nationwide savings of more than $635 million annually which local districts would be able to spend to address their classroom needs.

In Georgia, because of the Georgia Territorial Electrical Services Act of 1973, utilities compete for the business of new schools when they come on line. To demonstrate the savings that competition can provide, let me give a comparison between recent rates recorded under this limited competition and our average rates. Our lowest rate on a school we opened last fall is about 3½ cents per kilowatt hour while our average rate is about 7½ cents per kilowatt hour. The highest rate we pay—among 7 suppliers—is almost 10 cents a kilowatt hour. As you can see, even this limited competition has resulted in significant savings as we bring on new schools. Furthermore, we believe this competition results in better service; we have not encountered "reliability problems" as I have heard used as a barrier to competition.

A second "obstacle" to competition that I have heard is the assertion that no one will want to market to schools and other small consumers. I have found the opposite to be true. As I mentioned, we now receive service from seven suppliers. Furthermore, as I understand the situation, utilities and power marketers, including giants like Southern Company, Enron, and UtiliCorp are activity marketing themselves to secure the business of school districts even though competition is currently allowed degree of competition for their business, however, most of my colleagues around the country can't shop around and find out who will give them the best deal on electricity. School districts can buy everything from chalk to school buses to natural gas competitively, but not electricity. And, based on my understanding of the issue and my experience working in this area, without federal action including a date certain for competition to begin, it will never come.

Mr. Chairman, I spent 26 years in the United States Army before retiring as a Colonel last July. One of my responsibilities was to develop efficient means to save money and then implement these plans. Now, as an assistant superintendent for support services for Fulton County Public Schools, I do the same thing. But, I cannot implement savings on electricity without your help. I believe that if we leave the decision about whether to implement competition to the states, many of my colleagues around the country will never be able to take advantage of the opportunities competition offers. But, with federal legislation that includes a date for competition to begin, I believe deregulation can be implemented in a way that benefits all customers.

In closing, I am reminded of a remark that Willie Sutton once made when asked why he robbed banks. Sutton responded that he robbed banks because that's where the money is. As someone who is charged with saving my school system money, I need to look for those savings where the money is. In my area the money is in high utility costs. We could be spending the money saved on kids and not on electricity. Again, Mr. Chairman, thank you for inviting me to appear before your subcommittees. If I can be of further service, please do not hesitate to call on me.

Mr. SCHAEFER. Thank you very much, Mr. Vanarisdale. Mr. Smith.

STATEMENT OF CHARLES D. DUFFY

Mr. DUFFY. Mr. Chairman, Chairman Bliley, Representative Crapo and members of the subcommittee, I am pleased to be here today to represent the American Association of School Administrators and school districts across the country who believe that deregulation of the electric utility industry will allow them to spend more money in the classroom and less on electricity.

I am the executive director of an educational service agency in West Virginia. Basically, educational service agencies, or ESAs, as they are commonly called, provide services and take advantage of economies of scale for groups of school districts. My agency provides services and educational experience to eight school districts in West Virginia.

As you know, electricity is the largest nonlabor item in most school system budgets. In fact, utility costs are generally the second largest item in the average school budget. That is why school superintendents and educational service agency directors like me are interested in deregulation. Electricity is a significant expense for us. And we believe that there is real money to be saved.

In fiscal year 1996, the eight school districts that I represent spent over $3 million on electricity. Three million dollars may not seem like much for eight districts, but if you could save just 15 per cent as a result of deregulation, it would be nearly a half million dollars we could spend on students instead of electric bills. For small districts like ours, that would mean enough money to buy 21 new computers for each of our 16 high schools and help give the students the technological skills that they need in the workplace. Or a half million dollars would be enough for us to hire at least 12 additional teachers. And the examples I am offering you are just 1 year's savings.

Fairfax County Public Schools in the northern part of Virginia spends about $30 million each year on electricity. Therefore, a 15 percent savings would mean $4.5 million each year to spend in their classrooms rather than on electricity. Fairfax County is about to embark on an ambitious capital improvement plan to accommodate their increasing enrollment and aging buildings. I am sure that $4.5 million extra, each year, could be an important tool for solving these problems.

Here around Richmond, the Richmond and Henrico public schools spend more than $5 million a year on electricity. A 15 percent savings would give these two school systems more than $750,000 each year to spend on the students from this area rather than on electricity.

Mr. Chairman, I know that you are aware of this, but allow me to provide the subcommittee a little additional information. Nationwide, K–12 public schools spend about $4.25 billion each year on electricity. That is more than the Federal Government, Chairman Bliley. A 15 percent savings as a result of deregulation would mean a nationwide annual savings of more than $635 million, which local districts would be able to spend in their classrooms rather than on their electric bills.

There is some concern that under deregulation no one will want to sell power to schools because we have an unusual load factor. We use electricity at unusual times compared to normal electric load. I do not believe that this will be the case. Right now, with competition existing in only a few States, utilities and power marketers are already actively courting the business of schools. As I said earlier, the school systems nationwide use more than $4 billion in electricity annually, so I don't think that we will be overlooked.

But, Mr. Chairman, without Federal action, most school systems will never be able to take advantage of the savings that deregulation offers. Right now, school districts can join together and pay for things like pencils and paper, to computers, cooperatively to save money, but we can't do that with electricity.

My job, and the job of other ESA directors, is to provide efficiency and savings to the school districts I represent. But we cannot achieve savings on electricity without your help. We should be spending money on kids and not on electricity.

Again, Mr. Chairman, it has been my honor and a pleasure to appear before your subcommittee. If I can be of further service, please do not hesitate to call on me.

[The prepared statement of Charles D. Duffy follows:]

PREPARED STATEMENT OF CHARLES D. DUFFY, EXECUTIVE DIRECTOR, REGIONAL EDUCATION AGENCY VIII

Mr. Chairman, and members of the subcommittee, I am pleased to be here today to represent The American Association of School Administrators and school districts across the country who believe that deregulation of the electric utility industry will allow them to spend more money in the classroom and less on electricity.

I am the executive director of an educational service agency in West Virginia. Basically, educational service agencies, or ESA's as they are commonly called, provided services and take advantage of economies of scale for groups of school districts. My agency provides services and educational expertise to eight school districts in West Virginia.

As you know, electricity is the largest non-labor items in most school system budgets. In fact, utility costs are generally the second largest item in the average school budget. That is why school superintendents and education service agency directors like me are interested in deregulation—electricity is a significant expense for us—and we believe that there is real money to be saved.

In fiscal year 1996, the eight school districts I represent spent over $3 million on electricity. Three million may not seem like much for eight districts, but if we could save just 15 percent as a result of deregulation, it would be nearly a half-million dollars we could spend on students instead of our electric bills. For small districts such as ours, that would mean enough money to buy 21 new computers for each of our 16 high schools and help give the students the technological skills they will need in the workplace. Or, a half million would be enough for us to hire at least 12 additional teachers. And, the examples I am offering you are from just one year's savings.

Fairfax County Public Schools in the northern part of Virginia spends about $30 million each year on electricity, therefore a 15 percent savings would mean $4½ million each year to spend in their classrooms rather than on electricity. Fairfax County is about to embark on an ambitious capital improvement plan to accommodate their increasing enrollment and aging buildings. I am sure that $4½ million extra—each year—could be an important tool for solving these problems.

Here around Richmond, the Richmond and Henrico public schools spend more than $5 million each year on electricity. A 15 percent savings would give these two school systems more than $750,000 each year to spend on the students from this area rather than on electricity.

Mr. Chairman, I know that you are aware of this, but allow me to provide the subcommittee a little additional information. Nationwide, K–12 public schools spend about $4.25 billion each year on electricity. A 15 percent savings as a result of deregulation would mean a nationwide annual savings of more than $635 million, which local districts would be able to spend in their classrooms rather than on their electric bills.

There is some concern that under deregulation no one will want to sell power to schools because we have an unusual load factor—we use electricity at unusual times compared to the normal electric load. I don't believe that this will be the case. Right now, with competition existing in only a few states, utilities and power marketers are already actively courting the business of schools. As I said earlier, school systems nationwide use more than $4 billion in electricity annually, so don't think we will be overlooked.

But, Mr. Chairman, without federal action most school systems will never be able to take advantage of the savings that deregulation offers. Right now, school districts can join together and pay for everything from pencils to personnel cooperatively to save money, but we can't do that with electricity.

My job—and the job of other ESA directors—is the provide efficiency and savings to the school districts I represent. But, we cannot achieve savings on electricity without your help. We should be spending money on kids and not on electricity.

Again, Mr. Chairman, it has been an honor and a pleasure to appear before your subcommittee. If I can be of further service, please do not hesitate to call on me.

Mr. SCHAEFER. The Chairman thanks the gentleman very much for his testimony. We will now turn to Mr. Lepinsky, who is with the United Homeowners Association in Fredericksburg, Virginia.

STATEMENT OF CHERYL H. WILHOYTE

Ms. WILHOYTE. Good morning, Chairman Schaefer and honored members of the subcommittee.

I bring you greetings from Madison, Wisconsin, Money Magazine's Number 1 city this year and the home of high achieving schools and high achieving students.

I represent the American Association of School Administrators and school districts across this country. We believe that customer choice of electric power will allow us to spend less on electricity and more on improving our classrooms and producing productive citizens for the 21st Century.

School superintendents, like other CEOs, seek to improve quality. In Congressman Hall's words, that make it good.

We also seek to lower cost. Again quoting Congressman Hall, cheap. We like to maximize our return on investment for not only our taxpaying customers, but most importantly, for our student customers.

We believe customer choice for electric power will lower costs and allow us to focus those resources on the classroom, where they belong.

Electricity is the highest non-labor costs for public schools. It takes a lot of money to run schools these days, and children at risk are only transformed into children of promise when they have the opportunity to excel and the resources to match student needs.

Superintendents are not just looking for more money. We are committed to being quality stewards of the moneys we have. However, archaic laws in the electric industry are barriers to our working smarter.

Cooperative and collaborative buying power for electricity is an essential win-win for school districts across the country. Right now I, and other superintendents, can purchase just about every service or commodity we need in volume. We can take advantage of economies of scale and bulk discount. That is everything from pencils to desks, to computers, to special services, and even natural gas, but we cannot do that with electricity, and that just does not seem right.

Let's talk a minute in terms of a practical example. Right now a school district cannot even aggregate their load. This means a huge district like Chicago that uses over $40 million in electricity annually pays for each of its 600 schools based on individual usage. That is just about as absurd as my telling 46 Madison principals to go out and buy 46 school buses one by one instead of having our business manager and transportation director buy about 20 buses and share the runs between home and school.

With electricity being our highest non-labor cost, in most school district budgets we figure that K–12 public school districts use about $4.25 billion annually to buy electricity. If we could save only 15 percent nationwide, and as I understand it, the pilot programs currently underway are generating even greater savings, 15 percent savings would yield over $635 million to be returned to today's classrooms.

We could help youngsters read and write and compute and think and resolve conflicts and problems at the high standard that we are going to need for our 21st Century graduates.

That sort of savings would mean different things certainly to different school systems. In rural West Virginia, my colleague Dr. Charlie Duffy estimates that he could save enough in 1 year to outfit 15 high schools with 21 new computers to help his students become technologically literate.

In Madison, we have success for our goal. It means we leave no child behind. We do not accept failure. For us, that savings could mean five more reading recovery teachers to teach between 60 and 70 6 to 7 years olds how to read because increasingly Madison's children are poor, and while they once know few letter-sound relationships.

And while I appreciate the value of volunteers to share a love of reading, it takes a highly skilled professional to interrupt predictions of school failure and allow those youngsters to become successful readers.

Electric rates in Madison are really not too bad. The most our district pays is about 4 cents a kilowatt hour, and we pay a little less off peak, and yet here in Chicago, 120 miles away, the school system pays an average of 9 cents per kilowatt hour. Their average rates are more than double any in Wisconsin.

Chicago's public schools spend about $40 million annually. If they paid what I paid, they could save $20 million a year to redirect students services.

School districts across the country would benefit from choice. Savings would perhaps not be a dramatic as they might be in Chicago. If we only saves 10 percent in Madison, or $140,000 a year, those reading recovery teachers would have a significant impact on our achieving our 100 percent success rate for our third graders to read above the State standard on the third grade reading test.

There are a number of compelling arguments for Federal action, and as Congressman Shimkus reminds us, we are in the Land of Lincoln, so I will reference his perspective. Where you stand depends on where you sit, and I see public schools everywhere in every State, in every community seeking revenues to meet student needs.

Because my colleagues and I believe Federal legislation is necessary to restructure this vital industry, we cannot move schools to take advantage of savings in different regions or States. They have got to be where the youngsters are. Without Federal action, I do not believe the savings will come to all school districts.

All districts should have this opportunity, and that is why the rules and the regulations that you must decide upon must assure the equity and fair play much like we do at the play yard at recess each day.

Being our largest non-labor cost, cutting for us is not an issue of profit or price. It is quality stewardship in tax dollars that we are seeking. It is our students who will profit because we can devote more resources to them and less to electric bills.

In closing I want to share with you that in Madison we judge student performance at four levels: emerging, developing, accomplished, and exemplary. We are looking to your leadership to develop the safeguards and rules that will provide equity of access, reduced costs, and good electrical service while helping superintendents work smarter and giving us a choice in electric power to be sure that we achieve accomplished and exemplary high school graduates.

We thank you for this opportunity to speak before you, and I wish you well in your deliberations on customer choice for electricity.

[The prepared statement of Cheryl H. Wilhoyte follows:]

PREPARED STATEMENT OF CHERYL H. WILHOYTE, SUPERINTENDENT, MADISON METROPOLITAN SCHOOL DISTRICT

Mr. Chairman, and members of the subcommittee, I am pleased to be here today to represent the American Association of School Administrators and school districts across the country who believe that deregulation of the electric industry will allow them to spend more money on services that help students in the classroom and less on electricity.

Mr. Chairman, superintendents all over the United States are interested in deregulation because electricity is a significant cost for us. Let me be frank. It takes a lot of money to run schools these days—especially in urban districts like mine or Chicago. This is not a popular reality, but it is a reality nonetheless. We need resources from both the government and the private sector to help us serve the diverse student body we are serving today. Our children are children of promise if the learning opportunities and resources are available. But, we are not only looking for additional resources, we want to spend the funds we have now in the most effective way possible but because of archaic laws concerning the electric industry, we cannot do that with our electrical service.

Right now, I can, and superintendents across the country can, cooperatively purchase just about every service or commodity we use. This allows school districts or groups of districts to buy in volume and take advantage of economies of scale and bulk discounts. We do this with about everything we use, from pencils and desks to special services and even natural gas—but we can't do it with electricity.

In fact, Mr. Chairman, right now most school districts in this country can't even aggregate their load within a district. This means a hugh district like Chicago that uses about $40 million in electricity annually pays for each school based on its individual usage rather than the total usage of the more than 600 buildings in the system. If this sounds a little absurd, it's because it is. It would be like me telling each of my principals to figure out how many new school buses they need each year and to order them independently from all the other schools in Madison. Rather than my business officer going to the bus company and working out a deal for 15 new buses, there would be 15 principals each negotiating a price for one bus. You don't have to be an economist to see which way would garner a better price.

As I mentioned, electricity is a major cost for us. It is the largest non-labor item in most school district budgets. Nationwide, K–12 public school districts use about $4.25 billion annually in electricity. If we could save only 15 percent nationwide—and as I understand it, the pilot programs currently underway are generating sav-

ings greater than that—15 percent would give school districts nationwide $635 million that they could spend in the classroom to help students rather than on electricity.

Mr. Chairman, these sort of savings would mean different things to different school systems. In rural West Virginia, my colleague, Dr. Charles Duffy, who I understand you know, estimates that he could save enough in one year to outfit each of the 16 high schools he serves with 21 new computers to help his students become more technologically literate.

In Madison, each year we could hire five more Reading Recovery teachers to assure basic literacy competency for 60 more six and seven year-olds who have yet to learn to read. Learning and mastering the tools of reading are major factors in reducing the dropout rate and ensuring a high graduation rate. With over 96 hours of graduate and post-graduate study and research in reading and learning disabilities, I appreciate the value of volunteers to reinforce and share a love of reading and learning. However, it takes highly skilled professionals to teach children who are not only coming to school not reading and writing, but coming to kindergarten and first grade with few, if any, letter-sound relationships. Unfortunately, these skilled professionals don't come cheaply.

My point, Mr. Chairman, is that various school systems across the country could be spending money on a variety of proven programs and services related to raising student achievement, but right now they are spending that money on electricity.

Frankly, Mr. Chairman, as electric rates in this country go, Madison's are not too bad. The most my district pays per kilowatt hour is about 4 cents, and we pay less off peak. Here in Chicago, only 120 miles away, the school system pays an average of 9 cents per kilowatt hour. This average rate is more than double my district's highest rate. As I said, Chicago public schools spend about $40 million annually—if they paid what I pay, that would be more than $20 million dollars—*each year*—that they could spend in their classrooms rather than on their electric bills. Twenty million dollars! If that is not an imperative to act on this issue, I don't know what is.

Mr. Chairman, there are school districts across this country that would benefit as a result of deregulation. For most, the savings would not be as dramatic as they could be for Chicago, but they would save money nonetheless. Even if we only saved 10 percent in Madison, that would still be more than $140,000 each year that we could spend in the classroom rather than on electricity. This is not an insignificant amount of money. Five more Reading Recovery teachers would have a significant impact on achieving our goal of 100% success for every third grader to read above standard on their grade reading test.

There are a number of compelling arguments for federal action on this issue, but as Lincoln once said, "where you stand depends on where you sit" and from where I sit, I see public schools everywhere, in every state, and every community. Because of this, my colleagues and I believe that federal legislation is necessary for restructuring this vital industry. When people talk about businesses and industry relocating to find cheaper power, it reinforces the belief of my colleagues that federal action is necessary. We can't move schools to take advantage of savings in different regions or states. Schools have to be where the students are. Without federal action, I don't think the savings will come to all school districts. Power marketers and utilities are actively courting the business of schools in states where deregulation has taken place. All school districts should be able to take advantage of these opportunities.

Mr. Chairman, as I said, electricity is the largest non-labor item in most school district budgets. For us, cutting this cost is not a profit or price issue as it is for many other consumers. If we can save on electricity, it is our students who will profit because we can devote more resources to them and less to our electric bills.

In Madison, our parent hotline is 608/266–HELP! I hope we can count on your help to most effectively realign more of our available dollars away from electricity and directly toward improving student and school achievement.

Thank you very much for inviting me to testify before your subcommittee. If I can be of further assistance, I hope that you will not hesitate to contact me.

Mr. SCHAEFER. Thank you very much, Dr. Wilhoyte.

The next witness, Ms. Drummond.

STATEMENT OF JIM JEFFREY

Mr. JEFFREY. Good afternoon. My name is Jim Jeffrey, and I am president of Power Ed Corporation in Houston, and I am an elected member of the Goose Creek Consolidated Independent School District Board of Trustees in Baytown. PowerEd

was recently formed to assist public schools in obtaining the lowest possible prices for electricity through aggregation and power purchase coordination.

The problems that face our country's school systems, such as shrinking budgets and work forces and increasing student populations, are well-known. As an elected official on the school board, I have experienced these problems firsthand; however, many people don't stop to think about what financially strapped schools are forced to spend on electricity.

During the years that I have spent working with Goose Creek School District, I realized that utility companies were taking advantage of school systems throughout Texas, and indeed throughout the country. Because of their favorable regulatory status, the utilities were completely inflexible when it came to the possibility of giving schools a break on rates, and the public schools had neither the resources nor the manpower to explore their options.

Mr. Chairman, I have seen the electric bills, and, in fact, after teachers' salaries, the monthly electric expenses are the second largest item on most school budgets throughout the country. The numbers are eye-opening. In Goose Creek, which has a district consisting of 23 facilities serving 18,000 students, last year our electric bill totaled $3.1 million, and that is a fairly small district. Much larger Houston Independent School Direct spends close to $20 million annually.

Many people assume that because school districts are heavy users of electric power, they can negotiate better rates with the utility companies. This is a false assumption. The Goose Creek District actually approached Houston Light & Power to attempt to negotiate better terms for the schools. We asked if we could purchase in bulk to cut the electric bills. We were told nothing could be done.

Nothing could be done, Mr. Chairman, because HL&P, like all the other local utilities in Texas, faces no competition. These companies advise schools to lower their electricity costs by sealing windows and installing more efficient lighting and air conditioning. This most of the schools have already done. That advice is what passes for innovative service in today's noncompetitive environment.

Our schools cannot shop around for a better price. In fact, our current laws prevent an independent power provider or other utility coming into the market to offer lower cost electricity or enhanced services. HL&P told us that the current price and service levels were the best that they could do.

At that point I realized the electricity situation in Texas had gotten completely out of hand. Schools were crying for a change, and yet the local monopolies refused to do anything to help. I knew they *could* make changes, but without the threat of competition, why should they?

Most estimates suggest that electric power rates could drop by 20 to 30 percent if the system were competitive. Even if every public school in the country achieved a relatively modest 15 percent cut in utility bills, the savings would be larger than the amount President Clinton proposed spending in fiscal year 1998 on his Goals 2000 education initiative. That is in excess of $600 million.

Something obviously had to be done to meet the needs of Texas public schools as well as schools around the country. In the spirit of American entrepreneurship, I took my experience from unsuccessful dealings with an inflexible government-sanctioned monopoly to formulate a common-sense solution. The result of these experiences was the formation of PowerEd, my own aggregation company, to take on the monopolies.

I want to prove just how easy and uncomplicated it is to provide our children the benefits of cheaper electricity. PowerEd is a power purchasing consultancy targeted at public schools. We have begun approaching public schools to let them know that they will soon, hopefully, have a choice in electricity providers and the simple option to save a substantial amount of money.

Although the company is still in its infancy, there is already a demand for our services. We have partnered with and are endorsed by the national organization, the American Association of School Administrators, in DC PowerEd, to my knowledge, is the only company that is concentrating on providing schools with specialized services aimed at lowering public schools electric bills.

We hope PowerEd will be growth company, and we don't hide the fact that we are in business to give our eventual investors a return on their capital, but as we continue to add jobs to meet consumer demand, I am overwhelmed by the sense of personal fulfillment. The idea of helping public schools came from my commitment to helping schools. I have chosen to work with public schools because when these schools operate more efficiently, at a lower cost, our kids, or future are the ones who benefit the most. And it is my hope that this Congress will provide a date certain to allow, sooner rather than later, all consumers, including our public schools, the choice about their electricity provider.

I thank you, Mr. Chairman and committee members, for allowing me to share my views on this important issue.

[The prepared statement of Jim Jeffrey follows:]

PREPARED STATEMENT OF JIM JEFFREY, BOARD MEMBER, GOOSE CREEK CONSOLIDATED INDEPENDENT SCHOOL DISTRICT

The problems that face our country's public school systems, such as shrinking budgets and workforces and increasing student populations, are well known. As an elected school board official, I've experienced these problems firsthand. However, many people don't stop to think about what financially-strapped schools are forced to spend on electricity.

During the years I've spent working with the Goose Creek Consolidated Independent School District, I've realized that the utility companies are taking advantage of school systems throughout Texas. Because of their favorable regulatory status, the utilities are completely inflexible when it comes to the possibility of giving schools a break on rates. And our public schools have neither the resources nor the manpower to explore other power options.

Mr. Chairman, I have seen the electric bills. Page after page after page of bills. After teachers' salaries, the monthly electric expenses are the second largest item on most school budgets.

The numbers are eye-opening. The Goose Creek School District has 23 facilities serving 18,000 students. Last year, our electric bill totaled $3.1 million—and it is a fairly small district. The much-larger Houston School District spends close to $20 million annually.

Many people assume that because school districts are such heavy users of electric power, they can negotiate better rates with the utility companies. This is a false assumption.

The Goose Creek District actually approached Houston Lighting & Power to try to negotiate better terms for the schools. We asked if we could purchase in bulk to cut the electric bills. But we were told that nothing could be done.

Nothing could be done, Mr. Chairman, because HL&P, like all of the local utilities in Texas, faces no competition. These companies advise schools to lower their electricity costs by sealing windows and installing more efficient lighting and air conditioning, for example. That advice is what passes for innovative service in today's non-competitive environment.

Our schools cannot shop around for a better price. In fact, our current laws actually prevent an independent power provider or other utility from coming into the market to offer lower cost electricity or enhanced service. HL&P told us that the current price and service levels were the best they could do.

At that point, I realized that the electricity situation in Texas had gotten completely out of hand. Schools were crying for change, and yet the local monopolies refused to do anything to help. I knew they could make changes, but without the threat of competition, why should they?

Most estimates suggest that electric power rates could drop by 20 to 30 percent if the system were competitive. Even if every public school in the country achieved a relatively modest 15 percent cut in their utility bills, the savings would be larger than the amount President Clinton proposed spending in fiscal year 1998 on his goals 2000 education initiative.

Something, obviously, had to be done to meet the needs of Texas public schools as well as schools around the country. In the spirit of American entrepreneurship, I took my experience from unsuccessful dealings with an inflexible, government-sanctioned monopoly to formulate a common-sense solution. The result of these experiences was the formation of Powered—my own aggregation company—to take on the monopolies. I want to prove just how easy it is to provide our children the benefits of cheaper electricity.

Powered is a power purchasing consultancy targeted at public schools. We approach public school districts to let them know they will have a choice in electricity providers and a simple option to save money.

Although the company is still in its infancy, there is already a demand for our specialized services. We have partnered with, and are endorsed by, a national organization—the American Association of School Administrations (AASA). Powered is the only company I know of that is concentrating on providing schools with specialized financial, accounting, technical and risk management assistance tailored towards crafting the most efficient lowest cost electric bill.

Powered is a growth company, and we don't hide the fact that we're in business to give our investors a return on their capital. But as we continue to add jobs to meet consumer demand, I am overwhelmed with a sense of personal fulfillment. The

idea of helping schools came directly from my heart, because I know of their desperate needs, and I can provide common-sense solutions. I have *chosen* to work with public schools, because when these schools operate more efficiently and at a lower cost, our kids—*our future*—are the ones who benefit most.

Mr. SCHAEFER. The committee thanks the gentleman.

DAN SCHAEFER
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COMMITTEE ON COMMERCE
SUBCOMMITTEES:
ENERGY AND POWER
CHAIRMAN
TELECOMMUNICATIONS, TRADE, AND
CONSUMER PROTECTION

COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE:
BENEFITS

Congress of the United States
House of Representatives
Washington, D.C.

June 5, 1997

The Honorable William J. Clinton
President of the United States
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear President Clinton:

As a former educator, I am pleased to note your recent activities aimed at addressing the declining infrastructure in America's schools. I agree conditions are reaching crisis levels, particularly in inner cities.

Clearly, federal, state and local officials are struggling to see that adequate financial resources are available to ensure that students have the resources they need to learn. As you know, the debate about how to meet that goal is ongoing. In the meantime, however, it would be most beneficial to look in other places for immediate relief. In our search for a break from financial woes, we should not overlook obvious ways to liberate existing funds being spent on unnecessarily inflated costs. Electricity is one of these expenditures.

As a matter of fact, utility bills are the largest non-labor expense schools face. Nationwide, K-12 public schools spend more than $4.25 billion each year on electricity. For example, in 1996, Dade County public schools in Miami, Florida and Fairfax County, Virginia spent $30 million dollars each. In Chicago, just on electricity, public schools spent $40 million.

Today, everything, except electricity costs, is a negotiable expense for school districts. Schools routinely join together to shop for pencils, computers, books and other supplies--and get the best price for doing so. Yet, in the case of electricity, most schools are barred by state law from shopping around for the best bargain. Individual schools are bound to the electricity rate dictated by the monopoly utility whose service area they are located within. As a result, the precious dollars schools have to spend do not stretch nearly so far as they might otherwise.

Congress is currently debating changes to the electric utility industry that will provide choice for all classes of consumers. In addition, the American Association of School Administrators and the National School Board Association are endorsing customer choice for electricity consumers. It is schools that stand to be one of the greatest beneficiaries of this effort. Direct savings on electric bills are estimated to range from 25 to 40 percent.

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For inner-city school districts in states with high electricity costs, such savings—freed up for use on upgrading infrastructure, or paying additional teachers---could make a real difference. By giving schools-and all other consumers-the power to choose, they will be free to find the best price for electricity.

Mr. President, I look forward to working with you to improve school infrastructure. I encourage you to join the fight and as we undertake this worthy venture, let us not forget existing areas of school spending where significant savings can be realized.

Best regards.

Sincerely,



DAN SCHAEFER
Member of Congress

SUPPORT BY DISTRICT GOVERNMENT FOR RETAIL COMPETITION PILOT PROJECT

Retail Competition Pilot Program

The Office of People's Counsel (OPC), the agency charged with protecting the interests of residential consumers in proceedings before the D.C. Public Service Commission, has expressed strong support for a retail competition pilot project. Following are excerpts from filings they made to the Public Service Commission:

- "OPC believes that the type of electric industry structure that will best serve the interests of D.C. ratepayers is one that recognizes the reality of emerging competition in the electric industry and ensures that all ratepayers receive the benefits electric competition has to offer. . . . Therefore, OPC is recommending implementation of a retail wheeling pilot program."

- "Implementation of retail wheeling should begin with a limited pilot program of one year in duration. . . . Beginning with a pilot program provides a measured approach to retail competition that allows the Commission and market participants to measure the effectiveness of retail competition and improve the program before offering it to an increasing number of consumers."

- "OPC's recommendation to proceed with a retail open access pilot program contrasts sharply with PEPCO's recommendations."

- "A retail open access framework, based on comprehensive public interest principles that are designed to produce net social benefits shared by all customers, is the option offering District ratepayers effective competitive market opportunities. . . . OPC strongly recommends that the Commission implement a retail access pilot program as rapidly as practicable . . ."

Opposition of PEPCO to Competition

- "The answer, OPC submits is not to adopt PEPCO's 'wait-and-see' attitude but for the Commission to approach competition in a proactive and timely manner."

- "OPC strongly recommends that the Commission reject PEPCO's recommendation to 'wait-and-see.' Rather, OPC recommends that the Commission proceed vigorously to adopt and implement a retail open access pilot, pursuant to public interest principles designed to assure net societal benefits are shared by all customer classes through robust competition and social equity."

- "PEPCO's claim that residential customers necessarily will suffer an increase in costs as a result of retail competition is unsupported by the facts. No one knows exactly what the impact of retail wheeling will be on residential customers in the District of Columbia. The answer to this question could be provided through the kind of pilot program that OPC recommended in its Initial Comments."

- "[T]he answer is not, as PEPCO suggests, simply to passively watch what happens elsewhere and learn from others' mistakes. Rather, it is critical for the Commission to approach competition in a proactive and timely manner. OPC submits its proposal to implement a pilot program and commence further proceedings in which these and other issues can be addressed, is reasonable and appropriate."

- "OPC's recommendation to *proceed with a retail open access pilot program* (italics in original) contrasts sharply with PEPCO's recommendations on: prudent forbearance, formation of a stakeholder's group for monitoring, incentive based regulation, and gradually realigning the rate structure with its new unbundled costs i.e. shift costs to residential customers. . . . PEPCO continuously raises the specter or threat of negative rate impacts (i.e., higher rates) on residential and low income customers. Curiously, PEPCO has conducted no studies to support its contentions. Such threats, advanced without evidentiary or empirical support, should be dismissed as having no foundation."

- "While PEPCO's recommendations to 'wait-and-see' may have superficial appear, on an antediluvian level, OPC strongly recommends that the Commission reject that approach. Rather, OPC recommends that the Commission proceed vigorously to adopt and implement a retail open access pilot . . ."

<u>District Government Unlikely to Lose Tax Revenue</u>

- "Gross receipts taxes are not taxes on 'the provision of service' but on gross receipts. It is highly unlikely that the District Government will allow power marketers and power brokers to escape this tax."

BEFORE THE
PUBLIC SERVICE COMMISSION
OF THE DISTRICT OF COLUMBIA

IN THE MATTER OF	)	
THE INVESTIGATION INTO ELECTRIC SERVICES, MARKET COMPETITION AND REGULATORY POLICIES	)	FORMAL CASE NO. 945

REPLY COMMENTS OF

THE OFFICE OF THE PEOPLE'S COUNSEL

OFFICE OF THE PEOPLE'S COUNSEL
OF THE DISTRICT OF COLUMBIA
1133 Fifteenth Street, N.W.
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Washington, D.C. 20005
(202) 727-3071

MARCH 31, 1997

I. SUMMARY OF REPLY COMMENTS

..d be the Commission's Role in Managing and ..g Competition?

.. 1(a):

What Specific Steps, If any, Should the Commission Take to Encourage Retail Wheeling?

PEPCO's list of concerns differs in several respects from the issues identified by OPC, however, the Company is correct that implementing retail competition will require the Commission to address many important and yet-unresolved issues. The answer, OPC, submits is not to adopt PEPCO's "wait-and-see" attitude but for the Commission to approach competition in a proactive and timely manner.

Issue No. 1(b:

What Specific Steps, if any, Should the Commission Take to Encourage Wholesale Wheeling? For Example, What Bidding Policies Should be Considered?

OPC agrees that wholesale competition is important, however, policies must be developed to determine how best to ensure that the ultimate consumer will benefit from such wholesale competition.

Issue No. 2:

What Type of Electric Industry Structure Would Best Serve the Ratepayers of the District of Columbia?

OPC's recommendation to proceed with a retail open access pilot program contrasts sharply with PEPCO's recommendations. OPC believes that the type of electric industry structure that

oses. Unbundling is necessary for effective competition in retail power supply.

Issue No. 3:

Are There Reasons to Hold Retail Wheeling in Abeyance in Order to Allow the Wholesale Market to Develop? If so, Should the Commission Take Any Measures to Advance Competition at the Wholesale Level and What Should Those Measures be?

OPC strongly recommends that the Commission reject PEPCO's recommendation to "wait and see". Rather, OPC recommends that the Commission proceed vigorously to adopt and implement a retail open access pilot, pursuant to public interest principles designed to assure net societal benefits are shared by all customer classes through robust competition and social equity.

Issue No. 4:

Are Barriers to Entry of Wheeled Power From Entities Such as Independent Power Producers Artificially Erected by Operation of District Law or Regulations?

OPC believes, unlike PEPCO, that a certificate of convenience and necessity is essential to ensure that the provider of retail electric service is creditworthy and able to provide service. The Commission could streamline and tailor its certification regulations and procedures to accommodate a retail competition environment.

Issue No. 5:

What Would be the Impact of Retail Wheeling in the District of Columbia on Various Classes of Electric Ratepayers?

PEPCO's claim that residential customers necessarily will suffer an increase in costs as a result of retail competition is

unsupported by the facts. No one knows exactly what the impact of retail wheeling will be on residential customers in the District of Columbia. The answer to this question could be provided through the kind of pilot program that OPC recommended in its Initial Comments. Such a program should precede any broad opening of the power market to retail customers in the non-residential classes.

Issue No. 6:

What Would be the Impact of Wholesale Wheeling in the District of Columbia on Various Classes of Electric Ratepayers?

OPC submits that while wholesale competition is institutionally in place, it hardly represents a very active competitive market, nor does it generate any measurable savings to District of Columbia.

Issue No. 8:

How much investment in the District's electric industry would be stranded if retail wheeling were allowed?

An historical construction of what was understood to be the obligations of management, regulators, and ratepayers in the regulatory relationship, and an analysis of the economic implications of allowing the recovery of above market costs from ratepayers, favors a policy that above market costs be paid by shareholders, not by ratepayers. PEPCO's position on its entitlement to full stranded cost recovery is misplaced, unjustified and should be rejected.

Issue No. 8(a):

division.

Issue No. 1:

What Should be the Commission's Role in Managing and Fostering Competition?

Issue No. 1(a):

What Specific Steps, if any, Should the Commission Take to **Encourage Retail Wheeling?**

PEPCO asserts that little information is available about "the actual benefits that can be achieved from a competitive retail market for electricity" and that "a number of concerns . . . would have to be addressed in formulating any plan or policy adopting retail competition."2 PEPCO recites concerns about maintaining reliability, reducing the diversity of the generation mix, redefining the obligation to serve, the need for reciprocal retail access in neighboring jurisdictions, providing for the recovery of transition costs, and ensuring fair competition with other generation sellers. Id. at 11-15. While PEPCO's list of concerns differs in several respects from the issues identified by OPC,3 the Company is correct that implementing retail competition will require the Commission to address many important and yet-unresolved issues. Even accepting PEPCO's concerns, however, the answer is not, as PEPCO suggests, simply to passively watch what happens elsewhere and learn from others' mistakes. Rather, it is critical

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2 Initial Comments of Potomac Electric Power Company, Formal Case 945, at 9, 11 (Jan. 24, [illegible] ("Initial Comments of PEPCO").

3 *Compare* OPC Initial Comments at 6-10.

for the Commission to approach competition in a proactive and timely manner. OPC submits its proposal to implement a pilot program and commence further proceedings in which these and other issues can be addressed, is reasonable and appropriate.

PEPCO also asserts that since its existing residential retail rates are "average" and "reasonable," there is no need to proceed with retail competition now. Id. at 10, 14. That argument begs the question of whether residential ratepayers can benefit from growing competition, just like PEPCO's larger industrial and commercial consumers. That some other foreign utilities' residential ratepayers may pay higher costs is scarcely a reason to do nothing in the District of Columbia. PEPCO's do-nothing argument also ignores whether retail competition will better ensure lower prices to future consumers; OPC submits that lower prices are in fact the ultimate objective. Indeed, with many other jurisdictions adopting retail competition, there is little assurance that PEPCO will be able to continue to boast that its residential rates in the District are "reasonable" and "average."

Issue No. 1(b):

What Specific Steps, if any, Should the Commission Take to Encourage Wholesale Wheeling? For Example, What Bidding Policies Should be Considered?

PEPCO asserts that the "majority of the benefits of competitive electric service will come from a competitive wholesale generation market," and the Commission need do nothing to promote such competition. Id. at 15-16. This simply restates PEPCO's position that retail competition will produce little additional

benefit. While OPC agrees that wholesale competition is impor and can redound to the benefit of the ultimate consumer, question still remains at this best to ensure that the ultimate consumer will benefit from such wholesale competition. PEPCO asserts that traditional regulation of a monopoly retail provider is sufficient. Id. at 16. But its argument for the status quo fails to address the question of whether requiring retail sellers to compete for business is a superior means of promoting efficiency and lower prices. OPC submits retail competition, if properly implemented, can produce benefits for all consumers.

Issue No. 2:

What Type of Electricity Industry Structure Would Best Serve the Ratepayers of the District of Columbia?

A. Retail Open Access

OPC's recommendation to *proceed with a retail open access pilot program* contrasts sharply with PEPCO's recommendations on: prudent forbearance, formation of a stakeholders' group for monitoring, incentive based regulation, and gradually realigning the rate structure with its new unbundled costs i.e., shift costs to residential customers. PEPCO's comments variously criticize serious movement toward retail open access as radical, unnecessary, uncharted waters, no compelling reason to act precipitously, no compulsion to seek or adopt drastic solution, etc., because PEPCO contends its electric rates are relatively low and the benefits of wholesale competition are already being realized. Id. at 17. PEPCO

continuously raises the specter or threat of negative rate impacts (i.e., higher rates [illegible] idential and low income customers. Curiously, PEPCO has [illegible]ected no studies to support its contentions. Such threats, advanced without evidentiary or empirical support, should be dismissed as having no foundation.

OPC believes that the type of electric industry structure that will best serve the interests of D.C. ratepayers is one that recognizes the reality of emerging competition in the electric industry and ensures that all ratepayers receive the benefits of electric competition.

A retail open access framework, based on comprehensive public interest principles that are designed to produce net social benefits shared by all customers, is the option offering District ratepayers effective competitive market opportunities. OPC proposed specific public interest principles in its Initial Comments at pages 5-11. OPC strongly recommends that the Commission implement a retail access pilot program as rapidly as practicable to test the viability of this framework for all District ratepayers.

A properly designed open-access structure assures that all customers are provided the opportunity to select their preferred energy supplier while at the same time each consumer is given adequate choices. This means that any *market power concerns must be addressed in conjunction with open retail access.* Furthermore, while the general notion of direct retail access involves choosing

among alternative power suppliers, the array of power supply products that will be available to customers should be identified further. Clearly, the actual generation supplies will be subject to competitive options. But other related products should also be open to competition.

Regulation would still be *essential* in setting rates and customer service conditions for monopoly transmission and distribution services and for resolving technical matters and ensuring reliable operations between power generation and the local distribution facilities.

B. Market Power Concerns

As a testament to OPC's concerns raised in the initial comments at pages 29-35, PEPCO's filing illustrates the incentive of a vertically integrated supplier to abuse control of the monopoly facilities and services. PEPCO's comments seek to preserve monopoly power by preserving its integrated structure which absolutely forecloses retail competition -- the epitome of market power. PEPCO asserts, for example, that its customers have been, and are being, well served by the electric industry in its current structure." PEPCO Comments at 16. PEPCO further believes the Commission "is under no compulsion to seek or to adopt drastic solutions." Id. at 17. Similarly, PEPCO states "the Commission should consider less radical, perhaps transitional alternatives." Id. at 18.

vices to competition is to achieve cost efficiencies and to advance innovation in an area that has not historically received much attention by the vertically-integrated utility industry. *The electric distribution utility should not be allowed to foreclose potential competition for these services by virtue of its effective bottleneck monopoly position and built in advantages. For example, access to customer information and cost shifting provide the incumbent monopoly distribution utility significant advantages over new competitors.*

Issue No. 3:

Are There Reasons to Hold Retail Wheeling in Abeyance in Order to Allow the Wholesale Market to Develop? If so, Should the Commission Take Any Measures to Advance Competition at the Wholesale Level and What Should Those Measures be?

As OPC noted in its initial comments, the simple answer is "no". While PEPCO's recommendations to "wait and see" may have superficial appeal, on an antediluvian level, OPC strongly recommends that the Commission reject that approach. Rather, OPC recommends that the Commission proceed vigorously to adopt and implement a retail open access pilot, pursuant to public interest principles designed to assure net societal benefits are shared by all customer classes through robust competition and social equity. The current state of "virtual competition" and uncertainty over the future structure of retail electric service in the District and many states is certainly counterproductive. Emerging competitive conditions are not reversible and should produce positive results -- if properly structured. Proactive leadership by the Commission

.s essential to achieve a comprehensive competitive structure that :ffers real opportunity to achieve benefits for electric consumers :n the District.

Comprehensive action by the Commission in establishing *retail open access* is the best way of stimulating competition at the *wholesale level*. The proposed merger of PEPCO and BGE threatens to reduce the level of both wholesale competition and retail competition by dramatically increasing the concentration of horizontal and vertical market power. The Commission is squarely faced with a serious test of its resolve to encourage real competition in the District of Columbia in face of the proposed merger and its potential to frustrate the development of effective competition.

Issue No. 4:

Are Barriers to Entry of Wheeled Power from Entities Such as Independent Power Producers Artificially Erected by Operation of District Law or Regulations?

Under Section 43-501 every public utility must obtain a certificate of present and future public convenience and necessity in order to furnish a service or facility. Chapter 15 of the DCMR details the filing requirements, review and modification of a certificate application, hearing procedures, scope of the certificate as well as enforcement and remedies for noncompliance.[7]

7 15 DCMR §§ 1500-1599 (199.

ercial customers leaving the system and also must bear the her costs of PEPCO production plants unclaimed by the mpetitive market. Id. at 38.

A. A properly designed cost study will result in accurate, and equitable cost allocation among all customer classes

The first argument demonstrates not so much the effect of retail wheeling on residential customers as its effect on the regulatory process. Specifically, it illustrates the kind of anticompetitive strategies that PEPCO will attempt when it is confronted with competition for parts of its service but is allowed to retain a monopoly for the remaining parts.

The first element of this strategy is to shift costs from the competitive production function to non-competitive transmission and distribution functions, particularly the latter, which is most heavily employed by residential customers.

The largest cost shift is the District of Columbia gross receipts tax. According to PEPCO, this is a "tax on the provision of service," not a tax on production. PEPCO Comments, Appendix A, at A-4. PEPCO shifts $54.1 million in these taxes from production and transmission to distribution.

There is no justification for this shift. Gross receipts taxes are not taxes on "the provision of service" but on gross receipts. It is highly unlikely that the District Government will allow power marketers and power brokers to escape this tax. Even

INTRODUCTION OF PUBLIC SCHOOL WITNESSES

Mr. CUNNINGHAM. At this time, I am pleased to introduce today's public education witnesses. Maudine Cooper is Chair of the Emergency Transitional Education Board of Trustees; Wilma Harvey chairs the elected D.C. Board of Education—I know what a job that is—Dr. Arlene Ackerman is the new superintendent of D.C. Public Schools; Josephine Baker chairs the D.C. Public Charter School Board; and Gloria Jarmon—being from California, I always look to see if it should be Harmon, but it is Jarmon—is a director of Health, Education, and Human Services Accounting Issues with the U.S. General Accounting Office, who will provide us information about the roof replacement project for D.C. public school facilities.

[Witnesses sworn.]

There is another young lady in the audience, a shadow Senator, Florence Penelton, and I would like to welcome you. Thank you, Ms. Penelton. We had our superintendent of schools is named Bertha Pendelton and who has left San Diego, and I worked—as a matter of fact, she made me Education Man of the Year. Now, go fish. I am a conservative Republican and she is a Democrat, and she made me Education Man of the Year.

With that, I do not think there is any real set order. If you have a set plan, then I will do that, otherwise I will go right down starting with Maudine Cooper, Chair of the Emergency Transitional Education Board of Trustees.

OPENING STATEMENT OF MAUDINE COOPER

Ms. COOPER. Mr. Chairman and members of the subcommittee, good morning. I am Maudine Cooper, Chair of the Emergency Transitional Education Board of Trustees, and in my other full-time job, I am also president of the Greater Washington Urban League.

I appreciate this opportunity to discuss with you the Fiscal 1999 budget request of the D.C. Public Schools. And I also ask, Mr. Chairman, that my entire statement be put into the record. I will be brief.

I also appreciate your comments and I can assure you that the trustees will look very closely at those recommendations that you have made.

[Chart.]

ACCOMPLISHMENTS OF TRANSITIONAL BOARD

Since this is my first appearance before this Committee in my new role as Chair of the trustees, I would like to begin by saying what I have seen so far and where we are headed. If you look at the charter we were given by the Control Board in November of 1996, you will find that substantial progress has been made. These range from new principal evaluation systems based on student achievement to new promotion policies that have begun eliminating social promotions. And in my written testimony, there is a list of other accomplishments.

Of course, the bottom line is student achievement. And the recently reported gains in the city-wide test scores justify optimism.

But we know that parents, taxpayers, and members of this Committee are watching for very tangible results in the following areas, and we have identified only a few:

Number one, for all of its logical challenges, summer school has got to run smoothly and produce strong academic progress so that retention in grade is held to a minimum.

Number two, schools must open on time.

Number three, when schools open, textbooks and supplies have to be ready.

Number four, the food served in our schools must be safe, nutritious, and appetizing. And we know that children's view of "appetizing" may be very, very different. [Laughter.]

Number five, we have to have decisive improvements in the performance of school personnel. That means ample professional development.

These will be visible, immediate signs of progress that will further bolster the confidence of our community that DCPS is on the right track. The trustees have every expectation that Superintendent Ackerman will deliver on these points. She knows what a good school system looks like, and she is providing strong, effective leadership in getting us there.

SUPERINTENDENT NEEDS HELP

But she will need our help and especially yours in some critical areas, and each has important budget implications.

First, we need massive, rapid improvement in personnel and finance systems.

Second, the same applies to student information systems.

Third, we continue to face a critical facilities problem.

SPECIAL EDUCATION—NEED 120 DAYS

Fourth, and most significant, we must get control of special education spending. On the issue of special education spending, we also need your support for a legislative change already endorsed by the D.C. Council, that will put us on the same footing as other jurisdictions and give us 120 days in which to complete evaluation and referral processes.

CHARTER SCHOOLS—RELATIONSHIP AND PROBLEMS

I would like to say a few words about the complex relationship between charter schools and D.C. Public Schools. You mentioned that earlier, Mr. Chair. I am proud that the National Urban League is helping to create charter schools in a number of cities. And as Chair of the trustees, I believe Superintendent Ackerman and her staff deserve praise for helping to improve the working relationship between charters and DCPS. But I must report that my colleagues and I share some misgivings about the unexpected impact of the new charter law on our public schools. And, more importantly, on children. We have already seen one charter school fail; and while the adults argued, politics prevailed, and children were scattered to different sites. In the final analysis, those children became the responsibility of D.C. Public Schools.

Superintendent Ackerman and her staff, at the request of the Board of Education, spent long hours trying to straighten out the mess.

CHARTER SCHOOLS—NEED GREATER FISCAL ACCOUNTABILITY

This episode illuminated some gaps in the framework of fiscal accountability for charter schools. It was the clear intent of the D.C. School Reform Act that dollars should follow students. But in its current form, the law is a one-way street. When a charter school receives 75 percent of its annual payment in October, then collapses in mid-year, it is not clear who has the power to recover funds that may be misspent, or even whether this is an exercise in futility.

Given the extraordinary length to which DCPS has gone to establish credible enrollment numbers, now confirmed in a recent audit by Thompson, Cobb, Bazillio and Associates, we should expect routine scrutiny of charter enrollments just as we have of the DCPS. We suggest that some dialogue is in order about how to ensure greater accountability in charter funding. But I think we also need to catch our breath and take stock of this entire phenomenon. With the best of intentions, this city is about to launch more than a dozen new charter schools. Several charters have prudently decided to wait a year before opening but we are concerned that others may be opening prematurely. We ask that you consider a pause in the rush towards charters. Let's make sure that accountability is clear, that the fiscal issues are resolved, and that we are on the same page with regard to the knotty questions, especially special education.

BUDGET INCREASE FOR PUBLIC SCHOOLS

Finally, I know that this budget appears to reflect a large increase from fiscal year 1998. In raw numbers, that is true, but as Superintendent Ackerman will detail, a substantial portion of this increase is court-mandated and the rest is essential to our reform efforts.

I hope that you will consider our proposals in light of the remarkable early progress already achieved. And I hope you will agree with me that pursuing our Superintendent's vision of an exemplary school system is the best investment that we can make in the future of our children.

Thank you, and I look forward to your questions.

Mr. CUNNINGHAM. Thank you, Ms. Cooper.

PREPARED STATEMENT OF MAUDINE COOPER CHAIR, TRANSITIONAL BOARD

[Maudine Cooper's prepared statement follows:]

Testimony
by Maudine R. Cooper
Chair, Emergency Transitional Education Board of Trustees
before the
Subcommittee on the District of Columbia
House Committee on Appropriations
Wednesday, June 24, 1998

Mr. Chairman and Members of the Subcommittee:

Good morning. I am Maudine Cooper, Chair of the Emergency Transitional Education Board of Trustees -- and in my other full-time job, President of the Greater Washington Urban League. I appreciate this opportunity to discuss with you the Fiscal 1999 budget request of the DC Public Schools.

Since this is my first appearance before this Committee in my new role as Chair of the Trustees. I'd like to begin by saying what I have seen so far, and where we are headed.

Early Accomplishments. We are now 20 months along in the life of the Emergency Board of Trustees. It has not been a tranquil voyage so far. But the very real accomplishments of the Board and Administration may have been obscured by some of the headlines. If you look at the charge we were given by the Control Board in November of 1996, you will find that substantial progress has been accomplished:

- New evaluation systems, based on student achievement, are in place for all principals, and Superintendent Ackerman is developing plans for comparable systems for teachers.
- New promotion policies will assure that students master essential skills and knowledge before proceeding to the next grade -- and new "safety net" activities, including the massive Summer STARS program, will give every student the best possible chance to move ahead.
- The number of central administrators has been drastically reduced, and resources have been focused on the classroom.
- We have rid the school system of virtually all outstanding fire code violations -- more than 2000 since November, 1996 -- and have a process in place for addressing new ones as they occur in our ancient school buildings.
- We have made significant headway on the estimated $2 billion capital improvements needed for 21st century learning.
- We've already approved about $10 million in sales of excess school buildings, with the revenue going toward improvement of buildings still in use. A number of sales and leases have been to new public charter schools.
- Finally, and most important, a strong new focus on high standards and academic achievement, led by Superintendent Ackerman, has begun to turn this system toward excellence. Stanford-9 scores are up across the board -- and that is the bottom line.

Upcoming Challenges. So we bring good news, and we believe that this record justifies optimism. But this is not a simple story, and we are not ready to declare victory. We still have a long way to go, and there are steep hills just ahead. Parents, taxpayers, and members of this Committee are watching for tangible results in the following areas:

- For all its logistical challenges, summer school has got to run smoothly, and produce strong academic progress so that retention in grade is held to a minimum.
- Schools must open on time.

- When school opens, textbooks and supplies have to be ready.
- The food served in our schools must be safe, nutritious, and appetizing -- whether we prepare it in school cafeterias or through outside contracts.
- We have to have decisive improvement in the performance of school personnel. That means ample professional development – but it also means that principals who can't lead a school toward academic accomplishment must go, and teachers who cannot inspire young minds should find another line of work.

These will be visible, immediate signs of progress, that will further bolster the confidence of our community that DCPS is on the right track. The Trustees have every expectation that Superintendent Ackerman will deliver on these points. She knows what a good school system looks like, and she's providing strong, effective leadership in getting us there.

But she will need our help, and yours, in some critical areas – and each has important budget implications.

First, we need massive, rapid improvement in personnel and finance systems. We cannot afford to alienate veteran teachers, and to disillusion new ones, because it takes weeks or months to process a personnel action and cut a paycheck.

Second, the same applies to student information systems. Superintendent Ackerman is trying to lead DCPS into a new era of accountability. But this is an overwhelming task when data on student attendance, enrollment, and achievement are scattered through incompatible and unwieldy systems.

Third, we continue to face a critical facilities problem. It is gratifying that we will be able to spend $80 million this fiscal year to continue the job of renovating and repairing the DCPS physical plant. But in a system whose average school building is 60 years old, a significant, long-term resource commitments will be needed to produce safe, healthy learning environments for every student.

Fourth, and most significant, we must get control of special education spending, which could take up to $156 million of our FY99 budget. It's no secret that DCPS has historically done an inadequate job of educating students with special needs. But due to outdated court decisions that predate the enactment of protections for disabled students, our special education program has become a full-employment program for lawyers. No question about it, we are asking for adequate funding to cover the current costs of compliance. But we also need your support for a legislative change already endorsed by the DC Council, that will put us on the same footing as other jurisdictions, and give us 120 days in which to complete evaluation and referral processes.

DCPS and Charter Schools. I would like to say a few words about the complex relationship between charter schools and the DC Public Schools. I am proud that the Urban League is helping to create charter schools in a number of cities. And as chair of the Trustees, I believe Superintendent Ackerman and her staff deserve praise for helping to improve the working relationship between charters and DCPS in a number of areas -- streamlining grants management, offering an array of options for housing charter schools in excess DCPS facilities, and attempting to work out difficult legal questions about provision of special education and other services.

But I must report that my colleagues and I share some misgivings about the unexpected impacts of the new charter law on our public schools -- and more important, on children. We have already seen one charter school fail. While the adults argued, children were scattered to different sites. And in the final analysis, those children became the responsibility of DCPS -- and Superintendent Ackerman and her staff spent long hours trying to straighten out the mess.

This episode illuminated some gaps in the framework of fiscal accountability for charter schools. It was the clear intent of the DC School Reform Act that dollars should follow students. But in its current form, the law is a one-way street. When a charter school receives 75% of its annual payment in October, then collapses in midyear, it's not clear who has the power to recover funds that may be misspent -- or even whether this is an exercise in futility.

Given the extraordinary lengths to which DCPS has gone to establish credible enrollment numbers -- now confirmed in the recent audit by Thompson, Cobb, Bazilio & Associates - we should expect routine scrutiny of charter enrollments as well.

We suggest that some dialogue is in order about how to ensure greater accountability in charter funding. We might look at processes used in other jurisdictions -- for example, disbursing funds on a quarterly basis, with adjustments for actual, audited changes in student population.

But I think we also need to catch our breath and take stock of this entire phenomenon.

With the best of intentions, this city is about to launch more than a dozen new charter schools. Several charters have prudently decided to wait a year before opening; but we are concerned that others may be opening prematurely. We understand that charter schools ask to be held accountable for outcomes rather than inputs; but we also think that parents are entitled to know whether qualified teachers and other adults of good character are in place before they send their children to a new school -- the same kinds of concerns that should be raised about any environment to which children are entrusted.

We ask that you consider a pause in the rush toward charters. Let's make sure that accountability is clear, that the fiscal issues are resolved, and that we are all on the same page with regard to knotty questions like who provides special education services.

Most of all, let's see how the charter law can support the overall effort to reform education in our city. Remember, the DC School Reform Act was drafted when the regular public school system was at rock bottom. Now, as the system is starting to improve, we need to see how charters and DCPS can collaborate toward the goal of education excellence for all children in the District of Columbia.

Paying for the Past. Finally, I know that this budget appears to request a large increase from the FY98 level -- and in raw numbers, that's true. But as Superintendent Ackerman will detail, a substantial portion of this increase is court-mandated, and the rest is essential to our reform efforts -- such as support for a second year of summer school, and fundamental redesign of the system's lowest-performing schools.

But we were required to build this request on a baseline that did not actually support the number of people in place this fiscal year. Drastic reductions in administrative and support personnel have been necessary to end the year in balance without cutting classroom teachers. I want to emphasize that these are not just changes on a spreadsheet. By and large, these cuts impacted on good people doing honest work -- people who were hired into an organization that had lost control of itself. And now these people are paying for the mistakes of the past, and for the archaic systems still in place.

We can't afford to have too many employees on staff -- but in human terms, we also can't afford to play games with people's lives. That's why it is so important to support the reengineering this Administration is undertaking.

I hope that you will consider our proposals in light of the remarkable early progress already achieved. And I hope you will agree with me that pursuing our Superintendent's vision of an exemplary school system is the best investment we can make in the future of our children.

Thank you, and I look forward to your questions.

Mr. CUNNINGHAM. Ms. Harvey?

Ms. HARVEY. Good morning.

Mr. CUNNINGHAM. You are president of the D.C. Board of Education.

OPENING STATEMENT OF WILMA HARVEY, BOARD OF EDUCATION

Ms. HARVEY. Good morning. My name is Wilma Harvey. I am the president of the District of Columbia Board of Education, and the representative from Ward 1, which covers the Adams Morgan, Mount Pleasant, Rock Creek Park, and Columbia Height area of northwest Washington, D.C.

I would like to thank you for the opportunity to speak to you on behalf of the members of the elected Board of Education. I will give highlights of my testimony, and ask that my entire testimony be submitted for the record.

BUDGETARY PROCESS IN DISARRAY AT LOCAL LEVEL

First of all, let me indicate that the Board of Education has some serious concerns about the budgetary process used this year. The Board of Education has not been able to enter into the type of dialogue it normally does when we are talking about the budget in relationship to our communities throughout the city.

For the record, the Board of Education has always conducted public reviews of its budgets, and has gotten input and impact back from the constituents throughout Washington, D.C. The Board of Education has also worked with school administrations in the past to produce a defensible budget and to produce it on time. However, the 1999 budget is not the product of a structured budget process. To be honest, the Board of Education has little documentation to justify the mark of the 1999 budget. I am a little uncomfortable in making this statement but I believe in the reality in how the Board has perceived working through the 1999 budget.

For the first time in the history of my tenure on the Board of Education, the process of developing the budget is in disarray, and some of it is due in part because of the situation that exists in the District of Columbia.

First, the roles of the appointed and elected Board of Education are not clear. The communities of the District of Columbia were left out of the process. Our charter schools have two separate boards that are operating this year, and, as indicated, up to 12 schools will be funded. This will have a great impact on funding requirements. The current chief financial officer has been on the job only a few weeks. For the last 19 months, we have had four different CFO's. As a result, the budget before you is only, in my opinion, an approximate and preliminary and incomplete document.

I take seriously my responsibilities to consult with my fellow colleagues and with the parents and citizens of the District of Columbia. Therefore, it is impossible for me, as the president of the Board of Education, to view the budget in the same light as the unelected Board of Trustees. This budget, although I have serious concerns about the process, is a budget that is needed for the children in the District of Columbia to help with the education reforms and initiatives for our children.

We must provide comparable pay for our teachers and administrators. We must create a personnel and financial system, excuse me, I have an allergy. We cannot break——

Mr. CUNNINGHAM. Would you like some water?

Ms. HARVEY. I have some here. Thank you. We cannot break our commitment with the long overdue payments of maintenance and staff support. We cannot neglect our buildings and our special needs children.

I will pause and ask to come back after I deal with my allergy, after Ms. Ackerman, please.

Thank you.

Mr. CUNNINGHAM. Thank you.

[CLERK'S NOTE.—See p. 171, this volume, for continuation of Ms. Harvey's statement.]

OPENING STATEMENT OF SUPERINTENDENT ARLENE ACKERMAN

Mr. CUNNINGHAM. Ms. Ackerman, Superintendent of D.C. Public Schools.

Ms. ACKERMAN. Good morning, Mr. Chairman.

Mr. CUNNINGHAM. Good to see you again.

Ms. ACKERMAN. Good to see you. We come from similar family backgrounds—educators.

Good morning to you and to other members——

Mr. CUNNINGHAM. Probably so. My mom and dad are Democrats. [Laughter.]

Ms. ACKERMAN. I am Arlene Ackerman, superintendent of the District of Columbia Public Schools. And I would like to thank you for giving me the opportunity to testify this morning to give you an update on the reform efforts that are currently underway in the District of Columbia public schools, and to discuss the schools' portion of the District's Fiscal Year 1999 budget.

I joined General Becton in the Washington, D.C. schools last December and became superintendent on May 1. When I arrived, we set a clear goal for the District. We said and believed that the District of Columbia Public Schools can be, should be, will be exemplary. We know that this will not happen overnight and this is not going to be easy. We certainly have our challenges. But I sincerely believe that this is a doable process, and we are putting together an experienced staff at all levels, which share our vision and have the experience to make this happen.

PROGRESS DURING 10-MONTH TENURE

In the 10 months since I came to Washington, D.C., we have made real tangible progress towards that goal of exemplary status. I am pleased to report good news on several fronts:

We recently received our Spring 1998 test scores on the Stanford 9, and our students showed solid progress in both reading and math district-wide between last spring and this spring. And I did attach a copy of the test scores to the statement.

We put a singular focus on improving student achievement. We put in place intensive reading instruction, before and after school tutoring programs, and "Saturday Academies," we enlisted the entire community in a reading campaign, and we set academic standards and provided special instruction materials to help support

teachers and students. We targeted our second-grade, third-grade, and fourth-grade teachers with special reading instructions. This is all to say that this improvement in test scores was not an accident. It was strategically putting in place strategies that we knew would ensure that we would be successful. We told our students, our parents, aunts, uncles, the entire community, as well as our teachers and principals, that we all have a role to play to help ensure that our students will succeed.

PROMOTION GUIDELINES

Finally, we built accountability into the system by establishing promotion guidelines for students and telling them they would not be promoted to the next grade without first achieving grade-appropriate skills, and by revising our principal evaluation system to make student achievement 50 percent of their annual performance rating.

GAINS IN TEST RESULTS

And we did get results. We made gains in every grade where students were tested in both 1997 and 1998. We saw fewer students scoring in the below basic range and more students at the basic and proficient levels. We are moving in the right direction.

SUMMER SCHOOL PROGRAM FOR 20,000 STUDENTS

Now, we are putting in place the necessary programs to ensure that we can continue to see improvements in student achievement. Next week, we will launch the largest summer school program in the District's history. We are planning for up to 20,000 students, and as of yesterday, over 17,000 had registered and more registration forms are coming in every day.

I am also pleased to say, that many of the students who are now registering are not students who have to go, must go, but rather students who are coming because they "should" or "may" come, under our guidelines. And that is what we want: we want summer school to be an opportunity for children to get extra help and enrichment.

Eighty of 146 schools will be open for summer school from June 29 to August 7. The program will be focused on the basics: 2 hours of reading with a phonics base and 2 hours of math everyday. Instruction will be highly structured. We will have daily lesson plans for every teacher. In fact, I was over at one of our schools yesterday and teachers were coming in, picking up their supplies. They will have their supplies and curriculum on hand on the first day. Classes will be small, with 15 students per reading class and an aid in the reading class also.

INCREASES FOR PROFESSIONAL DEVELOPMENT AND STAFFING

In addition, we have included funds in the 1999 budget for professional development for teachers and administrators to support additional improvements in our instruction.

Finally, we have included additional staff in the fiscal year 1999 budget staffing formula for schools that continue to show low performance.

ENROLLMENT COUNT—CREDIBILITY PROBLEM

Before I discuss the budget, I want to mention one more piece of good news. Over the years, there have been serious questions about the credibility of our school systems' enrollment count. As you may know, the General Accounting Office did a study of our enrollment process in 1997 and pointed out weaknesses in that area. In response to the study, we did make some changes to our process last year to ensure that we would provide Congress and the Control Board with a credible number. That number, 77,111, was audited by an independent auditor, as required by Federal law, and the auditors found that our count was fairly stated. In fact, while their estimate was within 1 percent of our official enrollment, their number was actually higher than ours.

In order to address the issue that non-residents may be attending our schools, we will substantially strengthen our rules next year for establishing District residency, and we started that process this Spring. A letter has been sent to all DCPS parents explaining the requirements of the new rule. And an early enrollment period has been scheduled in August so that we can begin this process early. Over the summer, we will work with the news media, churches, social service organizations, recreation centers, our libraries, all of those who come in contact with our parents so that we can ensure that our parents know the new rules.

Now, I would like to talk a little bit with you about our 1999 budget. I recognize that you may also have questions about the 1998 deficit, but since my time is limited, I would like to focus on the 1999 budget and answer those specific questions that you may have on FY 1998 a little later. A detailed explanation of the steps we are taking to close the 1998 deficit is also attached to my statement.

INCREASE OF $85 MILLION FOR PUBLIC SCHOOLS

The city's consensus budget includes $545 million in local funds for the District of Columbia Public Schools. This funding level represents an increase of $85 million from last year's Congressionally approved funding level of $460 million. The majority of the increase is required to fund either increases in the scope of services DCPS must provide or court-mandated or otherwise legally required budget increases.

SPECIAL EDUCATION—$48,000 AVERAGE COST

Special education, as you know, is our larger budget driver. The budget for special education was substantially increased to cover the growing cost of private school tuition. Our average cost is $48,000 per student for students who go to a private, out-of-district program. In addition, transportation costs approximately $10,000 per student to transport our students who receive special education transportation. And these costs are all resulting from the Mills Decree and orders of the Special Master in the Petties case. In this area, we budgeted for an increase of almost $44 million over last year's budgeted level. However, spending could be even higher since we have no way of gauging what other costs these court mandates will generate over the course of the next year.

DCPS has undertaken a major effort to reform our special education programs. We are reorganizing, and we are putting in place a community task force to take a look at this, with parents and community representatives, and asking them put forth recommendations to reform our special education program.

SPECIAL EDUCATION—120 DAYS NEEDED FOR ASSESSMENTS

We also are trying to put in place an infrastructure to support a more timely assessment and placement of students. Since my arrival we have gone from 50 students being assessed and placed a month to over 300. We will also focus on expanding special education programs so that we will have programs within the District to some children.

However, we believe that legislative relief is needed to extend the time frame for assessing and placing our children in special education under the Mills Decree. As Chairman Cropp mentioned here last week, the City Council has endorsed our proposal to extend the time line from 50 calendar days to 120 calendar days so that we can achieve parity with the surrounding jurisdictions. I am hopeful that Congress will include legislative language to this effect in this year's D.C. appropriations bill.

OTHER BUDGET INCREASES

Other legally required spending increases in our FY99 budget include water and sewage charges, previously paid by the city, rent increases, back-pay for our employees who are members of the Teamsters Union, and step increases required by collective bargaining in our agreements.

INCREASE OF $17 MILLION FOR REFORMS

The remaining spending increases, which total approximately $17 million, are necessary for our reform efforts. We intend to spend $4 million to increase our starting salaries to $30,000 a year for teachers so that we can compete with the surrounding school districts for the best new teachers. Today, DCPS' starting salary for teachers is at or near the bottom in the region. As a result, we have had severe difficulty recruiting new teachers, and are placed at a competitive disadvantage in reaching the most talented candidates. I believe raising the salary for our new teachers, will help make us be more competitive and that, with higher starting salaries we will be more successful with our recruitment efforts.

We also intend to invest $3 million in professional development as we move forward next year in putting in more standards in other content areas. We also have included $8 million for next year's Summer Stars program because we know there are no quick fixes and summer school will be just as important next year.

Finally, we are investing in an additional $2.5 million in textbooks in the 1999 budget. We are trying to address the chronic problem of outdated textbooks in our classrooms. We have spent this year $5 million preparing for next year so we will have textbooks, K–12, in reading and math in all of our schools. And they will be in schools in time for the beginning of the new school year.

BUDGET CATEGORIES AND COMPARISONS

In order to put DCPS' budget in perspective, I asked our budget office to break down the system's spending into functional areas. We looked at instruction, instructional support, non-instructional support, building administration, and central administration, and we looked at the shift in spending in these areas from 1998 to 1999.

I also asked them to compare our budget to the Seattle Public Schools budget. They may not appreciate that but we needed to have some basis of comparison that I was familiar with. The analysis shows that DCPS spending on instruction will increase this year, while the percentage of funds used for central administration will decrease. So we are increasing classroom spending and decreasing spending in the central office. It also showed that we will spend the greater portion of our budget on instruction than they did in Seattle, which they like to brag about and we can brag a little bit more. We will be spending a substantially smaller amount on central administration, about 3.3 percent.

BLOATED CENTRAL BUREAUCRACY

I know that there is a strong belief that DCPS has a bloated central bureaucracy, which is another reason I wanted to break it out in a way that we could look at actually what is in central office.

I want you to know that the reduction-in-force implemented in May has reduced our central administration now by another 25 percent. We have gone from 646 to now 445. In addition, we have closed the budget deficit by releasing approximately 400 school custodians and other non-classroom based school personnel. We expect to eliminate an additional 200 positions over the summer. In total, we will reduce our staff numbers by approximately 790 positions.

CONCLUSION OF SUPERINTENDENT'S STATEMENT

In summary, Mr. Chairman, and I know it has been a while, my statement has taken a while, but there is a lot that I am trying to get in. We do have a clear vision and a mission for the District of Columbia Public Schools, and we are making steady progress toward our goal of exemplary status. We know it won't happen overnight but we believe by instituting clear standards for performance, and by implementing accountability systems for the school system, its employees, and our students, we have begun moving toward results. We have a long road ahead of us but I am firmly committed and I do believe that one step at a time, school by school, classroom by classroom, we will reach our targets.

Mr. Chairman, that concludes my prepared statement and I am happy to respond to questions.

PREPARED STATEMENT OF SUPERINTENDENT ARLENE ACKERMAN

[Superintendent Ackerman's prepared statement referred to follows:]

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STATEMENT OF ARLENE ACKERMAN
SUPERINTENDENT
DISTRICT OF COLUMBIA PUBLIC SCHOOLS
BEFORE THE SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA
COMMITTEE ON APPROPRIATIONS
U.S. HOUSE OF REPRESENTATIVES
JUNE 24, 1998

Good Morning Mr. Chairman and Members of the Subcommittee. I am Arlene Ackerman, Superintendent of the District of Columbia Public Schools (DCPS). Thank you for giving me the opportunity to testify this morning to give you an update on the reform efforts underway in the District of Columbia Public Schools (DCPS) and to discuss the DCPS portion of the District's fiscal year 1999 budget.

I joined General Becton in the Washington, D.C., schools last September and became Superintendent on May 1. When I arrived, we set a clear goal for the district: we said the District of Columbia's public schools would be exemplary. We knew it would not be easy, but I have spent time in school districts that work, and I know what we must do to succeed. And I've brought on senior staff who share that experience and that vision. In the ten months since I came here, we have made real, tangible progress towards that goal. I am pleased to report good news on several fronts:

We recently received our Spring 1998 scores on the Stanford 9 Achievement Test, and our students showed solid progress in both reading and math between last spring and this spring. (A copy of the test scores is attached to my written statement).

We put a singular focus on improving student achievement, with intensive reading instruction, before- and after-school tutoring and "Saturday academies," clearly defined academic standards and special instructional materials, and targeted professional development for school staff. We told students, parents, aunts, uncles and neighbors, as well as teachers, principals, administrators, and members of the business and faith communities, that we all have a role to play in helping our students succeed.

Finally, we built accountability into the system, by establishing promotion guidelines for students and telling them they would not be promoted to the next grade without first achieving grade-appropriate skills and by revising our principal evaluation system to make student achievement fifty percent of a principal's annual performance rating.

And we got results -- we made gains in every grade where students were tested in both Spring 1997 and Spring 1998. We saw fewer students scoring in the "below basic" range and more students at both "basic" and "proficient." Clearly, we are moving in the right direction.

Now we are putting in place the necessary programs to ensure that we continue to see improvements in student achievement. Next week, we will launch the largest summer school program in this district's history. We are planning for up to 20,000 students, some who will participate because, under the new promotion guidelines, they will not be promoted if they don't and others because they know, or their parents know, that this is a valuable opportunity to strengthen skills that are critical to success at school. Eighty of our 146 schools will be open for summer school from June 29 through August 7.

The program will be focused on the basics -- two hours of reading and two hours of math every day. Instruction will be highly structured, with scripted lessons provided to every teacher for every class period, so we can expect uniform program quality across the district. Class sizes will be very small (1 teacher and 1 aide per 15 students for reading; 1 teacher per 15 students for math). In addition, we have included funds in our FY99 budget for professional development for teachers and administrators to support additional improvements in instruction in our schools. Finally, we've included additional staff in the FY99 staffing formula for schools that continue to show low performance.

Before I discuss the budget, I want to mention one more piece of good news. Over the years, there have been serious questions about the credibility of the school system's enrollment count. As you may know, the General Accounting Office did a study of our enrollment process in 1997 and pointed out weaknesses in a number of areas. In response to the study, we made changes to our process last year to ensure that we could provide Congress and the Control Board with a credible number. That number -- 77,111 -- was audited by an independent auditor (as required by federal law) and the auditors found that our count was "fairly stated." In fact, while their estimate was within 1% of our official enrollment, their number was actually higher than ours.

In order to address the issue that non-residents may be attending our schools, we also substantially strengthened our rules for establishing District residency this spring. A letter has been sent to all DCPS parents explaining the requirements of the new rule and an early enrollment period has been scheduled in August to give parents the opportunity to present the necessary documents to prove that their children are DC residents. Over the summer, we will work with the news media, churches, social service organizations, recreation centers, libraries and others to make sure parents know about the new rule.

Now I'm going to talk with you about DCPS FY99 budget. I recognize that you also may have questions about the FY98 deficit, but since my time is limited I would like to focus on FY99. A detailed explanation of the steps we are taking to close the FY98 deficit is attached to my statement.

The City's consensus budget includes $545 million in local funds for the District of Columbia Public Schools. This funding level represents an increase of $85 million from last year's congressional-approved funding level of $460 million.

The majority of the increase is required to fund either increases in the scope of services DCPS must provide or court-mandated or otherwise legally required budget increases. Special education is our largest budget driver. The budget for special education was substantially increased to cover the growing costs of private school tuition, related service payments to private schools, and transportation costs resulting from the *Mills Decree* and orders of the Special Master in the *Petties* case. In this area, we budgeted for an increase of almost $44 million over last year's budgeted level; however, spending could be even higher if our current special education enrollment projections are borne out.

DCPS has undertaken a major effort to reform our special education program. We have entered into a comprehensive compliance agreement with the Department of Education, and we are restructuring our infrastructure to support more timely assessment and placement of students. We will also focus on expanding special education programs within the district. However, we also believe that legislative relief is needed to extend the timeframe for assessing and placing children in special education under the *Mills Decree*. As Chairman Cropp mentioned here last week, the City Council has endorsed our proposal to extend the timeline from 50 calendar days to 120 calendar days (to achieve parity with the surrounding jurisdictions); I am hopeful that Congress will include legislative language to this effect in this year's DC appropriations bill.

Other legally required spending increases reflected in our FY99 budget include: water and sewer charges previously paid by the City, rent increases, back pay for DCPS employees who are members of the Teamster's union, and step increases required by collective bargaining agreements. These requirements total almost $12 million.

The remaining spending increases -- which total only about $17 million -- are necessary to the DCPS reform effort. We intend to spend $4 million to increase DCPS' starting salaries to $30,000 per year, so that we can compete with the surrounding jurisdictions for the best new teachers. Today, DCPS' starting salary for teachers is near the bottom in the region. As a result, we have had severe difficulty recruiting new teacher and are placed at a competitive disadvantage in reaching the most talented candidates. As a large number of our teachers reach retirement age in the next several years, we expect this problem to become more serious if we do not takes steps now to address it. We also intend to invest $3 million in professional development. As we increase the demands we are making on our employees, we must provide them with adequate training to meet these goals.

We have included $8 million for next year's Summer STARS program in our FY99 budget, because we know that there are no "quick fixes" in education and that many of our students will need intensive instruction during the summer months for several years to reach the performance levels we have set for them. In fact, I would like to establish a number of year-round schools in our community in the not-too-distant future. I have personal experience with year-round schools and am a firm believer in their merit. Finally, we are investing an additional $2.5 million in textbooks in FY99, to address the chronic problem of outdated texts in our classrooms.

In order to put DCPS' budget in perspective, I asked our budget office to break down the system's spending in the following functional areas: instruction, instructional support, non-instructional support, building administration, and central administration, and to look at the shift in spending in these areas between FY98 and FY99. I also asked them to compare our budget to the Seattle Public Schools budget. The analysis showed that DCPS' spending on instruction will increase, while the percentage of funds used for central administration will decrease (from 4.2% to 3.3%), between FY98 and FY99. It also showed that we will spend a greater portion of our budget on instruction than they did in Seattle, and a substantially smaller amount (about half as much) on central administration.

I know there is a strong belief that DCPS has a bloated central bureaucracy. I want you to know that the reduction-in-force implemented in May reduced central administration by about 25%. To close the budget deficit, we also have released about 400 school custodians and other non-classroom based school personnel, and we expect to eliminate an additional 200 positions over the summer. In my view, while DCPS' central office may once have been overstaffed, that is no longer the case.

In summary, Mr. Chairman, we have a clear vision and mission for the District of Columbia Public Schools and we are making steady progress toward toward that goal. We know it won't happen overnight, but, by instituting clear standards for performance and implementing accountability systems for both school system employees and students, we have begun moving toward results. We have a long road ahead but I firmly believe that, one step at a time, school by school, and classroom by classroom, we will reach our targets.

Mr. Chairman, that concludes my prepared statement. I am happy to respond to questions.

District of Columbia Public Schools

Preliminary Districtwide SAT-9 Reading Results-
Normal Curve Equivalent (NCE) Means

Spring 1997 to Spring 1998

Grade	National Norms	Spring 97 Mean NCE	Spring 98 Mean NCE	Change
1	50	49.2	52.6	[illegible]
2	50	42.1	46.2	[illegible]
3	50	41.9	44.8	[illegible]
4	50	38.8	45.0	[illegible]
5	50	41.8	46.1	[illegible]
6	50	45.5	49.6	[illegible]
7	50	*	43.0	[illegible]
8	50	41.8	46.9	[illegible]
9	50	*	39.7	[illegible]
10	50	37.3	38.2	[illegible]
11	50	41.8	43.2	[illegible]

* Grades that were not tested in Spring 1997

Source: Department of Educational Accountability, Research and Evaluation Branch June, 1998

District of Columbia Public Schools

Preliminary Districtwide SAT-9 Mathematics Results -
Normal Curve Equivalent (NCE) Means

Spring 1997 to Spring 1998

GRADE	National Norms	Spring 97 Mean NCE	Spring 98 Mean NCE	Change
1	50	*	51.4	N/A
2	50	*	45.4	N/A
3	50	44.6	48.0	3.4
4	50	*	44.1	N/A
5	50	*	45.1	N/A
6	50	46.8	51.5	4.7
7	50	*	43.6	N/A
8	50	40.5	44.8	4.3
9	50	*	46.9	N/A
10	50	34.8	40.5	5.7
11	50	*	45.6	N/A

* Grades that were not tested in Spring 1997

Source: Department of Educational Accountability, Research and Evaluation Branch June, 1998

District of Columbia Public Schools

Preliminary Districtwide SAT-9 Reading Performance Standards
Percent of Students Performing Within the Proficiency Levels

Spring 1997 to Spring 1998

GRADE	Below Basic			Basic			Proficient			Advanced		
	1997	1998	National	1997	1998	National	1997	1998	National	1997	1998	National
1	14	12	12	47	41	47	28	33	29	11	14	12
2	40	29	25	40	46	40	16	20	29	4	5	6
3	38	33	25	34	35	33	22	28	31	7	9	11
4	42	31	24	38	40	33	15	20	31	5	9	11
5	32	25	22	49	50	43	17	20	29	3	5	5
6	27	16	21	48	55	45	21	25	29	5	4	5
7	*	29		*	48		*	19		*	4	
8	30	20	22	48	51	36	19	27	35	3	3	7
9	*	38		*	48		*	11		*	3	
10	51	47	26	33	37	40	13	13	29	3	2	5
11	50	46	36	36	40	40	12	12	20	2	2	4

* Grades that were not tested in Spring 1997

Source: Department of Educational Accountability, Research and Evaluation Branch June, 1998

District of Columbia Public Schools

Preliminary Districtwide SAT-9 Mathematics Performance Standards
Percent of Students Performing Within the Proficiency Levels

Spring 1997 to Spring 1998

GRADE	Below Basic			Basic			Proficient			Advanced		
	1997	1998	National	1997	1998	National	1997	1998	National	1997	1998	National
1	*	18		*	42		*	32		*	8	
2	*	32		*	39		*	23		*	5	
3	35	31	11	40	40	48	20	23	34	5	6	7
4	*	40		*	36		*	19		*	5	
5	*	49		*	33		*	14		*	4	
6	52	40	43	32	38	33	13	17	19	4	5	5
7	*	61		*	26		*	8		*	2	
8	71	59	42	20	30	35	7	10	20	2	2	3
9	*	61		*	29		*	9		*	2	
10	89	83	61	8	12	28	2	3	10	1	1	1
11	*	76		*	12		*	10		*	2	

* Grades that were not tested in Spring 1997

Source: Department of Educational Accountability, Research and Evaluation Branch June, 1998

District of Columbia Public Schools

Anti-Deficiency Execution Action Plan For Fiscal Year 1998

June 1998

DCPS Anti-Deficiency Execution Action Plan for FY98

Action #1

- *Request additional funding from the Control Board to limit the programmatic reductions.*

Potential Savings (in millions)

- *$34.6*

Steps Taken

- *Additional funding request made and approved by the Control Board. DCPS received $34.6 million in management reform dollars.*

Additional Steps Needed

- *None.*

DCPS Anti-Deficiency Execution Action Plan for FY98

Action #2

Freeze local OTPS dollars with the exception of local OTPS funds to schools, contracts in progress, special education & legal fees, textbooks, and emergency supplies approved by both the Superintendent and the CFO.

Potential Savings (in millions)

- *$12.3*

Steps Taken

- *DCPS accountable officers received a memorandum on April 20th notifying them of the OTPS freeze. As a result, the RAPS system, which is used to requisition goods and services, was deactivated.*

Additional Steps Needed

- *Based on controls established, DCPS is confident that these savings will be accomplished.*

CPS Anti-Deficiency Execution tion Plan for FY98

ction #3

- *Analyze the operating budget for expenditures that may be classified as capital and can be funded from capital funds.*

otential Savings (in millions)

- *$10.0*

Steps Taken

- *DCPS has identified approximately $2 million in OTPS operating costs that appear to be capital related.*

Additional Steps Needed

- *DCPS' Facilities Office will provide the DCPS'CFO with details so that the necessary journal entries can be made. DCPS will examine all capital PS expenditures to ensure that capital employees are paid from capital dollars and not operating dollars. Adjustments will be made as necessary.*

DCPS Anti-Deficiency Execution Action Plan for FY98

Action #4

- *Renegotiate the Teamster's Agreement.*

Potential Savings (in millions)

- *Undetermined*

Steps Taken

- *DCPS has met with the Teamster union officials and is optimistic that the remaining settlement cost will be reduced.*

Additional Steps Needed

- *DCPS will meet with the union this week to finalize the revised cost.*

DCPS Anti-Deficiency Execution Action Plan for FY98

Action #5

- *Deobligate funds for which goods or services were never provided or are no longer needed.*

Potential Savings (in millions)

- *$4.0*

Steps Taken

- *Based on prior experience , DCPS has deobligated approximately $6 million. We believe this cost savings will materialize.*

Additional Steps Needed

- *At the end of July, DCPS will analyze all outstanding obligations to determine which purchase orders and contracts can be deobligated. This procedure will be repeated in the months of August and September.*

DCPS Anti-Deficiency Execution Action Plan for FY98

Action #6

- *RIFing non-classroom based employees.*

Potential Savings (in millions)

- *$2.0*

Steps Taken

- *DCPS has RIFed approximately 200 employees to date. Another 400 employees will receive their letters on June 19th. In addition, we have eliminated approximately 200 vacant positions.*

Additional Steps Needed

- *DCPS will assess the initial impact of the RIFs and determine which vacant positions will not be filled.*

DCPS Anti-Deficiency Execution Action Plan for FY98

Action #7

- *Furlough all employees who have received more than $5,000 in overtime pay during fiscal year 1998.*

Potential Savings (in millions)

- *$2.0*

Steps Taken

- *DCPS has identified the employees who fall into this category.*

Additional Steps Needed

- *DCPS will calculate the number of days to be furloughed in order to recoup the funds paid in overtime.*

DCPS Anti-Deficiency Execution Action Plan for FY98

Action #8

- *Furlough Group 2 (central offices) for two days per month from July through September (a total of 6 working days).*

Potential Savings (in millions)

- *$1.8*

Steps Taken

- *Letters to all Group 2 employees must be mailed no later than June 19th informing them that they will be furloughed 2 days per month from July through September.*

Additional Steps Needed

- *DCPS will ensure that furlough days taken are staggered to reduce the impact on overall operations.*

DCPS Anti-Deficiency Execution Action Plan for FY98

Action #9

- *Furlough Group 6 (excluding teachers) for two days per month from July through September (a total of 6 working days).*

Potential Savings (in millions)

- *$0.7*

Steps Taken

- *Letters to all Group 6 employees must be mailed no later than June 19th informing them that they will be furloughed 2 days per month from July through September.*

Additional Steps Needed

- *DCPS will ensure that furlough days taken are staggered to reduce the impact on overall operations.*

DCPS Anti-Deficiency Execution Action Plan for FY98

Action #10

- *Institute a general hiring freeze. New hires allowed on an exception basis with required approval from the Superintendent and the CFO.*

Potential Savings (in millions)

- *Cost Avoidance*

Steps Taken

- *DCPS accountable officers received a memorandum on April 20th notifying them of the HIRING freeze.*

Additional Steps Needed

- *DCPS will continue to monitor personnel activity to ensure additional costs are avoided.*

DCPS Anti-Deficiency Execution Action Plan for FY98

Action #11

- *Implement a spending freeze for object class 13 (overtime or premium pay). Exceptions can be made with approval from both the Superintendent and the CFO.*

Potential Savings (in millions)

- *Cost Avoidance*

Steps Taken

- *DCPS employees received a memorandum on April 20th notifying them of the OVERTIME freeze.*

Additional Steps Needed

- *DCPS will continue to monitor employee perfirnabce to ensure this cost savings is realized.*

Mr. CUNNINGHAM. Thank you, Ms. Ackerman. Ms. Josephine Baker, Chair—

CONTINUATION OF BOARD PRESIDENT'S STATEMENT (SEE P. 146, THIS VOLUME)

Ms. HARVEY. Excuse me. Can I just finish my few remarks?

Mr. CUNNINGHAM. Briefly, yes.

Ms. HARVEY. Thank you. I will be very brief.

Mr. CUNNINGHAM. Are you okay now?

Ms. HARVEY. Yes, I have these allergies that are acting up this morning. I do apologize.

I would like to leave with you, Mr. Chair, and members of the Committee, the following questions:

What resources would be available in the schools?

How much discretion will be given to local schools in using these resources?

The elected Board of Education strongly believes that the 1999 budget must provide parents with the assurance that their children will have well-qualified teachers and administrators who are paid accordingly, that well planned instructional programs are in place with support required such as textbooks, instructional materials, and computers, and that all schools are safe for children to learn in and to attend. These must be the major priorities in the budget.

In short, parents will measure the budget by its means and what happens in the local schools. The parents and the citizens of the District of Columbia want the same thing for their children as other communities throughout the country. Taxpayers of the District of Columbia expect the same level of accountability that is demanded by taxpayers elsewhere. And I am confident that this can be accomplished because the children of the District of Columbia deserve no less.

Thank you.

PREPARED STATEMENT OF WILMA HARVEY, SCHOOL BOARD PRESIDENT

[Ms. Harvey's prepared statement follows:]

Testimony of
Wilma Harvey, President of the
Board of Education of the District of Columbia

Before the
U.S. House of Representatives Appropriations Committee
Subcommittee on the District of Columbia

June 24, 1998

Thank you for the opportunity to speak here today. You have asked me as President of the elected Board of Education of the District of Columbia (and in representation of my fellow members of the elected Board) to testify concerning the budget for the public school system of the District of Columbia for the coming year. I am also, *ex officio*, a member of the Emergency Transitional Education Board of Trustees.

The Budgetary Process This Year

I take no pleasure in this testimony. Though I am pleased to see budget increases, I am very concerned about the budget processes.

Let me say for the record that the Board of Education in its three-decade history has always conducted a public review process of public school budgets. We have always worked with the school system to produce defensible budgets on time. The 1999 DC public school budget is not a product of a structured budgetary process. And I cannot tell you in truth that I have been provided with detailed documentation that justifies the budget mark included in the District's 1999 budget. I am not happy about this, and I owe you (and the voters of the District of Columbia) an explanation.

The process for developing a budget for the District of Columbia public school system (DCPS) is in disarray. The roles to be played by appointed and elected officials are unclear. And the public has been left out.

- No Control Board member currently has been assigned responsibility for DCPS education issues.
- A federal judge will soon rule on the status of the Emergency Board of Trustees in implementation of the decision of a three-judge federal panel that declared the Trustees, as they have been operating, illegal.

- The chair of the Trustees resigned and that member's vacancy has not been properly filled.
- The current Chief Financial Officer of the DCPS has been on the job only a few weeks, having been assigned the job shortly after the discovery of a $62 million shortfall. (In the 19-month history of the Emergency Trustees, that body has worked with four different CFOs.)
- The CFO of the Control Board, to whom the D.C. public schools' CFOs report, has himself resigned with less than a week's notice, and the current Control Board CFO is serving on an interim basis.
- Two separate boards are now chartering schools for next school year, and their uncoordinated activities will have a great impact on funding requirements.

This budget before you now is only an approximate and very preliminary document. I take seriously my responsibility to consult with the members of the elected board, to say nothing of the parents and other citizens. I have not had a sufficiently detailed or complete budget for this consultation. Therefore, it is impossible for me, as President of the elected Board of Education, to view the budget in the same light as the unelected Board of Trustees. This breaks the link by which the tax-paying public might have been able to influence the budgetary process.

This budget:

Although I have serious criticisms of the process that produced this budget, I am here to tell you that it does one thing right. We do need additional funds to meet the needs of our children for the coming year. We cannot fall further behind neighboring jurisdictions in teacher pay. We cannot put off the creation of personnel and financial systems that work. We cannot break promises to deal with long-overdue settlements with maintenance and support staff. We cannot neglect the buildings in which our children spend their school days. We must deal with our special education needs, or the courts will take this issue out of our hands and send us the bill.

We need at least the full amount represented by this budget. We will now have to adjust and reallocate within this budget. And of course the oversight required to see that every dollar is well spent is a task always before us. But deficiencies in the process that will ultimately produce the real budget will have to be remedied.

I would like to leave you with these questions: What resources will be available in the schools? How much discretion will local schools have in using these resources? The elected Board of Education strongly believes that the 1999 budget must provide parents with the assurance that their children will have well-qualified teachers and administrators who are paid accordingly; that well-planned instructional programs are in place with the support required (textbooks, instructional materials, and computers); and that all students are in a safe learning environment. In short, parents will measure this budget by what it means in their local schools. Parents in the District of Columbia want the same thing for their children that parents and communities across the country want for theirs. Taxpayers in the District of Columbia expect the same level of accountability that is demanded by taxpayers elsewhere. I am confident this can be accomplished.

Detailed critique

Too much of the budget is in very general categories; it's hard to know what exactly is being approved. Of the $44M increase in Non-Personal Services (former OTPS), $42.5M is accounted as increases in "supplies and materials" at $10.3M, "other services" at $15.5M, and "subsidies and transfers" at $16.8 M.

Capital financing after 1999 is quite inadequate, declining sharply from $97 M in 1999 to $47 M in 2001 and with continuing reductions projected for later years. Moreover, even the funding for FY 1999 is not assured, with only $55 M covered by long-term financing and the other $42 million listed as "Other"—unspecified—financing.

At best, this budget provides for accelerated replacement of roofs, boilers, chillers, windows, and other capital components. This work has to be done. However, we also have to have new, well-designed facilities and fully renovated buildings. This budget does not provide for any new schools to be built with DCPS budgeted resources in the foreseeable future. (Parents have planned better than the system, however: there will be at least one new school, perhaps two, built by public-private partnerships.)

Special-Needs Programs continue to consume a large share of the budget. Reallocations in this budget show no promise of limiting future growth of the special needs programs. We will have aggressive new programs to hire special education teachers and aides and to increase the numbers of special-needs students accommodated in mainstream classrooms. But it seems that we will see increases in the number of special-needs students and the number who require expensive out-placements in private schools. These increases account for a significant part (perhaps more than half) of the increased budget for FY 1999 and for most of the additional staff. (The budget talks of 1800 new special education teaching positions and 1461 new placements in private schools, if DCPS is successful in working off the backlog of reviews.)

Central Procurement is presented as a cost-saving measure, which depends on principals to improve central administration: "Principals are to play an integral part of any changes in central administration." In fact, this is very upsetting to principals because it means the local school management teams have less and less discretion over their expenditures such as textbooks and that most staffing will now be done by formula.

Charter Schools are a worrisome set of "wild card" assumptions. If we lose these bets, charter schools might be badly under-funded. If charter school attract more students than expected or if unanticipated costs must be met, this budget is busted. There is no provision for increases and there is no way to reallocate funds currently budgeted for charter schools if the enrollment is less than projected.

There are three key assumptions as to how the Charter Schools will affect future budgets. Each of these is unproven and may be quite wrong.

1. We can do little more than guess at future Charter School enrolment. It is assumed that most of the Charter School enrolment will be students who would otherwise enroll in DCPS public schools. Significant numbers will be new students, students who would otherwise have moved or students who would otherwise have been enrolled in private schools. What the net effect will be on public school enrolment cannot be predicted accurately. However, it is almost certain that the budget assumption is wrong. All of the Charter School enrollment will **not** be subtracted from DCPS enrollment numbers.

2. We cannot assume that students once enrolled in Charter Schools are permanently committed to alternatives to the DCPS schools. Some will return by choice; some charters will fail; some students will fail in the charter schools and seek alternatives in the DCPS schools. The DCPS schools must plan for these possibilities. However, there are no guidelines in place for how to do so and how to handle the issue of maintaining a margin of contingency space and capacity.

3. We have no basis for the assumption that the Charter Schools will lead to competition in terms of operating budgets (bottom p. C-8) and that this will lead to downward pressure on the non-personal services budgets of the DCPS schools. The Charter Schools currently have a number of one-time subsidies from a variety of sources. These subsidies are unlikely to be repeated or sustained. There is every likelihood that as the real costs of Charter School become apparent there will be significant pressure from Charter School advocates for increases in the per capita funding, for relief from certain non-instructional costs, and for reallocation of other program support. In fact, I predict that in the future the proponents of public charter schools will become partners with the other public schools in advocating increased funding throughout the public school system of the District.

Mr. CUNNINGHAM. Thank you, Ms. Harvey.

OPENING STATEMENT OF JOSEPHINE C. BAKER, PUBLIC CHARTER BOARD

Mr. CUNNINGHAM. Our next witness is Ms. Josephine Baker, Chairperson of the D.C. Public Charter School Board.

Ms. BAKER. Good morning, Mr. Chairman, members of the subcommittee, and distinguished colleagues. I am Josephine Baker, chairperson of the District of Columbia Public Charter School Board. I am delighted to have been asked to testify on behalf of public charter schools this morning. And, yes, we are working to make schools better.

During my testimony today, I will cover four topics:

One, the fiscal year 1999 budget request for public charter schools in the District of Columbia;

Two, the fiscal year 1999 budget request for the District of Columbia Public Charter School Board's operations;

Three, recommendations for possible changes in the District of Columbia School Reform Act of 1995; and

Fourth, a summary of what the D.C. Public Charter School Board has accomplished over the past year, particularly in the area of accountability.

FY 1999 BUDGET FOR CHARTER SCHOOLS

The fiscal year 1999 District of Columbia budget request of $12,235,000 for public charter schools falls far short of what is needed to support the number of students who will be enrolled in public charter schools when public schools open in the Fall of 1998. At a base rate of $5,500 per student, with no allowance made for grade levels or students with special needs requiring higher funding levels, the amount requested will support only 2,225 students.

The Board anticipates that in September, 1998, 2,275 students will attend schools we recently chartered. If you add this number to the number of students who will be enrolled in the 11 schools chartered by the D.C. Board of Education, the problem becomes frighteningly clear.

All of us have promised alternatives to the families and students in Washington, and have raised hopes and expectations among communities. We look to the Congress to ensure that promises are kept and that public charter schools are fully funded.

INCREASE FOR CHARTER BOARD

The D.C. Public Charter School Board is requesting an increase of $80,000 in its appropriated funds for fiscal year 1999, from $400,000 to $480,000.

NUMBER OF CHARTER SCHOOLS

In Fall 1998, 8 of the 10 schools the Board recently chartered will be in operation and the Board anticipates awarding up to 10 new charters this year.

SUGGESTED CHANGES IN CHARTER SCHOOL LEGISLATION

We have learned much during the past 15 months about the District of Columbia School Reform Act and how to work within the framework it provides. However, there are two provisions of the law that if changed would strengthen efforts to charter schools that will be successful. The law requires that public charter schools admit students using a random selection process when there are more students than there are spaces available. The law should be changed to make it more family friendly. The random selection provision for new public charter schools should give preference to siblings, just as that preference is given for existing public or private schools that convert to public charter school status.

The authorization of the D.C. School Reform Act should be extended beyond the current April 2001 expiration date. Stability and consistency in governance and oversight are critical in the success of any new venture, especially one that makes the kind of break from tradition that public charter schools do. It is imperative that the structure and direction provided by the D.C. Reform Act remain in place for enough time, 10 years, to permit real change to occur and to take hold.

CHARTER BOARD'S APPLICATION REVIEW PROCESS

As a Board, we have been consistent in our determination to ensure that attention to accountability is evident in the operations of the schools we charter and in our own work. Accordingly, we have focused our resources over the past 15 months on building and strengthening what we believe to be the four pillars of charter school quality and accountability.

First, the Board created and managed a carefully designed and rigorous application review and decision process to be sure that the applicants approved for a charter offer an exceptionally strong educational program and have a high probability of success.

Second, the Board is structuring comprehensive and legally sound charter agreements that are individually tailored to each school's structure, mission, goals, and educational programs.

Third, we are working in partnership with our first cohort of public charter schools, providing them with guidance and technical help in the development and implementation of school-based accountability procedures that will enable them to: (1) set challenging but achievable goals; (2) track their progress toward goals; (3) make program adjustments when needed; and (4) report to parents, the community, and the Board on their performance progress.

Fourth, the Board is completing its own procedures for monitoring each school's progress.

ENSURING ACCOUNTABILITY (SEE P. 185)

Mr. Chairman, I have attached a document to my written testimony explaining our efforts to ensure accountability and ask that it be submitted for the record.

And, Mr. Chairman, and members of the subcommittee, on behalf of the D.C. Public Charter School Board, I thank you for the opportunity to speak to you today. I will be happy to provide more information about our schools and our joint efforts to ensure success and accountability.

PREPARED STATEMENT OF JOSEPHINE C. BAKER, CHARTER SCHOOL BOARD

[Ms. Baker's prepared statement follows:]

STATEMENT OF JOSEPHINE C. BAKER
CHAIRPERSON
DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL BOARD

BEFORE THE SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA,
COMMITTEE ON APPROPRIATIONS
UNITED STATES HOUSE OF REPRESENTATIVES

June 24, 1998

Good morning Mr. Chairman, members of the Subcommittee and distinguished colleagues. I am Josephine Baker, Chairperson of the District of Columbia Public Charter School Board. I am delighted to have been asked to testify on behalf of public charter schools this morning.

During my testimony today, I will cover four topics:

(1) the Fiscal Year 1999 budget request for public charter schools in the District of Columbia;

(2) the Fiscal Year 1999 budget request for the District of Columbia Public Charter School Board's operations;

(3) recommendations for possible changes in the District of Columbia School Reform Act; and

(4) a summary of what the District of Columbia Public Charter School Board has accomplished over the past year, particularly in the area of accountability.

- <u>THE FISCAL YEAR 1999 BUDGET REQUEST FOR PUBLIC CHARTER SCHOOLS IN THE DISTRICT OF COLUMBIA.</u>

The fiscal year 1999 District of Columbia budget request of $12,235,000 for public charter schools falls far short of what is needed to support the numbers of students who will be enrolled in public charter schools when public schools open in the fall of 1998. At a base rate of $5,500 per student (with no allowances made for grade levels or students with special needs requiring higher funding levels), the amount requested will support only 2, 225 students.

As of March of this year, the DC Public Charter School Board awarded ten charters. Eight of these newly chartered public schools will open in September 1998. We anticipate that 2,275 students will attend these eight

schools. If you add this number to the number of students who will be enrolled in the eleven schools chartered by the DC Board of Education that plan to open in September 1998, the problem becomes frighteningly clear.

All of us have promised alternatives to the families and students in Washington and we have raised hopes and expectations among communities. We look to the Congress to ensure that promises are kept and that public charter schools are fully funded.

THE FISCAL YEAR 1999 BUDGET REQUEST FOR DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL BOARD OPERATIONS.

The District of Columbia Public Charter School Board is requesting an increase of $80,000 in its appropriated funds for fiscal year 1999, from $400,000 to $480,000. The additional funds are needed to cover staff costs as we enter our first year with operating schools and anticipate awarding up to ten new charters in the fall of this year.

The work of the District of Columbia Public Charter School Board is labor intensive and focuses on four key areas: a rigorous **application review and selection** process, (2) **accountability** planning and implementation that aims toward capacity building among the schools, (3) **monitoring** the schools we chartered this year and providing technical assistance where it is needed; and (4) **community outreach** to increase understanding of public charter schools and the role they play in improving public education. The Board is in the final stage of selecting an Executive Director whom we expect to join us in August and we hope to have at least two more staff in place by this fall.

♦ RECOMMENDATIONS FOR POSSIBLE CHANGES IN THE DISTRICT OF COLUMBIA SCHOOL REFORM ACT.

We have learned much during the past fifteen months about the District of Columbia School Reform Act and how to work within the framework it provides. However, there are two provisions of that law that, if changed, would better support efforts to charter schools that will be successful.

1. The law requires that public charter schools admit students using a **random selection** process when more students apply than there are spaces available. Recently, the Board was approached by one of the newly chartered schools because twins had applied and since the school had more applicants than spaces, a lottery was being held. The question was, "what can we do, if as a result of the lottery, one twin is admitted and the other isn't?" What about siblings? The way the law is written, it makes it too difficult for parents who have to worry about getting their children to and from school. As the law is written, parents could face

the difficulty of transporting their children to different schools or the unpleasant option of not enrolling in the public charter school the child whose name was drawn in the lottery.

The law should be changed to make it more family friendly. The random selection provision for new public charter schools should give preference to siblings just as that preference is given for existing public or private schools that convert to public charter school status.

2. The **authorization of the DC School Reform Act** should be extended beyond the current April 2001 expiration date. Under the law now, charter schools are granted fifteen-year charters with a provision that the Authority granting the charter review the charter at least once every five years to determine if the charter should be revoked. Stability and consistency in governance and oversight are critical to the success of any new venture, especially one that makes the kind of break from tradition that public charter schools do. It is imperative that the structure and direction provided by the DC School Reform Act remain in place for enough time (10 years) to permit real change to occur and take hold.

- A SUMMARY OF THE DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL BOARD'S ACCOMPLISHMENTS, PARTICULARLY IN THE AREA OF ACCOUNTABILITY.

It's difficult for members of the District of Columbia Public Charter School Board to believe that the Board has existed for fewer than sixteen months. We've worked hard and we've accomplished much in that period of time.

As a Board, we have been consistent in our determination to ensure that attention to accountability is evident in the operations of the schools we charter and in our own work. The District of Columbia Public Charter School Board operates under two imperatives that influence every aspect of its work. First, the Board seeks to help improve public education for children, youth, and adults in the District of Columbia by chartering public schools that succeed. Second, the Board works tirelessly to help the schools it charters meet the highest standards of accountability.

Accordingly, we have focused our resources over the past fifteen months on building and strengthening what we believe to be the four pillars of charter school quality and accountability.

First, the board created and managed a carefully designed and rigorous **application review and decision process** to be sure that the applicants approved for a charter offer an exceptionally strong educational program and have a high probability of success. This review process uses technical

reviewers with expertise and experience in important areas such as curriculum, business and financial management, school governance and operations, and parent and community involvement. These reviewers read and rate applications and conduct face-to-face interviews of each applicant. Their reports are a valuable component of the Board's decision-making process. The ten new public charter schools approved this year from a field of 26 applicants are all extremely promising and offer new opportunities for students in the nation's capital.

Second, the board is developing comprehensive and legally sound **charter agreements** that are individually tailored to each school's structure, mission, goals, and educational program.

Third, the Board is working in partnership with our 10 new charter schools, providing them with guidance and technical help in the development and implementation of **school-based accountability procedures** that will enable them to —

(1) set challenging but achievable goals;
(2) track their progress toward their goals;
(3) make program adjustments when needed; and
(4) report to parents, the community, and the Board on their performance and progress.

The Board has been told that this front-end approach to building school-based accountability has not been done before and that we are creating a model for charter schools across the country.

Fourth, the Board is completing its own procedures for **monitoring** each school's progress in meeting its goals and academic achievement expectations, fiscal management, and compliance with applicable law and the terms of its charter.

Mr. Chairman and members of the Subcommittee, I thank you again for the opportunity to speak to you today. I will be happy to provide more information about the schools the Board has chartered and our partnerships with the schools to ensure success and accountability.

Attachment: Ensuring the Accountability of Public Charter Schools in the District of Columbia

The District of Columbia Public Charter School Board

Ensuring the Accountability of Public Charter Schools in the District of Columbia

The District of Columbia Public Charter School Board operates under the District of Columbia School Reform Act of 1995. Section 2211 of the Act requires that the chartering authority; "shall monitor the operations of each public charter school to which it has granted a charter; shall ensure that each such school complies with applicable laws and the provisions of the charter; and shall monitor the progress of each such school in meeting student academic achievement expectations specified in the charter."

The Board has set as its highest priority the establishment of well-conceived processes and procedures for ensuring the public accountability of the schools it charters. Toward this end, every school chartered by the District of Columbia Public Charter School Board will—

1. Be guided by thorough, well-designed educational and business plans;
2. Operate under a firm, but fair charter that clearly spells out the legal rights and obligations of the school;
3. Prepare and manage its own charter school accountability plan that sets goals for student achievement and school operations and measures how well those goals are being met; and
4. Be carefully monitored by the Board for compliance with the law and with its charter, for financial stability and fiscal responsibility, and for the academic achievement of its students.

Every school will be guided by thorough, well-designed plans.

Now in its second competitive cycle, the Board has developed a rigorous application and review process that places an emphasis on sound academic and business plans, strong leadership from committed boards of trustees, and solid financial planning. Every application approved by the Board for a charter has been thoroughly reviewed and its sponsors interviewed by a panel of several highly qualified reviewers, each with a different area of special competence. In addition, applicants whose plans are generally strong, but who do not yet meet the standards for charter approval are given extensive feedback and invited to revise and resubmit their applications for a second stage review. This challenging, yet developmental, process has resulted in a first cohort of schools with special promise for students in the District of Columbia.

Every school will operate under a firm, but fair charter.

The Board believes that a strong charter is an essential element for holding schools accountable for their performance. Accordingly, the Board has studied charter agreements from other states, sought sound legal advice, and invited comment from the schools and others on successive drafts of the charter agreement it will soon enter into

with ten new public charter schools. The Board believes that the resulting charter provides both the flexibility the schools need to make effective use of their resources and the leverage the Public Charter School Board needs to hold schools accountable for their outcomes.

Every school will prepare and manage its own charter school accountability plan.

To be accountable, public charter schools need to have procedures in place that enable them to 1) set challenging but achievable goals; 2) measure and track their progress toward their goals; 3) make program adjustments when needed; and 4) report to parents, the community, and the chartering authority on their performance and progress. These procedures are essential components of a charter school accountability plan that is specific to each school.

The District of Columbia Public Charter School Board and the schools it has approved for charters are now in the midst of a five-month process of working together to prepare a high quality accountability plan specific to each charter school. Accountability plans will be completed before school begins in September, and each will contain—

- A statement of challenging but attainable goals;
- A statement of student academic content and performance standards;
- A set of performance indicators that specify what will be measured;
- Annual and long-term performance targets (benchmarks);
- Measurement tools capable of supplying the information needed to judge performance;
- Strategies for using accountability information to support program improvement; and
- Procedures for reporting progress and for gauging customer satisfaction.

To assist the public charter schools that are participating in this accountability planning effort, the DC Public Charter School Board has made expert help available to the schools in the form of workshops and direct technical assistance that they can use to strengthen their accountability plans. Similar assistance will be available during the coming year as the schools solve the difficult problems that accompany the implementation of their accountability plans.

Information from the charter school accountability plans will be available to charter school trustees, administrators, and teachers for their use in improving the educational program and the operations of the school. Accountability information will be available to parents and the public to judge how well the school is meeting the needs of students. And accountability information will be used by the Public Charter School Board as it makes judgments about the school's stewardship of public funds and performance under its charter.

Every school will be carefully monitored by the District of Columbia Public Charter School Board.

At the same time charter schools are developing their accountability plans, the Board is developing its plan for monitoring the performance of the schools. The Board's monitoring plan will set out the reporting requirements of charter schools, including guidelines for a legislated annual report, semi-annual student enrollment census reports, periodic financial reports, an annual audit, and other reports required by the charter. The monitoring plan will also contain guidelines for annual, five-year, and special purpose reviews of compliance, performance, and progress. In addition, the monitoring plan will contain information about the procedures the Board will use to make decisions about the status of schools based on their performance. This will include guidelines for taking any corrective actions that may be needed to ensure accountability. It will also include guidelines for making and implementing Board decisions about charter renewal or revocation.

Mr. CUNNINGHAM. Thank you. Thank you very much. We have been joined by my colleague, Congressman Jim Moran. Jim, do you wish to say anything before——

Mr. MORAN. No, that's okay.

Mr. CUNNINGHAM. Next we have Ms. Gloria Jarmon, a director with the U.S. General Accounting Office, which we rely on a lot.

OPENING STATEMENT OF GLORIA L. JARMON, GAO

Ms. JARMON. Mr. Chairman, and members of the subcommittee, I am pleased to be here today to update you on the status of the D.C. Public Schools' roof replacement. This really updates you on a report that we issued in March this year.

I would like to briefly summarize my statement and ask that the full statement be made part of the record.

I am going to update you on four issues: First, availability of funds; secondly, the current status of roof repair process for 1998; the estimated cost of the roof repairs; and, fourth, the additional capital improvement plans for Fiscal Year 1999 through 2004.

SCHOOL ROOF REPLACEMENTS—$84 MILLION AVAILABLE

First, on the availability of funds, again, funding is not an issue, at least $84 million has been designated for roofing and other capital improvement project work during fiscal year 1998.

On the current status of the roof repair process, 38 schools are planned to have roof replacement work done during Fiscal Year 1998, five of those roof replacements have already occurred. They occurred in the Fall of 1997. For the remaining 33, the plan is to start sometime in early July. Of those remaining 33, 8 of them will be managed by GSA. And the remaining 25, by DCPS. And of the remaining 25, most of those contracts were awarded last week, for 23 of the 25 schools.

Estimated cost of the roof repairs, the cost of those 38 roof repairs are estimated at $34 million for fiscal year 1998, and $28.4 million of that $34 million is for the construction contract, and about $5.8 million is for design work, contract management fees, DCPS salaries, and 8 percent for a contingency.

The fourth area, additional capital improvements for fiscal year 1999 and beyond, in the capital improvement budget indicates that about $27 million will be spent on roof replacements during the next six years with about $14 million designated for 1999.

Mr. Chairman, and members of the subcommittee, this concludes my brief summary of my statement, and I will be happy to answer any questions.

PREPARED STATEMENT OF GLORIA L. JARMON, GAO

[Ms. Jarmons prepared statement follows:]

United States General Accounting Office

GAO

Testimony

Before the Subcommittee on the District of Columbia,
Committee on Appropriations, House of Representatives

For Release on Delivery
Expected at
9 a.m.
Wednesday,
June 24, 1998

DISTRICT OF COLUMBIA PUBLIC SCHOOLS

Status of Fiscal Year 1998 Roof Projects

Statement of Gloria L. Jarmon
Director, Health, Education, and Human Services Accounting and Financial Management Issues
Accounting and Information Management Division

GAO/T-AIMD-98-219

Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to update you on the District of Columbia Public Schools' (DCPS) roof replacement work for fiscal year 1998. On June 17, 1998, your office indicated that the Subcommittee had received information that questioned DCPS' ability to complete the roof repairs without delaying the opening of schools in September 1998. In response to your specific questions, my statement today covers four points:

- the availability of funds to pay for roof repairs,
- the current status of the roof repair process,
- the estimated cost of the roof repairs, and
- additional capital improvements in fiscal year 1999 and beyond.

BACKGROUND

In fiscal year 1997, roof repairs were done at 61 District of Columbia schools, with the General Services Administration (GSA) managing the work at 10 schools and DCPS at 51. DCPS records show that as of February 4, 1998, the total cost of the fiscal year 1997 roof repair projects, including change orders and consulting fees, was about $37 million. At

that time, the DCPS capital improvement program budget indicated that about $35 million was expected to be spent on 40 school roof projects in fiscal year 1998.

To determine the status of the District's fiscal year 1998 school roof projects, we obtained and reviewed pertinent documents provided by DCPS, the Financial Responsibility and Management Assistance Authority (Authority), and the Army Corps of Engineers. We interviewed (1) DCPS officials responsible for the capital improvement program, (2) Army Corps of Engineers officials who were hired by DCPS to manage the District's 1998 capital improvement program, (3) GSA officials who are managing the roof replacement contracts for 8 District schools, and (4) an official from the 21st Century School Fund to obtain information on the current roof projects.

We did not evaluate the contractor proposals to ascertain which proposals would result in the least cost to the District. Furthermore, we did not audit the cost estimates for reasonableness. Accordingly, we do not express an opinion or any other form of assurance on the procurement process or the cost estimates. We conducted our work in June 1998.

AVAILABILITY OF FUNDS

As indicated in table 1, at least $84 million is designated for roofing and other capital improvement work during fiscal year 1998. As discussed in our March 1998 report,[1] sufficient funding was available to enable DCPS to get an early start on the fiscal year 1998 roof repairs. In September 1997, the Authority received about $36.8 million from the sale of Student Loan Marketing Association (Sallie Mae) stock warrants. The Authority received an additional $5 million in Sallie Mae funds in October 1997 to satisfy fiscal year 1998 capital program needs. Bond proceeds of $40 million became available in April 1998, and an additional $2.3 million in revenue generated from the sale of schools was available by May 1998.

Table 1: Funds Available for Fiscal Year 1998 DCPS Capital Projects
(Dollars in millions)

Date Funds Available	Source of Funds	Amount
September 1997	Sallie Mae	$36.8
October 1997	Sallie Mae	5.0
April 1998	Bond Proceeds	40.0
May 1998	Revenue from School Sales	2.3
Total		**$84.1**

[1]District of Columbia Public Schools: Availability of Funds and the Cost of the Fiscal Year 1997 Roof Projects (GAO/AIMD-98-82, March 9, 1998).

About $6.4 million had been spent by June 11, 1998. This included 5 school roofing projects, at a cost of $4.1 million completed by November 1997, and $2.3 million for other capital improvement projects.

CURRENT STATUS OF ROOF REPLACEMENT PROJECTS

Our March report indicated that DCPS planned to perform roof replacements at 40 schools in fiscal year 1998. Currently, DCPS records show that 38 schools will have roof replacement work in fiscal year 1998, including the 5 schools that were completed in the fall of 1997. Regarding the 2 schools for which work was planned and subsequently canceled, the funds intended for roof replacement at one school were redirected to securing the school's structure after recent fires, and DCPS subsequently determined that the other school did not need a new roof at this time.

For the remaining 33 schools, DCPS will contract for roof work at 25 schools. According to DCPS officials, the former Chief Operating Officer arranged to have GSA handle the contracting details for the work at the remaining 8 D.C. schools.

Due to weaknesses in procurement procedures and internal controls identified in a fiscal year 1997 performance audit,[2] DCPS officials stated that they decided to follow the Federal Acquisition Regulations (FAR). Last week, DCPS awarded seven contracts, covering 23 of the 25 school roof projects for which it is handling the contract details. The total amount of the DCPS contracts awarded was $11.6 million, all to firms from the Washington, D.C., metropolitan area. DCPS officials told us that they expect an additional contract for the two remaining projects to be awarded shortly. DCPS officials told us that they had hoped to be further along in their contracting and construction activities at this time. DCPS officials expect that the projects they are managing will be substantially complete by August 15, 1998, in time for the September 1, 1998, school opening. GSA is currently negotiating school roof replacement contracts for the remaining 8 D.C. schools with its preapproved contractors and has a goal of completing the roof work by September 1, 1998.

The former DCPS Chief Executive Officer hired the U.S. Army Corps of Engineers to provide capital projects management assistance to DCPS for fiscal year 1998. As capital project manager, the Army Corps of Engineers will be on site and will be providing the superintendent of schools with weekly progress reports on the ongoing renovation work at the D.C. public schools, including the status of roofing projects. DCPS officials provided copies of several other management reports that they intend to prepare and use

[2]The audit report District of Columbia Public Schools Performance Audit: Fiscal Year 1997 Capital Improvement Program Procurement Process was issued on January 12, 1998 by Cotton & Company, LLP.

to ensure that the capital projects are on track, including a Capital Improvements and Assets Weekly Summary and a Tracking of FY98 Capital Program Obligation and Execution Status Report.

COST OF ROOF REPAIRS

According to DCPS' June 12, 1998 Breakout of FY98 Capital Program by Subproject and by Ward management report, DCPS' fiscal year 1998 roof replacement costs are expected to be about $34 million. The budgeted amount includes $28.4 million for construction contracts and about $5.8 million for design work, contract management fees charged by GSA and the Army Corps of Engineers, DCPS salaries, and an 8 percent contingency factor. According to DCPS officials, the roofing projects are very similar to those completed in fiscal year 1997, which included an extensive amount of work to ensure that facilities were structurally sound and watertight.

FUTURE CAPITAL IMPROVEMENTS

The FY 1999 to FY 2004 Capital Improvement Plan and FY 1999 Capital Budget (CIP) that the District submitted to the Congress on June 1, 1998, includes a 6-year total of $343.5 million in capital improvement expenditures for D.C. schools. About $97 million in

capital improvement expenditures is planned for fiscal year 1999. The CIP indicates that DCPS will spend about $27 million on school roof replacements during the 6-year period, with about $14 million designated for roof replacements during fiscal year 1999.

Mr. Chairman, this concludes my statement. I will be happy to answer any questions that you or Members of the Subcommittee may have.

(916255)

Mr. CUNNINGHAM. It was a very brief statement. Thank you.

Mr. Moran, would you want to make any opening statements?

Mr. MORAN. I do not need to make an opening statement, Mr. Cunningham, as much as I do have a number of questions that I want to ask of, particularly the school system themselves, so probably, Ms. Ackerman. Have you asked those questions?

Mr. CUNNINGHAM. Not yet. We will just start here.

Mr. MORAN. We were under the impression that the hearing started at 10:00 so I will try to catch up to where we are. Can I go ahead Mr. Chairman? You are in charge here so shall I ask some questions of Ms. Ackerman?

Mr. CUNNINGHAM. Go right ahead.

SPECIAL EDUCATION—RESTRICTIVE 50-DAY LIMIT

Mr. MORAN. Okay. Let's talk about special education first. I understand that you have gotten some relief for the restrictive 50-day limit imposed by the court decision, I believe it was the Mills decision?

Ms. ACKERMAN. The Mills Decree.

Mr. MORAN. The Mills Decree, but you are no longer limited by that 50-day requirement?

Ms. ACKERMAN. No, we are still very much limited.

Mr. MORAN. Well, somebody told us in the last hearing we had, that that has been fixed. I think it was Dr. Brimmer or Council Chairman Cropp. So that is no longer a problem. We have addressed that? The City Council made a decision to extend, the time period.

Ms. ACKERMAN. Yes, the City Council did pass, endorse the release that we asked for. But we need Congressional approval.

Mr. MORAN. So you are still operating under the 50-day limit?

Ms. ACKERMAN. On the 50-day, yes.

Mr. MORAN. And the 50-day limit obviously does not work. It is too restrictive. It is the most restrictive in the Nation.

Ms. ACKERMAN. Right.

Mr. MORAN. And it is one of the reasons we have so many families gaming the system——

Ms. ACKERMAN. Yes.

Mr. MORAN [continuing]. From what we understand. You are requesting a total of 120 days, though?

Ms. ACKERMAN. Right.

Mr. MORAN. Which would take it from the shortest time period to the longest period. Sixty days for setting up a plan and then another 60 days for actually placing the students.

Ms. ACKERMAN. Right.

Mr. MORAN. Wouldn't it make more sense to make it say 30 days for placing the student? Two months seems to be a long time to place the students. How about a little compromise, maybe 60 and 30?

Ms. ACKERMAN. No, but we are certainly willing to compromise here. I think what we were looking at was the average in the surrounding school districts, but 50 is——

Mr. MORAN. Is it the average?

Ms. ACKERMAN. It is around 120 days.

Mr. MORAN. Because I am told that 120 would be the longest time period that any school system would have. That is not the case?

Ms. ACKERMAN. I am sorry. I am hearing something in the back. Virginia is 121. So we just looked at——

Mr. MORAN. Virginia is 121?

Ms. ACKERMAN. One hundred and twenty-one.

Mr. MORAN. Do you know what Maryland is, off-hand?

Ms. ACKERMAN. One hundred and five.

Mr. MORAN. Okay, I was not aware that Virginia was 121. Okay, apparently the issue is placement, the 60 days to place the student after you determine what the education plan should be, would be the longest. So Virginia must take more time to develop the education plan and do the review, determine the need.

Ms. ACKERMAN. Right.

Mr. MORAN. It just strikes me that, I do not want you to be the longest. I would rather you fit in, right in the middle someplace. But 50 days, that was another in what seems to be a series of court decisions that reflected poor judgment on the part of the court, as far as I am concerned. Why this would not have been fixed before now boggles the imagination. And, given the fact, it is such a financial burden to the school system and given the fact that we have so many families that apparently are gaming the system through clever lawyers taking advantage of the situation, knowing that you do not have the ability to review special education needs in that time frame, it is surprising we have not done anything. But I am glad that something will be done. And I would like you to check on if it is consistent with Virginia or Maryland, or if it fits right within what the rest of the region is doing, that would be fine.

DUKE ELLINGTON SCHOOL—QUESTION OF EXCESS TEACHERS

Let me ask you about the Duke Ellington School. I understand that whereas Duke Ellington has a graduation rate of over 90 percent going on to college, that 18 teachers are going to be let go, six were going to go anyway, but you are essentially firing another 12?

Ms. ACKERMAN. No.

Mr. MORAN. Is that not true?

Ms. ACKERMAN. I do not know where that number is coming from. I am now in the process of looking at the final number of excess staff at Ellington and trying to verify that. I do not think there are 18 teachers, though. In the last month we have looked at excess teachers in schools across the system. As we were trying to close this budget deficit, we looked at areas where we were spending and where dollars were not allocated in the budget for that spending. And one of them was excess staff in the schools. We found $7 million was being spent on excess staff in the schools. I do not know any school that lost 18 teachers. But I think Ellington lost about 10 percent of their total staff. It should have been about 10 teachers but I am looking in to that now and I expect to have that information soon. And nobody was fired. None of the teachers were fired. All of the teachers have an opportunity to seek placement in other schools, and I believe we will find jobs for them. I was trying to make sure we are holding schools accountable for

their staffing standards, which we have not done in a very long time.

COMPETENT, QUALIFIED TEACHERS SHOULD NOT BE FIRED

Mr. MORAN. Well, I read the articles about the measures you have taken. And they seem terrific. They have been very positive articles. Obviously, there is a lot of public approval of what you are doing, particularly, since it is eliminating administrative layers which seem to be excessive, particularly compared to other school systems. But I do not think anyone has been pressuring you to get rid of teachers, unless they are clearly non-performing. But to reduce teaching staffs just to reduce the number of personnel in the school system is not something anybody wants. If you are finding that teachers are not certified or, more importantly, if they are not producing, then that should be done, but I would hope you would never feel compulsion to fire teachers that are performing just to get down to some kind of personnel level.

Ms. ACKERMAN. No.

Mr. MORAN. Certainly not to meet a level that was occasioned because of high administrative staff.

Ms. ACKERMAN. No, even with reducing Duke Ellington and some of the other specialized schools, they are still above the staffing for other schools, due to the fact that they have special areas of emphasis. But we had some schools that had as many as 20 teachers over the staffing allocation. Now, those teachers will not lose their jobs. They will be absorbed in the system. So no teachers are losing their jobs. We are not firing any teachers. We are, though, shuffling the teachers so that they are appropriately placed. But I will look at Duke Ellington because I have heard the 18.

SUPPORT FOR LOW STUDENT-TEACHER RATIO WHERE WARRANTED

Mr. MORAN. Good. This is just a personal comment but as far as I am concerned, I do not want you to be reducing teachers that are producing, even if they are above the norm in terms of teacher-student ratio. I think if we want to get excellence out of our school system, the smaller the student-teacher ratio, the better. And I know you have limited resources but there are other places where I would hope you would look. If Ellington or Banneker or any of these schools are consistently getting 90 percent of their kids into college, whatever they are doing is worth the expense as far as I am concerned. I would like it to be replicated in other schools rather than drawing their resources to put into other schools. I have no problem with pushing for more money for the school system as long as it is money that is going most directly into teaching and improving the outcome. I do not want to see—and I am sure you would not want to leave any kind of a legacy that was associated with reducing the quality of any of the best performing schools. When we want to promote D.C. schools, it is the few schools that we can really use to do that. I hope that we continue to have that opportunity.

I have taken up my time, and I will let us move on. And we have other questions that I want to ask you for the record, particularly with regard to facility maintenance.

Mr. CUNNINGHAM. Thank you, Jim.

SPECIAL EDUCATION—CONCERN OVER ADVOCATE ATTORNEYS

I would look at a couple of different areas. As I mentioned in my opening statement, we understand that the monumental burden that special education places on the schools, not only monetarily but in the training of teachers themselves, is not limited to D.C. My sister-in-law is one of those teachers, a principal now. And when we were doing the special education bill, like I said, there are certain things that we wanted to come through.

For example, the first time a parent comes to the school, I think it is unreasonable that an advocate lawyer accompanies. We wanted that parent to be able to come to the school in good faith and say, "My child has a problem. Will the school work with my child?" without having to pay a lawyer. And that was the incentive of legislation. The lawyers have tried to circumvent that by signing up the parents.

And what I will do is promise you that we will revisit the IDEA bill. I was very proud of it when the President signed it. Did it make all the changes that we wanted? No.

Another problem area we had was in the area of discipline. For example, if a sight-impaired child was caught selling drugs, you could not treat that child as a normal child even though it had nothing to do with the problem. These are some of the changes that we tried to make.

SPECIAL EDUCATION—120 DAYS FOR ASSESSMENT AND PLACEMENT

Also, the IEP, I think it is very reasonable that a school have 120 days to complete the assessment and placement process. There are certain children, for example, that have dyslexia that you do not know have dyslexia because they cannot read in the first place. You have the time to identify these children and to put them in quality programs. We are very familiar with the different issues of that.

Unfortunately, in our government, things take too long. Just like in your own system, transformation will not happen overnight. But I will guarantee you that we will work in that direction to try and help.

I think maybe with regard to placement, once you decide what are the problems of the child after the IEP, Individual Education Program assessment, then maybe you could place that child a little quicker.

TENSION BETWEEN ELECTED AND APPOINTED SCHOOL BOARDS

I sense a turf battle in some of the statements from the elected Board to the appointed Board to the superintendent. Maybe there was not a direct link. Basically, I think the D.C. school system was put in Chapter 9 and that is why there was a board appointed to take over. And I think sometimes—I am an elected politician myself—but I also know that sometimes private could probably do it better than our elected politicians because private enterprise does not have such a political environment.

For example, we are going through a vigorous campaign finance reform right now addressing the influences of outside interests. And I think we could appoint a board to do that and to take charge

of that and make a recommendation. But at the same time, I would recommend that the board incorporate, and encourage and listen to, the elected officials that reach out there and touch the citizens. There is an advantage and a disadvantage. The advantage is that in an appointed body you can be more business-like in your business practices in running the school. The disadvantages of an appointed board is that they do not have the sense and the pulse of the constituents to add into that. And if you do not work together, then I think there is going to be a conflict. And I sense that from the testimony. Maybe I am wrong.

Ms. HARVEY. Could I just respond to that?

Mr. CUNNINGHAM. Yes.

ELECTED BOARD SUPPORTS SUPERINTENDENT ACKERMAN

Ms. HARVEY. As president of the Board of Education, I just would like to really make the record extremely clear, that the Board of Education is 100 percent in support of Ms. Ackerman and her administration. We have worked closely with Ms. Ackerman since she has come on board. Ms. Ackerman has been very supportive to the Board of Education, especially when we had to revoke the charter of one of our schools.

I am the president of the Board and I sit on the Emergency Board of Trustees. I have sensed a different atmosphere and tone recently on the Board of Trustees that makes me feel as a representative of the Board of Education a sense at least we can carry forth a concern that is raised by the constituents that we serve. I do agree with you, sir, that because I am elected, as an elected official, we do have to respond to those needs of the community. And what I was trying to say in my opening statement is that because of the concerns raised in the community around the budget process with the various constituency not being able to have dialogue, then that was the way in which we needed to improve the budget process for the next coming years.

Mr. CUNNINGHAM. I agree. I do not disagree with that at all. As a matter of fact, our Speaker says you have got to be able to listen before you can learn before you lead.

Ms. HARVEY. Right.

Mr. CUNNINGHAM. And I think that is the problem with a lot of things is that people do not listen enough and they try and lead without incorporating that. All I am saying is I recommend a little closeness even on the budget. My wife, as I said, is a principal of two schools and I see her wringing her hands sometimes with the parent groups, and the teachers. I know those battles very well. It is like I am in the principal's seat because I hear all the problems between the students, the parents, and the different interest groups.

Another thing I would recommend is if I was a superintendent, just like I am maybe a CAG or a commanding officer in a fighter squadron, I gave my department heads authority. I said, "Here is the rudder. You do it. You are responsible for your department." A little guidance, but hands off. You make them break or make their own schools and give the power to the principal. A lot of that does not exist in the State of California. The superintendent controls a

lot of the things. And I would think that the lower the level that you can reach down to the students, the better the schools can be.

CHARTER SCHOOLS—ACCOUNTABILITY

I am interested in the charter schools. I appreciate the example of a charter school failing in the spring that has all of its funds from the past October. I can understand that. What happens to the funds once a school fails? But if you are mixing apples with oranges, take a look at the D.C. school system and its record versus losing one charter school in a new system. You have got one charter school that failed but I know across the country charter schools are blossoming. And it is a welcome relief to the system.

I believe personally most of the children go to public education. My wife is in public education. As I say, I was in public education. And that is where we need to bring up the level of education, not just in D.C. but across the country. But we also have to be able to support these new initiatives that cut the cost per student, that drive in a positive direction.

TESTING OF PRINCIPALS

And I was very, very happy to see that you have testing programs for principals. We have some teachers in California that are retired on active duty. They do not improve themselves. That is why I supported the Eisenhower grants to upgrade the teachers' skills. If I wanted a teacher that could teach computers in 21st century technology, how is she going to do that if she went to school 40 years ago, or 30 years, or even 10 years ago?

CHARTER SCHOOLS—INADEQUATE FUNDING

So I do not disagree with you. But I would also say that although I am a very strong proponent of charter schools, with 12 additional charter schools, the responsibility is monumental for accountability and direction. And also we have got the responsibility to make sure we fund them so that they are not under-funded. We must not give you a course in the wrong direction that sets you over the edge of the world before you ever start.

PUBLIC CHARTER BOARD—PROCESS FOR NEW SCHOOLS

Ms. BAKER. That is a statement well received. I would just like to say, and I think I alluded to it in my comments, that the D.C. Public Charter School Board started up front, at the very beginning of its application process, dealing with accountability, and using technical assistance provided by experts in business and finance in the city who came and looked at every application and made comments about the business and financial plans of those applications. Their comments were used by peer reviewers, who came from many walks and many professions. And now accountability plans are being developed with each individual school that did indeed get approval. So that before they open their doors, there will be a substantial accountability plan in place. And that is the way we are working——

Mr. CUNNINGHAM. Even though I am a strong supporter, we will hold you to that.

Ms. BAKER. Well, we want to be held to it. We want to be held to it. And we want to be sure that in the process the funding that is necessary for these schools to be successful is not something that we will have to wonder about.

Mr. CUNNINGHAM. I see I have gone over my time but what I will do is extend my time and then I will come back to Mr. Moran so he can go. And I will just take mine up front.

CHARTER SCHOOLS—ELECTED BOARD'S PROCESS

Ms. HARVEY. I just have to say one point because the D.C. Board of Education is also the other chartering agent, and as the other chartering agent, we, too, have put in place an extremely stringent monitoring process, and a schedule, and we work very closely with the two running charter schools and we work very closely with the nine remaining charter schools that will come on board in September. So the Board of Education is truly trying to work with the charter schools on the issues of accountability, standards, and educational concerns and et cetera.

CHARTER SCHOOLS—COMPARISON WITH PUBLIC SCHOOLS

Mr. CUNNINGHAM. How do you see the charter schools, any of you, doing compared to the public school system?

Ms. HARVEY. My honest opinion is that in some of the monetary reports that we have gotten on the remaining three that are working, we have one that is very outstanding, is doing an excellent job. There is some work that needs to be done. It is a new area. There needs to be some training for boards of charter schools so they can understand what "boardsmanship" is, what the policies are, and how they interface with the chartering agent, being in this instance, the Board of Education or the other chartering board.

Now, what the Board of Education has tried to do is work collectively with the chartering board so that we cannot duplicate efforts in relationship to our responsibility and oversight of the chartering boards of education.

But to be very honest with you, we do need to look at how we can modify and adjust some of the issues around charter schools to give us the flexibility to work with them more effectively.

TRANSITION BOARD—CHARTERS WILL CONTINUE TO BE AWARDED

Ms. COOPER. Mr. Chairman, my testimony was so specific today. We did not ask for a cessation of the awarding of charters, we simply asked for a pause while we look and address some of these various issues. We keep bringing the schools on and no one is stopping to put in all the processes that are needed to make sure that they are working.

And I started, also, by saying in my testimony, that as a national organization, we support charters. That is not the issue. The issue is with 19 schools under our wing as charters, we need to make sure that the processes are in place so that the superintendent does not get called by the Board of Education who say, "Can you help?" Or something does not happen with one of the charter board's schools, God forbid, and she is once again called to try to straighten it out. We need to just take maybe a year and the two boards work-

ing together, with the superintendent, to make sure that if those schools close or have a problem, then the impact and the role of the superintendent is clear and manageable.

Mr. CUNNINGHAM. Are you working together—is the dialogue there today between the boards and the superintendent?

PUBLIC CHARTER BOARD—RELATIONSHIP WITH CHARTER SCHOOLS

Ms. BAKER. A dialogue with the Board of Education's Committee on Education was established almost immediately by this Board when we were authorized to become a Board. I have a strong relationship with Mr. MacLaury, had a strong relationship with Robert Childs, and had made contact with General Becton I am in the process of making contact with Ms. Ackerman. So that we are continually working toward maintaining good communication and dialogue.

In relation to finance and how that is to work, that is a key element of our charter agreements which require that schools give the Board a monthly financial report. We are setting up a system where each of our schools will be electronically linked to our office. They will electronically send us financial reports and other reports that they are required to send on a monthly basis. So that when we go out to monitor, we will already have financial and statistical data that will enable us to assess a school's programs and identify potential probelms. And there are other safeguards that are built into our charter. It is unlikely that a school would be able to completely fall off without our knowing it. All kinds of red flags will go up before us because we are asking for that kind of information.

Mr. CUNNINGHAM. Ms. Harvey are you in agreement?

Ms. BAKER. Well, they are not familiar with our process. That is the process that has been developed by the D.C. Public Charter School Board for the schools it charters.

CHARTER SCHOOLS—IMPACT ON SUPERINTENDENT WHEN CHARTER REVOKED

Ms. HARVEY. I think the issue that really lies is the revocation process. The Board of Education, the law says that if the Board of Education, or any chartering board, revokes a charter, then the Board of Education takes over the responsibility for the operation of that charter. At the current time, we do not have the capacity to do that. So, as a result, we have to go to the administration. So that is why I am saying that something needs to be worked so we do not overload the superintendent. But we do monitoring with the charter but it comes to the issue of a revocation, when a charter is in crisis, as a chartering agent, what role does the chartering board play and what capacities are provided for us to carry that role.

STUDENT-TEACHER RATIO AND PER PUPIL COSTS

Mr. CUNNINGHAM. Let me ask one last easy question, a quick one, before I go to Mr. Moran again. Now that you know that there are 77,111 students, plus or minus 1 percent—I will take that in a poll any day—do you think you can get a handle on the cost? First of all, if you have 15 students per classroom in summer

school, what number does that place in the normal school year per classroom, on average? And the cost per student? You can provide that if you do not have those figures available. But I would like to see.

One of the driving factors for better education is smaller classrooms. If you have 30 students and a teacher with no help in that classroom, it is very difficult. Just for my own information, I would like to see what your average classroom size is and what the cost per student is. I know it cannot help when you have got to invest and do roofs and infrastructure. That all fits into the budget.

But I would like to thank you personally. These are always educational for me even though you deal with these issues everyday.

EDUCATION—INTERFERENCE OF INTEREST GROUPS

The only problem I have is so many times I see politics interfere with what we really need to do for children, from outside interest groups, like the unions, and some private groups as well. So I hope we can set those aside and push on and do what we actually do is provide for children instead of interest groups.

Jim?

REMARKS OF CONGRESSMAN MORAN

Mr. MORAN. Thank you, Mr. Chairman. I am reading through Maudine's statement. I have known Ms. Cooper for some time in a number of capacities. Welcome, aboard. I am happy having you chairing the Board of Trustees, although I did not have as much of a problem with the Board of Trustees as a lot of people did, I am happy to see you where you are.

And this is an excellent statement. I could not take issue with anything. I do not take issue with anything that anybody else has said.

NEW SCHOOL FACILITIES—LEASE/PURCHASE ARRANGEMENTS

But let's talk about some of the implementation. First of all, we have got to build a whole new physical school system. We have got far too many buildings, as you know, that have outlived their useful life. I do not think we are going to get the public funds we need to do that. Would you look into the possibility of having private developers build the schools and lease them back to the school system so that you did not have to put up the money up front, nor did the Federal Government?

But since we have to educate kids every year, there has to be an annual amount going to pay for their education and the use of their buildings. It seems to me that if you could lease them, with private ownership, and there would be some tax advantages for the private sector to undertake that, that it could become an attractive opportunity for the private sector to build some of these schools, leasing them back without the front-end costs. You would probably get some very good schools at lower costs, perhaps, than it would cost the public sector. And I think it is the kind of thing that we might be able to better help you with. So I would like for you to look into that possibility. I think they have tried that in other places. I know that we have done it in other circumstances. We build lots of Fed-

eral buildings—the private sector does and then the Federal government simply gives them a determinant amount of time and lease costs so that they are guaranteed a lease and it becomes a profitable venture on both sides. We have this arcane scoring system where we have to find an offset in the year in which the school is built instead of paying for the school over its useful life. So I would hope that we could look at something like that. The D.C. school system might be a good place to start.

SUMMER SCHOOL—IMPACT ON CRIME REDUCTION

I am just elated that you have got 20,000 kids in the summer school system, not only for academic reasons but I think it is going to help a lot in terms of peace in the neighborhoods, and reduce crime. I know in the suburbs crime in every area has gone way down except from the hours of 2 to 5 o'clock. That is where the crime is increasing and we know exactly why. It is young people with nothing to do. Putting 20,000 kids in productive activity in summer school is just wonderful.

VOCATIONAL EDUCATION—IMPROVEMENTS NEEDED

Let me address vocational education a bit because I think that is one area where the D.C. school system has dis-served much of its population. There are a lot of jobs out here. You pick up the Washington Post, and there has got to be 50,000 jobs available on any given week in the area. And a lot of those jobs, at least half of them, do not require a college education. They require some specific skills. And many of those skills can be taught in high school. But when I ask about vocational educational, it seems as though we have very little going in the way of vocational education. We are starting some charter schools I understand that are focused on specific skills training. And I have been involved in some of that. I am excited about that.

But we ought to be doing more within the traditional school system in that respect. And we ought to bring in more teachers, more people with career experience in that area to do some teaching. Not having sufficient certified teachers from the teaching schools should not be too much of an impediment. We ought to be able to find people in the private sector. And there are a lot of companies that are just begging for workers—who I know because they have told me—would love to lend people to the school system to teach those specific schools. And one in particular is construction. We have tried unsuccessfully in the past to do that.

But I do not know why we cannot have a vocational training school that teaches specific trades, whether we bring in labor, we can have union and non-union teachers. That has got to be worked out and that should not be the obstacle. But we have skilled tradespeople who I know construction companies would pay just to teach those specific skills to high school students. And we can be doing that in the summer too. I know that you agree that if a child is not going to go on to college, it should not be the end point of our responsibility to see that they are going into the workforce when they get out of high school or going to some kind of advanced training.

COMMUNITY COLLEGE SYSTEM IN DISTRICT INADEQUATE

The community college system is also deficient in the District compared to what we offer in the suburbs, it, again, is a disservice to our young people.

So I would like for you to tell me a little about what you are doing in the area of vocational education, and maybe—I don't know who can address what we can do in terms of community colleges? But let's talk about vocational education?

VOCATIONAL EDUCATION—SUPERINTENDENT ACKERMAN

Ms. ACKERMAN. Okay. It is certainly an area that we are now revisiting. We have gone through, as we do in education, sort of trends where we move away and then we come back. We have now come, I think, full circle, around vocational education. We realize that not all of our students go from high school to college. Many of them may eventually get to college but in between there are some work-based experiences that they must have. So we are looking at that and folding into our new School-to-Work Program a new vocational educational emphasis.

Some of the finest vocational education programs, I think, in the country were here in Washington, DC, for a while, and they have been dismantled.

VOCATIONAL EDUCATION—IMAGE PROBLEM

Mr. MORAN. Well, we cannot reform schools it seems. It seems as though other school systems were just dumping kids that were disruptive into the vocational education schools. And it was a stigma to even go to those schools. But they started out as wonderful opportunities.

Ms. ACKERMAN. But I think we should be folding vocational education into the comprehensive high school so that it is not seen as coming from the outside. It has got to be built into the comprehensive program which is what we are doing now so that students have opportunities to get those kinds of work-based experiences and skills.

Personally, I went on to college but I did take business education classes in high school that helped me throughout my college career to have summer jobs. So I think there is a way to build them into our comprehensive high schools which we are trying to do as we set up the career academies in our high schools and also partner with some of our area businesses. I think you will see us now moving in that direction but putting programs in our high schools, instead of outside them, in alternative schools. And we can still have a couple of those. But its better to put them into our comprehensive high schools and make those programs available knowing that all students are eventually going to get to the world of work, but some get there sooner than others. And some take detours and go to college. But even with that they need those work-based experiences and they need to develop the skills that they can fall back on.

APPRENTICESHIP PROGRAMS AND VOCATIONAL EDUCATION

Mr. MORAN. Do we have businesses offering apprenticeship programs during the summers, for example?

Ms. ACKERMAN. We do and we are getting more of that. We just wrote a $9 million School-to-Work grant and it looks very hopeful. We are using the School-to-Work initiative to put back in place some of the vocational educational programs in all of our high schools so that there are some experiences that all students will get. So we are where you are and unfortunately it has taken us a while in education to come full circle. And there are students who have sort of been lost in that black hole because they were not going to college and they did not get the skills. But we are there now and we are in partnership with the businesses here. So we are there and I want you to know that we have revisited this. It is one of the things that we have put in place in the new initiatives.

Mr. MORAN. I would like for us to publicize some of those businesses that are reaching out and providing that kind of opportunity——

Ms. ACKERMAN. Okay.

NEED TO BRING VOCATIONAL EDUCATION AND ACADEMIC PROGRAMS CLOSER

Mr. MORAN [continuing]. In collaboration with the school system.

Ms. COOPER. If I could just add a little personal note on that. I am a product of the St. Paul-Minnesota school system. We had a system whereby you could get your certificate in vocational educational and still get the curriculum in the public school system. It allowed me to go to school and to work while I was there. I think somehow with the divorce of vocational education and the academic programs, you do have that stigma. So I think that as we go along in this planning process of bringing those closer together we remove the stigma. It will also remove the dumping ground mentality that goes into the thinking of some around vocational education. I have the greatest respect for vocational education and some exciting things are happening. And as we get those functions going, we should provide you with a list. We will keep you posted because some things that were talked about the other night in one of our sessions suggests that the superintendent is heading in the right direction not only in terms of vocational education but in alternative education for those who dropped out or felt themselves pushed out. So I think you are going to hear some very exciting things.

ADULT BASIC EDUCATION

Mr. MORAN. Are we doing some things in terms of adult basic education as well? When you say they dropped out, essentially they become adults once——

Ms. COOPER. Exactly.

Mr. MORAN. So it really is an adult basic education; and we are using the schools in the evenings?

UDC PICKING UP SOME ADULT EDUCATION PROGRAMS

Ms. ACKERMAN. Well, we have those programs now and adult education is also going to be available through UDC. They are going to be taking over some of those programs. But we do have students who are older students who have dropped out and they are back in, and we are providing them with alternative ways to get their high school diploma, other than at a traditional school. But I believe the academic process and the vocational education process should be linked, because it is another way to keep students in school.

Mr. MORAN. Wilma wanted to say something.

BELL MULTI-CULTURAL HIGH SCHOOL

Ms. HARVEY. I just wanted to add, we just finished the graduation season here in the District of Columbia. And I just wanted to bring up one example of where we do have currently in place at the Bell Multi-Cultural High School in the ward in which I have had the honor of representing for the last 12 years where students actually receive a diploma from the D.C. public schools where they have met the academic requirements but they were also given a certificate for an accomplishment in vocational area. And there was a young lady that graduated and got a certificate in cosmetology, but also met the academic requirements. And I think, as Ms. Ackerman said earlier, we are doing it school by school. And if we continue to move the process, we can rebuild the vocational educational programs within the D.C. public schools.

Mr. MORAN. Terrific. Charter schools?

CHARTER SCHOOLS—ADULT EDUCATION COMPONENT

Ms. BAKER. Charter schools, yes. We do have, of course, the Rosario School, which serves particularly the immigrant population. So that is certainly an adult education component. Also, a number of our schools, at least two of them, are dealing with young people who have been involved in the juvenile justice system, some who are drop-outs who are now coming back into small settings where they will get the kind of support that they need so that they can indeed graduate with high school diplomas or with GEDs. So charter schools are in another way filling an important gap. We are trying to make sure that we can close that gap and keep these young people moving forward.

CHARTER SCHOOLS—AUTO MECHANICS PROGRAM

Mr. MORAN. George Stark was trying to develop a couple of charter schools. I think he has. Are those going okay? Are they getting the basic education in addition to these skills?

Ms. BAKER. Stark is not one of my applicants.

Mr. MORAN. No. But I think it is within the——

Ms. HARVEY. The public school that you are referring to is a part of an academy school model, which is headed by Ken Amos. And Mr. Stark's program, the auto mechanics program, will be starting in September of this particular school year.

Mr. MORAN. September of 1998?

Ms. HARVEY. Of 1998. Yes, we approved that charter, and we have met, on several occasions, with the entire group that is going to be working with that particular charter. They have an auto mechanic program and then they have a campus approach, an academy model approach. And that will be an academy model. The youngsters will go through the auto mechanics aspects of that charter school.

CHARTER SCHOOLS—HOSPITALITY HIGH SCHOOL

Ms. BAKER. There is one other and that is the Hospitality High School——

Mr. MORAN. Yes.

Ms. BAKER [continuing]. That is being sponsored by the hospitality industry. They will not open until 1999, at their own request. They want to make sure that they have everything all lined up. Students will get a full academic high school education and will also have an opportunity to move into the hospitality industry here in the District of Columbia, which, of course, is——

Mr. MORAN. So it will be one of the charter schools. That is all very positive, Good.

Thank you.

ROOF REPLACEMENTS—COMPLETION IN TIME FOR SCHOOL OPENINGS

Mr. CUNNINGHAM. Let me ask a question on looking at the last term. When you were putting the new roofs on the schools, the problem came that there was no slack time, that the roofs were not ready when the school opened. If you are going to build a car for Indy 500, you want the car there for the preliminaries, not just the race. With these 38 roofs that you are going to put on, is there some slack time in there to make sure that we have them finished by the time the school starts?

And also last year, I remember that a couple of the schools were broken into because they did not have security. When you have them open for maintenance or something, someone finds an opening. They are going to get in there and steal computers and things. So we have a need for security. Do you have a plan to have the schools open on time?

Ms. JARMON. The contract we looked at, one of the contracts that was awarded and the plans we have looked at show that the work will be substantially complete by August 15 and finished by the end of August and the school is scheduled to open September 1.

Ms. BAKER. But you do not have it locked——

Mr. CUNNINGHAM. Okay, I would hold the contractor accountable. "Oh, well, my dog had to take it to the market, had to do this and that."[Laughter.]

Let's just make sure we "hold their feet to the fire," as we say.

COMMUNITIES SUPPORT SUCCESSFUL SCHOOL SYSTEMS

I have a prediction. Do you know who Jaime Escalante is? And I would ask you how many of the parents supported Jaime Escalante when he first started? How many of the students? They thought he was nuts.

The school boards thought he was crazy. He insisted "Dammit, I am going to teach kids math. I can do that. I do not care if they are minority kids or what." And after he started, the first thing is he got the kids behind him; then he got the parents. Was a rejuvenation. And then the parents started volunteering. But when you have a system that people perceive as not doing well, people are not going to support that system. But when they can see positive change, which you all are bringing around, people will support you. I want to commend you for that; I can see glimmers of this. I'd say we've got a long way to go.

I think that you're going to have a better and better system. It's not going to happen overnight, but I think that constant positive change, working together with charter schools, with elected officials, the board, the GAO, I think you're going to have that. I think that's very, very important.

You probably know who Bishop McKinney is. He is in San Diego. Bishop McKinney has a black private school that only deals with at-risk kids. And it is privately funded. I give money to it every year. But 97 percent of those children go to college.

Now, I agree with Mr. Moran, college is not the only direction. We need to focus on vocational education too. But there needs to be educational opportunity in between where you can go back and forth, and have real choices.

VOCATIONAL EDUCATION PROGRAMS FOR WOMEN

I have two daughters—who are college-bound. I've very proud of them. They are A-plus students. I want to be sure we have vocational education for our women, our females. In vocational education programs, too many times, the women have not been taken care of. Not all women are going to go to college and they need these skills.

I lived down here on Water Street, on the waterfront, and I met a lady, I bet she weighs 90 pounds dripping wet. You know what she does? She drives Caterpillars. Yes. And so, there are construction jobs out there, too, for women, so don't rule them out.

JOB APPLICANTS LACK READING AND WRITING SKILLS

But I would like to make one other recommendation. In your summer schools, you have reading and you have math. Well we had eight different hearings in the Education Committee in the last Congress. They said that a large portion of children did not qualify for entry-level jobs. That was not in D.C.; that is across this nation. These are CEOs of major companies that testified, at eight different hearings. They said applicants do not qualify because they cannot read and they cannot write. They cannot write a declarative sentence. They cannot speak the English language. They do not have the high-tech skills.

And that is where it is important for you to have computers and the writing skills, and the reading, which is very, very important—and the math All of them belong in a summer program. Or maybe you would make it optional for them. Something for you to take a look at.

Ms. ACKERMAN. No, we want you to know that daily writing exercises are a part of our summer school program.

Mr. CUNNINGHAM. Good.

Ms. ACKERMAN. We have it under the umbrella of reading, but every day there are writing exercises for our young people, K–12, as a part of the summer school program. I do agree with you.

Mr. CUNNINGHAM. Good.

EFFORT TO "LINK" CLASSES FOR BASICS

Ms. COOPER. Could I just raise two points? One of the things that Arlene is also doing and we, the trustee board, certainly applaud is linking class work. You know, sometimes in schools you'd have reading class. There's absolutely no relationship to any other class in the curriculum. So she's beginning to do that which will get the youngsters, perhaps, reading in one class, in a math class, then writing in the math class. And somehow there's a linkage. Maybe there's some discussion in the reading class of the history of math and what it means. But she's beginning to link those things together. And, hopefully, by September, that will be in place.

ROOF REPLACEMENTS—CONTRACT WITH CORPS OF ENGINEERS

The second point is on the roofs. The superintendent has entered into a contract with the Corps of Engineers and I'd like for her to speak to that, briefly, to give you a sense of how that oversight on the major maintenance activities will occur.

Ms. ACKERMAN. Well, I think that that collaborative partnership that we have with the Corps is one that's certainly moving our facilities program forward, and moving our capital improvements program forward. And we have been working with both the Army Corps of Engineers and the city procurement office to ensure that the program goes smoothly.

PROCUREMENT NOW CENTRALIZED

Procurement is now centralized with the city, it is out of D.C.PS and part of a centralized city procurement office. And everybody's represented here today.

CORPS OF ENGINEERS—LEGISLATIVE LANGUAGE NEEDED

We meet weekly, sometimes more than once a week, but at least once a week to coordinate activities. I think we're going to need some help, though, some additional assistance from Congress. With the Corps, we'd like for them to play a larger role in this procurement effort and we're going to need some legislative language to accomplish that. What we need is language allowing them to exercise some contracting authority in our non-Federal projects. Right now they don't have it. GSA does have. The Army Corps does not. But it would make it move a lot quicker if we could have that kind of same authority given to the Corps. So we will send forward to you, for your consideration, some language that would help that happen.

VOCATIONAL EDUCATION—USE OF EXPERIENCED PROFESSIONALS AS TEACHERS

Mr. CUNNINGHAM. One other area that you might take a look at. I don't use the term, "senior citizen," I use the term, "chronologically gifted." [Laughter.]

My mom likes that. But you have vast reserves of people that are very, very talented. When you bring them into vocational schools—not just babysitters, but the people that can actually contribute to the education system—they are delighted. They set up student programs where the students, go into the senior homes on a volunteer basis, at the same time the seniors pay back to the education system. It helps their quality of life in the homes and it helps the children too.

UNION RESISTANCE

And we had a problem with the unions. They did not want the non-union people coming in. And that is where I say sometimes we need to set aside some of these things and look at what is really best for the children.

So I want to thank the panel. We have a large responsibility to——

Mr. MORAN. Could I just ask——

Mr. CUNNINGHAM. Sure.

SECURITY OFFICERS IN SCHOOLS—CONTRACT

Mr. MORAN [continuing]. One question on violence in the schools. There was a contract let to—I believe it was—MVM Security Systems in 1996. You brought in—what was it?—222 security officers and you let the police that were assigned to the schools go back into community policing. What are the results of that? Has that been successful?

Ms. ACKERMAN. There have been mixed reviews about that. We have one more year on that contract. What we are doing, though, is looking at reviewing that whole issue of school safety, creating, next year, a department of school safety. We have, on loan to us from the Department of Ed, Sidney Yeldell, who will be coming and working with us. He has been on loan to a lot of school districts across the country. But he will be working with us to create this school safety department, to look at the issue of the MVM contract that we have and determine whether or not we want to continue with that.

I also have been working closely with Chief Ramsey to develop some other measures around safety, not only in our schools, but in and around our schools. When we look at the serious incidents that we've had this year, they have not been in school, they have happened as our students are on their way home. So we have got to do some things differently to create safe passageways for our children to get from school to home. This area is under review and we will have, in place, a plan beginning with the new school year, to address this issue and to determine, very early on, whether or not we want to continue with that contract.

Mr. MORAN. You know, good. I am glad you are doing that. When you get 360 weapons being brought into school, you have a very serious situation and, from the papers, even though they may seem like isolated instances, they have an enormous detrimental impact on the schools when you do have situations—tragic violence at the schools. That has got to be stopped. No parent should have to send their child to a school where they do not think that child is safe

and so I hope that we are going to work that out so that we can guarantee that security.

But, thank you, and I want to thank all the members of the panel. I didn't have any questions for GAO, but GAO does a good job. [Laughter.]

And I see your reports——

VOCATIONAL EDUCATION—GAVEL USED TO OPEN REPUBLICAN CONGRESS

Mr. CUNNINGHAM. I brought this gavel for a special reason. Students at Scripps Elementary made this gavel for me. It was a school that was a model school, that has computers. They have a vocational education system where the students build modular units. The unions come in and help them with OSHA rules and, make sure that they are following the law. They sell these units to other schools that need space and then they add money into their own computer systems and education systems. And they made this for me. This is the gavel that opened the Congress after Republicans took the majority—it was used by the Speaker. [Laughter.]

But it was also very personally given to me by the students, a vocational education group where some of the students make woodwork. Some of them are in construction. But others go on with those computers that design and actually build the modular units in homes and architecture and so on.

CONCLUSION OF HEARING ON PUBLIC SCHOOLS

So I want to thank the Board. I think we are going to have a lot of positive times ahead in D.C. thanks to your efforts.

The last thing I would say is I miss General Becton. I thought he did a good job. He was in a very difficult position, but I am sorry to see him leave. Mr. Tiahrt is here. Do you want to ask any questions about schools or do you want to go on?

Mr. TIAHRT. Not at this time.

Mr. CUNNINGHAM. At this time I will ask Congressman Tiahrt to assume the chair.

[Recess.]

WEDNESDAY, JUNE 24, 1998.

CORRECTIONS AND RELATED FUNCTIONS

WITNESSES

MARGARET A. MOORE, DIRECTOR, DEPARTMENT OF CORRECTIONS
JOHN L. CLARK, CORRECTIONS TRUSTEE FOR THE DISTRICT OF COLUMBIA
JOHN A. CARVER, TRUSTEE, COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

Mr. TIAHRT [presiding]. I call this meeting to order. I am very pleased to welcome our next panel to discuss the District of Columbia's corrections functions for fiscal year 1999. We want to welcome our witnesses: Margaret Moore, director of the D.C. Department of Corrections; John Clark, D.C. Corrections Trustee; and John Carver, Trustee for Court Services and Offender Supervision. The Committee's policy is to swear in all witnesses.

[Witnesses sworn.]

We have your written statements and they will be included in the record and we would ask that each of you summarize your statements. If it is agreeable, we will hold questions until all three of the witnesses have made their comments. Ms. Moore, we would be pleased to hear from you first.

OPENING STATEMENT OF MARGARET A. MOORE

Ms. MOORE. Thank you. Good morning, Mr. Chairman members of the committee. I appreciate the opportunity to appear before this committee today, along with Corrections Trustee John Clark and Offender Supervision Trustee Jay Carver to discuss the fiscal year 1999 budget request for the D.C. Department of Corrections.

The fiscal year 1999 proposed budget for the Department of Corrections is based on the requirements of the National Capital Revitalization and Self Government Improvement Act of 1997, which mandates that the District's sentenced felon population be transferred into the Federal Bureau of Prisons and that the correctional complex in Lorton, Virginia, be closed by December 31, 2001. I'm sure you know, Mr. Chairman, that the proposed gross budget for the Department of Corrections for fiscal year 1999, including the Medical Receiver's budget, is $270,313,000 and 3,022 FTE's of which $203,500,000 and 2,217 FTE's represents our proposed Federal government reimbursement.

As you're aware, Mr. Chairman, the task of closing an entire prison complex is unprecedented. And, although my correctional experience is broad-based, the actual closure process, including the transfer of approximately 5,000 prisoners and the displacement of more than 2,000 employees presents many formidable challenges. It will require the collective work and cooperation of many Federal

and local agencies as well as frequent collaboration between the corrections trustee and the trustee for offender supervision.

PROGRESS IN CLOSING LORTON COMPLEX

Now we have already demonstrated our capacity to work together and I'm confident that we will continue to do so over the next three and a half years to ensure the safe and orderly closure of Lorton. Substantial progress has already been made in that regard and I'm pleased to report that the following tasks have been completed, as evidence of the progress that we've made. First, over a 135 sentenced female felons have been transferred to the Federal Bureau of Prisons, resulting in the closure of the minimum security annex in January of 1998, consistent with the Lorton closure plan.

Second, the Federal Bureau of Prisons has trained over 60 Department of Corrections case managers in the application of the Federal classification instrument. To date, more than 1,500 inmates have been reclassified and, by the end of this Fiscal Year, we expect that the entire population will be reclassified, preparing for eventual transfer into the Bureau of Prisons system.

Approximately 2,500 District of Columbia prisoners are already in private-sector prison beds. As a result of that, the medium security facility was closed and the population at Occoquan has been reduced from 1,651 in 1997 to 1,195 today, which represents approximately a 28 percent reduction in the population at that very troubled institution. The overall inmate population at Lorton has reached an all-time low. Today the count is 4,250 compared to 5,445 at this time last year.

CONTRACT WITH VIRGINIA AND CLOSURE OF OCCOQUAN FACILITY

The proposed fiscal year 1999 budget will enable us to maintain our very aggressive efforts to close Lorton and to carry out other requirements of the Revitalization Act. And I'll mention just a few of them. You are probably aware that we're currently in negotiations with the Commonwealth of Virginia Department of Corrections for 1,200 prison beds. Those negotiations are progressing well. We anticipate having a fully executed contract by no later than the end of the first quarter of 1999. Execution of this contract will enable us to close the Occoquan facility by the third quarter of 1999.

2,000 PRISONERS TO PRIVATE SECTOR BEDS

We have reclassified and identified—or we have in process the ongoing reclassification and identification of low-and minimum-security prisoners for transfer to the Bureau of Prisons. Consistent with the Revitalization Act, we anticipate that 2,000 prisoners will be moved into private-sector prison beds by the end of fiscal year 1999, consistent, again, with the Revitalization Act.

We've entered into a partnership with the corrections trustee and the trustee for offender supervision to provide a program of intensive supervision for inmates in the community. There are currently over 124 inmates in Lorton who have been recommended for parole by the D.C. Parole Board and the U.S. Parole Commission that we

believe could be benefitted by this program, thereby further reducing the population at Lorton.

CAPITAL REPAIRS OF LORTON COMPLEX

We're real pleased that capital funding in the amount of $6 million of the total $7.1 million identified for the Department of Corrections in the corrections trustees budget has been received from the trustees to assist us in much-needed repairs of the wall at the maximum security facility and other security enhancements throughout the complex to enable us to reasonably ensure the safety of staff, inmates, and the general public as we move through this unprecedented closure of the Lorton complex.

CAREER TRANSITION CENTER AT LORTON

Mr. Chairman, prison work, under the best of circumstances, is difficult and stressful. But the imminent closure of Lorton and the displacement of thousands of employees have exacerbated the challenge for correctional workers. And, therefore, we have worked collaboratively with the corrections trustees to open a career transition center on the grounds of Lorton. At that center, employees have access to employment assistance, individual and family counseling, financial planning assistance, crisis intervention, as well as other support services. The transition center is staffed by D.C. Department of Corrections staff, staff from the Office of the Trustee, and additional support services and workshops are provided by the Department of Employment Services, the Federal Bureau of Prisons, the U.S. Office of Personnel Management, the D.C. Office of Personnel, and others, and will be open to corrections employees throughout the transition and until the year 2002.

STABILIZING CORRECTIONAL WORKFORCE

Finally, Mr. Chairman, the 1999 budget will enable us to complete the following tasks. First, to stabilize the correctional workforce. Our ability, our capacity, to complete this transition, to do the very difficult work of corrections is contingent upon the presence and the availability of correctional workers. This budget includes a number of incentives that will enable us to retain and recruit corrections personnel.

INTERNAL AUDITS AND CONTROLS

Second, with the assistance of the corrections trustee, we will update policies and procedures and put in place systems for internal audits and controls that will enable the overall efficiency and effectiveness of our system to be significantly improved.

HEALTH CARE DELIVERY SYSTEM

With the cooperation of the Bureau of Prisons, we have appointed a senior correctional health administrator, under the Intergovernmental Personnel Act, also known as IPA. We intend to restructure the Department's health care delivery system to improve the efficiency of that operation, as well as the effectiveness of our management structure.

CONTRACT MONITORING PROGRAM

In conjunction with the chief management officer and the corrections trustee, we have begun to develop a comprehensive contract monitoring program. As we move additional prisoners into contract prison beds, the need for enhanced monitoring is quite evident.

LORTON CLOSURE—SCHEDULE ADJUSTMENTS

Also, along with the trustee and the Federal Bureau of Prisons, we're in the process of revising the Lorton closure schedule to make necessary adjustments in the schedule, for contract changes, as well as the Federal Bureau of Prisons construction schedule. But it's important to note that we are firmly committed, firmly committed, to ensuring that all facilities at Lorton are closed by December 31, 2001, consistent with the Revitalization Act.

STRATEGIC PLAN DEVELOPMENT

And lastly, Mr. Chairman, along with the chief management officer, the corrections trustee, and the courts and as well as other members of the criminal justice system, such as offender supervision, trustee Jay Carver, we're in the process of developing a comprehensive, strategic plan and implementation strategy that will enable the D.C. Department of Corrections to transition from an integrated prison system to a municipal jail system.

I'm happy to respond to any questions you have at this time.

PREPARED STATEMENT OF MARGARET A. MOORE, DIRECTOR

[Ms. Moore's prepared statement follows:]

TESTIMONY BEFORE THE COMMITTEE ON APPROPRIATIONS SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA

UNITED STATES HOUSE OF REPRESENTATIVES
THE CAPITOL
H-144

MARGARET A. MOORE
DIRECTOR
DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS

WEDNESDAY, JUNE 24, 1998
11:00 A.M.

Good morning, Congressman Taylor and members of the Appropriations Subcommittee on the District of Columbia. I appreciate the opportunity to appear before you this morning, along with Corrections Trustee John Clark and Offender Supervision Trustee Jay Carver to discuss the FY 1999 budget request for the District of Columbia Department of Corrections.

The FY 1999 proposed budget for the Department of Corrections is based on the requirements of the National Capital Revitalization and Self Government Improvement Act of 1997, which mandates that the District's sentenced felon population be transferred to the Federal Bureau of Prisons and that the correctional complex in Lorton, Virginia be closed by December 31, 2001. The proposed gross budget for FY 1999, including the Medical Receiver's budget is $270,315,000 and 3,022 FTE's of which $203,500,000 and 2,217 FTE's represent the proposed Federal Government reimbursement and 60,534,000 and 785 FTE's represents the Department of Corrections proposed local budget.

As you are aware, the task of closing an entire prison complex is unprecedented. Although my correctional experience is broad based, the actual closure process including the transfer of approximately 5,000 prisoners and displacement of more than 2,000 employees presents many formidable challenges. It will require the collective work and cooperation of many federal and local agencies as well as frequent collaboration with both the Corrections Trustee and the Offender Supervision Trustee. We have already demonstrated that we have the capacity to

work together, and I am confident that we will continue to do so over the next three and half years to ensure the safe and orderly closure of Lorton. Substantial progress has already been made toward that end and I am pleased to report that the following tasks have been completed:

- One hundred and thirty five (135) sentenced female felons have been transferred to the Federal Bureau of Prisons; consequently, the minimum security women's annex was closed in January, 1998 consistent with the Lorton Closure Plan.

- The Federal Bureau of Prisons has trained over 60 Department of Corrections case managers in the application of the federal classification instrument. To date, more than 1,500 inmates have been reclassified and by the end of this Fiscal Year the entire inmate population will be reclassified.

- Approximately 2,500 District of Columbia prisoners are currently housed in private sector prison beds; as a result, the Medium Security facility has been closed and the inmate population at the Occoquan facility has been reduced from 1,651 in 1997 to 1,195 today which represents approximately a 28% reduction. The overall inmate population at Lorton has reached an all time low of 4,250 today compared to 5,445 at this time last year.

The proposed FY 1999 budget will enable us to continue moving aggressively to close Lorton and to carry out other requirements of the Revitalization Act. The following initiatives are currently underway and should be completed by the end of FY 1999:

- Negotiation with the Virginia Department of Corrections for 1,200 prison beds are underway and progressing well. We anticipate having a fully executed contract by no later than the first quarter of FY 1999. Execution of this contract should result in the complete closure of Occoquan by the third quarter of FY 1999.

- Reclassification and identification of suitable low and minimum security prisoners for transfer to the Federal Bureau of Prisons is ongoing. Consistent with the Revitalization Act the Federal Bureau of Prisons is preparing for the transfer of 2,000 of the District's sentenced felons into private sector prison beds by December 31, 1999.

- Entered into partnership with the Corrections Trustee, the Trustee for Offender Supervision, the D.C. Parole Board and the U.S. Parole Commission to provide a community based program of intensive supervision for felons who have been granted parole. There are currently approximately 124 inmates at Lorton who have been recommended for parole who could benefit from an intensive community supervision program.

- Received bids for the auction and sale of the dairy herd and farm equipment in preparation for the closure of the dairy farm at Lorton by September 30, 1998. Downsizing and closing other parts of our industries operation will occur as the inmate population is reduced throughout FY 1999.

- Capital funding in the amount of approximately $6.0 million, of the $7.1 million identified for the Department of Corrections capital improvements in the FY 1999 congressional appropriation for the Corrections Trustee, has been received from the Corrections Trustee for the repair of the Maximum Security wall and other security enhancements to ensure the safety of staff, inmates and the general public until such time as Lorton is closed. We entered into a Memorandum of Understanding with the U.S. General Services Administration to ensure that all of the projects are within budget and completed in a timely fashion.

- Prison work is difficult and stressful under the best of circumstances. The imminent closure of Lorton and the displacement of thousands of employees have exacerbated the challenges of correctional workers. Therefore, we have worked collaboratively with the Corrections Trustee to open a Career Transition Center on the grounds of Lorton. At the Center, employees have access to employment assistance, individual and family counseling, financial planning assistance, crisis intervention and other support services. The

Transition Center is staffed by the Department of Corrections and additional support services and workshops are provided by the Department of Employment Services, Federal Bureau of Prison, U.S. Office of Personnel Management, D.C. Office of Personnel and Employee Health Programs/Assist and will be open to corrections employees throughout the transition and until 2002.

Finally Congressman Taylor, the FY 1999 budget will enable us to complete the following tasks:

- Stabilize the correctional workforce. This budget includes a number of incentives to retain and recruit personnel.

- With the assistance of the Corrections Trustee, we will update policies and procedures and put in place systems for internal audits and controls that will improve the overall efficiency and effectiveness of the system.

- With the cooperation of the Federal Bureau of Prisons we have appointed a Senior Correctional Health Care Administrator under the Intergovernmental Personnel Act (IPA). We will restructure the Department's health care delivery system to provide effective management of inmate medical and mental health services, implementation of a Quality Assurance Program and at the same time decrease associated costs. The Health Care Administrator and the Medical

Director will be tasked to work collaboratively with the Special Officer of the Court and the Medical Receiver at the D.C. Jail to return the complete medical operation to the Department of Corrections.

- In conjunction with the Chief Management Office and the Corrections Trustee we will develop and implement a comprehensive contract monitoring program.

- Along with the Federal Bureau of Prisons and the Corrections Trustee we will revise the Lorton closure plan to make adjustments in the Lorton closure schedule to account for changes in contract development and Federal Bureau of Prisons construction schedules. But we are firmly committed to ensuring that all facilities at Lorton are closed by December 31, 2001 consistent with the Revitalization Act.

- Along with the Chief Management Officer, Corrections Trustee, the Courts and other members of the criminal justice system, we will develop and implement a comprehensive strategic plan for the transition of the Department of Corrections from an integrated prison system to a municipal jail system.

Congressman Taylor, I appreciate the opportunity to provide this testimony and I am available to respond to any questions you or members of the Committee may have at this time.

Mr. TIAHRT. Thank you. We will wait and ask our questions after we have heard from all those who have testimony. I appreciate it very much, Ms. Moore. Mr. Clark, we would be glad to hear from you next.

OPENING STATEMENT OF JOHN L. CLARK, CORRECTIONS TRUSTEE

Mr. CLARK. Good morning, Mr. Chairman, members of the committee. I'm pleased to have my first opportunity to appear before you as the Corrections Trustee for the District of Columbia. It's certainly an honor and a pleasure to appear here with Director Moore and Mr. Carver, whose offices worked so closely with us on the current transition.

RESPONSIBILITIES OF CORRECTIONS TRUSTEE

As you know, this office was established by the National Capital Revitalization Act of 1997. The primary responsibilities of my office are threefold. First, the financial oversight of all aspects of the District of Columbia Department of Corrections. Secondly, to facilitate the closure of the Lorton complex and the transfer of sentenced prisoners from the District to the Federal Bureau of Prisons by 2001. Third, to assist the DOC in its own reformation and long-term stabilization. The 1999 request of $184.8 million will meet the requirements of the Revitalization Act to assist the District of Columbia in housing those felons who will not have been transferred to the Federal Bureau of Prisons.

REDUCTION IN NUMBER OF PRISONERS

Progress has been made in the transition. Director Moore pointed out a number of the areas of progress. I'll reiterate just a couple. The total number of prisoners held in the facilities directly operated by the DOC, including Lorton and the D.C. jail, has been reduced from over 9,500 3 years ago to about 6,000. Under the present closure plan, that number should be reduced to well under 5,000 during fiscal year 1999.

At the Lorton complex itself, one facility was closed last September and two are scheduled to be closed in the next year. At the 5 facilities currently in operation at Lorton, the overall count is about 4,200, down from 6,000 1 year ago, and from about 7,700 3 years ago. So there's progress in downsizing the numbers.

However, to be clear, planning for the next steps of the closure in fiscal year 1999 presents an unusual challenge, because the pace of the transition depends upon the DOC's ability to secure suitable contract bids outside the system. With the assistance of our office, the District is working diligently with several jurisdictions. Director Moore mentioned one of those options in Virginia. And we're hopeful of a favorable outcome in the very near future.

IMPACT ON 3,000 CORRECTIONS EMPLOYEES

I must say that possibly the most difficult aspect of this transition is the impact on the almost 3,000 employees of the DOC. The Lorton closure will require that the number of staff be reduced to under 1,000 by the end of 2001. There's ample evidence that the staff, because of all of these changes, primarily, has become dis-

pirited, confused, and the attrition in the workforce has increased significantly. In this regard, as Director Moore mentioned, the DOC, in cooperation with our office, is participating in an interagency taskforce that is working aggressively to provide an array of resources to assist staff who are facing separation.

INADEQUATE INTERNAL CONTROLS

Another major concern of our office is that the DOC does not yet have an adequate system of internal controls and accountability at the operational level, which would ensure that policies are carried out as written or that the performance of contractors is closely monitored by DOC staff. Our request includes funds targeted to the development of such a system of internal controls. In my estimation, a successful long-term reformation of the Department requires this resource.

JOINT EFFORTS WITH CORRECTIONS DEPARTMENT

Finally, on the positive side, Director Moore and I, as well as our staffs, communicate regularly. We're working jointly on a number of fronts to accomplish the required transition and to improve the efficiency of the Department's operations. I've seen improvements in a number of vital areas in the DOC operations in recent weeks and months, including short- and long-term planning, inmate classification, financial record keeping, and community release procedures, to mention a few.

With Director Moore and other leaders in her department, I have seen, in the months that I've been in this office, a great desire on their part to succeed, a great desire to repair the problems of the system. In that regard, I have great hope for the long-term success of our difficult joint ventures. Mr. Chairman, this concludes my remarks. I'd appreciate if you would include my full statement for the record. Again, I'd be glad to take any questions that you and the committee might have.

PREPARED STATEMENT OF JOHN L. CLARK, CORRECTIONS TRUSTEE

[Mr. Clark's prepared statement follows:]

DISTRICT OF COLUMBIA CORRECTIONS TRUSTEE
STATEMENT OF THE TRUSTEE

JOHN L. CLARK
BEFORE THE HOUSE COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA

Mr. Chairman and Members of the Subcommittee:

I am pleased to appear before you for the first time as the Corrections Trustee for the District of Columbia. I wish to thank you, Chairman Taylor, Congressman Moran, and other Members of this Subcommittee, for the opportunity to share with you the progress, challenges, and issues in implementing the requirements of the National Capital Revitalization and Self-Government Improvement Act of 1997 relating to the Corrections Trustee.

As you know, this office was established by the National Capital Revitalization and Self-Government Improvement Act of 1997 and came into operation October of last year. The primary responsibilities of the office are threefold.

The first major area is financial. As the statute mandates, we are responsible for financial oversight over all aspects of the operations of the District of Columbia Department of Corrections (DOC) and for allocating funds as enacted in law. The Trustee's second major responsibility is to facilitate the closure of the Lorton complex and the transfer of sentenced felon prisoners from the District to the Federal Bureau of Prisons. Our third responsibility is to assist the DOC in its own reformation and long-term stabilization, as it gradually becomes a local, municipal correctional system.

To summarize the transition process, the Revitalization Act requires that 2,000 inmates of the current 7,200 D.C. adult felon population will be transferred to private facilities under contract with the Federal Bureau of Prisons (BOP) by December 31, 1999. The remaining inmates will be transferred to BOP when the Lorton, Virginia, Correctional Complex is closed or by December 31, 2001, whichever is earlier. The transition period will allow the Federal Prison System to expand capacity both by contracting for new prison bedspace and by building new facilities to accommodate the D.C. felon inmate populations. We are informed that BOP is on track to award the initial contracts this summer to meet the December 31, 1999, schedule for 2,000 private beds.

Planning for fiscal year 1999 for the D.C. Department of Corrections, quite frankly, presents many unusual challenges due to the radical transition now underway, including planned institution closures and consequent reductions in the workforce. Because the pace of these planned changes depends in part on the DOC's ability to secure contract beds outside the system, there are unresolved variables which do not lend themselves to easy projections. Although the District, with the assistance of our office, is working diligently with several jurisdictions to secure temporary bedspace until the BOP is able to accommodate all DOC prisoners, there is currently no final resolution in place.

For FY 1999, the Corrections Trustee requests $184,800,000 to meet the requirements of the Revitalization Act. This request reflects an overall 9 percent increase. Of this amount, $17 million is requested for reimbursement to BOP for the phased-in transfer and custody of an estimated average daily population of 750 D.C. felon inmates, as well as $25 million for approximately 1,200 additional contract bed spaces. These initiatives are financed partially by savings from the closing of two Lorton, Virginia, facilities.

Perspectives on the Current Status of the D.C. Department of Corrections

The D.C. Department of Corrections is in transition from having the responsibility for the direct oversight of confinement of all of the District's pretrial detainees and all sentenced prisoners to a new role limited to overseeing the confinement of pretrial detainees, sentenced misdemeanants, and others held for court-related processing only. The average daily population in the institutions directly managed by the Department has declined from 9,582 in 1995 to 6,000 in 1998. This is due to a small overall decline in the inmate population, the contracting out of approximately 2,500 bedspaces with private correctional firms, and the placement of over 750 inmates in Federal Prison System facilities at this time. Additional inmates are being transferred into the Federal system gradually. By the end of FY 1999, an average daily population of 1,250 felon inmates is expected to be in the custody of the Federal system, an increase of 500 inmates over the current level. This gradual transfer into the Federal system anticipates the requirement that 2,000 inmates will be transferred to the Federal Prison System for placement in private facilities contracted for by the Federal government by December 31, 1999.

Director Margaret Moore and I, as well as our staffs, communicate regularly and are working jointly on a number of fronts to accomplish the required transition and to improve the efficiency of the Department's operations. I have seen the beginnings of improvements in a number of vital areas of DOC operations in recent weeks and months, including short and long-term planning, inmate classification, financial record keeping, and community release procedures.

At this time, the Department of Corrections faces considerable obstacles and administrative problems meeting the new challenges ahead:

- ***Deteriorating and outmoded correctional facilities.*** Many of the physical structures at Lorton were designed and built in the 1920's and have been poorly maintained for some years. The outmoded designs require increased staffing and pose serious safety issues to both inmates and staff.

- ***Dispirited and confused staff.*** Serious problems have surfaced that indicate underlying discontent and uncertainty about the future employment status of D.C. correctional employees. Labor turnover has been a major problem, although the rate of exodus has slowed since a pay raise was enacted by the City Council in April.

- ***Crisis management environment.*** The day-to-day operations of the Department of Corrections are often conducted in a crisis mode, so that attempts at long-range planning or structural changes to improve management efficiencies are minimized. However, the Chief Management Officer and her staff have made strategic planning a priority, and I believe considerable progress has already been made in refocusing the Department of Corrections toward its transition and future new responsibilities and mission.

- ***Lack of internal controls and accountability.*** The Department of Corrections does not have a system of controls and accountability at the operational level which assures that policies are carried out as written. Because of the lack of adequate internal controls to assure implementation of policy and regulations, the Department is spending excessive sums of money to comply with various court orders designed to assure operational compliance with written policies. In my estimation, at least $15 to $20 million will be spent this year, and perhaps more, to

meet court-ordered standards. We must work toward the day when the Department's performance and credibility will permit it to bid farewell to the last Special Court Officer, receiver, and expensive consultant.

- ***Problematic system of returning inmates to the community.*** In a well functioning correctional system, most prisoners would spend the last three to four months in a residential community corrections program, finding a job and residence during this transition under the controlled supervision and guidance of trained staff. D.C. has not had such an orderly system and, in my estimation, this has constituted an ongoing threat to public safety. Very recently, we have worked with the Department of Corrections and other District and Federal agencies to take steps in this direction. Last week, the Department of Corrections placed an initial 35 inmates in such programs, and will continue to expand this initiative.

- ***High costs of operations.*** The cost per inmate has increased significantly over the 1995 to 1998 period. In spite of a major initiative in the 1998 Department of Corrections budget to reduce overtime, the cost per inmate held in direct DOC custody has risen from $22,745 in 1995 to an estimated $29,000 in 1998, an increase of almost 28 percent. While part of this may be attributed to court-ordered staffing levels in certain staff-intensive facilities, the Department must accelerate its efforts to reduce overtime, indirect overhead costs, and to downsize staff as appropriate for the reduced inmate population in DOC-operated facilities.

Budget Issues with the District of Columbia

It should be noted that three financial issues have generated significant disagreement among District and Federal officials. Dr. Andrew Brimmer, Chairman of the District of Columbia Financial Responsibility and Management Assistance Authority, recently testified before both this Subcommittee and the Senate Appropriation Subcommittee on the District of Columbia that consultants quantified this perceived funding shortfall of $44 million for FY 1999, a conclusion with which I do not agree. However, I am pleased that this funding issue has come to the forefront in order to address the disagreement before this Subcommittee.

The first issue is the funding of the recently enacted pay raise for Department of Corrections employees. The pay raise for the entire for the Department of Corrections workforce is estimated at $18 million. Consultants to the District have attributed $13.8 million of this amount as a financial responsibility of the Corrections Trustee. These estimates are based on the current workforce of about 3,000 staff who oversee some 6,000 inmates in DOC-operated facilities. With the anticipated transfer of inmates to new contract facilities and to the Federal Prison System during 1999, the number of inmates and, correspondingly, the number of staff should decrease significantly and reduce personnel costs. We estimate that our budget request would provide sufficient resources to finance the pay raise for the staff at appropriate staffing levels.

The second issue is grounded in the confusion regarding the term "sentenced felon" as it relates to the Federal assumption of responsibility during the transition and after the responsibility for incarcerating the adult D.C. felon population has been transferred to the Federal Prison System. The Memorandum of Understanding signed by

District and Federal officials on May 14, 1997, stated the intent of the Administration to be responsible for housing only those D.C. felons who are designated in the same manner as Federal inmates, i.e., with all charges finally adjudicated. This standard is similar to those employed by other States in relationship to local jurisdictions for incarcerating felons. The District would prefer that the Federal government be financially responsible for all felons in D.C.'s custody, including those in detention awaiting court appearances. Under the District's more expansive interpretation, consultants hired by the office of the Chief Financial Officer estimate that it would require an additional $6 million from the Federal government in FY 1999 and corresponding amounts in all future years.

The third issue relates to funding certain external indirect costs of the District central government that are not in any way part of the Department of Correction's budget but which have been ascribed by formula to the Corrections Trustee's office by the office of the Chief Financial Officer. These external indirect costs are quantified by the District as $24.7 million for FY 1999. It is my understanding that these amounts do not relate to the care and custody of the felon population. The largest portion, approximately two thirds of this amount, is for interest and depreciation on the District's non-correctional operations and facilities. In response to arguments made by the office of the Chief Financial Officer and other District officials, we have revisited this issue with the Administration and have been informed that the it does not support reimbursement for any costs not directly attributable to the Department of Corrections. It should be noted also that if this Subcommittee decides to recommend funding for these external indirect costs, the amounts would be a payment to the Treasury of the District of Columbia and not to the Department of Corrections.

Since the pay raise has been funded within our request, it is no longer an issue. However, the disagreements continue on the two remaining issues regarding the interpretation of the term "sentenced felon" and the Federal reimbursement of indirect District overhead costs. These disagreements are counterproductive to carrying out the larger mission and responsibilities of my office. The District has approached the Administration and a received very clear response that not only was it not the intent of the Administration to agree with the interpretation of the District on these issues. The Administration also pointed out that the District had agreed to the definition of a felon underlying the Corrections Trustee budget request in the 1997 Memorandum of Understanding. I believe that the budget request for the Corrections Trustee is sufficient to fund the activities authorized by the Revitalization Act.

Work in Progress

The Department of Corrections has already closed two of the seven facilities at Lorton, Virginia: the Medium and Modular facilities. Two additional facilities at Lorton are scheduled to be closed: the Minimum Facility by the end of FY 1998 and the Occoquan Facility by early to mid-FY 1999, with a portion of those inmates relocated to other Department facilities, a portion transferred to the Federal Prison System, and a portion placed in facilities newly contracted for by DOC. A major issue for the Department is the overall downsizing and reduction of indirect costs as the inmate population housed in Department-operated facilities is reduced to a projected 3,500 by the end of calendar year 1999, of which only approximately 1,000 to 1,200 will be sentenced felons.

Financial role of the Trustee. We are working to get a firm grasp of the DOC expenditures, and in particular those relating to the adult felon population. This task has been complicated by a District-wide poor system of financial record keeping and accountability for transactions among District agencies, including the Department of Corrections. We have made some progress in this area and have assisted the Department in improving financial record keeping. For example, we initiated a review of the utilities paid for by the DOC for use at the Correctional Treatment Facility, operated by the Corrections Corporation of America (CCA). Under the terms of the contract, CCA should have been charged for heating the facility, but the Department had inadvertently been paying the bill instead. This has been corrected, saving the Department more than $12 million over the life of the contract. This is only one of several areas of financial operations that is currently under intense review, and I feel confident that we will able to uncover savings in other areas.

- ***Assistance for employees facing displacement.*** The workforce will experience a major reduction as a result of the shift of responsibilities to the Federal government -- from a high in the recent past of about 3,500 employees to a projected level of less than 1,000 employees. The Corrections Trustee is working with the Department of Corrections, the Department of Justice, BOP, and the U.S. Office of Personnel Management to implement the priority consideration provisions of the Revitalization Act for displaced employees. A survey was conducted of all DOC employees to allow them to indicate their interest in employment with the Federal Prison System or other Federal agencies. At the beginning of this year, the Trustee established an interagency task force, chaired

by the Trustee's office, to develop a detailed plan to assist the employees. Represented on the task force are the Department of Corrections, the Federal Prison System, the D.C. Offices of Personnel and Employment Services, as well as several components of the Federal Office of Personnel Management. We recently completed a series of town hall meetings at each Department of Corrections facility, disseminated information fact sheets on the priority consideration program, and opened a career transition center on the Lorton property near the Occoquan facility. The response to these efforts has been most favorable by both the employees and the union.

- ***Instituting internal accountability and controls systems.*** Shoring up this fundamental shortcoming in the D.C. corrections system is an important goal of the Trustee's office over the coming years. We are requesting funding for this initiative in 1999, and hope to redirect funding to this effort to create the startup of a reliable internal control/audit system that will hopefully be instrumental in improving agency efficiency and in generating savings from the downsizing initiatives. Included in this process will be an improved system of oversight and monitoring of contractors and vendors.

- ***Status of Lorton.*** There is a major push to close the Minimum Facility by the end of FY 1998 and the Occoquan Facility by early to mid-FY 1999 due to very serious problems that could lead to additional restrictive and expensive court orders. The inmates will be housed in new space to be contracted for by the Department of Corrections and in available bedspace in the Federal Prison System.

- ***Capital improvements***. We are working with the Control Board, Director Moore and others in the D.C. government to provide funding for short-term repairs of Lorton that are necessary for the safety of inmates, staff, and community. Of the $7.1 million available in 1998, we have approved numerous projects at this time totaling about $6 million and the work is ongoing.

- ***Consolidation of lawsuits***. We are exploring with the Corporation Counsel's office and the Special Officer of the Court the possibility of streamlining the burden these lawsuits currently place on DOC operations and management.

- ***Management information systems***. We have the goal of assisting DOC in upgrading its management information systems and of integrating them with the BOP and those of the Offender Services Trustee. We hope to establish joint working groups in the near future to accomplish this task.

This concludes my statement on the Trustee's budget request for 1999 and issues being addressed by this office. I appreciate the opportunity to share these remarks with you, and look forward to working with you and apprising you of the progress being made to implement the corrections portion of the Revitalization Act. I would like to thank you, Mr. Chairman, and the Members of the Subcommittee, and I would be pleased to answer any questions you or your colleagues may have. Thank you.

Mr. TIAHRT. Thank you very much, Mr. Clark. Mr. Carver, please proceed.

OPENING STATEMENT OF JOHN A. CARVER, TRUSTEE

Mr. CARVER. Thank you, Mr. Chairman, Mr. Moran. It's a real pleasure to be here today, invited to testify on our budget. This is my first appearance before this Committee in my capacity as trustee of the Court Services and Offender Supervision Agency, but it's not my first visit before the Committee. There have been many times, in another life. But it's good to be back.

My function as Trustee of the Court Services and Offender Supervision Agency is to oversee the reorganization and the transition to the Federal government of the Pretrial Services Agency, the Adult Probation function, and the D.C. Parole Board, as well as the Public Defender Service. I really view this as a unique opportunity—perhaps unique for the entire country, but certainly unique in the District of Columbia—to build a truly effective system of offender supervision that will serve our community in ways that we've never been able to in the past.

I sincerely believe that, by putting in place this system, we will have a significant effect in cutting crime; certainly cutting drug use, which of course is very much associated with crime; and generally providing a much safer environment for the citizens of our community and those who come to visit. I am optimistic about this, and, given the nature of the problem, you might wonder why I am so optimistic that these ambitious goals can be accomplished. But I think they can be accomplished, based on what we know from a lot of empirical evidence that underscores the fact that most of the crime being committed is committed by people who are repeat offenders; who are, by and large, already under the supervision of the justice system; and for whom we have very poor mechanisms for providing effective levels of intervention, treatment, and sanctions-based supervision.

So I think when you look at the fact that we already have, in effect, a captive population of folks under criminal justice supervision, the real challenge is to make that supervision and those interventions effective. I'm convinced that it can be done not just out of some pie-in-the-sky, optimistic belief, but because I have seen it done on small scales in this jurisdiction, and in other jurisdictions and I see it as my challenge to take what works on a small scale and to make that the norm across the board.

I'm here to address our FY99 budget request. I would also like to transmit a separate budget request from the Public Defender Service. I believe the Committee has that.

[CLERK'S NOTE.—See pp. 301–306 this volume, for prepared statement of the Public Defender Service.]

BUDGET REQUEST FOR OFFENDER TRUSTEE

Mr. CARVER. I'll turn straight to the budget figures. The initial President's budget requested $59.4 million for fiscal year 1999 for the new agency. This budget was prepared, Mr. Chairman, at a time shortly after I took on this new responsibility and, to a certain extent, it was based on data that was not fully developed at that time. It was based on some assumptions that, upon further refine-

ment of the data, rounding out the picture of what we're dealing with as a base, proved to be completely inadequate to the challenge we are facing in this city at this time in developing an effective system of offender supervision.

30,000 INDIVIDUALS UNDER CRIMINAL JUSTICE SUPERVISION

I'd like to just give you a sense, Mr. Tiahrt, of the nature of the problem that we're facing. Right now, we have over 30,000 individuals in this city theoretically under criminal justice supervision. If you can just picture this. If you've ever been to RFK Stadium, that would basically fill every seat in the upper deck at RFK Stadium. That's how many people we have right now theoretically under supervision. It's about 1 in 20 D.C. residents, given the size of our community.

Now a lot of those folks are heavily involved in drugs. We know this because we do have a comprehensive drug testing program at intake. We know this and the experience in the District is similar to that in other jurisdictions. Basically, we have two-thirds to three-fourths of the individuals under supervision with either active drug use or a history of addiction.

ARREST RECORD FOR PAROLEES

We also know that this group has extensive criminal history records. We recently pulled a sample of drug-involved offenders and defendants from Pretrial Services, Probation, and Parole, and the mean number of arrests for parolees was 9.6 arrests and 10.2 for probationers. Now that's arrests. When you look at the number of——

Mr. MORAN. Excuse me, each person on probation has been arrested 10 times? This is on the average?

NUMBER OF CONVICTIONS PER PAROLEE

Mr. CARVER. Mean number. That is exactly right, Mr. Moran. And when you look at convictions, the mean number for probationers was 4.8 and the mean number for parolees was 4.5. Now this, as I say, is not, perhaps, a representative sample, because we are in fact in the process of gathering across-the-board, baseline data. This was a sample of the most troublesome folks, those that have documented histories of substance abuse. And the point I'm trying to make is that our system just cycles people through without effective intervention and without good supervision.

In fact, John Clark and I were, just a couple of weeks ago, over at the community transition center that Director Moore described. We had about 30 inmates there that had just been released from Lorton and they're coming into this strict residential transition housing before they go back to the community. We asked for a show of hands of all those who had been through the system before. And every hand went up with, I think, 1 exception, out of about 30 people. So we are cycling people over and over through this system.

PAROLEES—INADEQUATE SUPERVISION AND LACK OF SANCTIONS

And the reason for that, Mr. Moran, and the reason that we have so many parole violators in jail right now—I think it's 600 or 700—is because we just don't have—and historically have not had—adequate supervision for when they do come back to the community. We don't have immediate and graduated sanctions. We don't have the ability, right now, to intervene at the first sign of drug relapse. And without the ability to do that, without the ability to bring somebody back and put that individual in a structured, residential setting where you can deal with the relapse, what you see happening is that relapse intensifies, it leads to criminal behavior, eventually the individual picks up a new criminal offense, and, of course, then you've got him back in prison on a parole violation.

So the goal here, Mr. Tiahrt and Mr. Moran, is to build a system that can first of all provide effective supervision throughout the course of criminal justice oversight and then have the ability to move very quickly, within a day, ideally, and provide certain predictable, intermediate, and graduated sanctions when people start to slip. The fact that we can't do that now is, I'm convinced, a major factor in this endless recycling. It contributes to a deterioration of public safety and we know how to fix it. We have fixed it in small areas, but we need additional funding to be able to apply the benefits and apply the knowledge to a much broader segment of the criminal justice population.

$38 MILLION BUDGET AMENDMENT

And that is why the administration is now supporting a budget amendment to the initial Presidential request in the amount of $38 million which would bring the total request, with this budget amendment, to $97.6 million. This is set forth in both the budget and the written statement that I submitted for the record.

[The information follows:]

Court Services and Offender Supervision Agency
for the District of Columbia
Office of the Trustee
Washington, DC 20001

June 15, 1998

The Honorable Jacob J. Lew
Acting Director, Office of Management and Budget
Old Executive Office Building
17th and Pennsylvania Ave., NW
Washington, DC 20503

Dear Mr. Lew:

As you know, the Administration has had extensive involvement in the implementation of the National Capital Revitalization and Self-Government Improvement Act of 1997. Over the past few months our office has been working with the Office of Management and Budget and the Department of Justice to put in place, with Federal assistance, a system of offender supervision in the District of Columbia that reduces crime, enhances public safety, and restores confidence in the criminal justice system. As the Trustee appointed under the Act to carry out the reorganization and transition of functions relating to pretrial services, parole, adult probation and offender supervision, and to ensure certification of the Agency to assume these functions as a Federal agency on or before August 5, 2000, I am concerned that without additional resources significantly beyond the level requested in the FY 1999 budget we will fail to meet the District's immediate public safety needs.

It is respectfully requested that the Administration transmit to Congress, a budget amendment to the FY 1999 President's Budget that will support an additional $38,269,000 in resources for the Court Services and Offender Supervision Agency for the District of Columbia. Specifically, language provisions are proposed that would direct the award of one-time only funding from three grant programs under the Department of Justice to support the Agency's law enforcement and public safety activities. The Attorney General concurs with this proposal which would require no increase to total discretionary funding requested in the FY 1999 President's budget.

More than one of every 20 residents of the District of Columbia is under conditional supervision – pretrial release, parole, or probation – not including those who are incarcerated. When the Revitalization Act was passed, the best "educated guess" of the number of offenders under some form of such supervision was approximately 10,000. One of the first tasks we faced was to gather accurate data to refine that estimate and to develop a better understanding of the scope of the problem (as well as to establish a baseline from which progress could be measured). As a result, we know that today more than 30,000 offenders require non-incarcerative supervision in the District of Columbia. We must be able to provide adequate supervision and intervene effectively any time an individual comes into contact with the criminal justice system in order to reduce crime in the District.

800 K Street, N.W., Suite 450, Washington, DC 20001
Voice: (202) 616-1092 Fax: (202) 305-9657

The FY 1999 budget for the Agency was based on maintaining the existing level of supervision for approximately 10,000 people. This is completely inadequate in light of the actual size of the population requiring supervision and the fact that caseload ratios in the pretrial, probation and parole populations currently range from 75 to 900 offenders per community supervision officer. This is far from compliance with federal standards and recommended ratios, for the related public safety and liability risks are substantial and must be reduced. Therefore, additional resources are requested for the following:

- $11,404,000 from the new drug testing, intervention and treatment grant program, to ensure that all DC offenders under supervision are tested on a regular basis, to improve processing times, and to provide adequate treatment services;

- $19,365,000 from the COPS program for a problem-solving partnership that will support hiring community law enforcement officers and related program support to prevent and deter crime through community policing. This initiative includes funding for information technology and establishment of additional community supervision centers, to improve coordination with police and provide meaningful supervision for all persons under probation, parole and pretrial supervision; and

- $7,500,000 from the Truth-in-Sentencing Prison Grant program for establishment of a residential sanctions center to ensure adequate response to persons who violate conditions of supervision and to implement recommendations of the District of Columbia Truth-in-Sentencing Commission.

The attached information provides further explanation and justification for these initiatives and proposed amendments to language included under the Department of Justice to support these initiatives under State and local law enforcement grant programs. If at all possible, it would be in the best interest of this proposal if the budget amendment were transmitted prior to my hearing before the House DC Subcommittee on Appropriations on June 18, 1998. Please let me know if any additional information is needed for consideration of this request.

I greatly appreciate your support and assistance to ensure full implementation of the National Capital Revitalization and Self-Government Improvement Act and to greatly improve public safety in the District of Columbia.

Sincerely,

John A. Carver
Trustee

FY 1999 BUDGET AMENDMENT

Agency:	DEPARTMENT OF JUSTICE
Bureau:	OFFICE OF JUSTICE PROGRAMS
Heading:	Violent Crime Reduction Programs, State and Local Law Enforcement Assistance
FY 1999 Budget Appendix Page:	619-621
FY 1999 Pending Request:	$2,409,400,000
Proposed Amendment:	...
Revised Request:	$2,409,400,000

(In the appropriations language under the above heading, insert the following immediately after "of which $85,000,000 shall be for the Drug Testing and Intervention Initiative, including $10,000,000 for Indian country":)

and $11,404,000 for the District of Columbia Offender Supervision, Defender, and Court Services Agency

This amendment would provide for drug testing, intervention and treatment, to ensure that all offenders under supervision are tested on a regular basis, to improve processing times, and to provide adequate treatment services.

(In the appropriations language under the above heading, insert the following immediately after "of which $52,000,000 shall be for the construction, renovation, and repair of detention facilities in Indian country":)

: and of which $7,500,000 shall be provided to the District of Columbia Offender Supervision, Defender, and Court Services Agency for construction, renovation, and repair of sanctions center facilities as necessary to implement the recommendations of the District of Columbia Truth-in-Sentencing Commission

This amendment would provide for establishment of a residential sanctions center to ensure adequate response to persons who violate conditions of supervision and to implement recommendations of the District of Columbia Truth-in-Sentencing Commission.

The proposed budget totals would not be affected.

FY 1999 BUDGET AMENDMENT

Agency:	DEPARTMENT OF JUSTICE
Bureau:	COMMUNITY ORIENTED POLICING SERVICES
Heading:	Violent Crime Reduction Programs
FY 1999 Budget Appendix Page:	622
FY 1999 Pending Request:	$1,400,000,000
Proposed Amendment:	...
Revised Request:	$1,400,000,000

(In the appropriations language under the above heading, insert the following immediately after "and administration":)

: Provided further, that of the unobligated balances available in this program, $19,365,000 shall be provided to the District of Columbia Offender Supervision, Defender, and Court Services Agency for a problem-solving partnership that will support hiring community law enforcement officers and related program support to prevent and deter crime through community policing

More than one of every 20 residents of the District of Columbia is under conditional supervision – pretrial release, parole, or probation – not including those who are incarcerated. When the Revitalization Act was passed, the best "educated guess" of the number of people under some form of criminal justice supervision was approximately 10,000. One of the first tasks of the Agency was to gather information and data to refine this estimate and to develop a more accurate understanding of the scope of the problem and to establish a baseline from which progress toward our goals could be measured. As a result of this process, we now understand that the total number of individuals that require criminal justice supervision in the District is more than 30,000.

This amendment would provide for 390 additional personnel and related support programs, including information technology and establishment of additional community supervision centers, to ensure the appropriate level of supervision for all persons under probation, parole and pretrial supervision.

The proposed budget totals would not be affected.

Court Services and Offender Supervision Agency for the District of Columbia

Request for FY 1999 Budget Amendment

The National Capital Revitalization and Self-Government Improvement Act of 1997 presents an historic opportunity for our City – indeed for the Nation – to build with federal assistance a system of offender supervision that cuts crime, enhances public safety, restores confidence in our criminal justice system and turns costly liabilities into community assets. From the standpoint of criminal justice administration, the timing has never been better. There is now broad understanding – both among practitioners and among scholars – of what forms of offender supervision work: that is, what strategies not only prevent crime by those under supervision but also change the behaviors that are so destructive to individuals and the public safety of the communities in which they reside.

In the District of Columbia, many of the old organizational barriers are being swept aside. We now have a single, integrated Court Services and Offender Supervision Agency that can work in an effective and coordinated fashion with all offenders as individuals, regardless of their case status at any particular time. No longer should offenders be able to "play the system against itself" by taking advantage of information gaps and organizational idiosyncrasies to escape accountability.

These changes come at a time when information technology has never been more accessible and more powerful. The strategic use of information can have a profound and cost-beneficial impact on recidivism by supporting better decision-making at all points, and establishing heretofore unheard-of levels of offender accountability.

We plan to move forward on a solid empirical foundation derived from practical experience and program evaluations. "Pockets of innovation" such as drug courts have proven to be effective in cutting drug abuse and associated crime, but they reach only a tiny fraction of the total offender population. Nevertheless their lessons point the way toward a rational, coherent and effective *system* of offender supervision. Just as community policing evolved from discreet *programs* to a problem solving *approach* or *system*, so too must offender supervision in the District move from a collection of programs to a systematic approach that applies what we know about drug addiction, crime deterrence, supervision, and proven techniques for changing offender behavior.

With the federal assumption of responsibility for offender supervision, we have an unparalleled opportunity to improve public safety and to make the District of Columbia a model for the nation. The challenge is that we must do so quickly, in order for the Court Services and Offender Supervision Agency to be certified to assume its functions as a federal agency, on or before August 5, 2000. **Therefore, it is requested that $38,269,000 be provided from Department of Justice grant programs to support these requirements.**

How Can Offender Supervision Cut Crime?

Criminal justice supervision has not fared well in the public perception. There is a general distrust of probation programs, halfway houses, and parole as being ineffective, "soft on crime" and unresponsive to public safety concerns. High rates of recidivism are well known and are responsible for policies favoring incapacitation through longer prison terms. Probation and parole practitioners cite crushing caseloads and a lack of resources as the source of these failures. While effective offender supervision can not be implemented without adequate resources, resources alone can not reduce recidivism.

The criminal justice "system" is not a system at all, but a collection of organizations and processes with different objectives sometimes working at cross-purposes with one another, especially in the offender supervision arena.

The goal of offender supervision is to deter re-offending. The very least we should expect is that while offenders are in the community and under criminal justice supervision, they should not be engaged in any illegal behavior. Yet the criminal justice system is structured in such a way that the young offender may get two, three, or more "bites at the apple" before *anything* of consequence happens. He or she must be a repeat offender to even warrant the system's attention.

The reality of how the system operates is well understood by the offender. Each time the criminal justice system *could* intervene, but *does not*, another message is sent to the individual that there are no consequences. As a result, offenders often cycle repeatedly through the courts until – finally – the behavior escalates to the point where it can no longer be ignored. Then incarceration may result, but eventually the offender returns to the community. Without adequate supervision and support, offenders often return to their old habits and associations, and the cycle begins anew.

What is the Formula for Achieving Public Safety Goals?

In a December 18, 1995 Executive Memorandum, President Clinton directed Attorney General Reno to develop a plan for reducing illegal drug use among individuals under criminal justice supervision. Noting that "too often, the same criminal drug users cycle through the court, correction and probation systems still hooked on drugs and still committing crimes to support their habit," the President called on all "agencies of our criminal justice system [to] do their part, giving criminal drug users powerful incentives to stay off drugs by putting a high price on continued drug use."

A variety of deterrence and prevention plans including testing, graduated sanctions, and treatment have been found to reduce drug abuse and crime, particularly when those interventions are supervised by agencies of the criminal justice system.

- A review of research findings of treatment programs provided in prisons shows that offenders who completed in-custody treatment have lower rates of recidivism after release. These findings were even stronger when the offender's release back into the community included a supervised transition component.

- Research from drug court evaluations shows that drug-court defendants have lower rates of committing subsequent offenses than similar defendants.

Techniques of effective supervision are well known and based on common sense. If the criminal justice system takes the problem of drug abuse seriously, it will identify drug users as soon as they enter the criminal justice system and establish programs that deter drug use and crime through all stages. The challenge, then, is designing a system that integrates immediate identification of drug users with effective deterrents to drug use.

First, there must be a good *assessment* of the risk factors in each individual's background. Drug use and prior criminality are two strong statistical predictors of future offending, and should be carefully and routinely examined in each defendant or offender. Second, *conditions of supervision* must be imposed that are tailored to the risks identified in the assessment process. Third, if conditions are imposed they *must be enforced.* It is counter-productive to set release conditions with great formality, and then to ignore them enforcement through bureaucratic inaction. This fosters contempt for the system – both on the part of the offender, and within the community of law-abiding citizens. Fourth, the enforcement of conditions should be *effective.* To be effective, there should be *consequences* for violations. The consequences should be *immediate, certain, predictable and graduated.* Fifth, as offender supervision establishes accountability, there will be increased demand for a variety of services. Coerced drug abstinence, for example, leads people to seek treatment for addiction as an alternative to the certain and escalating sanctions for drug use. While court coercion places demands on treatment capacity, it also makes treatment service delivery far more effective.

While common sensical, to be effective, this approach must be implemented within the District's criminal justice system. In the beginning, we will be "going against the grain" of entrenched, well-understood practices where there are no credible consequences for criminal behavior. A massive investment in information technology and a very large increase in drug testing capability, including a series of neighborhood reporting centers where supervision, drug testing, and treatment referrals can take place are required. The number of case managers must be greatly expanded. Currently, high risk parole populations are being "supervised" at a ratio of one officer to 180-200 parolees. In Pretrial Services, the caseload ratio of defendants in general supervision is 900 to 1! These ratios must be dramatically improved and *credible* short-term, immediate sanctions must be implemented to make our release conditions a real force for changing behavior.

What Return Can We Expect From Our Investment?

The potential benefits from such an investment are enormous. Hard core drug users account for a very larger percentage of the total consumption of illegal drugs – 80% by some estimates. A very large percentage of these hard core, crime prone individuals are coming into District's justice system (with criminal cases, traffic cases, juvenile petitions, and domestic violence matters). Furthermore, there is now considerable empirical evidence that in the District of Columbia, heavy drug users are involved in high rates of criminality on a daily basis. This criminal activity goes well beyond the activity necessary to procure drugs. Thus, crime reduction must start with the individuals already under our supervision, and over whom we can (if we choose) exercise considerable control. It should focus largely (but certainly not exclusively) on drug-using behaviors that can be addressed effectively through a combination of frequent testing coupled with careful case management and treatment support.

There is a growing body of scientific literature underscoring the effectiveness of this approach in *reducing* drug use and *reducing* crime. Most of this evidence is emerging from drug courts, which have spread rapidly out of frustration with the futility of traditional case processing.

These gains have enormous benefits for individuals, for families and for neighborhoods. Once "denial" is no longer possible, a process can take hold that eventually yields tax-paying, responsible citizens, instead of strung-out individuals accustomed to stealing from their families, or neglecting their children to procure drugs.

The long-term benefits to the District of a truly comprehensive strategy of crime reduction should have major pay-offs in terms of reduced use of our most expensive criminal justice resource (a prison cell), lowered demands on the public assistance system, and increases to the tax rolls.

The Enormity of Our Task

More than one of every 20 residents of the District of Columbia are under conditional supervision – pretrial release, parole, probation – not including those who are incarcerated. The current District system is plagued with many problems, not the least of which is adequate data on which to plan. When the Revitalization Act was passed, the best "educated guess" at the number of people on some form of criminal justice supervision was approximately 10,000. However, once the Trustee was appointed, his first task was to gather data, not only to understand the scope of the problem, but to establish a baseline from which progress toward our goals can be measured. As the data collection mechanisms became more refined and more accurate, the numbers rose until we now understand that the total number of individuals that require some form of criminal justice supervision is more than 30,000.

A closer look at the levels of drug use and the levels of criminality among the offender population adds urgency to this request for a budget amendment. For example, in one consistent population of drug users in which detailed data has been gathered on the risk levels found in pretrial releasees, probationers, and parolees, the following information was gleaned: The mean number of arrests for probationers was 10.2; for parolees, 9.6, for pretrial releasees, 8.7. The mean number of convictions for probationers was 4.8; for parolees, 4.5. Clearly the offender population in the District of Columbia is a population with high levels of risk, and multiple contacts with law enforcement and the Courts.

While some of the 30,000 cases may appear minor if one looks only at the instant charge, we now know enough about rates of offending to understand that the individual pulled over on a traffic stop may be the same individual with a history of drug use, a pattern of assaultive behavior, or a serious record in another jurisdiction. If we are truly concerned about lowering crime rates, we must be able to intervene effectively at any time an individual comes into contact with the criminal justice "system", treating seemingly minor matters seriously. This is a fundamental concept of community policing and justice.

A Cost Framework to Reach Our Goals

The Court Services and Offender Supervision Agency is re-thinking every aspect of offender supervision. The general approach will be one in which supervision teams will be organized and their performance measured against clear public safety goals. The management information system currently being developed will provide on-line feedback to the team regarding progress toward their goals. Teams will be rewarded according to how well they achieve bottom-line outcomes: measurable reductions in crime; measurable reductions in drug use. While the optimal configuration of these teams is yet to be refined and tested, they will consist of several community supervision officers, a resource developer, and a substance abuse counselor. Specific performance objectives regarding levels of supervision, frequency of drug testing and speed in responding to violations will be established and tracked through the computer system. Specialized teams will be established to provide monitoring and services commensurate with the need – i.e. sex offenders; batterers, etc.

To the extent our data permits, the following is a more detailed description regarding the cost framework for achieving our goals with various levels of risk. While we intend to use a team approach to supervision, we are, for budget planning purposes, referring to individual caseload ratios as means of projecting costs and differentiating among supervision levels.

FY 1999 Initiatives

Drug Court and Testing Expansion – Summary

Proposed language change under the Department of Justice, Office of Justice Programs, Drug Testing and Intervention Initiative would provide an additional 17 positions, 9 FTE, and $5,784,000.

- Increase urine sample collection by 500%.
- Establish multiple community collection sites for easy accessibility.
- Improve processing time of testing results from a new central lab.
- Ensure that all offenders under supervision are tested.

Drug Court and Testing Expansion – Commentary

Currently, Pretrial Services is providing the leadership for the entire agency in the area of drug testing. Over the years, Pretrial Services has developed a highly-automated, reliable and paperless process for collecting urine samples, documenting chain-of-custody, performing tests and reporting results to case managers and judges in a "real time" basis. However, this technology is available only on a very limited basis to probation and parole supervision.

In the probation area, less than 5 percent of all probationers are subject to regular drug testing. In parole, an even smaller number – less than 100 to be exact – is being drug tested through the automated system. Historically, drug testing has been sporadic and unreliable and has been provided on a contractual basis through a city agency. The procedures used have not withstood legal challenges, thus undermining the integrity of parole supervision.

There is an urgent need to provide adequate drug testing (twice weekly, at a minimum) for the bulk of the post-conviction offender population. To be effective, the testing process must be reliable (to avoid legal challenges) and it must be fast if it is to have any effect. It does no good whatsoever to conduct drug testing, and then fail to act promptly if a parolee or probationer begins to relapse. To bring the drug testing operation up to adequate and effective levels, there will need to be a major expansion of laboratory capacity; establishment of various urine sample collection sites around the city (in keeping with the model of community supervision) and computer connectivity to ensure prompt action at the first signs of relapse.

It is anticipated that at the end of the two-year implementation phase, all offenders under criminal justice supervision will be routinely and randomly drug tested. Those with known histories of substance abuse (which includes upwards of two thirds of this population) will be tested on a twice weekly basis. This is a fundamental element of the offender supervision infrastructure that must be built if we are to reach our crime-reduction goals.

Community Supervision – Summary

Proposed language change under the Department of Justice, Community Oriented Policing Services would provide an additional 374 positions, 188 FTE, and $16,510,000.

- Ensure appropriate level of supervision for all persons under probation, parole, and pretrial supervision by enhancing staff to bring caseload ratios to an acceptable level in keeping with the risk characteristics of DC offenders (range 15:1 to 75:1)
- Establish eight additional Community Supervision Centers to complement the four existing sites.

Community Supervision – Commentary

Community supervision is the basic building block of an effective offender management system. If we are to overcome the perception that no one is paying any attention to enforcing criminal justice and community expectations, we simply must have a level of case management and contact that changes the dynamic. Offenders ***must know*** that the system is serious, that there are consequences for violations, and that within this new framework of accountability, social services in the community can be accessed through the new agency. This cannot happen with the current caseload ratios. With a few notable exceptions in each component, (drug court, for example) caseloads are crushing. Throughout the probation and parole populations, caseload ratios range from 75 to 900 offenders for each officer – far in excess of that called for in nationally recognized standards or best practices.

A major initiative is the recruitment, screening, background checking, hiring, training and deployment of an adequate number of Community Supervision Officers (formerly known as pretrial, probation and parole officers) to provide a level of supervision that is essential if we are to cut crime. Our best estimate at the present time (subject to further refinement as the baseline data collection effort proceeds) is that 565 additional community supervision officers will be needed. A number this large cannot be recruited and trained overnight – thus funding requested in FY 1999 will permit a realistic timetable for deployment of personnel.

Information Technology and Connectivity – Summary

Proposed language change under the Department of Justice, Community Oriented Policing Services would provide an additional 16 positions, 8 FTE, and $2,855,000.

- Improve communication among all components of the criminal justice system.
- Computer connectivity among all Community Supervision Centers, Courts, U.S. Parole Commission, and downtown offices.
- Strategic use of information for efficient use of resources.

- Expand the management information system designed to support decision making in our performance-based organization.

Information Technology and Connectivity – Commentary

Fundamental to the success of the Offender Supervision Agency is the quality of its management information support. The Pretrial Services Agency's documented success is based on its highly-regarded automated information systems. The Pretrial Real-time Information Systems Manager database (PRISM) will be the information hub of offender supervision activities for the entire Court Services and Offender Supervision Agency. As such, continuing development, management, and maintenance of the PRISM database, as well as overall direction of the Offender Supervision network, will reside with Pretrial Services. This initiative is for the information systems management and programming support necessary for Pretrial Services to handle the greater need of the entire Agency.

Now that the programming framework and database structure is near completion for PRISM 1.0, the Pretrial MIS programming staff will be concentrating on the implementation phase of PRISM. Two additional Visual Basic programmers are requested to speed up development of the client interface for future versions of PRISM and for requirement modifications as the Offender Supervision Agency continues to take shape. Likewise, one advanced Visual Basic programmer will support the agency vision to acquire leading edge technologies such as telephony and a geographical information system to enhance supervision and research capability. The advanced programmer will also be an integral position for the Court Services and Offender Supervision Agency's role in systems integration for the District of Columbia criminal justice community.

PRISM is a mission-critical application. Therefore, a PRISM Director is also being requested. This person will be responsible for continuing development, quality assurance and configuration management of the PRISM application and database. Moreover, the PRISM Director will be a key figure for PRISM's planned progression from an information system to a decision support system.

Support for MIS operations is also needed in the form of an Assistant MIS Director to manage technical and administrative function of the staff while the MIS Director's attention is turned to oversight and management of the entire Offender Supervision network and its associated staff. Another request is for a Senior Network Engineer who will assist in the management and maintenance of the newly established organizational network, spanning the entire Offender Supervision Agency with links to the Internet and other criminal justice agencies.

Through PRISM, the Offender Supervision Agency umbrella organization will encompass the entirety of a criminal case – from arrest, to pretrial release, and including any post trial supervision – making PRISM a rich source of data for statistical analysis.

A Research Specialist is being requested to serve as statistician and analyst for the entire organization and, ultimately, the local criminal justice community. Finally, in light of the growing development of the MIS staff and its responsibilities, an Administrative Assistant is requested to support the staff's administrative functions and daily operations.

Sanctions Center – Summary

Proposed language change under the Department of Justice, Office of Justice Programs would provide 25 positions, 13 FTE, and $7,500,000.

- Establish a residential sanctions center necessary to permit appropriate responses upon the first signs of violation or relapse.
- Establish linkages with social service providers to "co-locate" in the Sanctions Center.
- Establish comprehensive "walk-in" services as part of a Day Reporting Center.

Sanctions Center – Commentary

Effective supervision depends on a number key elements. There must frequent contact with individuals under supervision. There must be conditions of release that are tailored to the specific risk factors identified through an assessment process. There must be enforcement of those release conditions, and there must be a very quick and appropriate response to any violation.

Many offenders have substance abuse problems, or require close curfew supervision if the public is to be protected. If less restrictive forms of supervision (i.e., drug testing, outpatient treatment, regular curfew checking) prove insufficient, the system ***must*** be able to respond almost instantaneously by tightening restrictions and possibly removing the violator from the community. Violations should be viewed as an "early warning" indicator of criminal activity. Immediate intervention is essential. Drug relapses cannot be permitted to intensify to the point where public safety is threatened.

One historic barrier to effective supervision has been the lack of intermediate responses short of revocation. There are two things wrong with this traditional approach. First, there is a reluctance to impose the "ultimate" sanction, and individuals are often given "one more chance" to shape up. This ***does not*** promote the level of accountability we are seeking. Conversely, if the "system" does decide to move toward revocation, the process does not move quickly. Revocation implies hearings, scheduling issues and delay. Meanwhile, the offender may be on a downward slide of drug use and crime, ***especially*** if he knows he is facing revocation anyway. This "all or nothing" approach is worse than inefficient. It is counter-productive. It must be changed.

A better approach is to establish a series of intermediate responses, including a Sanctions Center to provide quick action short of requesting revocation. If designed along the lines of the Drug Court model, offenders and defendants could enter into

"contingency contracts" with the releasing authority (judge, U.S. Parole Commission), agreeing ***in advance*** to a series of specific responses to specific violations. One response must include secure residential placement – sort of a "halfway back" option.

A Sanctions Center will permit a secure setting for stabilization for drug-dependent individuals who relapse. However, it should be much more. It should be a focal point for a range of services that could be available both for short-term "residents" and on an outpatient basis. Public Health, education, job training components should be encouraged to co-locate in the Sanctions Center, permitting dual use as a "one-stop" day reporting center.

Contractual Treatment – Summary

Proposed language change under the Department of Justice, Drug Testing and Intervention Initiative would provide an additional 3 positions, 2 FTE, and $5,620,000.

- Expand substance abuse treatment.
- Expand treatment for sex offenders.
- Expand job-training skills.
- Expand literacy skills.

Contractual Treatment – Commentary

Ongoing review of adult defendants and offenders currently under supervision has revealed a marked increase in the number of defendants and offenders presenting need in the areas of substance abuse treatment, mental health services and sex offender treatment services. Data obtained from the DC Pretrial Services Agency indicates that approximately 60 percent of all defendants entering the program test positive for use of one or more drugs. If anything, this number understates the extent of the problem, since many individuals self-report drug use, but may not produce a positive test when locked up.

An examination of the District of Columbia's current programs addressing these issues has uncovered a number of major gaps in service delivery. This finding supports a request for supplemental funding to allow for provision of services in response to these identified areas. Among the required services are substance abuse treatment, both residential and outpatient; and a Sanctions Center (described above), to service a critical function in substance abuse relapse prevention and increase public safety by minimizing relapses in criminal behavior. In addition, resources are required to establish contractual relationships which will provide the wide range of therapeutic and counseling services in response to the needs of persons requiring mental health and sex offender services. At the organization level, we will ensure that advocacy and training is provided for public and private sector staff in these areas, increasing our ability to provide effective intervention and referral services to address the special needs of this population.

Proposed Changes to Court Services and Offender Supervision
FY99 Budget Amendment Request

Initiative	Current System	Pending Request Pos.	FTE	($000)	Proposed Changes	Proposed FY99 Budget Pos.	FTE	($000)	Proposed Budget Amendment Pos.	FTE	($000)
DRUG COURT & TESTING	• Pretrial Services has developed a highly-automated, reliable & paperless process for collecting urine samples and testing. • Less than 5% of all probationers are subject to regular drug testing. • Less than 100 parolees are currently drug tested through the automated system.	66	62	3,438	• Increase urine sample collection by 500% or more. • Establish multiple community collection sites for easy accessibility. • Improve processing time of testing results from a new central lab. • Ensure that all offenders under supervision are tested.	83	71	9,222	17 • Proposed language change under OJP, Drug Testing and Intervention Initiative.	9	5,784
COMMUNITY SUPERVISION	• Current caseload ratios (75 to 900 offenders for each officer) far exceed nationally recognized standards or best practices.	429	420	34,389	• Ensure appropriate level of supervision for all persons under probation, parole, and pretrial supervision by enhancing staff to bring caseload ratios to an acceptable level in keeping with the risk characteristics of DC offenders (range 15:1 to 75:1) • Establish eight additional Community Supervision Centers to complement the four existing sites.	803	608	50,899	374 • Proposed language change under Community Oriented Policing Services Program.	188	16,510
INFORMATION TECHNOLOGY	• Pretrial Services is in the final stages of development of a new management information system, PRISM. • Probation has no automation capability. • Parole has a limited management information system, but plans to move its data into the more comprehensive PRISM system.	14	11	3,850	• Improve communication among all components of the criminal justice system. • Computer connectivity among all components of the criminal justice system. Supervision Centers, Courts, USPC, and downtown offices. • Strategic use of information for efficient use of resources.	30	19	6,705	16 • Proposed language change under Community Oriented Policing Services Program.	8	2,855
SANCTIONS CENTER	• There is no residential sanctions center currently in operation in the District.	0	0	0	• Establish a residential sanctions center necessary to permit appropriate responses upon the first signs of violation or relapse. • Establish linkages with social service providers to "co-locate" in the Sanctions Center. • Establish comprehensive "walk-in" services as part of a Day Reporting Center.	25	13	7,500	25 • Proposed language change under OJP, Truth-in-Sentencing Prison Grants.	13	7,500
CONTRACTUAL TREATMENT	• Treatment services are woefully inadequate.	0	0	2,168	• Expand substance abuse treatment. • Expand treatment of sex offenders. • Expand job training. • Expand literacy skills.	3	2	7,788	3 • Proposed language change under OJP, Drug Testing and Intervention Initiative.	2	5,620
TRAINING CENTER	• advanced technologies • personnel policies • management training • risk assessment and risk management training • community outreach training	11	7	1,069	• Funding requested in congressional submission will be adequate to fund this initiative.	11	7	1,069	0	0	0
TOTAL CSOS AGENCY		520	500	44,914		955	720	83,183	435	220	38,269
PUBLIC DEFENDER SERVICE	• separate request	154	154	14,486	• separate request	154	154	14,486	0	0	0
GRAND TOTAL		674	654	59,400		1,109	874	97,669	435	220	38,269

AMENDMENT REDIRECTS FUNDING FROM DEPARTMENT OF JUSTICE

Mr. CARVER. Basically, it redirects discretionary funding from within the Department of Justice, so it doesn't affect the allocations of this Committee.

Mr. MORAN. Do we have a problem with 302 (b) allocation for this money? We better get into this in depth. I do not want to interrupt his——

Mr. TIAHRT. Yes. Let him finish his testimony and we will get into it in depth.

Mr. MORAN. Okay.

OPPORTUNITY TO "ENHANCE" PUBLIC SAFETY

Mr. CARVER. Okay. I'll summarize very quickly so you can get into questions. But the main point I want to make is that the Revitalization Act does far more than just federalize former D.C. government agencies. There's an opportunity here to make a significant enhancement to public safety in this community. And then when you look at what's going on and what Director Moore has described and what other witnesses will describe throughout the day, I think you can see that the real direction here is not just to do more of the same. More of the same would mean just continuing to nibble around the edges of a very large problem.

We need, right now, a massive effort to build a better supervision infrastructure in order to intervene effectively and reverse this downward spiral of drug abuse and crime. We know this has worked.

DRUG COUNT

In my previous capacity as Director of the Pretrial Services Agency, I worked very closely with Chief Judge Hamilton to establish a drug court that provided a foundation, a model for the kind of sanctions-based intervention, coupled with plenty of drug treatment and social services, delivered in this framework of accountability. And we have seen, from this example, that effective supervision can substantially cut drug use, which has a corresponding reduction in crime. And we know what works. The challenge before us is to take what works on a small scale and apply that across the board.

Now this, I recognize, is a very large, very ambitious goal. It's not going to happen overnight and it certainly can't happen without the support of Congress. Fortunately, the administration is on board and fully supports this effort and I believe has found a way to structure this budget amendment in a way that addresses the 302(b) issue. And with that I will be happy to conclude.

PREPARED STATEMENT OF JOHN A. CARVER, TRUSTEE

[Mr. Carver's prepared statement follows:]

Court Services and Offender Supervision Agency

for the District of Columbia

Statement of John A. Carver, III

Before the United States House of Representatives

Committee on Appropriations

Subcommittee on the District of Columbia

D.C. Public Safety

FY 1999 Budget

June 24, 1998

Room H-144

Good morning, Chairman Taylor, Congressman Moran and other members of the House Appropriations Subcommittee on the District of Columbia. Thank you for inviting me to testify on the FY 1999 budget request for what we are now calling the Court Services and Offender Supervision Agency for the District of Columbia. As you know, I am the Trustee appointed under the National Capital Revitalization and Self-Government Improvement Act of 1997 to carry out the reorganization and transition to the Federal Government of the D.C. Public Defender Service and the functions of pretrial services, parole, adult probation and offender supervision. I am also required to certify that the Agency meets all relevant Federal standards and is ready to assume these functions as a Federal agency on or before August 5, 2000.

In short, my job in the next two years is to transform the inadequate and fragmented existing adult supervision programs of the District into a system that at minimum meets Federal criminal justice standards and that hopefully will be a model for the Nation. In order to reduce crime in the District, we must be able to provide adequate supervision and intervene effectively any time an individual comes to the attention of the justice system, be it as a criminal defendant or as the subject of a civil protection order. Criminal justice experts know what works to combat drug abuse and associated crime. We know how to cost-effectively change offender behavior and deter re-offending. However, closing the revolving door and ending the cycle of recidivism, crime and violence is an immense challenge in a city where more than one of every twenty residents is under some form of conditional criminal justice supervision – pretrial release, parole, or probation – not including those who are incarcerated.

Although the criminal justice system and related infrastructure of the District has been seriously deficient for many years, we can take advantage of the historic opportunity created by the Revitalization Act to address its weaknesses, build on its strengths and institute a model system of offender supervision that will measurably improve public safety, reduce recidivism and crime, and restore confidence in the criminal justice system of our Nation's capital.

With the support of Congress, the Court Services and Offender Supervision Agency will provide effective and coordinated supervision for all adult D.C. Code offenders on any type of conditional release. No longer will District offenders be able to "play the system against itself" by taking advantage of information gaps and organizational idiosyncrasies to escape accountability or meaningful sanctions. We intend to use reliable data systems, a strong analytic capacity and information technology strategically to reduce recidivism by supporting better decision-making by judges, prosecutors, police, supervision officers and others to establish heretofore unheard-of levels of offender accountability, while systematically applying proven techniques for changing offender behavior.

Since becoming Trustee, I have taken steps toward this long-term goal by initiating a needs and capacity assessment. When the Revitalization Act was drafted and preliminary estimates were made, the best "educated guess" of the number of offenders under some form of supervision was approximately 10,000. I began the needs and

capacity assessment in order to gather accurate data to confirm or correct that estimate, to understand the full scope of the offender supervision responsibilities of the Agency, to identify and analyze pertinent trends, and to establish a baseline from which progress could be measured. As a result, we know that more than 30,000 adult offenders are theoretically under non-incarcerative supervision in the District of Columbia today. I say "theoretically" because while supervision has been ordered by the courts or parole officials, most of these offenders are not now subject to any meaningful supervision. The Agency at present lacks the capacity to fulfill this basic function for the vast majority of D.C. Code offenders. This is an untenable situation that profoundly and negatively affects public safety throughout the Washington metropolitan area.

The FY 1999 budget for the Agency – prepared within weeks of my appointment – was based on maintaining the existing level of supervision for approximately 10,000 people. In light of what we have learned since October, the $59,400,000 originally requested would be completely inadequate to meet the needs of the population requiring supervision. Moreover, caseload ratios in the pretrial, probation and parole populations currently range from 75 to 900 offenders per supervision officer. These ratios are far from compliant with federal standards, state practice and recommended ratios for offender supervision, which range – depending upon risk assessments – from 2:25 for intensive supervision to no higher than 1:100.

Recognizing that the related public safety and liability risks of this situation are substantial, I have been working for several months with the Department of Justice,

congressional staff, and the Office of Management and Budget to develop a feasible plan to address the enormous need for enhanced offender supervision. Within the Administration, it was agreed that immediate action to increase Agency capacity during FY 1999 would be required in order to comply with the Revitalization Act mandates, deadline and intent. On June 15th, with the concurrence of the Attorney General, I transmitted a request to the Office of Management and Budget for a budget amendment to the FY 1999 President's Budget that would support an additional 435 positions, 220 FTE and $38,269,000 for the Court Services and Offender Supervision Agency for the District of Columbia, bringing the Agency's total budget request to 1,109 positions, 874 FTE and $97,669,000. The Administration supports this request.

Specifically, the budget amendment includes language that would direct the award of one-time-only funding from three grant programs under the Department of Justice to support specified elements of the Agency's law enforcement and public safety activities. The proposal would not require an increase in total discretionary funding requested in the FY 1999 President's budget. Additional resources have been requested for the following:

- $11,404,000 from the new drug testing, intervention and treatment grant program, to ensure that all DC offenders under supervision are drug tested on a regular basis, with quick turn-around on test results, prompt responses for violations, and adequate treatment services for those under real criminal justice pressure to stop using drugs;
- $19,365,000 from the COPS program for a problem-solving partnership that will support hiring community supervision officers and related program support to prevent and deter crime through coordination of community policing and enhanced offender

supervision. This initiative includes funding for information technology and establishment of additional community supervision centers co-locating police, supervision officers, and service providers; and,

- $7,500,000 from the Truth-in-Sentencing Prison Grant program for establishment of a residential sanctions center to ensure adequate response to persons who violate conditions of supervision and to implement corrections-related recommendations of the District of Columbia Truth-in-Sentencing Commission.

I recognize that this budget amendment is a significant increase in the level of funding initially requested by the Administration. However, we are facing a significant crime problem. We have in this city a very large number of individuals with current obligations to the justice system. We know from countless studies that *most* crimes are committed by repeat offenders – known to the system and often under "supervision" as loosely defined. We know that close to three fourths of all offenders are either currently involved with drugs or have recent drug histories. Finally, we know the Revitalization Act was not intended to continue funding ineffective programs, but to support real, sustained and measurable improvements in our crime reduction efforts. This budget realistically supports the next steps in our strategic plan for establishing a truly effective system of offender supervision in the District.

Although these additional FY 1999 resources are vital to accomplishing the Agency's long-term goals of effective supervision and enhanced public safety, there is much we can do, and are already doing, to improve immediately the quality of offender

supervision. My staff and I have already acted to do this. In addition to conducting the needs and capacity assessments, collecting baseline data and developing a plan to put the necessary infrastructure – including information technology – in place, my staff and I have also been working hard to implement immediate improvements in policy and operations. Since time is short, I would appreciate that my full statement, which highlights some of our successes, be included in the record. I would welcome questions about these current efforts and our plans for the future.

Closing the "Revolving Door"

From my years at Pretrial Services, I am well aware of certain serious and seemingly intractable problems that have plagued the Criminal Justice system in the District. One of these problems was the "revolving door" through which parolees picked up on new (often serious) charges were sometimes returned to the community through bureaucratic inertia, rather than as the result of conscious decision-making by the D.C. Board of Parole. On October 28, 1997, I issued Trustee's Directive No. 001. The Directive requires that whenever a parolee is charged with a new crime and a judicial officer finds probable cause that the parolee committed the crime, the Parole Board shall adopt that probable cause finding, issue a parole warrant within one working day and have the warrant lodged as a detainer against the parolee at the Jail. Since October, approximately 380 parole warrants have been issued and lodged as detainers pursuant to the Directive. Based on a review of recent history before the Directive was issued, it is safe to assume that many crimes have been avoided, probably lives saved, by this significant change in D.C. Parole Policy.

Reducing Delay, Enhancing Accountability

Over the past two months we have also taken steps to accelerate the response to other violations of parole or less serious new criminal conduct that do not result in the issuance of a warrant for the arrest of the parolee. A study of Parole actions prior to April revealed an average delay of five months between a parole violation and a parole revocation hearing. To compound this delay in initial response, revocation procedures were such that a savvy parolee or defense counsel could manipulate the system and avoid revocation proceedings indefinitely. Changes have now been effected that require a hearing within ten days for new criminal charges in which the parolee is not held, with a single continuance of one week to obtain counsel. Within the next few weeks hearings will be scheduled on all new technical parole violations within ten days and hearings will be advanced for the backlog of cases presently in the system.

Transfer of Parole Decision-Making to the U.S. Parole Commission

In early April, my office was contacted by the U.S. Parole Commission for assistance in planning for the transfer of the parole determination function from the D.C. Board to the Commission on August 5th. The Commission had tried without success to obtain accurate data directly from the Parole Board for projections of staffing and workload requirements after the transition. Data that had been provided previously by the Board contained inaccuracies and internal inconsistencies. I and my staff continue to work closely with the U.S. Parole Commission to collect accurate workload data, refine administrative procedures, and ensure that the transfer of the parole decision-making function on August 5 will be smooth.

The process of collecting workload data for the U.S. Parole Commission brought to light a number of deficiencies in practice and procedure that I found unacceptable. The more I uncovered the extent of procedural delays built into the parole revocation process, the more I became convinced that for all practical purposes, there was no effective supervision of parolees. If conditions of parole are set, they simply ***must*** be enforced. Enforcement can ***only*** be effective if it is ***immediate***. In fact, the average length of time between a parole violation and a *scheduled* hearing was five months. Furthermore, there were many ways a parolee could delay the "day of reckoning" indefinitely through continuances. In short, rather than intervening at the earliest sign of non-compliance or drug relapse with immediate, consistent and graduated sanctions, the "system" finds itself tied up in procedural knots, sending a very bad "message" to all offenders who understand perfectly well how the system operates.

Accordingly, I have launched a top-to-bottom management review, have reassigned administrative responsibilities, and have established performance goals that are being incorporated into a revised set of administrative procedures. A great deal remains to be done. Moreover, no matter what I do to streamline procedures, the fact remains that parole caseloads – indeed caseloads throughout the Agency – are crushing. Nevertheless, these steps are important in that they are building a foundation upon which – with Congressional help – a truly effective system of offender supervision will eventually emerge.

Launching a Community Justice Partnership in the Seventh Police District

Several months ago, we assembled a working group consisting of police officers in the Seventh Police District and staff and managers from Pretrial Services, Probation and Parole to develop on a pilot basis a new partnership that seeks to combine community-oriented offender supervision with community oriented policing. This partnership – similar to efforts underway in the State of Maryland, in Boston and other cities – recognizes that by working together, we have the opportunity to provide better supervision, earlier intervention, and more effective responses to both individual and community concerns. We plan to co-locate community supervision officers (formerly known as probation and parole officers) in the Seventh District Police Station and look forward to learning from each other as this partnership takes shape.

In this pilot project, I am working closely with our new police chief, Charles Ramsey, who brings a great deal of community policing experience to our City from Chicago. We are exploring the feasibility of organizing offender supervision caseloads to be consistent with the neighborhood-based "Patrol Services Areas" (PSAs). We believe that the combination of community-oriented offender supervision and community-oriented policing offers tremendous opportunities to reduce crime, restore trust in the criminal justice system, and provide the support necessary to help people who really do want to escape the vicious cycle of drugs and crime.

Information Technology

Work continues on the state-of-the-art management information system that will serve all components of the new Court Services and Offender Supervision Agency and provide connectivity with the MPD and other elements of the criminal justice system. The first phase of implementation is scheduled for September. Adult Probation, as the most technologically "backward" of all of the components, has received the most attention. A temporary computer training center was established in Superior Court Building B; two trainers and a help-desk coordinator have been hired; and probation staff is being trained in standard office applications. Workstations are being added to a new local area network. At the same time, a requirements analysis is being conducted to ensure that the new computer system meets the needs of probation, and the judges served by the Agency. We expect to make significant enhancements to the quality of information available to judicial officers about individuals under court supervision.

Eventually, we plan to have all components of the Court Services and Offender Supervision Agency linked together through a wide area network. Information will flow with the defendant/offender at each stage of justice processing, bringing not only a higher level of productivity, but enhancing the quality of information available at every decision point. For example, pre-sentence investigations will be formatted from the extensive base of information developed at the pretrial stage, almost overnight. (It currently takes five to six weeks to prepare a pre-sentence report to the court.)

We are also laying the foundation through our management information system to build the kind of performance-based organization that will best serve our public safety goals. The new system will be able to measure each employee's or each supervision team's progress toward our goals and objectives. We are even exploring ways to design an employee compensation system that provides financial rewards on the basis of progress toward measurable outcomes. Again, the Information Technology initiative is ambitious, but I believe it merits the level of support I am requesting in this budget.

Building a Community Corrections System

The District of Columbia does not have a true community corrections system. For a number of years, individuals granted parole by the D.C. Board of Parole have been released directly to the community with no opportunity to transition gradually through a structured, residential facility. Not surprisingly, without this level of supervision and support – a common feature in most states -- many parolees are ill-prepared for life on the outside, and too quickly resume their old habits and associations that landed them in trouble in the first place. The lack of a common sense approach to community corrections served only to set the stage for failure, thereby endangering public safety.

For the past few months, the Corrections Trustee, the Director of the Department of Corrections, staff of the U.S. Parole Commission and I have been working to develop the beginnings of a community corrections system that provides for transition housing for parolees returning to the community. This collaborative effort culminated on June 10th, when inmates who had been granted parole began to be transferred to halfway houses as

part of the transition process back to the community. As of June 19th, 26 male inmates were enrolled in a pre-parole work release program at Hope Village and 3 females at The Fairview, a facility of the Washington Halfway House for Women. By the end of July, we expect to have 100 male inmates at Hope Village and 15 females at The Fairview. This resurrection of the moribund pre-parole work release program in D.C. is the result of a Memorandum of Understanding, drafted by my office, between the Corrections and Offender Supervision Trustees, the United States Parole Commission and the Department of Corrections. Pursuant to this MOU, I have assigned Parole staff to the community supervision centers to commence supervision while pre-parole inmates are still technically in Department of Corrections custody. This is another significant step toward a rational corrections policy in the District of Columbia.

In closing, as a number of members on this Committee know, my commitment to public safety in the District of Columbia goes back more than 20 years. I came to this position aware of many deficiencies and shortcomings in our system of offender supervision. I know that as currently structured and funded, the criminal justice system cannot deliver a consistent and credible message to more than a handful of the 30,000 individuals currently under "supervision." I also know from my experience with Chief Judge Hamilton in developing the Drug Court that when the criminal justice system *does* come together with both drug treatment support and clear, unambiguous expectations, people – even people with long histories of addiction – *do* decide to change. When drug treatment services can be delivered in an environment of real accountability, many people *do* begin to take steps toward recovery, sobriety and self-sufficiency. I know, both

empirically and from personal observation, that a sanctions-based system of offender supervision yields significant reductions in crime.

Right now, we are only nibbling around the edges of a very large problem. Rather than set up programs here and there to serve the "lucky few" who find themselves in these programs, we need to change the entire system to make what works the norm, not the exception. I am now in a unique position to bring about changes to the criminal justice system in our Nation's Capital. I am convinced that we can transform our system of offender supervision into a model that makes our city a safer place for those who live here and those who come to visit. But I cannot do this alone, and it won't be done overnight. I greatly need the support of this Committee and the Congress to make these changes a reality.

D.C. CRIMINAL JUSTICE UPDATE

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COURT REJECTS CHALLENGE TO TRUSTEE'S AUTHORITY

Steps to Streamline Offender Supervision Procedures Continue

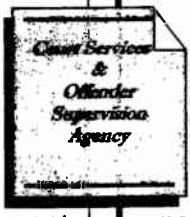
Since his appointment to the position of Trustee in October, Jay Carver has emphasized the public safety role of offender supervision, and sought to improve the overall functioning of the system. Recognizing that the safety of our community depends on informed decision-making at all stages of criminal case processing, the new Agency must *improve* information sharing; *reduce* delays, and *streamline* procedures for addressing violations of conditions of supervision.

One of the first procedural changes adopted by the Trustee dealt with the processing of parolees picked up on new offenses. A quick study of such cases documented anecdotal observations that parolees with serious criminal records, and charged with new offenses, would occasionally be released, simply because the review mechanisms were too cumbersome.

Immediately after the Trustee's appointment, a review of data on parolees charged with new crimes was conducted over a two-week period. The study revealed three cases in which warrants were not issued within the 5-day hold period. The review also found an additional case in which a warrant was issued, but was never entered into the WALES (Washington Area Law Enforcement System) database nor transmitted to the D.C. Jail to be lodged as a detainer. So, despite the issuance of the warrant, the defendant was released. All of the parolees, who had previously been convicted for crimes ranging from second degree murder to manslaughter and armed robbery, were charged with committing new felonies.

Recognizing that these unintended consequences reflect badly on all of us, the Trustee issued "Directive 001" authorizing the Parole Board to adopt the judicial finding of probable cause and issue warrants immediately.

Parole staff quickly put the new procedures into effect, and they worked! They worked so well, in fact, that a legal action was brought against the Trustee on behalf of a detained recidivist challenging the Trustee's authority to change Parole Board procedures without going through the traditional (and lengthy) rule-making process of the District of Columbia. Additional challenges quickly followed. However in March of this year, Judge Iralene Barnes denied the petitions, upholding the Trustee's authority to issue the Directive. Anyone interested in reading the pleadings may contact the Trustee's Office for copies.



Letter from the Trustee

I am pleased to present the first edition of our newsletter, ***D.C. Criminal Justice Update***. This is a time of great opportunity for us as we work together to build a new agency. There is a lot going on here in my office, among the directors, supervisors and staff of the component agencies and among our various inter-agency focus groups. This newsletter will be our means of sharing that information. It is not intended to replace your existing mechanisms for communication, but to supplement them by disseminating news of general interest to all.

I would like to hear from you about any questions or concerns you may have as we proceed through this transition to a federal agency. While I will always try to respond to individual issues - when questions come up that affect broad classes of employees (like retirement and benefits issues) this newsletter will be a good vehicle to get the answers out to a broad audience.

I continue to be very optimistic about the development of the agency. We have a solid foundation of creativity and dedication on which to build. We have programs and approaches and case management techniques that work. Our challenge will be to take the best of what works, and make that the norm - not the exception.

We are already seeing progress. We have expanded our drug testing capability, and have plans for building significant additional capacity. We are moving rapidly toward a common computer network system that will allow all three components - Pretrial Services, Adult Probation

(GO TO PAGE 2, COL. 3)

MORE THAN 100 GRADUATE FROM DRUG COURT

In a special ceremony, 104 people graduated Wednesday, April 29, from the STAR-HIDTA (Sanctions Team for Addiction and Recovery - High Intensity Drug Trafficking Area) drug program. This was the first combined graduation of both programs. The ceremony, held at the First Trinity Lutheran Church at 4th and E, NW, was attended by hundreds of family members and friends, and was followed by a reception.

Jay Carver the Court Services and Offender Supervision Trustee, Susan Shaffer, Director of Pretrial Services, Brenda Mosley, Acting Probation Director, and Judges A. Franklin Burgess, Jr. and Evelyn E. Queen spoke to the graduates.

The really inspirational words came from the graduates themselves. They spoke of lives reclaimed from the ravages of drug addiction and repeated "Clean Sweep" arrests. They spoke of renewed commitments to their families, and of their steady progress toward better education, moving up the employment ladder and home ownership - life goals that seemed beyond reach in their drug-abusing days. They credited the judges who saw something in them that they did not see in themselves, and the program that was tough but at the same time, always there for them.

The goal of the Washington-Baltimore regional HIDTA treatment program is to reduce criminal behavior and substance abuse through a combination of treatment services and criminal justice pressure. The approach stresses the need to increase social productivity of adult offenders by collaborating with a wide range of treatment and social service agencies.

The STAR program, the HIDTA treatment initiative, and the Drug Court are all built around common elements of intensive case management, comprehensive treatment services, and an accountability framework of immediate consequences for relapses and rewards for progress. This common-sense approach has proven to be highly effective. The dozens of "success stories" that were recognized at the graduation ceremony are the human face of solid empirical evidence supporting the effectiveness of this approach.

As successful as this approach is, it still only reaches a tiny fraction of the thousands of drug-dependent individuals under criminal justice supervision. Our challenge in the months ahead is to build on what works, until *all* individuals in need have the same opportunity to stand before their friends and families and be recognized for their accomplishments. Only then will we begin to have a real impact in breaking the vicious cycle of drug use and crime.

RETIREMENT BENEFITS SEMINARS HELD

On April 30 and May 1, 1998, the three half-day seminars were presented in Building B to provide information and answer questions on a variety of complex issues relating to employee benefits and retirement status as we re-configure our agencies to a single federal agency. The sessions covered a variety of topics, including deferred compensation, defined contribution pension programs, Civil Service Retirement System (CSRS), Federal Employees Retirement System (FERS) and the various Thrift Savings Options available. Very comprehensive participant handbooks were provided as part of the briefing. Any employee who was unable to attend but would still like to receive the written materials may contact Linda Mays at 616-1092.

and Parole - to manage information more effectively. We have streamlined some existing procedures and we're working to improve others.

Streamlining procedures and automating offices are good steps, but without the talent and resources of dedicated coworkers it would be a wasted effort. Having met many of you over the years and many more since the Trustee's Office was created, I am confident that our efforts together will be successful.

Sincerely,

Jay Carver

John A. (Jay) Carver was named by Attorney General Janet Reno in October 1997 to oversee the establishment of the new Court Services and Offender Supervision Agency of the District of Columbia.

Mr. Carver is well known to D.C. criminal justice practitioners, having headed the Pretrial Services Agency for 13 years. He began his career at that agency as cell-block interviewer and messenger while attending law school at night. The Pretrial Services Agency was one of the first bail reform projects in the nation, and is recognized as a national model for its highly automated and comprehensive program of pretrial drug testing and monitoring.

Following his retirement from Pretrial Services in the Spring of 1997, Mr. Carver became the Director of the Washington office of the Justice Management Institute - a Denver-based nonprofit organization that seeks to improve the overall administration of justice by helping courts and other justice system institutions and agencies achieve excellence.

A 1967 graduate of the University of Wisconsin, Mr. Carver received his J.D. from Georgetown University Law Center in 1974. He is a member of the Bars of the District of Columbia and Virginia.

Mr. TIAHRT. Thank you for your testimony. I am sure we are going to have some questions.

BUDGET AMENDMENT NOT OFFICIALLY TRANSMITTED

Before I yield to Mr. Moran, I would like to know when you think you are going to formally transmit the amendment of the $38.3 million? You noted it in your testimony. Will there be a formal request submitted?

Mr. CARVER. Yes.

Mr. TIAHRT. And when will that be?

Mr. CARVER. I believe it has been approved, as I understand it, by OMB and is going through the final sign-off procedure to be formally transmitted by the President.

$38 MILLION BUDGET AMENDMENT TO REDUCE CASELOAD RATIOS

Mr. TIAHRT. Now you have talked about the need for the additional funding, but how will you expend the additional funds, if they are received?

Mr. CARVER. First of all, we will change the ratios of supervision. Right now, we have a situation where parole officers and probation officers, no matter how committed they are—and there are a lot of highly committed and dedicated folks—they are dealing with caseload ratios of, in many cases, from 1 to 200. In the case of one agency, it's 1 to 900. So one of the first things that would have to be done is—and that's where most of the new positions are—to get those caseload ratios down to Federal standards, best practice standards. And that's where most of the positions would go.

Mr. TIAHRT. What is that caseload approximately? Some supervisors are, I believe, up to 900 cases.

Mr. CARVER. Right. And in Pretrial Services, when you look at the number of Pretrial Services officers providing direct supervision, the caseload ratios are 1 to 900. Now that is the agency where there's a very high level of automation and a very high level of drug testing, so it is in effect, not as bad as it is in the other agencies where it's routine to have caseload ratios as high as 1 to 200. So that has to be addressed.

INFORMATION TECHNOLOGY INFRASTRUCTURE

There's another major initiative, and I'll be happy to spell out for you the actual numbers—but just in some general terms, information technology infrastructure is absolutely essential. You've got to have information on compliance and on status instantly available to those in a position of making decisions and actually implementing a system of graduated sanctions at the first sign of trouble. So there's an initiative to continue work that's already well along the way in one component of the overall agency, to make sure that this is available throughout the agency.

SANCTIONS CENTER

Another very important initiative, and this is something that we've worked closely with Director Moore and John Clark on, is to develop a sanctions center. We have $7.5 million identified from discretionary DOJ funding from the Truth-in-Sentencing Prison

Construction Grant program that would fund the renovations necessary, or the development necessary, to establish the kind of combination residential, halfway-back option, sanction center where, when people start to slide, you can address that slide before it turns into crime and get them back into a residential, structured, secure setting.

Mr. TIAHRT. Is that what you mean when you say "we know how to fix it"?

Mr. CARVER. Yes, that's exactly right.

DRUG COURT INTERVENTION—FREQUENT TESTING

When we set up our drug court intervention program—and this, Mr. Tiahrt, reaches just maybe 200 of the 20,000 drug-involved folks that are out there—but when we set that up, we designed it in such a way that people were tested very frequently, twice a week or three times a week, and the day they tested positive, a sanction would be applied. The sanction would be either referral to a secure detoxification program or a jail-based sanction. The idea is that you've got to move very quickly when individuals begin to relapse.

Right now, we do not have the capability to intervene effectively when we detect trouble.

Mr. TIAHRT. Are you saying this because of the number of employees available for counseling?

Mr. CARVER. It's a question of employees.

Mr. TIAHRT. For supervision?

Mr. CARVER. It's a question that we don't have the infrastructure. We do not have the physical facility to put people on the scale that will be needed. And the other point is drug testing. Right now we have very good drug testing in one of the component agencies, Pretrial Services. It's automated. It does a very high-volume of urine testing, but we are just beginning to expand the benefits of this automated drug testing into the larger population of individuals under probation or parole supervision.

So part of this infrastructure that has to be built is the capacity to provide regular, probably twice-weekly, drug testing for anybody that has any history of substance abuse. If we don't do that at a bare minimum, we are really closing our eyes and cutting off the opportunity for the most effective form of intervention. We know that a slide back into drugs is also associated with a slide back into criminal behavior and that the failure to act, almost immediately, invariably will lead to crime and a reduction of public safety for the community.

BUDGET AMENDMENT FUNDED WITH DEPARTMENT OF JUSTICE FUNDS

Mr. TIAHRT. Why is the administration proposing to go to Commerce, Justice, State, and Judiciary for funding of this amendment?

Mr. CARVER. Well, as Jesse James said——

[Laughter.]

When they asked why he robs banks, because that's where the money is.

Mr. TIAHRT. Because that's where the money is. Okay. What's the impact if we don't have a budget problem?

Mr. CARVER. But a more serious answer, Mr. Tiahrt, is the fact that we already have in Commerce, Justice, State, a number of Department of Justice discretionary grant programs allocated to States for very similar purposes. We're in kind of a unique situation in that we are a transitioning Federal agency providing what would be a State function in any other State. So the mechanism there, which is a one-time-only redirection from discretionary funding, is to take in a number of program areas, prison construction, COPS program, drug testing, those funds that would be available to a State and simply direct them to the Court Services and Offender Supervision Agency for the implementation of this infrastructure that is so necessary given the extent of the problem.

BUDGET AMENDMENT—IMPACT IF NOT APPROVED

Mr. TIAHRT. If we cannot provide this funding because of our allocation problems, what would be the impact?

Mr. CARVER. Well the impact is that we will not be able to address the public safety issues that face us and we'll have to continue to work with the administration and with Congress to somehow find the resources that would be necessary for building the kind of system that can serve the public.

USE OF COMMUNITY-BASED ORGANIZATIONS

Mr. TIAHRT. In your strategic plans, have you considered using private organizations or faith-based organizations for some of these people who have slipped back into the problem of drugs?

Mr. CARVER. Yes, we have. And, in fact, what we're moving to much more of a neighborhood-based, community justice model. It's been my experience that there are many, many organizations in the community who are doing lots of good work and I think the entire field is kind of moving to the point where we really have to form new partnerships with faith-based organizations, with social service providers, and with other partners in the criminal justice system. We're working very closely with new Police Chief Ramsey to develop a new kind of a partnership between community-oriented policing and community-oriented offender supervision.

But the answer to your question is: absolutely. We are even discussing the feasibility of reconfiguring offender supervision caseloads to match the PSA configuration, that's the patrol service area geographical reconfiguration of the police department. So you'd have community-oriented police officers working hand-in-hand with community-oriented supervision officers in a partnership that, I think, would be very beneficial. You'll see in the budget request that one of the infrastructure items we have is to add eight additional community supervision centers so that we can move our officers from downtown locations into the neighborhoods themselves.

AVAILABILITY OF QUALIFIED APPLICANTS FOR HIRING

Mr. TIAHRT. If we can find the money, do you have the capacity to hire and train qualified people for this job?

Mr. CARVER. Yes, we do.

Mr. TIAHRT. The unemployment rate in northern Virginia is about 1.9 percent. So these people that are available can be trained?

Mr. CARVER. Yes. We haven't even done as much recruiting as we can do, but right now, for example, we have a stack of resumes, and about 80 people in the pipeline for community supervision officer positions. We have the foundation of a very good training program already in place in terms of about eight individuals whose sole function is staff training and, especially, computer training.

So, we see this, Mr. Tiahrt, as something that has to be done. After all, the statute requires that I certify, by August 5, 2000, that the agency is ready to assume its full functions, consistent with Federal standards. And so it's really a situation where we don't have any option but to ensure that we have the capacity, the pipeline in place, the training in place by what's really a statutory deadline for accomplishing these objectives.

Mr. CLARK. If I could interject. One crossover area here is that, while he's building a large agency, we're downsizing Director Moore's agency. So there are a number of well-qualified caseworkers and others in the Department of Corrections who might be able to transition into Jay's system here.

INDIRECT ADMINISTRATIVE COSTS OF $44 MILLION FOR CORRECTIONS

Mr. TIAHRT. I have one more question and then I am going to change gears a little bit. First the prison takeover cost; the budget request is $44 million over what was asked for by the administration for the Federal corrections trustee. Was there miscommunication in this or is this about not being able to get our arms around the task? And are there any other administrative indirect costs that are somewhere in the budget that we don't know about?

Mr. CARVER. I can't speak to the corrections budget, but with respect to the Offender Supervision budget, I think that's a very fair question, Mr. Tiahrt. And I have now, since that initial budget was fairly hurriedly put together and transmitted last November, done a very lengthy and careful analysis of who's under supervision, what the level of risk is, what would be required to build a truly effective system of offender supervision. I am now confident that we do have our hands around the problem. We do know the scope of the problem.

Some of this developmental effort has already been going on. So that gives us a pretty good gauge, for example, of what it's going to take to build the information technology infrastructure that will serve this agency. So I think we're now to the point where I personally have a very high level of confidence in the budget projections and the implementation plan necessary to get us where we need to be by August 5, 2000.

Mr. TIAHRT. Ms. Moore, are you familiar with the budget request for increased support?

Ms. MOORE. Yes, sir.

Mr. TIAHRT. Are there other costs that are associated with that or do you think that's the total of the increase?

Ms. MOORE. The $44 million, Mr. Chairman, represents approximately $25 million in external indirect cost that the chief financial

officer believes necessary to support the agency's transition. It also includes approximately $18 million for the full cost of housing the number of sentenced felons in the system as defined by the agency. I will acknowledge right up front that there is some differing of opinion on this point between the city and the corrections trustee. But I think the important point in this discussion at this point is that we are firmly committed, firmly committed, to moving forwards with the closure of Lorton by the designated closure date of December 31, 2001.

Mr. TIAHRT. All right. Thank you very much. Mr. Moran.

Mr. MORAN. Thank you, Mr. Chairman. There are a number of issues that I want to address. Let me address the most recent one that was brought up. There is a disagreement between Ms. Moore and Mr. Clark in terms of the $44 million requested. In your testimony, Mr. Clark, you say that you do not agree with the conclusion of Dr. Brimmer, the head of the Control Board. Do you want to just summarize that? I do not want to read this whole thing, but you are suggesting that the job cannot be done for $44 million? And that the analysis that went into the estimate was flawed. Is that true?

Mr. CLARK. Well——

Mr. MORAN. Because of the pay raise and the definition of sentenced felons and so on.

DISAGREEMENT WITH CONTROL BOARD

Mr. CLARK. Yes, there are two fundamental issues over which there's disagreement. Not so much even between Director Moore and myself, but between District officials and the administration. The two issues are, as Director Moore mentioned, in the one case costs which are external to the Department of Corrections. Costs related to the central government of the District. And the second would be the definition of the responsibility between the Federal government and the District government for a particular number of offenders.

So most of the $44 million is related to those two issues and let me say a couple of things in regard to our point of view on this. First of all, the $184.8 million that we have requested, I feel, is adequate and fair. It's a 9 percent increase over the current year funding. It was arrived at after consultation with the chief financial officer's office and Director Moore's financial staff. They did not agree with it, but there was a significant degree of consultation.

Of course, this all happened, as Mr. Carver mentioned, we had to submit our budgets close upon taking office last fall, but I still stand by it. I think it was a fair and adequate figure. And that it provides for $27,000 or $28,000 per inmate, whereas the national average cost for State systems is around $20,000 or a difference between, on a daily basis, about $77 a day that this request would fund versus about $55 a day as the national average.

But the two issues, the two basic, fundamental issues, which really arose and were dealt with prior to my coming into this appointment, are the external costs, which primarily are costs, as I say, that do not relate directly to the Department of Corrections. They are depreciation on other governmental buildings in the District and interest on bonds. I think those two categories relate to

about two-thirds of the cost. There are some other costs of running the CFO's office and personnel costs and so on.

And the second issue—and again this was an issue, it's my understanding from everyone that I've talked to, including staff on this Committee, that this was an issue that was dealt with in negotiations leading up to the Revitalization Act. These were costs that were not agreed by the Administration would be part of the deal. And the issue has been raised again in the interim and has kind of been put on our plate here to try to deal with. The second issue is in kind of the same category that we thought had been settled through the memorandum of understanding between District officials and the Administration, in which inmates, in the long-run, will be a responsibility of the Federal government versus which will be a local responsibility.

MEMORANDUM OF UNDERSTANDING VERY CLEAR

There's a certain degree of vagueness in the Act because it talks about sentenced felons, but the memorandum of understanding that was entered into last May, I believe, is very clear, a memorandum of understanding signed by city council, the Chair, and the mayor, is very clear that the disputed categories would not be a Federal responsibility. Therefore, in the interim, they would not be a responsibility of the trustees office and the trustees budget. And most of those are cases who have been sentenced, have served terms of confinement as felons, have been out in the community on parole or supervision, have been arrested for new crimes, are being held in local detention awaiting adjudication. And it would be the theory of the consultants of the District that these cases, because they had been serving a sentence when they committed their crime, would be a Federal responsibility. That is not consistent with what was in the memorandum of understanding and so—that relates to several hundred—some hundreds of inmates which equates to, I think, over $10 million.

So those are the two issues. I hope I'm making myself clear, but these are issues that we had thought were settled before we came into office and have been raised again. And, quite frankly, have been a matter of some frustration to me and our office in that it has set up a certain degree of conflict between our office and the District and I would like to get beyond this and be able to deal with the transition and the reformation of the Department and the things that are our real mission.

So I'm—in that regard—I'm pleased that Dr. Brimmer has raised the issue before both your Committee last week and the Senate several weeks ago. But that's my understanding of the difference between the $44 million. And I, again, bottom line, am comfortable that the $184 million that we have requested is adequate and fair.

ADDITIONAL $44 MILLION NOT LIKELY TO BE APPROPRIATED

Mr. MORAN. Well, you are not going to get it. You mean the $184 million compared to $44 million? What do you mean?

Mr. CLARK. No, no, the difference is between $184 million—this year the amount that was appropriated was $169 million. The amount that we have requested is $184. The amount that Dr. Brimmer has suggested is somewhere around $228 million.

Mr. MORAN. Oh, I see what you're suggesting.

Mr. CLARK. So it's the $44 million on top of——

Mr. MORAN. I should say Dr. Brimmer is not likely to get the additional amount. But it is not clear to me, I do not know whether it is to you, Mr. Tiahrt, I am not familiar with this conflict that has been going on. But perhaps Migo can fill us in. At some point, we need to understand what we are pulling in here. I do not think you are going to get that extra money if you do not want it. But I do not know that it is even worth taking up the Committee's time to get into it in depth. I have got to understand it better. Does Mr. Taylor understand this fully? Maybe I should not ask you for the record what is it——

[Laughter.]

That is it. Okay.

Mr. CLARK. Your point's well made that we need to perhaps spend some time outside the hearing——

Mr. MORAN. Figuring out what to do. Yes, yes. Okay.

Ms. MOORE. Let me suggest, Congressman Moran, for the record, that Dr. Barnett is here and that we will be happy to meet with you and you, Congressman Tiahrt, to have a further dialogue about this issue.

Mr. MORAN. Yes, well, apparently a further dialogue is necessary.

$44 MILLION—LETTERS FROM DELEGATE NORTON AND OMB DIRECTOR FRANK RAINES

[**CLERK'S NOTE.**—The following letter dated March 17, 1998, to Chairman Taylor from Delegate Norton together with a letter dated May 14, 1998 from Franklin D. Raines, Director of the Office of Management and Budget, to Delegate Norton, provide additional information concerning the $44 million requested for District government indirect costs:]

When the real costs are included, the estimated total cost to the District of housing adult sentenced felons is $219,314,606 for FY 1998, with a planned federal outlay of only $169,000,000. This creates a deficit of $50,314,605. In FY 1999, the District's projected costs are estimated at $229,428,264, with a planned federal outlay of only $185,000,000. This creates a deficit of $44,428,264. The total amount owed the District, therefore, is $94,742,869.

I do not believe that the Congress intended to saddle the District with a remainder of costs as a result of the sweeping Revitalization Act, which is now in effect. The District is now painfully accumulating a small surplus to help pay down a huge accumulated deficit as well as to begin the long, slow process of investing in technology where the continuing need is literally crippling many agency operations. I ask for your expedited consideration of this emergency request to include appropriations in the FY 1998 Supplemental bill and the FY 1999 D.C. appropriation bill to fund these deficits in the Department of Corrections.

Sincerely,

Eleanor Holmes Norton

ELEANOR HOLMES NORTON
DISTRICT OF COLUMBIA

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE

SUBCOMMITTEES
SURFACE TRANSPORTATION
PUBLIC BUILDINGS AND
ECONOMIC DEVELOPMENT

COMMITTEE ON
GOVERNMENT REFORM AND
OVERSIGHT

SUBCOMMITTEE
RANKING MINORITY MEMBER,
DISTRICT OF COLUMBIA

CIVIL SERVICE

CO-CHAIR
CONGRESSIONAL CAUCUS FOR
WOMEN'S ISSUES

Congress of the United States
House of Representatives
Washington, D.C. 20515

March 17, 1998

The Honorable Charles Taylor
Chairman
Subcommittee on the District of Columbia
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Taylor:

I am writing to ask that you include in the FY 1998 Supplemental appropriation and in the FY 1999 D.C. appropriation unanticipated costs incurred by the District under the D.C. Revitalization Act. The money the Administration has requested in the FY 1999 budget targets known needs in the District of Columbia such as economic development and school funding. Apparently unknown at the time of the appropriation of the Revitalization Act items was an anticipated $50 million underfunding of the District's Department of Corrections (DOC) for FY 1998 and a $44 million underfunding for FY 1999. I am asking that you include appropriations in the FY 1999 Supplemental bill and in the FY 1999 D.C. appropriation bill to fund these deficits.

I believe that this discrepancy reflects a good faith error in calculating the full cost of administration of the D.C. Department of Corrections. At the time that the Administration forwarded its request for the appropriations to fund the Revitalization Act, the OMB requested $169 million. That amount clearly did not anticipate all, or the true costs of the federal takeover. The District's cost estimate is based on an analysis of the Department of Corrections FY 1998 and 1999 budgets prepared by the independent consulting firm of KPMG Peat Marwick and the National Council on Crime and Delinquency (NCCD), relying upon information provided by the Department of Corrections, the Office of the Chief Financial Officer and the Financial Authority. The figures are based on the direct costs of running both Department of Corrections facilities and contracted facilities and the indispensable indirect administrative costs associated with operating DOC facilities and programs. In addition to these operating costs, this analysis also includes the costs to the District government that relate to administration of the Department of Corrections. The financial management, unemployment compensation, disability compensation and other personnel costs are outstanding DOC costs that should not be absorbed by the District. As they now stand, these costs refute the claim that there has been a transfer of felony prison costs from the District to the federal government.

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

May 14, 1998

The Honorable Eleanor Holmes Norton
U.S. House of Representatives
Washington, DC 20515-5101

Dear Representative Norton:

Thank you for your March 11 letter to the President requesting additional funds for transfer to the District of Columbia for costs associated with the District's Department of Corrections (DOC). The President has asked that I respond on his behalf.

Your letter raised two issues: the definition of adult sentenced felons and District government indirect costs. The adult sentenced felon definition used in the Trustee's estimate reflects the agreement in the Memorandum of Understanding between the Administration and the District. As you know, this definition is based on the Bureau of Prison's (BOP's) definition. Since changing the type of prisoner currently housed by the BOP could have ramifications beyond the D.C. Revitalization Act, we would not support expanding the definition.

As you know, we have included the direct overhead costs of the DOC in the cost estimates. In reviewing the District's indirect costs estimates, however, we agree in principle that costs associated with unemployment compensation and disability insurance should be considered direct costs. We have asked the D.C. Corrections Trustee to include the appropriate Federal share of unemployment compensation and disability insurance costs in the FY 1999 reimbursement to the District for costs associated with the DOC. Preliminary estimates indicate that the resources requested in the President's 1999 Budget are sufficient to cover these costs. With respect to indirect overhead, we do not believe that the Federal government is responsible for the District government's indirect costs.

Please contact me if you have any additional questions regarding this matter.

Sincerely,

Franklin D. Raines
Director

cc: Mr. John L. Clark
D.C. Corrections Trustee

30,000 PERSONS UNDER CRIMINAL JUSTICE SUPERVISION

Mr. MORAN. Let me ask about, Mr. Carver, some of the issues that fall into your bailiwick. First of all, the numbers. We have a, what, an adult male population in the District between the ages of 18 and 40—I should have figured this before asking; you're not going to have this number at the top of your head—but, basically, the people on probation and parole fall within that category, and they're virtually all male, I would assume. Are they?

Mr. CARVER. All adults. General statistics are that 90 percent of the population is male to 10 percent female. I actually have the number under parole supervision, 7,941. This was as of a few weeks ago. Under probation supervision, 10,773. And under Pretrial Services, pretrial supervision, 12,100.

Mr. MORAN. There is no double counting in here, one would assume.

Mr. MORAN. This is the current status.

Mr. CARVER. Right.

QUESTION OF "DOUBLE COUNTING"

Mr. MORAN. So they would not be under—they would only be under one status, would they not, at one time?

Mr. CARVER. There are some individuals that have multiple statuses across the system, that's true.

Mr. TIAHRT. So it is not 30,000 people per se.

Mr. CARVER. Although I think the way this was done, this was based on the unique police identifier so as to avoid the double-counting issue.

NUMBER OF CRIMES AND ARRESTS INVOLVING 30,000 PAROLEES

Mr. MORAN. So you have got roughly 30,000. And you say there is an average of 10 crimes per individual included in this population? And an average of five arrests?

Mr. CARVER. You can't even measure crimes, but as a surrogate for crime, we look for arrests. And, again, this gives the general outline of the extent of criminality among this population. And I don't mean to portray these figures as representative across the board. We will have that for you within the next month or two but, as I indicated, what this sample represents is a sample of individuals with drug use problems that happen to be in a regimen where we have been able to do some very extensive data collection. So it's really kind of a——

Mr. MORAN. This 30,000 is not the total of people on probation, parole, and pretrial detention?

Mr. CARVER. It is. I'm sorry, Mr. Moran. I thought you were turning to the number of——

Mr. MORAN. Oh, okay.

Mr. CARVER. Mean number of arrests and the mean number of convictions.

Mr. MORAN. Of that group, you did a sample.

Mr. CARVER. Correct.

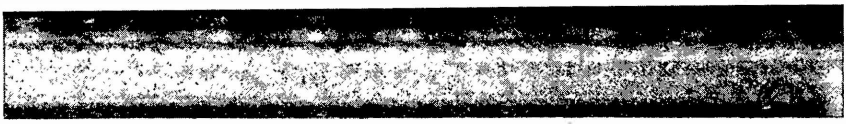
Mr. MORAN. But you only looked at the people with drug problems.

Mr. CARVER. In this sample, yes.

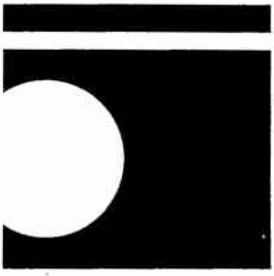
Mr. MORAN. Which represent what?
Mr. CARVER. Two-thirds of the whole sample.
Mr. MORAN. Two-thirds. Two-thirds of the sample.
Mr. CARVER. Right.
Mr. MORAN. And they had an average of 10 arrests——
Mr. CARVER. In probation——
Mr. MORAN [continuing]. And——
Mr. CARVER. 4.8 convictions for probation. For parole, 9.6 arrests and 4.5 convictions. These sound high.
Mr. MORAN. Yes.
Mr. CARVER. Again, if you're in any group of——
Mr. MORAN. And the arrests are probably, what? After they did the crimes that they committed.

300–500 CRIMES PER YEAR PER OFFENDER ON DRUGS

Mr. CARVER. Well, actually, Mr. Moran, there have been studies that show that—and they've been done in Miami and they've been done in Baltimore—show that among offender populations, individuals that are heavily involved in drugs tend to also be heavily involved in crime to the point of committing 300 to 500 crimes per year. This is some work that's been done by Professor James Inciardi. I'd be happy to supply more detailed information to you.
[The information follows:]



Drug Control and the Courts



James A. Inciardi
Duane C. McBride
James E. Rivers

Drugs, Health, and Social Policy Series
Volume 3

Some two decades ago, in what is now a relatively unknown and defunct drug journal, the relation between narcotics use and the presence of other social problems in inner cities was presented with some rather dramatic statistics (Inciardi, 1974). In 1969, researchers at the New York State Narcotic Addiction Control Commission compiled comprehensive statistical data on opiate use rates for New York City's 30 health center districts (aggregations of geographically and demographically contiguous census tracts). Each district was ranked in terms of its rate of opiate use as well as its rates of other social problems, such as poverty, financial assistance, unemployment, illegitimacy, and juvenile delinquency. The rates of opiate use for the 30 given areas were then correlated with the rankings of the statuses of other social problems. The results were some of the highest correlation coefficients ever encountered in social science research.[2] For example:

opiate use/poverty	$r = 0.92$
opiate use/unemployment	$r = 0.88$
opiate use/illegitimacy	$r = 0.81$
opiate use/financial assistance	$r = 0.78$
opiate use/delinquency	$r = 0.75$

It was clear from the data that opiate use was not causing poverty, unemployment, illegitimacy, financial assistance, and juvenile delinquency. Rather, the implication was that in those areas where opiate use rates were high, high rates of other social problems tended to exist side by side.

The argument being offered here is that drug use and crime tend to evolve contemporaneously among certain individuals residing in areas where rates of heroin, cocaine, crack, and other illegal drugs and criminal behavior are high; this was articulated most decisively by a 22-year-old heroin-using prostitute interviewed in Miami:

> I've often thought that if I'd never started with the drugs I'd never had ended up turning tricks every day. But the more you make me think about it, the more I think that one had nothing to do with the other. You grow up in a place where everything is a real mess. Your father's a thief, your mother's a whore, your kid sister gets herself some new clothes by fucking the landlord's son, your brother's in the joint, your boyfriend gets shot tryin' to pull down a store, and everybody else around you is either smokin' dope, shooting stuff, taking pills, stealing with both hands, or workin' on their backs, or all of the above. All of a sudden you

find that you're sweet sixteen and you're doin' the same things. I can't really say why I started stealing, using shit, and walking the streets. It all seemed to happen at once. It was all around me and it was an easy way out. It all came on kind of naturally. (quoted in Inciardi, 1986, p. 162)

Postscript

Many observers and researchers in the fields of both substance abuse and drug control have maintained that narcotics addicts are responsible for tens of millions of crimes each year in the United States. In addition, an unknown and perhaps greater number of crimes are committed by cocaine, crack, and other drug users. Contemporary data and analyses tend to support such contentions. Significant in this regard are the findings of the Drug Use Forecasting (DUF) program, which was established by the National Institute of Justice to measure the prevalence of drug use among those arrested for serious crimes (National Institute of Justice, 1988). Since 1986, the DUF program has used urinalysis to test samples of arrestees in selected major cities across the United States to determine recent drug use. Urine specimens are collected from arrestees anonymously and voluntarily, and then tested so as to detect the use of 10 different drugs, including cocaine, marijuana, PCP, methamphetamine, and heroin. What the DUF data have consistently demonstrated is that drug use is pervasive among those coming to the attention of the criminal justice system. Thus what all of this suggests is that the criminal justice system in general, and the courts in particular, may be the most appropriate place for addressing the drugs-crime linkage.

Notes

1. The works of Earle, Shoemaker, Schmitt, Sollier, Wilson and Eshner, and numerous others are cited and quoted in Terry and Pellens (1928, pp. 137-165).

2. For those unfamiliar with statistics of this type, the highest possible *r* value is 1.00, meaning a perfect correlation.

REDUCING DRUG USE REDUCES CRIME

Mr. CARVER. But the point is, these same studies show that if you can reduce the drug use, that the corresponding level of criminality goes down at the same time. And, finally, that if you really use criminal justice supervision effectively, you can reduce the drug use. If you have a sanctions-based system where you can respond almost immediately any time someone uses drugs and in such a way that you have an immediate, graduated, known response, this works.

What we have now is no graduated responses, but the possibility that at some point in the distant future something might happen. That does not work to deter drug use and to deter offending. So the challenge here is to take what we know empirically, put that into practice, and build the kind of infrastructure that will permit us to detect the first sign of trouble, and then to act on it.

Mr. MORAN. Okay, well, do you not have drug courts in the District?

Mr. CARVER. Yes, we do.

Mr. MORAN. Yes.

Mr. CARVER. And that's why I describe it as nibbling at the problem around the edges. The drug use problem is so much more extensive than that which can be served by the drug court that, in effect, what we have to do is to take proven techniques and apply them across the system. We should not be content with the system that treats a lucky few who happen to end up in one of these programs.

We have to, I think, Mr. Moran, stop thinking in terms of programs here that do this or that and reach a tiny fraction of people. Let's refocus our thinking on changing the processes in which the criminal justice system actually uses, in an effective and beneficial way, the power the system already has.

Mr. MORAN. To incarcerate, you mean. Take them off the streets?

Mr. CARVER. No.

Mr. MORAN. What is the power?

Mr. CARVER. The power is to set conditions of release and enforce those conditions.

Mr. MORAN. Well, what is detention? It is if you do not comply.

Mr. CARVER. Right now, we have jail, but jail occurs maybe six months or a year after the behavior that you're trying to change. So what we have to get to is a point where, as we're supervising, as we're monitoring drug use for people already under supervision, you intervene the first time a person uses drugs. And that can be with a short sanction.

Mr. MORAN. Well, what? What is a sanction? Use some real terms here.

Mr. CARVER. All right.

Mr. MORAN. What do you do? Put them in jail. You do not whip them.

USE OF SANCTIONS FOR DRUG OFFENSES

Mr. CARVER. I'll tell you how it works in the drug court. First time a guy uses drugs, he has to spend three days in the jury box watching drug court. The second time he uses drugs, he's got to go

to a detox facility. The third time he uses drugs, he has to go to jail for three days. And then every time he uses drugs——

Mr. MORAN. You check weekly.

Mr. CARVER. Twice weekly, at least in that case.

Mr. MORAN. Twice weekly. Okay.

Mr. CARVER. And so what you have is a situation where the defendant knows the consequences. It's not like some theoretical consequence in the distant future.

Mr. MORAN. Good. Now that makes a lot of sense. And that's what you want to do with the $38 million?

Mr. CARVER. Exactly. That's the model.

Mr. MORAN. But that's all through the court system, right?

Mr. CARVER. Not just the court system.

Mr. MORAN. So these people out in the community would be doing the drug testing too?

Mr. CARVER. Yes.

Mr. MORAN. They do not go to the court. They——

Mr. CARVER. Well, right now they do have to come to the downtown location just to get drug tested. The vision is that we're going to have these neighborhood community supervision centers where they can report for drug testing.

Mr. MORAN. You cannot do it in the police stations around the city?

Mr. CARVER. We're doing a lot of it now. In fact, I have here a picture of a lab we have right now.

Mr. MORAN. Those are all urine samples, I suppose.

Mr. CARVER. Yes. That's more urine than I've ever seen in one place. [Laughter.]

But it's stacked literally, as you can see from this picture, from floor to ceiling.

Mr. MORAN. And that's downtown?

Mr. CARVER. That is downtown. And this, Mr. Moran, serves only folks, or primarily folks, in a Pretrial status. We are not yet to the point where we have a lab with this much urine in it that can serve the public's need to have parolees tested with the same frequency. Virtually every one of the people coming out on parole, and you can see from these statistics, has a history of drug use. Now when they come out, they may be clean. But unless you get them into a regimen and use support and with——

Mr. MORAN. Twice weekly. But if you have 30,000 people, you have to monitor the urine sample, right? And then you have to test it. How many people are you talking—you cannot have enough now that can perform that task for 30,000 people.

Mr. CARVER. That is exactly right.

Mr. MORAN. And so you would need to hire how many to do that task? It adds up to over a thousand something.

SECOND URINE LAB NEEDED FOR DRUG SANCTIONS PROGRAM

Mr. CARVER. That's for the full FTE count. What we propose to do is to build a second lab. We have one lab and, as you can see from this picture, it's completely stretched to capacity.

We want to build a second lab. The lab itself can be centralized and downtown. We have the capacity now to have a completely automated process for conducting these kinds of tests. People check

in. They're identified electronically. A bar-coded label is printed. The analyzing machine reads the bar code label. And right now the result can be done within 20 minutes and available to judges on the bench from a computer screen. That's fine for that segment of people, but we do not have that as an infrastructure.

Mr. MORAN. And you want to make it available for all 30,000 of the population?

Mr. CARVER. That segment of the 30,000 with known histories of drug use

Mr. MORAN. Two-thirds of them. 20,000 people.

Mr. CARVER. Correct.

Mr. MORAN. 20,000 people or less.

Mr. CARVER. And I should say, Mr. Moran——

Mr. TIAHRT. Mr. Carver, may I see the picture?

Mr. CARVER [continuing]. That this isn't just something that we want to do. This is an administration initiative throughout the country. There's a lot of evidence and, in fact, Congress has had a number of witnesses up here talking about the potential value of setting up exactly this kind of system where you really can intervene almost immediately.

Mr. MORAN. Well if you really can stop 300 crimes, and that is the conservative figure, in a year times 20,000, then that would have a sea change—that would dramatically change the entire criminal justice system and rate of crime and sense of public safety in the District of Columbia. If you could set that up and could accomplish that overnight. I do not know where you are going to put all these people when they violate it, but I suppose having immediate sanctions and keeping immediate track of whether they are using drugs would deter the likelihood.

DRUG COURT EXPERIENCE

Mr. CARVER. Yes, actually we have some information on that, Mr. Moran, from our experience with Chief Judge Hamilton in setting up the drug court.

[The information follows:]

Cutting Drug Use, Cutting Recidivism

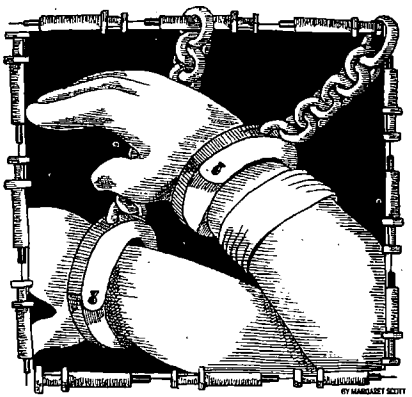
In the more than 20-year-long war on drugs, we have yet to put the necessary dollars into drug testing and treatment that really would make a difference in the soaring rate of drug use.

Locking up drug offenders has crammed our prisons to the bursting point with addicts and small-time pushers who go back to pushing as soon as they are released. Then they get caught and jailed again. It's a vicious cycle that stalemates our efforts to curb addiction and the attendant crime.

During its 1998 session, the Maryland General Assembly approved a pilot program, "Break the Cycle of Crime and Addiction," to turn this situation around. The program will test about 15,000, or 64 percent, of the convicted drug users who are on probation and parole in our state. Those who fail to take the test or test positive will face a return to jail.

Figures show that more than 50 percent of heroin and cocaine use is by those who are on probation and parole. In Maryland, addicts on probation outnumber those on parole by 3 to 1.

Under current Maryland rules, drug addicts placed on probation or on parole are required to attend drug-treatment sessions. However, state officials note that supervision is often lax and drug testing sporadic. Even if a person fails the urinalysis, officials say that the courts rarely find out about it until that person is facing new criminal charges stemming from addiction.


BY MARGARET SCOTT

Only 45 percent of about 25,000 offenders referred to drug-treatment programs ever complete them. In Baltimore, one-third of those enrolled in drug-treatment programs complete them. In addition, it can take a week or more to get results of a drug test, and an offender then must be apprehended and arrested. As many as 60 days may go by before he or she appears in court.

In order to be effective, a drug-monitoring program must make offenders get regular treatment, and they must face immediate punishment if they continue to use drugs. High-tech testing programs have been developed, and the laboratory at the state Parole and Probation Office has the necessary equipment to test a urine sample and have the results of the test within an hour. The sanction can be imposed before the addict even leaves the building.

The Break the Cycle program requires treatment clinics to report to probation or parole officers within 24 hours after an addict has failed or skipped a drug test. The program requires each of Maryland's 23 counties and Baltimore City to design their own penalties, which were scheduled to be implemented on the first of this month. The federal government has given a similar order to states, requiring them to have drug-testing programs in state prisons or lose federal money for prison construction.

Where the program has been tested in the D.C. area and in counties of Michigan and Oregon, results have been encouraging. One Oregon county reported a 76 percent drop in the number of persons on probation who tested positive for drugs. In the District, authorities say recidivism among program participants is half that of those not regularly tested for drugs and punished for violations.

The District has devised a graduated system of sanctions:

- The first positive test, and the offender spends three days in court listening to cases against other drug violators.
- The second positive test, and the offender spends three days in jail.
- The third positive test, and the offender spends seven days in detoxification.
- The fourth positive test, and the offender goes back to jail for seven days.

According to Mark Kleiman, professor of policy studies at the University of California, the experience of drug courts and drug-diversion programs nationwide has shown that monitoring and sanctions, when added to a requirement to seek treatment, greatly decrease drug use and recidivism.

I am optimistic about this program's effectiveness in breaking the vicious cycle of drug addiction and crime among probationers and parolees in Maryland.

—Carolyn J. Krysiak

a Democrat, represents Baltimore City and Baltimore County in the Maryland House of Delegates.

VALPARAISO UNIVERSITY
LAW REVIEW



PULLING LEVERS: CHRONIC OFFENDERS, HIGH-CRIME SETTINGS, AND A THEORY OF PREVENTION

David M. Kennedy

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suggested that the key drivers of youth violence among gangs were persistent vendetta-like antagonisms, or "beefs," among sixty-one gangs identified by Gun Project participants. Intragang conflict and instrumental violence associated with drug trafficking and other economic crime also contributed, but to lesser degrees.[3]

III. WHAT WE ALREADY KNOW: CONCENTRATION OF OFFENDING IN INDIVIDUALS, GROUPS, AND NEIGHBORHOODS

If there is a surprise in what the Gun Project found in Boston, it is only that the patterns of offending, and of relationships among offenders, associated with the relatively recent phenomenon of high rates of youth homicide, should so closely match what has long been known about more traditional crime phenomena. These patterns and relationships deserve further consideration.

A. Concentrations of Offending and Criminal Careers

Marvin Wolfgang's pioneering work in Philadelphia showed that offending was concentrated in a small portion of the general youth population. Six percent of the 1945 cohort he studied had committed five or more offenses, and accounted for more than half of all offenses committed by the cohort and on the order of three-quarters of robberies, murders, rapes, and aggravated assaults.[4] The Rand Corporation's surveys of prisoners showed that offending was skewed even further, with a relatively small number of even incarcerated felons having offended at very high rates.[5] Similarly, Lawrence Sherman found that only 2.7% of the estimated 500,000 individuals who lived in or frequented Kansas City were arrested twice or more in 1990; they produced over 60% of all arrests that year. Sherman also found that the most frequently arrested 642 persons produced over 10% of all 71,461 "body arrests" (defined as each event taking a person into custody regardless of the number of charges, victims, and co-offenders), 100 persons were arrested fifteen or more times that year, and ten persons were arrested thirty-two times or more.[6]

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3. David M. Kennedy et al., *The (Un)Known Universe: Mapping Gangs and Gang Violence in Boston*, *in* CRIME MAPPING AND CRIME PREVENTION (David Weisburd & J. Thomas McEwen eds., forthcoming) [hereinafter Kennedy et al., *The (Un)known Universe*]. *See also* Kennedy et al., *Youth Violence in Boston*, *supra* note 2, at 161-63.

4. MARK MOORE ET AL., DANGEROUS OFFENDERS: THE ELUSIVE TARGET OF JUSTICE 37 (1984).

5. *Id.* at 38.

6. *See* Lawrence W. Sherman, *Attacking Crime: Police and Crime Control*, *in* MODERN POLICING 159, 178 (Michael Tonry & Norval Morris eds., 1992).

Further Rand research showed that while there appeared to be few true criminal specialists—those who do only murder, for example, or only burglary—there were certain identifiable patterns of offending. One key pattern, however, was that of the "violent predators," who, in the words of one analyst, "commit *all* [kinds of] offenses at much higher rates than other offenders and who loom particularly large among all violent offenders."[7] Such offenders commit a disproportionate number of violent crimes; those crimes, however, especially the most serious of them, appear intermittently amongst a large number and variety of other crimes.

B. Gangs and Groups

Research on street gangs and other criminal groups has shown them to generate large numbers of offenses.[8] Since high-rate offending in general is concentrated at fairly young ages, young gang offenders are thus among the most active of all offenders. They, too, tend not to specialize; the term "cafeteria style" offending was coined to capture the wide variety of property, disorder, drug, and violent crimes gangs and gang members are wont to commit.[9] Much gang violence is expressive rather than instrumental, and much comes in the playing out of hostilities between rival gangs.[10] Finally, much gang crime is committed in small groups.[11]

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7. MOORE ET AL., *supra* note 4, at 46.

8. Gang members are involved in far more delinquent and criminal behavior than their non-gang counterparts. *See, e.g.*, Finn-Aage Esbensen & David Huizinga, *Gangs, Drugs, and Delinquency in a Survey of Urban Youth*, 31 CRIMINOLOGY 565-87 (1993); CAROLYN BLOCK & RICHARD BLOCK, NATIONAL INST. OF JUSTICE, STREET GANG CRIME IN CHICAGO 7 (1993); JOHN HAGEDORN, PEOPLE AND FOLKS 99-105 (1988); Jeffrey Fagan, *Social Processes of Delinquency and Drug Use Among Urban Gangs*, *in* GANGS IN AMERICA 75 (C. Ronald Huff ed., 1990); Jeffrey Fagan, *The Social Organization of Drug Use and Drug Dealing Among Urban Youth*, 27 CRIMINOLOGY 633 (1989); Terrance Thornberry et al., *The Role of Juvenile Gangs in Facilitating Delinquent Behavior*, 30 J. RES. CRIME & DELINQ. 55 (1993).

9. MALCOLM W. KLEIN, THE AMERICAN STREET GANG 127, 132 (1995).

10. Most research on gang violence has found that violent behavior tends to be expressive rather than instrumental. *See* Scott Decker, *Collective and Normative Features of Gang Violence*, 13 JUST. Q. 243 (1996). Research has also found most gang violence to be retaliatory in nature. *See generally* SCOTT DECKER & BARRICK VAN WINKLE, LIFE IN THE GANG: FAMILY, FRIENDS, AND VIOLENCE (1996); BLOCK & BLOCK, *supra* note 8.

Colin Loftin argues that a contagion model can be used to explain growth in gangs and gang violence. Colin Loftin, *Assaultive Violence as a Contagious Process*, 62 BULL. N.Y. ACAD. MED. 550 (1984). Retaliatory acts and threats of violence support the spreading and growth of gangs within and across neighborhoods. *Id.* at 552. Three conditions must be present for contagion to occur: a spatial concentration of assaultive violence, a reciprocal nature to assaultive violence, and an escalation in assaultive violence. *Id.*

11. Within gangs, subgroups or cliques may exist specializing in specific crimes such as theft, robbery, or drug trafficking. *See* IRVING SPERGEL, THE YOUTH GANG PROBLEM: A COMMUNITY APPROACH 82 (1995).

VII. CONCLUSION

Criminal justice agencies can exercise extraordinary powers. They can impose a wide variety of costs on offenders. They can exercise tremendous discretion in how they impose those costs, and for what sort of conduct. It seems likely that there is a good deal more method that could be imposed on the use of those powers, the imposition of those costs, and the exercise of that discretion.

What lies in the way of a more strategic use of these capacities is largely conceptual and organizational. Conceptually, we must rid ourselves of the notion that the only way to be "tough on crime" is to put bodies in cells for longer and longer periods, and recognize that there is a vast range of other important costs that can shape offenders' behavior. We must face the fact that, at any given moment, some kinds of offending matter more than other kinds; that professions of "zero tolerance" are largely professions of zero credibility; and that by failing to use criminal justice discretion strategically we are effectively giving offenders the reins. We must recognize that most of the "signals" we send are weak, if not incoherent, and that we can and should send them much more plainly and directly.

Organizationally, we need ways to make decisions across agencies, in a transparent and public way, about what sorts of priorities we are going to follow: not necessarily forever, but at least this week, this month, and this year. And we need ways to tie agency activities together so that the famous fiction of "the criminal justice system" becomes, at least sometimes, a reality. It is not too much to ask that for certain key purposes—youth homicide; domestic violence; open-air drug markets in a troubled community—the various arms of criminal justice should actually act in concert, and that the possibility of preventing a homicide tomorrow by putting a gang member on probation curfew check tonight should actually be realized. We should use these criminal justice capacities strategically, we should win compliance from offenders by making the rules clear to them and then doing what we say, we should act flexibly and cleverly according to the demands of particular problems, and we should build up enough credibility so that we can use less, not more, authority. We already have the levers, and, as the machinery of criminal justice grinds daily on, we are already pulling them. We might as well pull them properly.

EXPERIENCE WITH OFFENDERS IN SANCTIONS PROGRAM

Mr. CARVER. We actually looked at the number of people that continued to violate. The first time a sanction had to be applied, it was applied to two-thirds of the people. But at each subsequent stage, the sanctions had to be applied to only half of the people the previous level had been. So what you see is that if you really can set this up, you eventually have a situation where people just get tired of the aggravation. First of all, they know what's going to happen. They get tired of the aggravation of these short disruptive stints in jail. And that sometimes is the first time that they decide, well, I've got to get serious. I've got to really get serious about getting myself together and getting off drugs.

People don't want to be drug addicts, Mr. Moran, but sometimes they need the structure the criminal justice system can provide, or families can provide, if they have good families. But they need that structure to help them reach a level of sobriety and function.

$38 MILLION AMENDMENT AVAILABLE FROM DEPARTMENT OF JUSTICE

Mr. MORAN. I got you and I agree with you. You have identified money that all three of us agree will come out of the Commerce and Justice appropriations bill—that will come out of the Department of Justice appropriation. Justice agrees that that should be done. Do we know whether our sister subcommittee wants to do it too? We have no idea. Does it not conflict with the allocation? It does not. We could do that. So we can do it if Justice wants to, if Mr. Roger's subcommittee wants to. So we would need to make a push to do that, or to find the money in this bill. Okay. And you would estimate that that solves or reduces as many as 60,000 crimes? I mean that is a little reductio ad absurdum with your statistics. But, anyway, if it is anywhere near what these statistics indicate it is, it is probably the most important thing we could do in this budget.

HOUSING PRISONERS IN VIRGINIA

I have some questions on housing prisoners in Virginia, but you have answered them. You have to send them to Virginia and they have to be done? I mean, we are going to do that, right? Is that Mr. Clark's issue?

Mr. CLARK. Well, we're both on this issue. Ms. Moore and I are working collaboratively on this. In fact we were just in negotiations going out within the last few days. There's nothing signed, but we're very confident that everything's going in the right direction.

Mr. MORAN. All right. Well, the discussion we had with Mr. Davis—Mr. Davis' office—was not particularly productive, but you think things are moving along?

Mr. CLARK. In the last several weeks.

LORTON—SEWER OVERFLOW AND TOXIC PROBLEMS

Mr. MORAN. Let me ask you another question here. There are some serious sewer overflow and some toxic problems at the Lorton facility that have to be cleaned up. Are we moving along on that so that that land is going to be usable?

Ms. MOORE. There is money in the capital budget for Lorton to address sewer system problems as well as some environmental clean up. I believe that all of those issues will be corrected prior to the closure of the——

Mr. MORAN. The land is handed over. Okay. Very good.

NEW PRISON PROPOSED ON NATIONAL PARK SERVICE LAND

I have one other question I wanted to ask Ms. Moore about the prison that would be built privately on the Maryland side of the Potomac there on National Park Service land. Have you weighed in on that at all?

Ms. MOORE. I know of no definitive plan at this point, Mr. Moran, to build a facility in the District or on the Maryland side.

Mr. MORAN. Well, it's the CCA.

Ms. MOORE. Right. I understand that, that Corrections Corporation of America has land in the District. I don't know and in fact I do not believe that the Bureau of Prisons has awarded the contract to any vendor to build a facility anywhere at this point, you know. And John may know more about this than I do. But I am aware of no definitive plan at this point to build a private facility in the District.

Mr. MORAN. So even if they did get the land from the National Park Service, they're not necessarily assured that a prison is going to be built on it.

Ms. MOORE. You're—that's correct. They're not assured of that.

Mr. MORAN. They are investing an awful lot of money and resources and time and energy—and a fair amount of emotion into getting that land. It would be quite a shock if they then finally get the land and we intervene and help them get the land, and then they do not have any prison to build on it.

Mr. CLARK. Well, if I could speak to that, sir, it is the Bureau of Prisons requirement to do this privatization of 2,000 beds by the end of next year, so it's not anything that directly is involved in our responsibility, either Director Moore's agency or mine, but because of my previous responsibilities with the Bureau of Prisons and our continuing contact with them, I'm very familiar with what's going on.

Essentially, they issued a request for proposals early this year. The bids were due in in April. They expect to—and I'm sure that this is a competitive procurement where there are several companies, in the very least, who would be offering proposals. Of course it's very confidential as to who they are or where they may have land. There's a lot of publicity about this one particular site that this one company has. It's not generally known where several of the other companies have their sites. The requirement of the RFP was that it be within 300 miles of the District and I think there was going to be a reward in the evaluation process for proximity to the District.

The Bureau of Prisons has said that they intend to make the award by the end of the summer. So, within six or eight weeks, I think it will be known whether this particular parcel of land is the one belonging to the company that's been awarded the contract. But it's certainly very much up in the air at this point.

YOUNGSTOWN, OHIO FACILITY—PROBLEMS AND CONCERNS

Mr. MORAN. Well, if—CCA wants to build it. I know there has been some adverse publicity about that Youngstown facility too. Did you see the incident at that Youngstown facility as being inconsistent with what happens at Lorton? I mean, two prisoners were killed, right? Does that give you cause for concern?

Ms. MOORE. Any time, Congressman, a prisoner is killed or staff member or prisoner is seriously injured, it gives me cause for concern. I am not, however, ready to assume that CCA lacks the capacity to manage the District's prison population.

D.C. COUNCIL FAVORS NEW PRIVATELY-OPERATED FACILITY IN D.C.

I will say in response to your initial question, though, that I'm aware that the Council of the District of Columbia has voted in favor of the construction of a privately operated facility in the District of Columbia, insomuch as doing so represents some fairly significant economic development opportunities for the city.

Mr. MORAN. Well, I understand that CCA has a good reputation. I was surprised at that article. And it may not be inconsistent with violence that occurs at Lorton. It seems to me that we ought to try to build a private correctional facility in D.C. that would provide jobs to D.C. residents. Rather than get into any other issues, I will conclude at this point. Thank you.

Mr. TIAHRT. Thank you very much. We appreciate your being here and your testimony very much.

BUREAU OF PRISONS TESTIMONY ON LORTON CLOSING

[**CLERK'S NOTE.**—The following excerpt from testimony presented March 12, 1998, by Kathleen M. Hawk, Director of the Federal Bureau of Prisons, to the House Subcommittee on Appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies, relates to the closing of the Lorton Prison Complex as mandated by the National Capital Revitalization and Self-Government Improvement Act of 1997 (Public Law 105–33, approved August 5, 1997):]

DEPARTMENT OF JUSTICE, STATEMENT OF DIRECTOR, FEDERAL BUREAU OF PRISONS—KATHLEEN M. HAWK, BEFORE THE HOUSE SUBCOMMITTEE ON APPROPRIATIONS FOR THE DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

Mr. Chairman and Members of the Subcommittee:

* * * * * * *

The newest challenge facing the BOP is, and will be, the absorption of all District of Columbia (D.C.) sentenced felons into BOP custody by 2001.

The 1999 request focuses on adding prison beds to keep pace with projected inmate population growth, and capacity to meet requirements of the National Capital Revitalization and Self-Government Improvement Act of 1997. The Act directs the BOP to assume responsibility for confining or contracting for bed space for all sentenced D.C. felons by October 1, 2001.

BUDGET REQUEST

The FY 1999 request for the BOP totals $3.4 billion, including the following program increases: construction of four Federal Correctional Institutions (FCIs), and the resources to activate the 200-bed expansion at the FCI in Loretto, Pennsylvania. The new construction will add the capacity required for the BOP to meet its responsibility for the (D.C.) adult sentenced felons by October 1, 2001.

Specifically, for the Salaries and Expenses appropriation, an increase of $2.8 million and 46 positions is requested for the activation of the 200-bed expansion at the FCI located in Loretto, Pennsylvania. The Loretto project is currently out for bid, and a contract is expected to be awarded shortly.

For the Buildings and Facilities appropriation, the request includes an increase of $300 million and 28 positions required for new construction. This level of funding will permit construction of three additional FCIs and partial funding for a fourth FCI to provide additional capacity to accommodate the space requirements for the D.C. sentenced felon inmates in accordance with the D.C. Revitalization Act. In FY 1998, $294.9 million was provided to the D.C. Corrections Trustee for reimbursement to the BOP to cover site acquisition and planning of the four facilities and full construction of two more. Further, a provision in the National Capital Revitalization and Self-Improvement Act of 1997 requires BOP to house 2,000 D.C. sentenced felons in private contract facilities by December 31, 1999. A Request for Proposals (RFP) was released on February 13, 1998, with responses due by April 1, 1998.

D.C. REVITALIZATION ACT

The BOP is actively evaluating potential sites within 500 miles of the District. Environmental Impact Statements (EIS) for numerous locations may be necessary to ensure four acceptable sites since the EIS process is preliminary and does not always result in prison construction. To date, siting efforts have been concentrated in Kentucky, West Virginia, Virginia, Pennsylvania, North Carolina, and South Carolina. In December of 1997, the BOP began the EIS process for a medium security prison in Gilmer County, West Virginia. In addition, the BOP is proceeding with the draft EIS process for sites in Ohio/Tyler and Preston counties, West Virginia, and obtaining additional technical information to go forward in the EIS process on sites in Kentucky, South Carolina, and Pennsylvania. The BOP plans to finish each EIS related to D.C. capacity this year.

Further, the BOP plans to build a medium security facility at its existing Petersburg, Virginia, location, and a high security facility at its Coleman, Florida, location. While the Florida location is outside the 500-mile radius, the BOP can proceed quickly with this project because the EIS process completed for the existing institutions addressed the possibility of adding an additional facility at a later date. The BOP would then be able to transfer BOP inmates to Coleman and subsequently place D.C. sentenced felons in the approximately 30 existing BOP facilities that are within the 500-mile radius.

The BOP is currently housing over 600 D.C. sentenced felons for the D.C. Department of Corrections (DOC). Of this number, 116 are D.C. sentenced females recently transferred into BOP custody. The BOP continues to provide administrative/technical expertise to D.C. DOC personnel in critical areas, such as infectious disease control, BOP policy and classification of inmates. UNICOR staff are developing plans to begin transferring relevant industries from the Lorton Complex to BOP, as appropriate. Human Resource Management Divisions staff are working diligently with the Trustee's Office on the Priority Consideration Program for displaced D.C. correctional workers. The National Institute of Corrections (NIC) developed the Management Reform Plan for D.C. DOC which covers transition of D.C. Code felons to BOP and closure of Lorton. The plan will also assist D.C. DOC in redefining its future role with regard to managing pre-trial, detention, and sentenced misdemeanants.

Through anticipated reimbursement from the D.C. Corrections Trustee in 1998, the BOP has adequate resources to construct two FCIs at existing BOP sites in order to generate capacity to house D.C. sentenced felons. In addition, 1998 funding from the Trustee will be used for site acquisitions and planning of four FCIs. In 1998, the BOP plans to transfer into BOP custody the majority of female D.C. sentenced felons. To date, 116 female D.C. sentenced felons have been transferred into BOP custody, and procedures have been put in place so that all newly sentenced female D.C. Code violators will be designated directly to BOP custody. The BOP is currently reviewing minimum security male D.C. sentenced felons in preparation for their transfer into BOP custody. The projected movement of D.C. DOC inmates needing mental health, medical/surgical care is targeted for 1999. Absorption of higher security level D.C. inmates is projected for FY 2000 and FY 2001 as additional BOP capacity (construction funded in 1998) is activated.

* * * * * * *

PRIVATIZATION

As part of the 1997 Appropriations Bill, Congress directed the BOP to undertake a five-year privatization demonstration project at the correctional institution in Taft, California. In July of 1997, Wackenhut Corrections Corporation was awarded the contract to operate the Taft facility. The potential contract term is 10 years, encompassing a 3-year base and seven 1-year options. The first inmates began arriving

in December of 1997. As of March 5, 1998, there were 1,009 inmates housed at the Taft facility, and it is anticipated that approximately 80 additional inmates will arrive at the facility each week until the institution reaches its full capacity. Taft will house 1,536 low security and 512 minimum security Federal inmates when fully operational. This project will help the BOP evaluate the potential effectiveness of privatizing further BOP facilities. BOP staff prepared and forwarded a technical proposal to evaluate Taft to the National Institute of Justice, and a meeting is scheduled this spring for feedback from other experts in the field.

SUMMARY

Mr. Chairman, the FY 1999 request addresses the major challenges facing the BOP and provides funding for increases necessary to add Federal inmate capacity and meet requirements of the law.

The increase requested for 1999 will allow the BOP to activate the expansion at the Loretto, Pennsylvania, prison and enable expeditious closure of the Lorton, Virginia, Complex by adding capacity to absorb sentenced D.C. felons into the Federal Prison System.

I would like to thank you, Mr. Chairman, and the Members of the Subcommittee for your continued support. This concludes my prepared remarks, and I would be pleased to answer any questions you or your colleagues may have.

CONCLUSION OF CORRECTIONS HEARING

Mr. TIAHRT. The committee will stand in recess subject to the call of the chair

[Recess.]

Mr. TAYLOR [presiding]. The committee will please come to order.

I would like to thank Congressman Cunningham for chairing the education panel today and Congressman Tiahrt for chairing the corrections panels.

PUBLIC DEFENDER SERVICE

[The following prepared statement of the Public Defender Service was referred to by Mr. John A. Carver, Offender Trustee, on page 239, this volume. Inserted following the prepared statement of the Public Defender Service are two letters which are self-explanatory concerning the Public Defender Service from the Independent Public Defender Bar Association of the District of Columbia.]

PUBLIC DEFENDER SERVICE
for the
District of Columbia

Statement of Jo-Ann Wallace, Director

before the United States House of Representatives
Committee on Appropriations
Subcommittee on the District of Columbia

FY 1999 Operating Budget Request

June 24, 1998

Mr. Chairman and Members of the Subcommittee, I am pleased to have this opportunity to submit testimony on the Public Defender Service's FY 1999 budget request. Before providing key elements of the 1999 request, I would like to take the opportunity to briefly review the mission of the agency.

The Public Defender Service ("the Service") is a Congressionally created, independent agency which provides constitutionally and statutorily mandated services to indigent persons charged with criminal offenses in the District of Columbia. Congress enacted legislation establishing the Service in 1970 to increase the efficiency in the provision of defender services and to handle the growing number of criminal cases which exceed the resources and expertise available through the private bar. Congress created the Service so there would be a cadre of criminal law "specialists" who, in addition to providing representation to indigent individuals, especially in more serious cases, would provide on-going training and other support services to members of the private bar engaged in the practice of criminal law and who would be available to assist the Courts' administration of the appointment of counsel system.[1] Mr. Chairman, I am pleased to

[1] Too often inexperienced lawyers who are appointed to represent indigent defendants complicate and delay the trial process by their unfamiliarity with the law and criminal practice. Experience has shown that professional public defenders, on the other hand, not only better safeguard the rights of defendants, but also speed the process of justice. ... I believe the time has come to

report that since its creation in 1970, the Public Defender Service has time and time again demonstrated the wisdom of the decision. Both the mission and operations of the Service and the dual system of representation established by Congress have been acknowledged as successes and have been replicated throughout the country.

The criminal justice system is an "'eco-system' wherein all the elements, law enforcement, prosecution, defense, the courts, and corrections are inextricably tied together. Funding decisions which do not take into account the impact on other elements of the criminal justice system, can result [not only] in overburdened public defenders, [but also in] the incarceration of innocent individuals, court docket delays, prison overcrowding, and the release of violent offenders into the community." Indeed, many of the increased arrests likely to accompany announced police initiatives to reduce crime --e.g., increased officers on patrol and crackdowns on open air drug markets -- will, if supported, impact our responsibilities. Similarly, technological changes in the Metropolitan Police Department will require the Service to update its technology in order to access MPD information that attorneys need to perform their duties. The Service's request includes a modest amount to accomplish this. In sum, the FY 1999 budget request of $14,486,000 will permit the Service to

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convert this project into a full-fledged Public Defender program.

President Nixon's Message on Crime in the District of Columbia, January 31, 1969.

efficiently perform the services it contributes to the justice system in the District of Columbia.

Since 1978, the Service has occupied space in one of the oldest buildings utilized by the District of Columbia Court system. The cost of maintaining the building has been escalating in recent years. Indeed, even with costly expenditures it is increasingly difficult to maintain the building in a manner that meets minimum health and safety requirements. Accordingly, the building is scheduled to be gutted and renovated during FY 1999 and the Service must relocate. The Service's FY 1999 request includes funds to support the required relocation.

The Service's FY 1999 request will enable it to meet government wide priorities and to comply with changes that have occurred as a result of the District of Columbia Revitalization Act and other criminal justice initiatives. For example, the agency is seeking funding for previously unbudgeted costs of payroll and disbursing services which, pursuant to statute, had been provided free of charge for the last twenty years by the Administrative Offices of the United States Courts ("AO"). Pursuant to the Revitalization Act, the AO is no longer required to provide these services. While the AO has agreed to provide services through the balance of this fiscal year, we must contract for these services with another provider for FY 1999. The FY 1999 request will also support the required personal and administrative services and

training that the transition will require.

Sufficient support to public defenders like the Service is essential to preserving a balance in the system which protects the public both from crime and prosecutorial overreaching. I would like to close by thanking the Congress for its support.

INDEPENDENT PUBLIC DEFENDER BAR ASSOCIATION
OF THE DISTRICT OF COLUMBIA

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Representative Charles Taylor
Chairman,
Sub-Committee on the
District of Columbia Appropriations
House Committee on Appropriations
Room H218
U.S. Capitol
Washington, D.C.
20515

June 25, 1998

Dear Mr. Taylor,

On behalf of the Independent Public Defender Bar Association of D.C. ("IPD"), a voluntary Bar association comprising attorneys who accept appointments to defend indigent criminal defendants under the Criminal Justice Act of the District of Columbia, I write to take strong issue with the appropriation demand submitted to your subcommittee by Ms. Jo-Ann Wallace, Director of the Public Defender Service (PDS) - a subordinate element of the Court Services and Offender Supervision Agency for the District of Columbia.

PDS is requesting an increase of approximately four million dollars ($4, 000, 000) over its appropriation for FY98. This demand represents an attempt to persuade the subcommittee that PDS requires a budget one-third larger for FY99 than it needed in FY98. In an era of privatization and general reduction in government agencies, such an appropriation demand is utterly unacceptable without the most careful analysis.

The fact of the matter is that PDS processes about twelve per cent (12%) of all cases covered by its statutory mandate. The remaining cases are handled by the private Bar under a judicially supervised court appointment system. As against the $8 million PDS budget for twelve per cent of the possible case-load, the remaining eighty-eight per cent (88%) of cases cost approximately twenty-seven million dollars ($27, 000, 000) - a figure that covers fees paid to court-reporters, interpreters, investigators as well as court-appointed counsel. As the PDS productivity statistics are notoriously difficult to obtain, I respectfully urge the subcommittee to request PDS to provide it with a numerical and

percentage analysis of its performance over the last five years. To be meaningful, this analysis should give the raw number of adult criminal cases handled in each year and what percentage this represents of the total number of adult criminal cases for which counsel were court-appointed.[1]

Further, the assertions of PDS that it supports the private Bar and handles the more serious cases are both seriously misleading. First, as immediate past president of the IPD for the last two years (and vice-president for the previous two years), I can flatly state that, despite my personal pleas to Ms. Wallace to provide significant support (in the form of access to PDS training programs, dissemination of PDS-generated analysis of current legal issues, use of computer research facilities such as **WestLaw** or **Lexis**, notification of PDS guest speaker events - such as occurred on the Monday - 6/22/98 - of the very week in which PDS submitted its testimony to the subcommittee), no such support has been forthcoming. Apart from a poorly-manned "duty-day attorney" service and a routine two-day training seminar held every 9 weeks or so for entry-level attorneys, PDS does nothing to assist court-appointed attorneys as such. Second, the most serious cases are handled in approximately equal proportions by PDS and IPD attorneys. The appointment of private practitioners to the most serious of criminal cases by experienced and conscientious judicial officers ensures that defendants are ably represented by a skilled, independent and self-employed attorneys - who collectively form a cadre of criminal law specialists without the fixed costs of government agency employees.

Part of the PDS justification for the one-third budgetary increase for FY99 concerns its need to meet new costs incurred by the withdrawal of administrative support by the Administrative Office of the United States' Courts ("AO"). In light of this request for additional funding (funding which, substantively speaking, has nothing to do with the mission of PDS), I would respectfully suggest to the subcommittee that it recommend merging the local PDS with the **Federal Public Defender Service for the District of Columbia**. This 'rationalization through amalgamation' would clearly save the additional monies that PDS argues it needs to take over the function of the AO. The AO already provides support services for the D.C. Federal Public Defender and would therefore simply continue to provide these services for the combined agency. It is important to note that the United States' Attorney's Office for the District of Columbia is already "rationalized" in that prosecutions of both local and federal cases are combined under one roof. With the federal government funding the operation of the criminal justice system in the District of Columbia, there is no absolutely no good reason why the publicly

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[1] These figures are readily available to PDS as the court-appointed counsel program is technically administered by PDS under the Criminal Justice Act, even though the actual appointment of counsel is carried by out judicial officers.

funded defense function should not be rationalized and the efficiency savings passed on to the taxpayer. As an incidental point, the combining of the local PDS with the Federal Public Defender's Office should solve the problem of PDS's conflicts with its parent agency as a creature of the U.S. Department of Justice.

I respectfully request that the subcommittee pursue the points raised by the IPD before agreeing to the appropriations demand of the Public Defender Service. I would be pleased to provide further information or assistance at your convenience. I may be contacted at (202) 393-0123.

Sincerely,

CMD

Colin M. Dunham
General Counsel,
The Independent Public Defender
Bar Association of D.C.

INDEPENDENT PUBLIC DEFENDER BAR ASSOCIATION
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Mr. Migo Miconi
Clerk & Staff Director
D.C. Sub-Committee on Appropriations
Room H218
U.S. Capitol
Washington, D.C.
20515

April 22, 1998

Dear Mr. Miconi

I write on behalf of the Independent Public Defender Bar Association of D.C. ("IPD").- an organization of private attorneys who accept appointment to criminal cases prosecuted in the Superior Court of the District of Columbia. IPD members are solo practitioners paid on an hourly rate from a specially-designated budget of the D.C. Courts.

I am deeply concerned about recent suggestions to amend the D.C. Revitalization Act by removing the Public Defender Service ("PDS") from its present position within the Offender Supervision Trusteeship ("OST") and placing it under the D.C. Court System. Such a move makes no sense and threatens to further impede the administration of justice in the District of Columbia. It seems transparently clear that whatever conflicts PDS has with OST will not be cured by making PDS part of the D.C. Court system. PDS seems to be wilfully ignoring the basic constitutional precept that both the prosecutorial function and the defense function be kept separate from the judicial branch. For PDS to become part of D.C. Superior Court would subvert and mock the fundamental constitutional principle of a separation of powers between Executive and Judiciary. (If it is argued that some form of "Chinese wall" can be built between the daily operations of the Court and the routine role of PDS, then surely this argument would apply to PDS's present position within OST?).

If there is seen to be a need to address the perceived "conflict issue" by means of amending the Revitalization Act, then an obvious solution would be convert PDS into an independent federal agency. It is, in fact, curious that this solution is not

being offered by PDS itself. As an independent agency (the status it previously occupied within the Executive structure of pre-Revitalization D.C.), PDS would have its own budget and be accountable to Congress. However, in the interests of efficiency and rationalization, very serious consideration should be given to amalgamating the local PDS with the already existing **federal** Public Defender Service (in the same way that the United States' Attorney's Office for the District of Columbia prosecutes cases in **both** the local and federal courts). As part of this proposed merger, it should be emphasized that very significant cost-savings will be effected by reducing the PDS bureaucracy. For example, at present PDS trial attorneys handle less than 12% of the universe of eligible cases, while private attorneys (paying all of their own "overheads" - health insurance, support staff, rent, pension investment etc.) account for the vast bulk of indigent criminal defense work in Superior Court and the District of Columbia Court of Appeals.[1] It is suggested that the small percentage of cases presently processed by PDS attorneys at inordinate expense to the public purse be handled by the private Bar. This relatively minor reform would be both fiscally prudent and in accord with the prevailing spirit of "privatization."

I hope these thoughts will be of use to you if and when the D.C. subcommittee on Appropriations considers altering PDS's position within the structure of OST. As an attorney with many years' experience of the local judicial and criminal defense structures, I would be most willing to answer whatever questions you may have in this area. Please do not hesitate to call me on (202) 393-0123.

Sincerely,

Colin M. Dunham
General Counsel,
The Independent Public Defender
Bar Association of D.C.

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[1] These figures were prepared by the D.C. Court System's Financial Operations Division for Fiscal year '96. It has been an enduring problem with PDS (as with so many D.C. agencies) that the agency is loathe to reveal such basic statistics. It is to be hoped that this secretiveness will end when Congress demands greater accountability.

WEDNESDAY, JUNE 24, 1998.

PUBLIC SAFETY AND COURTS

WITNESSES

CHARLES H. RAMSEY, CHIEF OF POLICE, D.C. METROPOLITAN POLICE DEPARTMENT

DONALD EDWARDS, CHIEF, D.C. FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT

ROBERT E. LANGSTON, CHIEF, U.S. PARK POLICE

STEPHEN D. HARLAN, VICE CHAIRMAN, D.C. FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY

EUGENE N. HAMILTON, CHIEF JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

ANNICE M. WAGNER, CHIEF JUDGE, DISTRICT OF COLUMBIA COURT OF APPEALS, AND CHAIR OF THE JOINT COMMITTEE ON JUDICIAL ADMINISTRATION

Mr. TAYLOR. We will go into our third panel, public safety, and we have with us the Metropolitan Police Chief, Charles Ramsey; Fire Chief Donald Edwards of the D.C. Fire Department; Chief Robert Langston of the U.S. Park Police; and Steve Harlan of D.C. Financial Control Board. Also, Ms. Wagner, the Chief Judge of the D.C. Court of Appeals, is with us.

We have your written statements and they will be included in the record without objection. I would suggest we dispense with any reading of your written statements so you will have as much time for personal comments. If it is agreed, we will hold questions until all four witnesses have made their comments.

WITNESSES SWORN IN

We do swear in all witnesses. If you could stand——

[Witnesses sworn.]

METROPOLITAN POLICE DEPARTMENT

Chief Ramsey, your budget request totals $300.4 million, an increase of $29 million above fiscal year 1998. If you would like to go ahead and make your comments, we will go from there.

Chief RAMSEY. Yes, sir. First of all, thank you very much for giving me this opportunity to appear before you. I ask that the original testimony, which you have a copy of, be included in the record.

PREPARED STATEMENT OF POLICE CHIEF CHARLES H. RAMSEY

[The prepared statement referred to follows:]

METROPOLITAN POLICE DEPARTMENT

Statement of

Chief of Police Charles H. Ramsey

Before the

House Committee on Appropriations

Subcommittee on the District of Columbia

June 18, 1998

The mission of the Metropolitan Police Department is to eliminate crime, fear of crime and general disorder, while establishing respect and trust within the community.

Statement of

Charles H. Ramsey

Chief of Police

Metropolitan Police Department

Good afternoon, Chairman Taylor and members of the subcommittee. I appreciate the opportunity to appear before you today to discuss the Fiscal Year 1999 budget for the Metropolitan Police Department.

FISCAL YEAR 1999 BUDGET REQUEST

The Metropolitan Police Department is beginning to make progress in the right direction -- forward. However, to sustain this progress I need the active support of all law enforcement stakeholders in the District of Columbia, a group which includes the United States Congress. The department's Fiscal Year 1999 budget requests a total spending authorization of $300,370,000 to include $277,096,000 in local funding and $23,274,000 in grant funding. The local funding figure is further divided into $243,577,000 for personal services (88%) and $33,519,000 for non-personal services (12%). The Capital Improvement Plan allocates the department $21,900,000 in capital funding, $17,900,000 to support continued development and implementation of the department's Information Technology Plan and $4,000,000 as seed money to begin repairs and upgrades to the department's long neglected physical plant infrastructure. The budget requests a personnel authorization of 4,422 FTE's: 3,600 sworn and 822 civilian.

The Fiscal Year 1999 budget request allows me to continue progress with existing programs, while starting both long- and short-term initiatives. The budget includes $19 million to support sworn and civilian pay raises to help to recruit and retain talented employees; $4 million in master lease authority to put the department's vehicle fleet on a consistent replacement cycle; and a realistic overtime funding level of $15 million.

A core value that I demand of myself and this organization is honesty. The FY 1999 budget reflects a departure from recent budget practice. Within the department's FY 1999 personal services funding level is a *realistic* overtime funding level of $15,000,000: $14 million for sworn court and non-court overtime, and $1 million for civilian overtime. In past budgets, the overtime figure was dramatically under-budgeted, with the department relying on vacant positions and lapsed salaries to fill the spending gap. The FY 1999 overtime funding level appears to be 63% higher than the FY 1998 budgeted level of $9.2 million. However, the projected FY 1998 overtime spending level is in excess of $18 million. The proposed FY 1999 figure actually represents a decrease from FY 1998. The department expects to continue its overtime spending reductions that are the result of strict overtime controls imposed at the beginning of calendar year 1998.

As the Committee is aware, the department received a special $15 million Congressional grant two years ago. A total of $10,138,525 has been expended: in other words, goods have been ordered and received. There is an additional $2,957,686 obligated for various projects for which goods and services have not, as yet, been delivered. The remaining $1,903,789 in uncommitted funding is primarily for renovations to the department's eight holding facilities to achieve compliance with standards required by the Commission on Accreditation for Law Enforcement Agencies. A design and engineering study, contracted through the U.S. General Services Administration, was completed in May by an architectural engineering firm. The study is currently being reviewed to ensure that accreditation standards are addressed properly and that the project is within budget. The review will be completed this month and it is expected that construction will begin in late summer.

Upon my appointment as the Chief of Police, I declared a "new beginning" for the Metropolitan Police Department. As with any new beginning, there will be changes in the department, and these changes will be significant and far-reaching. The changes we make will be significant and systemic, but they will also be carefully planned and executed. They will be based on thorough research and a hands-on

assessment by me of this Department and its relationship with the community. I plan to accomplish this by continuing what I have already begun in the last few months: opening up lines of communication within the department and between the department and the community, including members of Congress.

My focus is on three key areas: 1) assessing the critical needs of the community and the police department; 2) building leadership capacity within the Department; and, 3) developing a plan of action for the future.

During the past two months I have spoken with members of all ranks of the department at roll calls, during ride-alongs, and in comprehensive interviews with my command staff. I have also met with community leaders at town hall meetings across the District to identify the crime and disorder problems of most concern to the community, their opinions of current police services, and their views on the relationship between the police and the community. Meetings with community, business and government leaders, as well as media and police union officials, have helped me learn their priorities and the contributions they can make to the community policing partnership here in the District. In assessing the needs of the community and the Department, I have also reviewed the findings of recent management studies and reports which will provide valuable information that will help us plan for the future.

To begin forging a meaningful community policing partnership, I am sending a joint Metropolitan Policed-Department-community-D.C. Government delegation to *Beyond the Rhetoric: Facing the Challenges of Community Policing* in Chicago this August. *Beyond the Rhetoric* is a national conference which will examine the steps needed for communities to advance community policing and ensure public safety. During the conference, the participants will be exposed to Chicago's successful CAPS community policing strategy. They will learn how the community, their police department, and their government can work together to make their city safer.

By using the funding available for training in the department's Comprehensive Communities Program grant, I am able to send a group of the department's commanders, supervisors and patrol officers; community representatives from the seven patrol district Citizen Advisory Councils; representatives from the Office of the Chief Management Officer and other D.C. Government agencies; and representatives from the District of Columbia Criminal Justice Coordinating Council. I look for *Beyond the Rhetoric* to be a very successful learning experience for all of the participants. The department will benefit from the relationships and sense of real community participation that is established among the participants.

These past few months have shown me that there are a large number of bright and competent men and women in the Metropolitan Police Department who share my vision and want to make this department work. I am convinced that the changes I envision to make the department the finest, most community-oriented police department in the nation are shared by many in the community who earnestly want to work with the department to help make this city safer. By our working together, the District of Columbia will assume its rightful place as the safest major city in the United States.

RECRUITING, TRAINING AND PERFORMANCE STANDARDS

Internally, my assessment has focused on the needs of both our individual members and our organization as a whole. Based upon what I have learned already in this short period of time, I have already taken certain actions. To help ensure our future, I fully intend to recruit the most capable and qualified men and women from around the country. The Metropolitan Police Department must attract candidates who can effectively police the streets of our city now and into the 21st century.

The skills needed by our police officers in the remainder of this century and into the next is totally different than what has been needed in the past. Coupled with this we also need to establish improved educational standards for promotion to the various ranks within the organization. I am proposing that beginning January 1, 1999, recruits be required to have at least 60 hours of completed college courses, and recruits who join after September 1, 2002, have a bachelor's degree. I also expect to establish minimum education requirements for each of the department's sworn ranks no later than September 30, 1998.

The department's Recruiting Branch hired 255 new and senior police officers in the twelve-month period from June 1, 1997, through May 31, 1998. Of those officers, 162 were hired in the current fiscal year.

The Metropolitan Police Department currently has 3,588 sworn personnel and 693 full-time civilians. Of the 3,588 sworn personnel, 3,201 (89.2 percent) are assigned to the department's patrol function and to direct support such as criminal investigations, special tactical operations, and emergency response. I will be increasing the number of civilian employees to 822 to replace sworn members currently doing administrative work and reassigning them to the department's Patrol Service Areas.

From June 1997 through May 1998, nine classes of over 200 recruit officers have graduated from the Metropolitan Police Academy. The recruit curriculum consisted of 1,055 hours of training. The recruit officers are required to complete two weeks of on the job training prior to graduation. All recruit officers are employed as conditional probationary officers until completion of their 18th month of service. Each officer is required to go before a Probationary Review Board to review their field performance prior to this 18th month anniversary. The curriculum content and length are consistent with those of other metropolitan police agencies throughout the

country. The course length is equal to that of New York City, Dallas and Houston Texas. The course is longer than the recruit course in Chicago and Detroit.

Two significant modifications were made to the curriculum in the past year. First, the new operating model was incorporated into the course in August 1997. This included information on the new Patrol Service Areas, problem- solving techniques, community policing principals, and effective communications. Secondly, training on the new Mobile Data Terminal and NCIC certification was added to the curriculum in February 1998. This assures that every new officer is prepared to use the new mobile computers upon their assignment to the patrol districts.

The Metropolitan Police Department is the only major municipal police agency with a resident phase of instruction. During this four-week phase of the curriculum, recruit officers stay on-site, in residence Monday through Friday. The resident phase allows the class to quickly develop esprit, establish good study habits, and develop teamwork principals that will be used throughout their police employment.

In-service training during the previous 12 months has included over 300 classes that have been attended by over 5,000 individuals. The highest course attendance was training in support of the new operating model. Over sixty 2-day Patrol Service Area Orientation classes were presented to over 2,900 officers. This training included problem solving, community policing principles, PSA organization and functions, ethics, and communications skills. Additionally, each of the 83 PSA Sergeants received 16 additional hours designed to prepare these first-line supervisors to meet the challenges of this new operating model.

A one-day training course on the new Mobile Data Terminals and NCIC certification has been offered three days a week since February. Members attending this course are certified to use the new mobile computers and are certified to conduct NCIC checks from their patrol cars.

The most exciting addition to the in-service training program within the past year has been the addition of the Self-Directed Development Program. This program is a computer based training system that was purchased through a Bureau of Justice Assistance grant. The system consists of a training development computer system and 24 training workstations. The development system allows the Training Division to develop computer based training programs that are then printed onto a compact disk and distributed to the 24 training workstations that are deployed to 13 separate locations (14 in the police districts and the remaining in six different divisions). This system allows officers to take training courses at the workstations 24 hours a day, seven days a week. This training can take place as the officer's schedule allows which minimizes their time away from patrol duties. Potentially, each officer could have the opportunity to complete over 50 hours of instruction using this system annually. The Metropolitan Police Department is the first agency in the country to deploy this type of computer assisted training system for in-service training. This program is designed to supplement other training programs and eventually will provide training which will be a prerequisite for attending traditional classroom courses.

As of June 3, 1998, all members authorized to carry a weapon have completed the first phase of their 1998 pistol requalification in accordance with department policy. Procedures are being implemented which will assure that all members remain current with their weapons re-qualification. Current department policy is that all members below the rank of Captain re-qualify twice each year. Captains and above are required to re-qualify once each year. I am changing this requirement so that all members, irrespective of rank, will qualify twice each calendar year.

A goal that is critical to the department's future is a meaningful tuition reimbursement program that will encourage incumbent sworn employees to obtain an associate or bachelor's degree. The department should reimburse employees up to the amount charged for state residents who attend an accredited college or university, in

an amount not to exceed $1,200 per semester. Members would be reimbursed for two courses of study per semester (six credit hours), contingent on a minimum grade point average of 3.0 and a Satisfactory rating or better on their current performance evaluation.

I am also addressing the issue of secondary, part-time employment. I will be submitting to the Mayor for forwarding to the City Council draft legislation that eliminates secondary employment in establishments that derive their primary source of income from the sale of alcoholic beverages to the public. I am also proposing that sworn personnel be prohibited from secondary employment in sexually-oriented businesses. The Fraternal Order of Police MPD Labor Committee has agreed to secondary employment restrictions and I believe that any FOP Labor Committee objections to my legislative proposal will be minimal if the secondary employment issue is approached in a reasonable and fair manner.

Performance evaluations are completed on all civilian employees and sworn employees at the ranks of officer through lieutenant. The systems for both categories of employees focus on job behaviors that are common to all positions. The behaviors applicable to sworn employees at the officer rank are: job knowledge, problem-solving skills, professionalism, interpersonal relations skills, written and oral communication skills, work habits, general policing/investigations skills. The behaviors for sergeants and lieutenants reflect specific behaviors relating to their supervisory and management responsibilities.

The annual rating period for sworn employees is October 1 through September 30 of each year; for civilian employees the period is April 1 through March 31 of each year. A system for rating sworn employees the rank of captain and above is currently under development.

Beginning on April 1, 1999, the department will use ratings for sworn employees when making personnel decisions such as selection for specialized assignments and promotion; making compensation decisions; and conducting personnel research to validate selection, promotion, and training programs.

A working group is developing physical fitness standards for incumbent sworn employees for implementation on a voluntary basis on October 1, 1998. The physical fitness standards will become mandatory on January 1, 1999. As provided in the collective bargaining agreement, the department and the Fraternal Order of Police Metropolitan Police Labor Committee must complete negotiations within 90 days, once the standards are developed, linking the physical fitness standards to pay increases.

CRIME STRATEGIES

The District of Columbia has experienced a 21 percent reduction in total Part I offenses since January 1st of this year when compared to the same time period last year. These reductions reflect the continued good efforts of the men and women of the department and the invaluable contribution that citizens are making to making our city safe once more. In particular, homicides have been reduced by 23 percent, robberies by 31 percent, assaults by 22 percent, burglaries by 25 percent, larcenies by 18 percent, and auto thefts by 16 percent. While we, the members of the department, are pleased with these reductions we also believe that they are not enough. As discussed elsewhere in this statement, I am undertaking several initiatives that I believe will contribute to a further reduction in crime

I have also begun to make police officers more visible on the streets. As the Subcommittee is aware, the department converted to a new Patrol Service Area operating structure in July of 1997. Our initial review of this new operating model indicates that the PSA are a viable means for reducing crime, for enhancing

community-police interaction and cooperation, and for engaging in a problem-solving approach to solving community problems. Since July of last year, crime has decreased in 77 of our 83 PSAs, remained constant in four, and increased in only two. We will continue to asses the PSA structure to ensure that it is meeting the needs of the community and is an effective and efficient method for providing police services.

As you may have seen reported on the television, I have instituted periodic street roll calls in each of the seven patrol districts. They are intended to serve several purposes: to bring down barriers between citizens and the police; to demonstrate the department's role as an integral member of the community; and to send a message of increased police visibility to the criminal element. Our officers and the citizens we serve need to know that the Metropolitan Police Department is an interested and caring stakeholder in each neighborhood in our city.

We also need to establish a public safety model that incorporates the community and the entire criminal justice system. We can begin by building on the good approaches that have already been developed and tested, such as our PSA's, the Community Justice Project in the Seventh District, and the Community Prosecution Project in the Fifth District.

The Metropolitan Police Department in collaboration with the court services and offender supervision agency for the District of Columbia is launching a Community Justice Program pilot project in PSA 704 in the Seventh district . The partnership will join the department, pretrial services, adult probation, and the D.C. Board of Parole with other city agencies, service providers, and residents of the community in a community based support and supervision model. The pilot project seeks to: increase the accountability of pretrial defendants, probationers, and paroles; make pretrial, probation, and parole supervision more relevant and accountable to the community; improve public safety; and prevent recidivism. In pursuit of the long-term goals, this

project aspires to develop new services and activities necessary to improve supervision; to increase clients' accountability; and to take advantage of the support networks in the community that probationers and parolees will rely upon as they work to comply with their conditions of release. The program will also build networks of support where community support for clients is lacking and establish lines of communication among participating agencies.

For years, law enforcement experts have recognized the benefits of community policing in reducing the incidence of crime and improving the quality of life for residents. Two core components of community policing are community partnership and problem solving. The United States Attorney for the District of Columbia recognized the importance of forming a partnership with the police and the community in order to better address the needs of that community and solve problems in a more coordinated fashion. In June 1996 the United States Attorney began a Community Prosecution Project pilot program in the Fifth District. The goals of the project are to create new and lasting partnerships with the community in order to better address the concerns of those who live, work, and visit the District; to improve the police prosecutor relationship and the relationship with other public and private agencies with which the USAO works. It is also expected that there will be an improvement in the overall quality of life for the city's residents and guests in the targeted neighborhoods.

Two Assistant U.S. Attorneys have been designated as Community Prosecutors and staff a satellite USAO office located at the Fifth District Police Station. They assist officers with legal matters, serve as community liaisons, attend community meetings and act as a clearinghouse for citizen complaints, regardless of the nature of the problem. In fact, the work of these Assistant U.S. Attorneys was very instrumental in the revitalization of the District's Public Nuisance Task Force. Since its inception, the CP Project pilot has begun to form the partnerships needed for success: the working relationship between the PSA attorneys and the officers and detectives is tremendous and the investigative assistance that each brings to the other has been invaluable.

ORGANIZATIONAL DEVELOPMENT

I intend to recruit nationally to fill key leadership positions where the department lacks indigenous talent. To successfully transform this agency, I need to build a team of management professionals who are loyal and trustworthy, who possess superior management skills, who share my vision for the future and who can motivate others to work toward that vision. Some of our future leaders will come from outside the department. I have already begun to build my new leadership team with professionals who have extensive backgrounds in criminal justice, including the newly appointed Executive Assistant Chief of Police for Operations, Terrance W. Gainer.

I am convinced that improving the quality of police service in the District will depend upon creating an efficient and well-managed department. To better ascertain organizational needs, I intend to contract with an independent firm, experienced in auditing law enforcement agencies, to conduct a thorough, objective audit of all Department operations.

INFORMATION TECHNOLOGY

The Metropolitan Police Department has embarked on an ambitious Information Technology Program to bring the department from the past into the future. Over the years, the department has not focused the needed level of attention on IT issues. The four year Information Technology Plan is designed to correct the mistakes of the past and bring the Metropolitan Police Department back onto the leading edge of technology. The FY 99 capital budget includes $17.9 million in funding for on-going information technology investment - investment that will permit substantial completion of the Department's information technology initiative which will increase officer efficiency.

The Information Technology Plan includes transition management and support. The change in emphasis from "custom" programs to "off the shelf" programs provides increased flexibility and increases competition for expensive IT contract services. maintenance contracts and training for IT staff members have also been included in the plan.

The Records Management System (RMS) is the hub of all IT improvements and provides the systems integration that is essential to a comprehensive and efficient IT program. With the RMS as the hub and various components of the IT system as spokes in the wheel, users and managers will be empowered to make informed decisions based on sound and up to date information.

The RMS will replace the department's obsolescent mainframe computer and dramatically improve flow and functionality of information. It will serve as the central connection point for every agency within the District of Columbia government, and over 30 external federal agencies for access to the FBI's National Crime Information Center (NCIC) extensive data base. The RMS also provides a platform for future connectivity and data access by surrounding jurisdictions.

The Automated Fingerprint Identification System (AFIS) allows the Metropolitan Police Department to quickly identify arrested persons from both known (inked) and latent (unknown prints recovered on crime scenes) fingerprints. This is an important investigative tool that has resulted in the timely identification of more perpetrators that could be accomplished utilizing the older, traditional technique of comparing latent to inked fingerprint cards. AFIS automates this process and saves significant time and resources. It should be noted that the department's AFIS was upgraded with state-of-the-art hard- and software in late 1997 through funding provided by the $15 million Congressional grant.

Distributed Identification (DID) allows for arrested persons to be processed at all booking elements; not just the Central Cell Block. Arrested persons are fingerprinted, photographed, and processed in a more efficient and timely manner. DID permits remote access of AFIS making the booking process more efficient. Arrested persons do not have to be transported to the Central Cell Block for identification, a considerable savings in officers man-hours. The department began installing LiveScan, a state-of-the-art remote identification system which is linked to the department's AFIS. Installation is expected to be completed by the end of August 1998. This system was also funded through the special Congressional grant, and will be able to link with other criminal justice agencies in the District of Columbia.

The department has already started training to prepare end users for the new RMS and its components. Patrol officers and supervisors assigned to the 83 PSA's have been trained in the use of the newly installed Mobil Digital Computers (MDC's,) which are currently capable of providing access to WALES and NCIC files. These line officers and supervisors have also been re-certified as NCIC users and are in compliance with the training requirements mandated by the Federal Bureau of Investigation for all NCIC users.

The MDT's purchased by the department are state-of-the art with a *Windows 95* operating system, *Pentium* processor, and color touch-screen. These rugged portable computers have been well received by officers in the PSA's. Officers in the PSA's can make their own WALES and NCIC inquiries, reducing air time on crowded radio frequencies.

The Metropolitan Police Department is preparing to move to a new joint communications center that will consolidate police, fire, and EMS communications operations in a single location at 320 Mc Millan Drive NW. Completion of this modern facility is scheduled for 2000. This will allow for more efficient use of resources and

improved operations. Purchase of new communications consoles, a new Computer Assisted Dispatch System (CAD), and migration to the 800 MHz spectrum are designed to ensure efficient communications operations for future years.

Presently, there are no 800 MHz frequencies in the metropolitan area for use by the department. To address this problem, we have determined that the most cost effective and prudent solution is to update the current 460 UHF spectrum to a digital system. The department has already purchased (5) digital base stations and 1029 portable radios capable of migrating to the 800 MHz spectrum when the requisite number of frequencies becomes available.

INFRASTRUCTURE

The condition of our physical plant is of tremendous concern to me. In just my initial visits, I have found many of our district stations, as well as our training academy, our firearms range and other facilities, to be antiquated, inadequate, and in some cases, unsafe. To be effective in fighting crime and working with the community, our members need decent and safe facilities in which to work.

A significant key to our future success is modern facilities that create a hospitable environment for visitors; safe and efficient working conditions for our employees; and the proper environment and systems for sophisticated technology systems. The recent failure of the main electrical systems at Police Headquarters underscores how critical the facilities infrastructure is to the operation of technology systems. The substandard, and oftentimes unsanitary and unsafe, working conditions in all of the department's facilities, caused by years of neglect and the underfunding of building operations, makes it extremely difficult to maintain and project the professional image that we demand of our officers and which our public expects.

The department is preparing, with the much appreciated assistance of the District's Chief Procurement Officer, Mr. Richard Fite, the necessary proposal to conduct a survey of its physical plant in order to identify deficiencies, prioritize repairs, and determine costs. It is my hope that the Congress will support our efforts by providing support beyond that included in the current Capital Improvement Plan.

PURCHASING

The Metropolitan Police Department has made substantial progress in many procurement areas during this fiscal year:

- Purchased, installed and placed on-line upgraded Automated Fingerprint Identification System;
- Purchased 177 Mobile Digital Computers (120 of which are currently installed);
- Issued systems integration task orders under General Services Administration contracting authority to GTE, Inc., and Booz•Allen & Hamilton, Inc.;
- Purchased and installed new radio system consoles in the Communications Division;
- Contracted new vouchering program for uniform clothing and discontinued maintaining in-house uniform inventory;
- Contracted architectural and engineering services for Holding Facilities Renovation project;
- Purchased and installed Reverse-911 community notification system;
- Contracted GSA services for air conditioning repairs for patrol district stations and other department facilities;
- Purchased and installed *LiveScan* distributed identification system;
- Purchased cameras, film, tape recorders, and digital cellular telephones to support Homicide Division investigators; and
- Purchased 2,015 Level III soft body armor vests for patrol officers.

One way that the department is taking more proactive measures to manage the overtime budget is through the development of the "officer-less" papering project. This project is intended to eliminate the need for arresting officers to appear in court, in person, to place charges against a person they have arrested. The first step in the project was the development and implementation of a department-wide retraining effort to improve the quality of arrest report narratives written by arresting officers. If the officer includes all of the information required by the prosecutor to make the appropriate decision on which charges to place, the arresting officer is no longer needed to explain the circumstances or provide additional facts that were omitted at the time the report was prepared. The training component is nearing completion. The actual test phase of the project is schedule to begin on July 1, 1998. It is expected that the project will ultimately results in a reduction in the number of court appearances, leading in turn to a reduction in overtime costs.

The Metropolitan Police Department has outstanding working relationships with the regional federal law enforcement agencies, including the U.S. Capitol Police, the U.S. Park Police, the Federal Bureau of Investigation Washington Metropolitan Field Office, and the field offices of the Drug Enforcement Administration, the Bureau of Alcohol, Tobacco and firearms, and the Immigration and Naturalization Services, the United Stats Marshal for the District of Columbia and the United States Secret Service. We also share in cooperative enforcement efforts with the Montgomery County, Prince George's County and Takoma Park Police Departments and the Washington-Baltimore High Intensity Drug Trafficking Area.

I look forward to the support of the Subcommittee and the Congress to make the Nation's Capital the safest city in the United States. Thank you, Mr. Chairman, for the opportunity to offer this testimony. I am prepared to respond to the Subcommittee's questions.

★★★★

Chief RAMSEY. I would just like to hit a couple of highlights there.

BUDGET INCREASES

You are correct, the total budget is $300 million—$277 million of that is appropriated funds; another $23 million is grant funding. That represents an 8 percent increase over fiscal year 1998. That is due to salary increases both sworn and civilian members negotiated with the various unions, increased costs for contracts and things of that nature that are passed along from year-to-year—more or less a cost-of-living type of situation—and so have increased civilianization.

3,600 SWORN OFFICERS—NO INCREASE REQUESTED

I have chosen to hold the line on the budget basically during this fiscal year. We are holding the line at 3,600 sworn members. That actually represents a reduction of 100 in terms of numbers, but in actual strength that we have had over the past couple of years, it is basically holding even at 3,600 police officers.

INCREASE OF 100 CIVILIANS

We are asking to increase by 100 civilians—from 722 to 822—so that we can put more officers into the field. That gives us a total force of 4,422 members in the Metropolitan Police Department.

CHIEF NOT ASKING FOR MORE RESOURCES—ASSESSING CURRENT USE

Now the reason I have chosen to hold the line, rather than ask for more, is simply because I am not really certain how we are using the resources that we currently have. I am new in the Department. I have been here for 2 months now, but the Department does suffer from some problems. In many ways, mismanagement that has occurred over the years in many areas. We need to know exactly where we are before we can begin asking for more resources. Once we are clear—certain that we have a sufficient number of police officers to provide protection to the citizens of Washington, D.C. and we have the technology we need—all those different aspects of equipment that are needed to efficiently run a police department—then I will have a better sense for what I need in the budget. Future budgets will reflect actual needs.

But the first thing I want to do is take a serious look at the Department and eliminate any waste that we might have, and make sure that our resources are being used effectively. I am not confident that is occurring now, that is why I am not asking for more. Some of the things, just very quickly, that I would like to do or I have already begun doing—just to inform you, even though I have only been in position for 2 months, I have already begun some new initiatives. I am still in the process, however, of assessing the needs of the organization.

RECRUITMENT—SERIOUS CONCERNS

Recruitment, that is an area of very serious concern for me. Right now, we are barely keeping up with attrition. We lose approximately 20 to 25 officers per month. That is a net loss of about

four when we figure in our hiring that occurs monthly. So we are having difficulty maintaining our current level of sworn members. Despite that, however, we are being very aggressive in going out and trying to recruit new members.

COLLEGE REQUIREMENT FOR NEW RECRUITS

Effective January 1999, I am raising the education requirements for entry into the Metropolitan Police Department to 2 years of college or 60 semester hours. By year 2002, I would like to raise that once again to a 4-year college degree. Again, I think that it is time that we raised the bar, bringing in a higher quality individual into our ranks; work with those that we currently have and also encourage them to go back to school. That point will also include, by the way, different for promotion, a certain kind of grade, as well as an educational requirement that is going to be necessary to advance within the Metropolitan Police Department.

Our job is becoming more and more complex. With the sophisticated technology and so forth, we need to look at different types of individuals to come into policing. I think we can accomplish that and maintain our diversity at the same time.

NEED TO PUT POLICE OFFICERS BACK ON STREET

Another issue that is of great concern to me is the visibility of police officers. In Washington, we have the highest per capita ratio of police and citizens anywhere in the country. Yet people constantly complain that they do not see the police. Well we need to do a better job of allocating our resources. Too many of our officers are still in positions that are not street duty, they are administrative positions and so forth. We have got to hire more civilians. We have got to put police officers back in the field where they belong because that is what they were hired to do—not be secretaries—but be police officers out there in the field. So we are looking very, very carefully at our allocation of resources.

STREET ROLL CALLS

You may have just recently become aware of a new initiative called street roll call. Taking police officers out of stations during that period of time; putting them out in the community, and letting people see them. Also targeting hot spots—areas where we had a lot of criminal activity whether it is gangs, drugs, or whatever it might be—putting our officers in the roughest areas that we have in the city. We are taking the city back block-by-block, if we need to. But police officers are going to be doing that all summer long.

BICYCLE PATROLS

We also have increased the number of bikes that are out there. Again, this gives us another way of getting out to the community, being somewhat mobile.

$15 MILLION FEDERAL GRANT—DIFFICULTY IN SPENDING

I know you are concerned about the $15 million that we got a couple of years ago and there were a lot of concerns about our not having spent it. That money is all spent or obligated—in fact, I just

spent the last $277,000 to purchase additional bicycles. So we are going to get a total of 187 bicycles in July with all the equipment that we need, and uniforms to go along with it. So we will be able to put additional bicycle patrols on the streets, in addition to the vehicular patrols that we have out there now.

LACK OF ACCOUNTABILITY FOR GETTING THINGS DONE

There are some concerns that I have still in the Department that we are working on. One of the things that I have noticed since I have come here, is an overall lack of accountability in many areas. Things such as not getting firearms qualifications done on time; not having equipment in districts that people need—from xerox paper to toilet paper—it is alleged that we do not have those kinds of things available. It is been documented in the press. Those are just breakdowns of systems within the organization and there is absolutely no excuse for that. People need to be held accountable for seeing to it that these kinds of things are taken care of. We are taking a look at that and we are correcting those kinds of situations.

TECHNOLOGY—ADEQUATE TRAINING REQUIRED

We are taking a look at technology. I recognize that technology is not indicated or a solution to every problem that we have. However, it is necessary because it does reduce the number of man hours we use to take care of many of those kinds of tasks. We need to apply technology wisely. But with that we have to be prepared to provide adequate training to our members so they know how to properly use that technology.

EDUCATION AND TRAINING NEGLECTED

That raises another issue around education and training of the Department that has been neglected for a long period of time and we are going to move very aggressively to enhance that, as well. Going back to that recruitment effort of bringing in people with some college background, we will be bringing people into our ranks that are familiar with information systems and technology, and not afraid of computers. That is going to be an asset to us in the future.

POLICE PERFORMANCE AND PHYSICAL STANDARDS

Developing performance standards is another area that we are taking a look at within our new contract with the Fraternal Order of Police—both performance and physical standards. We are working with this now to hammer out exactly what those standards are going to be. But we need to hold people to certain standards and have certain expectations for them. In terms of their performance, right now we are in a situation where the Department lacks any real performance standards. We just simply have to give people something so they know what they are supposed to be doing, and then we can start holding them accountable.

OUTSIDE EMPLOYMENT BY POLICE OFFICERS

The issue of secondary employment—I have already taken that on right now. We have police officers working in bars. We have police officers that are allowed to work, in my opinion, in locations that are really inappropriate. Working with the D.C. Council to have legislation put in place that will be stricter for people to work in establishments whose primary source of income is the sale of liquor, or anything with a sexual orientation. There are just certain jobs I do not think it is proper for police officers to be working in—let alone in uniform. Right now, our D.C. Code allows them to do both, and that means change. So we will have a more restrictive policy in place so that our police officers are not involved in those kinds of things.

TOO MANY OFFICERS ON ADMINISTRATIVE LEAVE

Then finally, the issue that was also in the paper around administrative leave, not having people available for duty--well we have not established administrative leave with pay. Those people on administrative leave with pay—with very few exceptions—need to be put back to work somehow. If it is in the 911 center, which was in the paper just yesterday, answering calls; if it is in the records section—I do not care where it is, but if they are drawing a paycheck, they ought to be doing something to get that paycheck. If the conduct is such where we need to separate them, then we need to be aggressive in moving toward separating them from the Department and not having them in that status for too long a period of time.

POLICE FACILITIES NEGLECTED FOR YEARS

There are numerous other areas and issues. I have brought along with me something that I will leave with you, sir, around the facilities that we have that are in terrible shape. They have been neglected for years. We have raw sewage leaking from pipes in the women's locker rooms in 4D—it is simply appalling. I brought this because at some future point and time I would like to come back and try to work with you to come up with creative solutions to try and solve some of those problems over the long term. I know you cannot do it overnight, but if we work together maybe we can come up with something creative to try to really improve conditions there. That is basically all I would like to say in opening. I will answer any questions you might have.

Mr. TAYLOR. Thank you.

FIRE DEPARTMENT

OPENING STATEMENT OF FIRE CHIEF DONALD EDWARDS

Mr. TAYLOR. Chief Edwards, please proceed.

Chief EDWARDS. Good afternoon, Mr. Taylor. Once again echoing Chief Ramsey's sentiments, it is my pleasure to be here to hopefully answer any questions that you may have about the D.C. Fire Department's proposed budget for fiscal year 1999.

BUDGET FOR FIRE DEPARTMENT

The recommended local budget for the Fire Department for fiscal year 1999 is $101,577,000 and that includes a total of 1,754 full-time positions. This represents an increase of about $360,000 and one additional full-time position over the fiscal year 1998 budget. The bulk of that increase is for pay raises that were granted as a result of the passing of the 1998 Appropriations Act that was requested contingent of funding of those pay raises into the next fiscal year.

Our proposed fiscal year 1999 capital budget includes $2,106,000 for financing capital-related items for these programs. That represents a slight increase over our previous years for budget requests. In an effort to achieve the goals of this agency, which is to have a positive impact on the quality of life for everybody in this community, I think I have established major goals that I would like to achieve with the passing of this budget. That would be the improving of customer service—which is that we are a customer service agency.

We provide a direct service to the citizens and businesses and those who choose to do business in the city. This can be done by providing a timely and efficient fire and emergency medical service department. I am seeking optimal response time and all requests for emergency services. This will be achieved through increased use of technology, as well as increase and reinforce employee accountability.

COMMUNITY OUTREACH PROGRAM

The Department has taken a more proactive role since my appointment as Chief in our interaction with the community. One of the programs that I have instituted, that I feel is extremely successful, is the community outreach or open-house policy that I have established in various fire facilities throughout the area. This program entails our fire stations being open to the community on a monthly basis and we provide such services as CPR instruction, smoke detector information, and give away childhood immunizations. Basically what I want these fire stations to become is a service center for the communities that they serve. Traditionally, the fire service has been a basically closed society. The only time that people would see us was when the doors arose and we came out responding to a call for an emergency.

However, I feel that if we take a more proactive role in providing some of the other services that I know we can provide, it will lessen the demand for our reactive responses. It will also lessen the de-

mands for some other services—from police services such as Chief Ramsey provides, public health service, and those entities. We have entered into a cooperative agreement with several of the city agencies to help me facilitate this particular program. It was instituted at the beginning of the fiscal year and it is a very successful program—very well received by the community.

INCREASE IN BUILDING INSPECTIONS

I also intend and we have increased the number of building inspections by changing our building inspection hours at our fire inspections bureau. This provides increased and added service to people who need those services on a more approachable—or I would say acceptable type timeframe.

SPECIAL OPERATIONS DIVISION—TERRORIST INCIDENTS

My next goal, in an effort to ensure that we provide the services that we are required to do, is to increase our efficiency in all phases of our operation. We can no longer defer the pursuit of improvement in our specialized areas of population. For instance, this is the Capital of the free world. As we all know, the political climate that exists throughout the world, this city is a target for various extremist groups. Fortunately, it has not occurred. As a first response agency, I feel it is mandatory that my agency prepare itself to respond to any unfortunate incidents of this type. In doing so, I have created a special operations division that is focusing on responding to terrorist incidents with the cooperation of several other city agencies to include the Metropolitan Police Department and the Office of Emergency Preparedness.

Any entity within the city that would respond to such an incident must be involved. I think my agency being the initial agency to respond must be the leader in providing the needed service in the event of something of that nature. My workforce must be equipped with the necessary tools to carry out their duties. This budget hopefully will get us to that point. I am increasing training for everyone—special Operations, my fire inspectors.

ARSON CASES—CLOSURE RATE

I am utilizing the resources available with the National Fire Academy, the Alcohol, Tobacco, and Firearms Division of the Treasury Department. Heretofore, this city has had a horrendous closure rate for arson cases. I have sought and received police power for our arson investigations. This was achieved through full cooperation with the Metropolitan Police Department, the U.S. Attorney's Office, as well as the Alcohol, Tobacco, and Firearms Division of the Treasury Department. All of those individuals who were selected for that program are long-time employees. They have completed or are very close to completing the police department's full training program so that when they complete the program, they will have undergone the exact training that all police officers in the city will have undergone to become sworn police officers.

I do believe this will result in a seamless process as far as dealing with our arson investigation. We definitely need to improve our

closure rate and I believe that this is the way to go with this particular program.

INFORMATIONAL SYSTEMS TECHNOLOGY PLAN

Technology, as we enter the new millennium, and everyone realizes it is going to be a very integral part of the operation of all city agencies. We have developed an informational systems technology plan that hopefully will help us go into the new millennium utilizing all available technical resources to improve our delivery of services. This budget plays a very important role in that endeavor.

RESPONSIBLE MANAGEMENT

Lastly, meeting our established budget target. Although enormous strides have been made in improving the physical stability of the city, the Department must and will continue to contribute to the financial recovery of the city. Sound and responsible management on my part, or whomever is the chosen leader of this agency, is mandatory for the success of that.

CAPITAL BUDGET

Our capital funding devoted mainly to apparatus replacement and increasing or enhancing, improving, renovating, replacing of some of our dilapidated facilities. I, too, suffer from the same problem that Chief Ramsey mentioned about our facilities. I have fire stations that need roofs replaced, plumbing replaced, electrical work replaced—all of these problems have been ID'ed. I have in place a work plan to do that, provided that this particular budget is approved by this panel, by the Senate, and the House as part of the new fiscal year 1999 budget.

I feel together with the increased accountability that I am demanding of my people, proper funding to maintain the programs that I have ID'ed, and any additional programs that may be ID'ed in the future. I believe we can meet the needs of the citizens of this city. I am prepared to answer any questions that you may have specific to our budget.

PREPARED STATEMENT OF FIRE CHIEF DONALD EDWARDS

[Fire Chief Edwards' prepared statement follows:]

DONALD EDWARDS

FIRE CHIEF

DC FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT

BEFORE THE

HOUSE COMMITTEE ON APPROPRIATIONS

SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA

BUDGET HEARING
ON THE
FY 1999 OPERATING BUDGET AND FINANCIAL PLAN

THURSDAY, JUNE 18, 1998
2:00 PM

DISTRICT OF COLUMBIA
FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT

GOOD AFTERNOON CONGRESSMAN TAYLOR AND MEMBERS OF THE SUBCOMMITTEE. I AM DONALD EDWARDS, FIRE CHIEF OF THE DISTRICT OF COLUMBIA. IT IS A PLEASURE TO APPEAR BEFORE THIS PANEL TO DISCUSS THE FISCAL YEAR 1999 BUDGET REQUEST FOR THE DISTRICT OF COLUMBIA FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT. ACCOMPANYING ME THIS AFTERNOON ARE MEMBERS OF THE AGENCY'S SENIOR STAFF. THEY ARE: DR. WAYNE MOORE, DIRECTOR, EMERGENCY MEDICAL SERVICE BUREAU; FLOYD MADISON, ASSISTANT FIRE CHIEF OF OPERATIONS DEPUTY FIRE CHIEF DAVID A. RYAN, ACTING ASSISTANT FIRE CHIEF OF SERVICES; MR. MORRIS THORPE, CHIEF FINANCIAL OFFICER; AND MS. DEIRDRE JORDAN, ADMINISTRATOR.

THE MISSION OF THE DISTRICT OF COLUMBIA FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT IS TO IMPROVE THE QUALITY OF LIFE FOR INDIVIDUALS WHO CHOOSE TO LIVE, WORK, VISIT, AND DO BUSINESS IN THE DISTRICT OF COLUMBIA. THIS MISSION IS ACCOMPLISHED BY PREVENTING FIRES BEFORE THEY OCCUR; EXTINGUISHING THOSE FIRES THAT DO OCCUR WITH A MINIMUM LOSS OF LIFE AND PROPERTY; PROVIDING STATE-OF-THE-ART PRE-HOSPITAL TREATMENT AND TRANSPORTATION OF THE SICK OR INJURED; AND PROVIDING OTHER SPECIALIZED TECHNICAL RESCUE SERVICES.

THE FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT IS COMMITTED TO BECOMING A MODEL FOR PROVIDING THE VERY BEST IN FIRE, RESCUE, AND EMS SERVICES IN THE COUNTRY. CUSTOMER SERVICE AND ACCOUNTABILITY IS THE THEME OF THE DEPARTMENT AS IT INTERACTS WITH THE VARIOUS SEGMENTS OF OUR COMMUNITY. THE DEPARTMENT MUST STRIVE FOR EXCELLENCE IN ALL AREAS OF SERVICE DELIVERY. AS A PUBLIC SAFETY AGENCY, THE HIGHEST QUALITY FIRE PREVENTION, FIRE SUPPRESSION, AND EMERGENCY MEDICAL SERVICES ARE A PRIORITY TO ALL INDIVIDUALS AND INSTITUTIONS ASSOCIATED WITH THIS CITY. THE DEPARTMENT MUST ENSURE THAT WHEN A FIRE OR HEALTH EMERGENCY OCCURS, SERVICES WILL BE PROVIDED IN A TIMELY, EFFICIENT, AND EFFECTIVE MANNER. WE ARE OFTEN CALLED UPON BY OUR CUSTOMERS FOR SERVICE AT TIMES WHEN OUR PROMPT INTERVENTION COULD MEAN THE DIFFERENCE BETWEEN LIFE OR DEATH OR THE LOSS OF LIVELIHOOD AND PRECIOUS POSSESSIONS. WE MUST BE MINDFUL OF THESE SITUATIONS AND RENDER THE MOST EXPEDITIOUS SERVICES AS POSSIBLE. THE DEPARTMENT IS DEVELOPING STANDARDS OF PERFORMANCE TO ENSURE THAT ALL EMPLOYEES ARE ACCOUNTABLE. IN EMERGENCY SITUATIONS, FAILURE IS NOT AN OPTION AND EXCUSES ARE NOT ACCEPTABLE. THE CUSTOMERS OF THE D.C. FIRE AND EMS DEPARTMENT CAN EXPECT NOTHING LESS.

THE DEPARTMENT WILL ACHIEVE ITS MISSION BY MEETING THE FOLLOWING GOALS:

1. Improve Customer Service by providing timely Fire and EMS services. Optimal response times to all emergencies will be achieved through increased employee accountability. The Department will take a more proactive role in the its interaction with the community by providing more fire safety and emergency medical education. Increase the number and types of building inspections which should result in a reduction in the reactive service demands that the Department must currently meet.

2. The Department will increase efficiency in operations. The agency has realized that it can no longer defer the pursuit of improvement in specialized areas of operations Emphasis has been placed on the enhancement of arson investigations, technical rescue, and training programs. The workforce must be equipped with the necessary tools required to carry out their duties. The development and implementation of vehicle and equipment replacement schedules are underway. As we approach the new millennium, technology has become an integral part of the efficiency of this agency. Accordingly, an information technology strategy has been developed to support all phases of our operations. This technology will provide data for quantitative analysis of performance and accountability.

3. Meet established budget targets: Although enormous strides to restore the financial stability of the District of Columbia have been made, the Department must continue to contribute to this financial recovery. Sound and responsible management of the agency's financial resources will continue as we strive to accomplish the operational goals that have been established.

IN AN EFFORT TO ACHIEVE THE GOALS MENTIONED, THE D.C. FIRE & EMS DEPARTMENT FY 1999 PROPOSED BUDGET FROM ALL FUNDING SOURCES IS $101,638,000 AND INCLUDES 1764 FULL TIME POSITIONS. THIS REPRESENTS AN INCREASE OF $2,787,000 OVER THE FY 1998 BUDGET. THE PROPOSED LOCAL BUDGET REQUEST IS $101,557,000 AND 1764 FULL TIME POSITIONS, AN INCREASE OF $3,360,000 OVER THE FY 1998 BUDGET.

THE FY 1999 PROPOSED BUDGET INCLUDES ADDITIONAL FUNDING FOR PAY RAISES. THIS INCLUDES FUNDING FOR THE 9.5 % PAY RAISE FOR UNIFORMED FIREFIGHTERS THAT WAS AUTHORIZED IN THE FY 1998 APPROPRIATIONS ACT. ADDITIONALLY IT INCLUDES $1,000,000 FOR A 9.5% RAISE FOR EMS PERSONNEL AND $478,000 FOR PAY RAISES OF 3.7% TO 6% FOR OTHER NON-UNION WORKERS.

THE FY 1999 PROPOSED BUDGET INCLUDES $2,106,000 TO FINANCE CAPITAL RELATED ITEMS THROUGH A MASTER LEASE PURCHASE PROGRAM. THE D.C. FIRE & EMS DEPARTMENT PLANS TO FINANCE $7,800,000 OF ITS EQUIPMENT NEEDS OVER A FIVE-YEAR PERIOD FOR AN ANNUAL LEASE COST OF $2,106,000.

THE FY 1999 RECOMMENDED CAPITAL BUDGET INCLUDES FUNDING FOR FIRE APPARATUS REPLACEMENT, PERMANENT IMPROVEMENTS TO VARIOUS AGENCY FACILITIES, A COMMUNICATIONS SYSTEM UPGRADE, AND THE CONSTRUCTION OF A NEW TRAINING FACILITY.

CONGRESSIONAL LEGISLATION, MANAGEMENT REFORMS, UNION NEGOTIATED AGREEMENTS, AND THE INCREASING NEED FOR OPERATIONAL AND TECHNOLOGICAL ENHANCEMENTS THROUGHOUT THE DEPARTMENT REQUIRE ADDITIONAL FUNDING. THE APPROVAL OF THIS BUDGET REQUEST AND ANY ADDITIONAL FUNDING REQUESTS WILL INSURE THAT THE D.C. FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT WILL BE ABLE TO PROVIDE THE QUALITY OF

EMERGENCY SERVICE THAT IS SO VITAL TO THE RESIDENTS, VISITORS, AND THE BUSINESS COMMUNITY OF THIS , THE CAPITAL OF THE FREE WORLD. MR. TAYLOR AND MEMBERS OF THE SUB-COMMITTEE, THANK YOU ONCE AGAIN FOR THIS OPPORTUNITY TO APPEAR TODAY, AND NOW HOPEFULLY I CAN ANSWER ANY SPECIFIC QUESTIONS THAT YOU MAY HAVE.

Mr. TAYLOR. Thank you, Chief Edwards.

U.S. PARK POLICE

Chief Langston.

OPENING STATEMENT OF CHIEF ROBERT E. LANGSTON, U.S. PARK POLICE

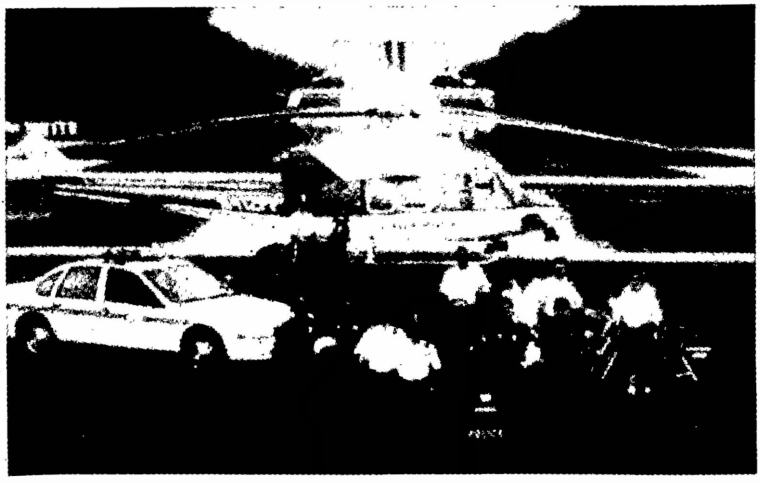
Chief LANGSTON. Good morning—excuse me, good afternoon, Mr. Taylor, Mr. Moran. Good to see you. It is good to be here and I appreciate the opportunity again to appear before you. I appreciate the support last year that this Committee gave to the U.S. Park Police. I will be kind with your time. I have a prepared document that has been presented to you and I would appreciate it if there are any questions, I certainly would be more than pleased to help answer.

PREPARED STATEMENT OF CHIEF ROBERT E. LANGSTON, U.S. PARK POLICE

[Park Police Chief Langston's prepared statement follows:]

UNITED STATES PARK POLICE

Services Provided to the District of Columbia and the Metropolitan Police Department



Prepared for:
The District of Columbia Appropriations Committee

Chief Robert E. Langston
June 1998

Testimony of:
Robert E. Langston
Chief
United States Park Police

Congressman Charles H. Taylor
Chairman of DC Appropriations Subcommittee
Thursday, June 18, 1998

Good afternoon, my name is Robert E. Langston, Chief of the United States Park Police. I am grateful for the opportunity to testify today on behalf of the men and women who comprise this vital organization. I will begin by expressing my sincere appreciation for the funding that this committee has provided to the United States Park Police this past year. These funds have already had a significant impact on our ability to provide services to the citizens of the District of Columbia and the millions of visitors to our Nation's Capital. However, there still remains several unfilled needs that are critical to the efficient operation of our Force. For example, severe personnel shortages, inadequate facilities, antiquated communications equipment, lack of training funds, and a need to replace our police helicopter are some of significant concerns facing the United States Park Police. In order to ensure the continuation of the highly efficient and professional services we provide to the District of Columbia, these issues **must** be addressed.

By way of background, the United States Park Police, established in 1791, has a long history of cooperation with the citizens of the District of Columbia and the Metropolitan Police Department. In 1882, Congress gave the United States Park Police ".... The same powers and duties as the Metropolitan Police of the District of Columbia." Our primary purpose is to patrol National Park Service property, which comprises approximately 22% of the District of Columbia, as well as surrounding environs.

The United States Park Police generates revenue for the District of Columbia through the issuance of violation notices for parking, traffic, and civil infractions. Between 1995 and 1997, the United States Park Police issued approximately 180,733 citations with an estimated revenue of $11,749,160.

Support provided to the District of Columbia by the United States Park Police

ENFORCEMENT

- Uniformed officers handle numerous incidents on city streets while patrolling National Park areas. In 1997, Force officers handled 46,619 cases in the Washington metropolitan area, of which 5,567 cases were on city streets. This is approximately 12% of the total number of cases we handled in the Washington metropolitan area and represents an increase of 771 cases from the previous year.

- Plainclothes officers aggressively pursue criminal activity within parks and adjacent areas. The officers assigned to these units focus attention on "quality of life crimes." Several special initiatives were created in conjunction with the Metropolitan Police Department and the District of Columbia Housing Authority Police to investigate crimes such as drunkenness, soliciting, vagrancy, vending, and indecent exposure.

- Narcotics and Vice Unit officers identify major drug couriers and other criminal activity in parks and work in conjunction with the Metropolitan Police Department and other Federal agencies to investigate sources outside parks and in adjacent neighborhoods. The officers also work interdiction details on selected roadways leading into and out of the city. These details are

invaluable in the detection of large quantities of illegal drugs and weapons being transported into and out of the District of Columbia. In addition, the officers continue to focus on the prostitution problem in the city by working undercover operations in the park areas at Thomas Circle, Logan Circle, and Mount Vernon Square. Their efforts, combined with the work of the Metropolitan Police Department, have significantly impacted this type of crime in these locations.

- Coordinated efforts with the Metropolitan Police Department and citizens in neighborhoods surrounding parks are designed to eradicate open-air drug markets and other criminal activity. Several Force officers were recently assigned collateral duties that involve the investigation of gang and graffiti crime. They work with officers from the Metropolitan Police Department documenting, investigating, and sharing information on gangs and graffiti. We have been instrumental in providing assistance to the Metropolitan Police Department in the investigation of environmental crimes. With the assistance of members of the United States Park Police Criminal Investigations Branch and the National Park Service, the "Illegal Dumping Enforcement Amendment Act of 1998" was recently signed into law. This law greatly enhances the penalties for the dumping of solid, medical, and hazardous waste. Our personnel have investigated numerous resource violation cases on National Park Service property and 72 resource violation cases on city property. Detectives from our Criminal Investigations Branch are assisting the Metropolitan Police Department in developing an Environmental Crime Unit and are providing a 40-hour block of instruction in environmental crime scenes and the use of aerial support in the investigation of environmental crimes.

- The 1998 Crime and Violence Task Force began on March 30, 1998. The Task Force consists of 9 officers who target those areas on city streets adjacent to the parks that have been identified by the Metropolitan Police Department as high crime areas. Forty-one percent of the cases handled thus far by the Task Force occurred in Park areas; 59 percent of the cases were from the designated impact areas within the city. Members of the Task Force have participated in joint operations with other law enforcement agencies including the Metropolitan Police Department, District of Columbia Housing Authority Police, ATF, and the FBI. These operations included the "7th and O St. Operation" which targeted street level drug trafficking by the "Kennedy Dog Pound Crew". During the execution of numerous search warrants in this case, 9 main dealers were arrested, and 3 handguns and approximately 4 pounds of marijuana were seized. Also, the Force has assisted in several homicide investigations and on one occasion, in response to a citizen tip, arrested two fugitives, one of whom was wanted for homicide. The officers have also been requested to intensify street patrols within the Seventh District of the Metropolitan Police Department. These patrols target street gangs and violent criminals in an effort to identify gang members. Because of a lack of funding, we will be forced to disband this operation on September 30.

Task Force Statistics from March 30 to June 16, 1998

❖ Total case numbers	281
❖ Total arrests	140
❖ Value of drugs seized	$24,204
❖ Value of cars seized/recovered	$112,400
❖ Currency seized	$3,477
❖ TVN's issued	257
❖ Guns recovered	3

SUPPORT SERVICES

- The United States Park Police Aviation Unit performs criminal searches (pursuit of individuals, vehicles, and rooftop checks), surveillance, medevacs, search and rescue (especially from the Potomac and Anacostia Rivers). It is the only law enforcement aviation unit in the District of Columbia and supports not only the Metropolitan Police Department, but also the U.S. Secret Service, the U.S. Marshals Service, the U.S. Department of State, and other Federal agencies. (See attached enclosures for statistics.)

- Special events. The United States Park Police and the Metropolitan Police Department share the unique and awesome task of handling numerous demonstrations and special events that occur in our Nation's Capital. Both departments work in conjunction with one another and have formed a successful partnership in controlling the large crowds associated with these demonstrations. Events such as the Million Man March, the Presidential Inauguration and the Marine Corps Marathon are examples of the cooperation and the successful coordination between our departments. In addition we also provide support and assistance (patrol, traffic control, parking enforcement) to the communities adjacent to park properties in connection with park events such as those at the Carter Baron Amphitheater and the Fort Dupont Summer Theater.

- Presidential and dignitary protection. The United States Park Police shares responsibilities with the Metropolitan Police Department and the United States Secret Service in providing protection for the President of the United States, foreign dignitaries and other Heads of State. We provide motorcycle, cruiser, and aviation support for escorts as well as foot patrols at public gatherings. In addition, the Force patrols the perimeter of the White House, as well as the parks adjacent thereto.

- On call police services at the District of Columbia juvenile detention facilities in Maryland are provided pursuant to a Memorandum of Understanding with the District of Columbia. The United States Park Police responds to all criminal complaints and incidents at these facilities. Additionally, the Aviation Unit flies medevac missions from the District of Columbia's Lorton Prison facility in Virginia.

OUTREACH/COMMUNITY/POLICE PROGRAMS

- Drug Abuse and Resistance Education (DARE) - Since 1989, the United States Park Police has taken a leading role in the Washington metropolitan area in the presentation of the DARE program, which is a comprehensive, community-based education program to teach children the dangers of drug use and other issues, such as gang and school violence. Our DARE officers are role models for the children and provide guidance to those in need. Currently, the United States Park Police has a contingent of officers who present the DARE program to various schools within the District of Columbia.

- United States Park Police officers and officials attend meetings with citizens, Advisory Neighborhood Commissions, local government officials, and other police departments in an effort to create a strong community presence, as well as to exchange information. Our Station Commanders address many issues raised at these meetings by implementing strategies to correct community problems. The Force recently opened a satellite station at Ft. Dupont Park in Anacostia, and anticipates a new station at Dupont Circle. This enables officers to be more accessible to the community in and around these areas.

- United States Park Police Explorer Post 1791 provides local children with a unique scouting program in which they participate in law enforcement events such as parades, visitor services, and national Explorer programs. The Explorer program is designed for youth between the ages of 14 and 21 and is centered on two specific high schools within the inner city of Washington, DC (Eastern and Anacostia High Schools). The Force has implemented a new summer youth hiring program that will take effect this month. District youths affiliated with the United States Park Police Explorer Post will be hired by the Force as summer employees and will be exposed to all aspects of law enforcement.

JOINT EFFORTS

- 1994 Anti-Crime and Violence Task Force – In response to a directive from the President of the United States, United States Park Police officers were assigned to the Crime and Violence Task Force. This task force provided police services to an area in the District of Columbia that had one of the highest homicide and violent crime rates in the nation. The task force was comprised of 50 officers and lasted approximately 9 months. The officers handled 4,593 case incidents, made 1,643 arrests, seized 117 firearms and approximately $325,646 worth of illegal drugs, recovered 135 stolen automobiles, arrested 352 wanted persons, and issued 2,549 traffic violations. The crime rate in the area was reduced more than 65 percent as compared to the previous year. For their outstanding accomplishments, this Task Force was presented with the Fifth District Community Empowerment Policing Award from the Metropolitan Police Department and the U.S.

Department of Justice Award for Public Service from the U.S. Attorney for the District of Columbia.

CRITICAL ISSUES FACING THE UNITED STATES PARK POLICE

- **Personnel Shortages (Funding requested $ 4,300,000)**

Despite continued personnel shortages, the United States Park Police is committed to providing service to the citizens of the District of Columbia. The authorized strength of the United States Park Police is 793, of which 569 are assigned to the Washington metropolitan area. Currently, only 450 of these positions are filled. The United States Park Police need to hire 119 officers to overcome the personnel shortage created by resignations, retirements, and budget constraints. These shortages adversely affect the operational readiness of the United States Park Police to address the District of Columbia needs for law enforcement support, community-based programs, and aviation support (to include medical emergencies).

The National Park Service itself, through various legislation, has acquired new lands and created additional monuments and memorials within the National Capital Area. These attractions, such as the new Pennsylvania Avenue National Park and the FDR and Korean War Memorials, have placed more demands on the United States Park Police for personnel to protect these new treasures and their visitors. We also have been forced to reassign officers from the Washington metropolitan area to our New York and San Francisco Field Offices to meet increased law enforcement needs dictated by the acquisition of Fort Wadsworth, the Statue of Liberty and Ellis Island, and the Presidio.

Currently 175 officers are eligible to retire. Without an increase in base funds to support startup and salary costs for new police officers, continued erosion of the operational readiness of the United States Park Police will occur. Our ability to handle critical incidents, such as large demonstrations and terrorist threats that face the residents of this city as well as visitors to our Nation's monuments and parks, will be severely curtailed.

- **Helicopters (Funding requested $13,200,000)**

Currently, the United States Park Police provides the only law enforcement aerial support program within the District of Columbia. We have flown 207 law enforcement missions for the city and provided 30 air/medical evaluations, and a hoist rescue. I am providing to the committee a more detailed report regarding our aviation support to the District of Columbia.

At present, we have two operational helicopters. Our single-engine Bell 206L3 helicopter is outdated and should be replaced because of excessive flight hours. The Office of Aircraft Services, Department of the Interior, recommends that law enforcement aircraft be replaced at the 5,000 flight-hour level. Our Bell 206L3 has attained 7,684 flight hours. We are very concerned about stress cracks that have developed in the airframe of this aircraft, as well as other signs of wear and deterioration.

Our second helicopter is a medium-sized, twin engine Bell 412SP. This helicopter has proven to be reliable, safe, and efficient, and has met all of our medevac, rescue, SWAT, and counter-terrorism needs. However, increased demands on the use of the aircraft in support of the District of Columbia has rapidly accelerated the flight hours on this aircraft. This helicopter 3,290 flight hours and undergoes 8 to 10 weeks of downtime annually for the performance of required scheduled maintenance. Such lengthy down time of the helicopter jeopardizes the safety of residents of the District of Columbia and severely limits our capability to provide aerial support for both our own operations and those of the Metropolitan Police Department.

- **Equipment and Facility Shortfalls**
  (Equipment Funds requested $1,300,000)

Years of budget reductions and cost absorptions within our base funds have, for the most part, depleted our equipment replacement program. This has resulted in less than minimal replacement of our fleet of motorized vehicles, outdated radio equipment (with frequent breakdowns), ADP equipment needs, as well as the severe curtailment of our repair program. In order for the United States Park Police to maintain an adequate fleet of motorized vehicles and other related equipment, a base increase will be required to address our most critical needs and provide future base funding to allow for suitable and timely replacement/repair of required equipment. Lack of adequate equipment has severe adverse effects on officer safety and morale.

CONCLUSION

In conclusion, we are concerned for the safety of the citizens of the District of Columbia and the millions of tourists who visit each year. The United States Park Police continues to play an important role in strengthening law enforcement efforts in the Nation's Capital while operating with limited resources. As you prepare to mark up the fiscal year 1999 District of Columbia Appropriations Bill, we urge you to support the United States Park Police in providing funds for a new helicopter, additional personnel, adequate facilities, and updated communications equipment. These funds are critical to our operational readiness.

United States Park Police Aviation Support To the District of Columbia

7.5 month period
(10/01/97 – 6/15/98)

The United States Park Police Aviation Section, in support of the District of Columbia, has flown the following missions during the last 7.5 month period:

1. Metropolitan Police Department - 205 Law Enforcement Missions

2. District of Columbia Fire Department - 30 Air/Medical Evacuations and 1 Hoist Rescue

3. District of Columbia Housing Authority Police - 2 Law Enforcement Missions.

COSTS

1. Aircraft Costs – Total of 92.2 flight hours at a cost of $43,045
2. Manpower Costs – Total of 475.2 man-hours at a cost $19,008
3. TOTAL COST of $62,053

It is projected that the total expenditure by the end of September 1998 will exceed $150,000 based on the following factors:

- Criminal activity increases dramatically during the spring and summer months
- Air/Medical Evacuations increase during the spring and summer, particular pediatric patients once school is out
- The U.S. Park Police Aviation Section is conducting training sessions for the Metropolitan Police Officers in the proper utilization of Aerial Law Enforcement Assets
- Formal agreements and Memorandums of Understanding are being drafted and implemented between United States Park Police and the Metropolitan Police regarding aircraft usage
- Morale is improving within the rank and file of the Metropolitan Police Department resulting in arrest volumes increasing

The projected cost of $150,000, in MPD support, would represent an increase of approximately 25% in the United States Park Police Aviation operating budget.

Significant events during this time period include:

- Medical Evacuation of an MPD Officer involved in a weapons explosion
- 38 Felony Criminal Apprehensions (directly attributable to the helicopter support)
- Transporting two MPD Detectives to North Carolina to interview and return with a suspect accused in the slaying of one of their officers
- Criminal Search and apprehension of a suspect wanted in the wounding of an MPD Officer in N.E.
- Observation and reporting of a fire in a housing complex on 46th Place S.E.
- Observation and reporting of a fire at Fletchers Boat House in N.W.
- Vehicle chase of an armed car jacking suspect which occurred in the District and resulted in MPD ground units losing it in Prince Georges County, and aircraft successfully directing Prince Georges County Police in for the apprehension
- Numerous responses for sinking and overturned boats assisting D.C. Fire
- Hoist Rescue and Medical Evacuation of a fall victim at Chain Bridge
- 22 Confirmed Felony apprehensions where aircraft was instrumental in making the apprehension
- Hazardous Materials Response in 3rd Street Tunnel where aircraft flew in the Nuclear Response Team from Andrews Air Force Base
- Barricaded Burglary suspect on Colorado Ave., N.W., where aircraft acted as observation and command/control platform resulting in the arrests of two suspects
- MPD Environmental Unit flight that resulted in the discovery of two very large dump sites resulting in several arrests
- Aircraft observed a person jump off of Memorial Bridge and successfully directed MPD Harbor units in for the rescue
- Vehicle chase of a Kidnapping suspect where aircraft followed and directed MPD ground units in to make a successful apprehension @ Rt. 295 and Pennsylvania Ave.

United States Park Police Aviation Support

To the
Metropolitan Police Department
(10/1/97 – 6/15/98)

The following list is compiled according to category of support, number of missions performed within category, flight time, and cost.

CATEGORY	NUMBER OF MISSIONS	FLIGHT TIME	AIRCRAFT COST
Criminal Search	90	40	$18,700
Vehicle Chase	25	6.8	$3,428
Foot Chase	8	3.1	$1,635
Rooftop Check	32	10.0	$4,586
Recovered Stolen Auto/Lojack Hit	1	.7	$269
Aerial Surveillance	2	.8	$602
Aerial Support	12	2.5	$1,404
Other Law Enforcement Searches	13	7.5	$2,981
Lost Person Search	8	2.3	$922
Critical Missing Person Search	5	1.8	$987
Suicidal Persons Search	2	.3	$226
Miscellaneous Search	3	1.3	$795
Warrant Service/SWAT Deployment	4	3.1	$1,193
TOTALS	205	80.2	$36,728

BACKGROUND OF U.S. PARK POLICE

Chief LANGSTON. We, the U.S. Park Police, have been around since 1791 and we are integral part of the protection within the District of Columbia. We have concurrent jurisdictions throughout the entire city of the District—as does the Metropolitan Police in the park areas. It flows back and forth very well—extremely well.

Approximately 12 percent of all the cases that we make within the city are what we would call on city streets or within the city itself. The rest are in the park areas. Just as a point of interest, just the last couple of years, I think we wrote over 180,000 traffic violation notices and parking violation notices. The revenue from those tickets goes to the District of Columbia, not to the Federal government where revenue goes for tickets we write on the George Washington Memorial Parkway or other places. So there is a uniqueness about our interaction within the District of Columbia.

QUALITY-OF-LIFE CRIMES

Obviously, what we have been concentrating on the last couple of years are quality-of-life type of crimes. We have a philosophy, that if you take care of the little things, the big things disappear. It really has proven to be so. Commissioner Bratton up in New York City focused on the quality of life crimes, also. You have seen a dramatic impact in the City of New York. We do that by uniform officers, by our contact with the community or plain-clothes officers.

ALCOHOL-FREE JULY 4TH

An example of what we did last year was at the 4th of July. We made the downtown parks alcohol-free. Prior to that, we were having some serious problems with the Independence Day celebration—with knifings, gang problems, assaults, and drunkenness. Last year we made not one arrest, where normally toward the end of a 4th of July celebration, our officers were really fatigued and they had been dealing with a lot of disorderly conduct.

We will continue that again this year. The only problem we had last year, of course, was disposing of all that alcohol. This year we have worked an agreement with Arlington County, Virginia over the disposal of all that confiscated alcohol. We appreciate the Virginia folks. [Laughter.]

Mr. MORAN. How do you dispose of it? [Laughter.]

Chief LANGSTON. It is destroyed. When it is destroyed it is put in a drain that goes into a proper sewer system to be treated.

DRUG INTERDICTION

We deal with a lot of interdiction within the city of Washington and drug addiction. Just last week as we were getting ready to testify, it was a stop out on the Baltimore-Washington Parkway, where the officers confiscated 225 grams of pure, uncut heroin. The BW Parkway is a supply route into the city. It is a place where even the officers who are not assigned in the city have an impact on what is coming in town and what is going out of the city.

Our coordinated efforts with the District of Columbia has always been good. We have worked with all of you, all together. It is not anything that is new. We will continue to do that.

ENVIRONMENTAL CRIME

This year, we dealt with a lot of environmental crime and those environmental crime issues were dumping of hazardous wastes and medical wastes to things such as that. Not only within the parks, but within the city. As recently as last week, assistance from Metropolitan Police in establishing an environmental crime unit. We have had a training course where not only with the Metropolitan Police but where the city inspectors have trained them on how to deal with environmental crimes. Matter of fact this year, we are instrumental in passing a new bill for the Illegal Dumping Enforcement Amendment Act of 1998 in the District of Columbia. Now it is a felony—it is up to felony—up to 5 years in jail for dumping this type of material within the city. So we concentrate on these things that really impact the city.

PERSONNEL SHORTAGE

We have established—I will speak about personnel a little bit. But because we have been short of personnel basically, the last couple of years we have withdrawn people from the task forces that have always been an important part of the mass transit task force and DEA. Really we need officers just to cover basic beats. We no longer have the luxury of supporting a lot of the normal task forces that we would normally do. But we did provide a small 10-officer task force that would just cover the hot spots within the city's parks and with what we call the impact area surrounding the city's streets. We have worked well with the Metropolitan Police to find out those problem areas that they have that we could help concentrate our personnel on.

DRUG ARRESTS

Just since March 30, which is about 2 and one-half months ago, we have made over 150 arrests in those areas; about 39 cases and have confiscated a lot of illegal drugs and weapons.

HELICOPTER AVIATION UNIT

Our support services to the District of Columbia this past year, obviously we have always supported the Metropolitan Police, with our aviation. But last year, they disbanded the MPD aviation unit, they shut it down. That has shifted some. It has had an impact on us in that we had to pick up 205 missions for the DC Police Department and another 30 from the Fire Department.

It is not that costly. It has run us probably—when we look at it—close to $40,000 just to pick up those missions. That obviously puts additional wear and tear on the helicopters.

CRITICAL NEEDS—PERSONNEL

I would like to say that some of our critical needs. One is personnel. Personnel is probably at an all-time low for the U.S. Park

Police. Nationwide, we are not a large force. We are kind of a lean, mean organization.

OFFICER STRENGTH—PARK POLICE

Nationwide, we are 793 officers. Of that 569 are assigned in the Washington Metropolitan area. That takes into consideration Virginia, Maryland and the District of Columbia. Of those 569, we only have 450 officers. So we are 119 officers currently right now short in our command in the Washington, D.C. area.

That is a significant impact, especially when we are dealing with the major events that we do deal with in the city.

6,000 DEMONSTRATIONS ANNUALLY

I will give you an example of a normal day when the Metropolitan Police and the U.S. Park Police handle many demonstrations. We do it jointly together. It may be a Million Man March, or it may be just an impromptu demonstration that occurs. Start in a park in Dupont Circle, march through the city's streets and end up at the White House, down here at the Capitol. We have probably close to 6,000 demonstrations a year that occur. Then we have special events like Marine Corps marathons and parades—Cherry Blossom parades. All of this we cooperate with fully and support, but in order to get the personnel to do that, you have to be fully staffed it makes it a lot easier. When you have barebones staffing within your stations, it is hard to pull personnel to cover these major events.

PERSONNEL SHORTAGE

The staffing I realize that the personnel staffing is not under the purview of this committee. I would only ask your support if you have any influence on the committee. I would certainly appreciate your consideration in trying to increase that—not increase—but staff us up to where we should be to where our vacancy rate is. That will have a big impact on policing within the city. We feel that our staffing now is at an all-time low that should be brought up to what our authorized level is.

HELICOPTER AVIATION UNIT

We do have some considerations we would like to put before this committee and one is on our helicopter unit. We have two helicopters and we have been flying two helicopters for 25 years. We have had a very efficient aviation unit. We received a public safety award for the efficiency of the unit. However, one of those helicopters now is over 15 years old. It is 3,700 hours beyond the replacement time that it should have been replaced. It is been taken up to Canada on two separate occasions to have stress cracks welded in the airframe and I am not comfortable with officers even though that the people say that these are safe aircrafts, I am not comfortable knowing that there are stress cracks in those things. There is a need to replace one helicopter and there is also a need for a second helicopter. We had asked for some consideration in our presentation in the document that you received.

EQUIPMENT SHORTFALLS

Equipment shortfalls like the Fire Department and Police Department has been underfunded for so many years, we have had to rob or cannibalize our equipment. We are in much better shape this year than we were last year, thanks to this committee. We certainly appreciate it. It continues. Facilities and equipment is still degraded to a certain extent.

In conclusion, I would like to just say that we certainly are concerned for the safety of the citizens in the District of Columbia and the millions of tourists that come here from all over the United States. Certainly we are an integral part of the law enforcement program, the public service program here in the city. We appreciate the opportunity to be here and we appreciate your support. Thank you very much.

Mr. TAYLOR. Thank you, Chief Langsten.

CONTROL BOARD

Mr. TAYLOR. Mr. Harlan.

OPENING STATEMENT OF STEPHEN D. HARLAN, CONTROL BOARD

Mr. HARLAN. Thank you, Mr. Chairman, for letting me be here today. The Chief has covered the budget and I would like to take an opportunity to just kind of step back for a second and talk about where we were, where we are, and where I think we are going.

As you recall from 1985 to 1996, crime was pretty much out of control in Washington, D.C. Homicides had risen 150 percent, robberies were up 50 percent, car thefts were up 500 percent. Seventeen months ago, we formed then what we called the MOU Group which was made up of the Control Board, the Mayor, the Chair as the Council's Judiciary Committee Chair of the D.C. Council, the Corporation Counsel, the U.S. Attorney and the Chief Judge of the Superior Court. Three weeks ago, we expanded that group and renamed it. We included the new Chief Management Officer and the new D.C. Corrections trustee, along with the Court Services and Offenders Supervision trustee, Jay Carver. We renamed the group to the Criminal Justice Coordinating Council which has a better name and expanded its responsibility and focus.

It has become apparent to us that it is not only the Metropolitan Police Department's challenge to reduce crime. We have a lot of other agencies involved. During that period, we think we have made some progress. We have come quite a way, but we have a long way to go yet.

CRIME RATE

In 1997, Part I crimes were down 19 percent and progress is continuing this year. From January through the end of May, Part I crimes are now down 22 percent compared to last year. It is, in fact, the lowest level of crime in our city in the last 20 years, so we have made some progress. Statistics are nice and they are impressive, but they do not tell the whole story. We still have a city that is far too sensitive to the fear of crime and the Coordinating Council is committed to eliminating that fear.

RECRUITMENT OF POLICE CHIEF CHARLES RAMSEY

We have done a lot of different things and initiated a lot of programs in the last 17 months. The most important one was the outreach and selection of Chief Charles Ramsey as police chief in our city. We are delighted that he is here. He has great experience—29 years with Chicago and where he rose through the ranks to become one of the top police leaders. The day after the Mayor of Chicago did not pick him to lead Chicago, we contacted him, flew to Chicago, and pleaded with him to apply for this job. We were successful in doing so. So we are delighted he is here. He is bringing a whole team of experienced leaders with him that will make a huge difference in our police department.

Some of the programs that were underway when the Chief arrived were continued, and you have heard that he is going to make a lot of additional programs.

OPEN-AIR DRUG MARKETS

For instance, we have gotten very good cooperation through the city on trying to close these open-air drugs markets. Not only the Police Department, it is the Department of Public Works, it is the courts, it is the departments of Human Services and Consumer and Regulatory Affairs—everybody working together to board up abandoned houses, and tow away abandoned cars.

CRIMINAL JUSTICE PILOT PROGRAM

Another initiative is the criminal justice pilot program led by Jay Carver in PSA–704, Police Service Area 704, which really engages the resources of the community, pre-trial services, defense services, parole and probation to really go after adult offenders and make certain that we are all working together to improve safety and reduce crimes in those areas.

POLICE PRESENCE ON STREETS AND DEPOLITICIZING DEPARTMENT

The Chief has talked about increasing police presence on the streets. That is truly one of the highest priorities we have had since we formed our group—that and taking the politics out of the police department. As you recall that was probably the first thing we did. But there are several facets to increasing police presence on the streets. One is just having more police officers. That involves, as the Chief has pointed out, recruiting officers which the Chief is committed to improving the quality of officers as far as the educational aspects go and putting in performance and physical standards. But it also means redeploying from civilian ranks, pulling those uniform officers and putting them on the streets. Then we need to see that the officers stay on the street. We have too many officers on administrative leave and other forms of leave. The Chief has taken the lead in doing that.

POLICE HEALTH CLINIC—PRIVATIZED

I am happy to say that within the last year, we have reported that there was a new police clinic that was implemented that has had a major impact because officers no longer can go to the police clinic and be told to go home and take the day off if they are not

feeling well. Now, they have to go through a rigorous physical examination and that is working well. That clinic has been basically privatized with Providence Hospital and Washington Hospital Center taking the lead.

ARRESTS AND BOOKING—REDUCTION IN TIME AND PAPERWORK

We need to improve arrest and booking procedures. It still takes 4 to 5 hours to book a crime where it should be either a paperless crime or an officer-less crime as we call it where the officer is completing the reports and not having to go to the U.S. Attorney's office for each arrest to take time off from the streets. That effort is underway and I am happy to say that through the good efforts of the U.S. Attorney and the Chief Judge of the Superior Court, the police department and everybody working together, we are going to start a pilot program on July 1, 1998 to move that—primarily on misdemeanor kinds of crimes and simple offenses.

U.S. ATTORNEY USE OF POLICE OFFICERS

Another area of improvement is that officers spend a lot of time in court. A control program called the investigative CANs program which is really a program to help coordinate officer time with the courts. One of the areas that has become apparent as our U.S. Attorney is like the State's attorney—here they function as the state attorney. In virtually every other jurisdiction the State's attorney had their own investigative staff—here they do not have the investigative staff. That confuses lines of authority and responsibility. Police officers find themselves having to report to more than one boss and that is not necessarily good.

POLICE OFFICERS—BETTER TRAINING FOR STREET OFFICERS

The other point to get officers on the street is for the officers to do the right thing on the street, not just be there but do the right thing. That requires a lot of training. For years and years—20 years of training has been eliminated, not initial training but continuous training. We have a very high degree of "deferred maintenance" in the training of the police officers in the District.

COMMUNITY POLICING

One of the reasons that Chief Ramsey was so attractive to us in going through the selection process was that he is unquestionably the leader in the country on community policing. Not only the leadership he has provided in Chicago, but working on the fundamental concepts and models through Harvard and other organizations. He is just a true leader. We are committed to community policing to make ordinary problem-solving to get the crime down, not just make arrests.

All of this is coming together very, very well mind you. We have a lot of challenges.

CITIZEN COMPLAINT PROCESS

For instance, the citizen complaint process which is being changed. The City Council is working on it, the police are working on an internal model, but we have got to improve the trust and re-

spect on the part of the citizens to the police officers and the police officers to the citizens. The fairness of the citizens complaint process, the impartiality of it, and for the citizens to believe that if they do have a legitimate complaint that it is going to be treated properly and fast.

HOMICIDES—CLOSURE RATES IMPROVED

To make good progress in the homicide department. A whole new homicide model has begun to be implemented last Fall. Right now homicides are at a 10-year low. The closure rates improved from about 57 percent or less, to about 70 percent. This rate is much better, but it needs to go up. The changes—the implementation of changes in the homicide department are going to continue, which includes a lot of training.

INFRASTRUCTURE ALLOWED TO DETERIORATE

The Chief alluded to infrastructure and other support requirements. Gentlemen, committee members, staff, I would ask you to come with me just to visit those police districts—it is awful where these ladies and gentlemen of the police department have to work. We are talking about raw sewage; we are talking about plumbing that does not work; we are talking about walking into a police station with wastebaskets on top of desks because of water from the roof is leaking in a rainstorm—I mean, it is not a first-class place. It is not even a fourth-class place—it is a 10th-class place. It needs attention. It is going to take serious dollars, and we have got to figure out how to do it.

FIELD COMMUNICATIONS AND TECHNOLOGY

The Chief has talked about field communications and technology. We were not even in the 19th century. We have made progress, but we have got a long way to go. We are beginning to put portable computers in cars; there is a long way to go with training and hardware; and communications. Concerning 911, there is a new emergency dispatch center being opened—I believe it will be opened in the year 2000. Some of it is being addressed, but it is a major battle because it has been deferred for 20 years, and now we need to get it brought up to date.

We are working together because one thing that is very important is to understand that police are the foundation of the criminal justice system. All of these other agencies have to link and it all has to fit together, particularly from an information technology point. The courts are concerned about this, pre-trial services, all the parole, probation, both adult and juvenile, corporation counsel—everybody has to be able to access the database. To understand it, they have to be able to cross-talk and not only through computers but in communications. Right now, they very frequently have to get on the land-line because the radio systems do not talk to each other.

CONCLUSION OF MR. HARLAN'S STATEMENT

So I guess in summary, Mr. Chairman, I believe that since the Coordinating Council, formerly the MOU, got involved 17 months

ago. MPD has made a lot of progress, but we have got a long way to go. Under the leadership of Chief Ramsey and with the cooperation—and let me say the continued cooperation of all the people that are part of the Coordinating Council has been excellent. That is where it is going to be won or lost is that coordination. We are pleased for this appointment and I would be happy to answer questions when you so choose.

PREPARED STATEMENT OF STEPHEN D. HARLAN, CONTROL BOARD

[Mr. Harlan's prepared statement follows:]

DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY



Statement of Stephen D. Harlan

United States House of Representatives
Committee on Appropriations
Subcommittee on the District of Columbia

Fiscal Year 1999 Budget for Public Safety
for the District of Columbia

Andrew F. Brimmer
Chairman

Stephen D. Harlan
Vice Chairman

Constance B. Newman
Member

Alice M. Rivlin
Member

Robert P. Watkins
Member

June 24, 1998

Mr. Chairman and Members of the Subcommittee:

Good afternoon. My name is Stephen D. Harlan. I am the Vice Chairman of the D.C. Financial Responsibility and Management Assistance Authority (Authority). I appreciate the opportunity to testify before the Subcommittee.

I am pleased to be here today to discuss what I believe is an exciting and optimistic time for the Metropolitan Police Department (MPD) and the District of Columbia. Crime is at its lowest level in the past 20 years and we are very pleased to have a new, first rate Chief of Police.

At the outset, I would like to outline MPD's fiscal year 1999 consensus budget. Based on recent discussions with the Chief about his plans for the department including the reforms I will discuss during my testimony today, the consensus budget of $300 million would include approximately a $277 million local budget, and $23 million in federal, other, and intra-district funds. There are approximately $252 million for personal services and $48 million for non-personal services.

The personal services budget would contain $216 million in salaries and fringe benefits, including $19 million for a pay raise for sworn members, compensation units 1 and 2, and civilians. The budget also includes $15 million for overtime – a much more realistic figure than the $9 million budgeted in FY 98.

The personal services budget assumes a sworn member level of 3,600 throughout the fiscal year, and a civilian level of 822. Two million in funding for 100 additional civilian employees should greatly assist MPD in its "civilianization" efforts.

MPD also received $10 million in management reform funds in fiscal year 1998. Chief Ramsey currently is finalizing a spending plan for this allocation.

Chief Ramsey is satisfied with the fiscal year 1999 budget recommendation, and believes that he can continue to move the department forward with the proposed budget without asking for additional resources at this time. This budget recommendation was part of the entire FY 1999 Financial Plan and Budget that was sent to the Congress on May 28, 1998, which was the subject of this morning's hearing.

Mr. Chairman, we are all aware that, in recent years, crime in the District was escalating out of control. From 1985 to 1996 homicides rose more than 150 percent, robberies were up by 50 percent and car thefts increased by nearly 500 percent.

Nearly 17 months ago, in December 1996, the Authority, in conjunction with the Mayor, the Chair and Judiciary Committee Chair of the D.C. Council, the Corporation Counsel, the U.S. Attorney, and the Chief Judge of the Superior

Court, embarked on an effort to institute major reforms in MPD that would reduce crime and improve the quality of life in the District's neighborhoods. This group was formerly called the Memorandum of Understanding (MOU) Partners.

During the last year and a half, the MOU Partnership was expanded to include other members of the criminal justice community who were key players in the reform efforts underway. The group expanded its focus beyond just MPD to include system-wide reforms and initiatives. The MOU group, renamed the Criminal Justice Coordinating Council (CJCC), now includes the District's Chief Management Officer, Dr. Camille Cates Barnett, the D.C. Corrections Trustee, Mr. John L. Clark, and the Court Services and Offender Supervision Trustee, Mr. Jay A. Carver. In addition to its ongoing oversight of the MPD reforms, the CJCC is addressing such issues as information technology integration, juvenile justice reform, and cross-agency crime prevention initiatives, among others. The new CJCC agreement is included as an appendix.

By the end of 1997, 12 months after the CJCC began their effort to improve the operations of the MPD, results were dramatic – crime rates had decreased by 19 percent from the previous year. And the progress is continuing – from January through May 1998, Part I crimes are down 22 percent over the same period last year. As of the end of the first quarter of 1998, overall crime is at the lowest level in 20 years.

While the crime statistics are impressive and clearly illustrate that significant progress has been made in reducing crime, numbers are meaningless to those citizens in the District who still live every day in fear—who are afraid to sit on their porches, afraid to leave their homes after dark, afraid to let their kids play outside or walk to the corner store. We will not be successful in our efforts to address the District's crime problems until our citizens are no longer afraid to walk the streets. The CJCC is committed to continuing its work with MPD to eliminate that fear.

After a long and thorough search, our new Chief of Police, Charles Ramsey, was unanimously selected by the CJCC and overwhelmingly confirmed by the Council for the District of Columbia on April 20, 1998. The CJCC sought out Chief Ramsey because of his demonstrated commitment to the ideals of community policing and his impressive track record in Chicago.

There, Chief Ramsey had served 29 years on the Department and risen through the ranks holding the positions of the Deputy Chief of the Patrol Division, commander of the Narcotics Section, commander of a Patrol Division and a Detective Division, until he was appointed Deputy Superintendent of the Bureau of Staff Services. Chief Ramsey received numerous awards during his outstanding career, including the Gary P. Hayes award, which is the Police Executive Research Forum's most prestigious honor.

Chief Ramsey clearly did a terrific job in Chicago, where he was credited with designing and implementing a successful community policing model. The program was selected by management expert Tom Peters as the public sector model of excellence for providing quality customer service. Chief Ramsey has publicly stated that one of his top priorities is to lead the District's effort to design and implement community policing strategies tailored to the unique needs of the diverse communities in the District.

With this commitment, Chief Ramsey has actively engaged in the CJCC in several specific initiatives designed to prevent crimes, not just to respond to them. For example, a cooperative open air drug market initiative is underway with MPD, the Departments of Public Works, Human Services, Consumer and Regulatory Affairs, and many other local and federal agencies. This group is working to remove the drug dealers and buyers, clean up the neighborhoods where the markets have been, and bring much-needed social services to the communities to prevent re-establishment of the drug markets.

Another CJCC initiative, called the Community Justice Pilot Program, is being led by Mr. Jay Carver, the Court Services and Offender Supervision Trustee. This program engages the resources of the community, MPD, Pre-trial Services, Defense Services, Parole and Probation to increase the accountability of adult offenders on pretrial or post-trial release and improve public safety by

working together to minimize recidivism and help these individuals re-integrate into their communities.

These are just two examples of a number of programs being implemented by the CJCC. The group also continues to work with MPD on its many initiatives to reduce crime, fear of crime, and general disorder, while establishing trust and respect in the community.

One of the highest priority initiatives for MPD continues to be increasing the police presence on the streets. In July, 1997, MPD began implementing the new Police Service Areas (PSAs), which were designed to balance workload in a way that enables the department to much more effectively deploy officers to the neighborhoods and to increase the police presence in the patrol functions. In support of the PSA model, the number of officers in patrol functions in the police districts has increased more than fifty percent since January 1997.

However, police presence remains inadequate, particularly considering that the MPD has the highest per capita number of officers of any major metropolitan police department in the country. While the PSAs structure generally has been well received by MPD police officers and community members, the Department has not been able to fully implement the staffing levels and operational reforms required to make it truly effective.

The increase in police presence that is required in the PSA model requires that the department accomplish three things:

(1) get more officers deployed to the streets;

(2) make sure that the processes and supporting operations allow them to stay on the streets; and,

(3) provide the tools and resources needed for them to execute their jobs properly and effectively.

To increase the numbers of officers deployed to patrol, MPD is pursuing numerous initiatives.

MPD continues to retain too many sworn officers in positions that could be filled by civilians. The department is implementing a civilianization plan that, over the next three years, will free up approximately 300 sworn members for redeployment to the streets. As I mentioned at the outset, partial funding for this civilianization effort is included in the 1999 consensus budget.

Chief Ramsey has indicated his intention to dramatically improve the department's recruiting program. He is planning to engage in nationwide search programs to find the best and most qualified men and women to join the Metropolitan Police Department. His recruiting program will be conducted with great professionalism and emphasize performance capabilities, including higher education requirements.

Additionally, the department continues to pursue redeployments of officers from other positions which keep them from patrol duties. For example, MPD is assessing the operations of numerous Headquarters and support divisions in order to find ways to streamline operations and free up sworn members for patrol duty. The department is committed to redeploying as many sworn officers as possible to patrol and patrol-related duties.

To ensure that officers are able to stay on their PSAs, MPD is implementing many internal reforms to eliminate many of the causes of officer time off the streets. For example, administrative reasons, such as annual leave, disability leave, and administrative leave can have a dramatic impact on police presence. MPD estimates that there are approximately 50 officers on long-term sick leave who will never return to work. MPD is taking actions to retire these officers and to tighten controls on extended sick leave.

Additionally, MPD is implementing improvements in the arrest and booking procedures to enable officers to return to patrol as quickly as possible after an arrest, while ensuring that the necessary functions are performed. For example, MPD is working to implement a program in which arresting officers perform only minimal booking activities, reassigning those responsibilities to other station staff, and allowing the officers to return to patrol as soon as possible.

Also, for several months the Department has been working with U.S. Attorney's Office, the Office of the Corporation Counsel, and the Chief Judge of the D.C. Superior Court to make system-wide improvements in the charging process and other court-related activities which consume much of the PSA officers' time.

One such reform is the "officer-less papering program" in which officers will no longer be required to appear for in-person interviews for every case as part of the charging process. Similar programs exist in every other major jurisdiction in the country. A pilot of this program is scheduled to begin on July 1, 1998 after the completion all of the report writing training necessary to make this program a success.

Another case processing reform currently being piloted is the Investigative CANS program. In this program, MPD and the U.S. Attorney's Office are working together to establish a system for managing investigative activities for current cases. This program is intended to help MPD manage its overtime burdens while ensuring that the U.S. Attorney's office is receiving the necessary support for building successful cases. This is not, however, a long-term solution to the ongoing investigative needs of MPD and the prosecutors. The CJCC is committed to supporting the U.S. Attorney's Office in its attempts to secure

funding for its own investigative division, as exist in most other major metropolitan jurisdictions.

MPD conservatively estimates that these and the other case processing reforms underway could result in approximately two hundred thousand additional patrol hours in the short term. In the longer term, up to five hundred thousand additional patrol hours could be realized—the equivalent of more than 250 additional police officers on the streets.

The third factor contributing to the police presence problem is the conduct, appearance, and actions of officers in the execution of their duties. MPD must

- improve the training provided to its officers;
- give them the right tools to ensure that they are working with the community, solving problems before crimes occur;
- ensure that all officers possess the required skills and capabilities to do their jobs; and
- demand the utmost integrity and discipline from the officers, both on and off duty.

The community policing model requires that officers engage their communities to identify priorities, marshal resources, and work cooperatively to solve problems before they result in crimes. This community, problem-solving

partnership is the key to crime prevention. Reactive response to crimes that have already occurred will never outpace the ever-escalating crime rates and will not instill the confidence and security in the public that our citizens demand and deserve.

In order to establish this partnership, patrol officers need the right tools, equipment, and capabilities. MPD must enhance its training to ensure that every officer knows how to work effectively with the community. Many of these officers have never been exposed to the community policing model. They were trained to respond to crime, not to prevent it. If we want to change the culture from the old enforcement-only model, we must address the fundamental building blocks, like training.

That means that MPD must also commit to performance guidelines for its officers. Chief Ramsey has indicated that he is working on individual performance standards for all ranks in the department. Further, he has established a task force to recommend a program for in-service physical ability evaluations. Chief Ramsey has also expressed his intention to impose education requirements for new recruits and current members, and to pursue new tuition reimbursement programs, like the federal Police Corps program, to help officers meet those new requirements.

Additionally, Chief Ramsey has publicly announced his intentions to impose restrictions on the types of off-duty, secondary employment in which officers may engage, in order to eliminate potential conflicts of interest and minimize the appearance of impropriety. These types of performance guidelines will be a critical part of changing the department's operations and reputation in the community.

Further, in order to protect and promote this police-community partnership, MPD must have an effective citizen complaint process for receiving and resolving citizen allegations of officer misconduct. There are two concurrent efforts underway in this area. MPD is working to finalize a new, internal citizen complaint process that will centralize responsibilities for receiving and resolving citizen complaints. This program will provide better access to aggrieved citizens and faster resolution of cases. The D.C. Council is also working on legislation for an external citizen complaint process, scheduled for final reading in mid-July.

The CJCC has been involved during the design of these citizen complaint programs. The CJCC wants to ensure that the new citizen complaint program is designed to prevent the same inefficiencies and complications associated with the former programs. It is imperative that the citizen complaint process guarantees the fair and expeditious resolution of cases, while protecting the rights of all parties involved. An effective citizen complaint process will bolster

public confidence in the department and ensure that all officers conduct themselves appropriately in the execution of their duties.

Distrust of officers and the department as a whole continues to be a significant hurdle that MPD is working to resolve. This problem was exacerbated as a result of the recent allegations of widespread corruption in the department. The CJCC members remain concerned about integrity and accountability issues in MPD. However, we are confident these issues will be addressed through the on-going, comprehensive investigations of the MPD by the Inspector General, the Federal Bureau of Investigations (FBI), the U.S. Attorney's Office, MPD's Internal Affairs, and the Council of the District of Columbia. We will continue to monitor the results of these investigations as they are developed. We are certain that Chief Ramsey will resolve these issues and restore the public's confidence in the integrity of MPD and its members.

In addition to improving the police presence on the streets, MPD must also continue to address the persistent homicide problem that plagues the city. While the number of homicides in 1997 was at a 10 year low of 301, and the May 1998 statistics show an even greater decrease this year, there are still too many homicides in the Nation's Capitol. And while MPD increased its case closure rate from approximately 57 percent in 1996 to 70 percent in 1997, that is still not enough. Also, MPD has not solved several high profile cases; such as the

Starbucks case, which occurred 10 months ago, and some of the Petworth cases—one of which took place in 1996.

While I am aware that the police department and the FBI are working diligently to close these complex cases and have made some progress, the fact that months and, in some cases, years have gone by without closing the cases does not inspire public confidence in the department. Homicides continue to be one of the most-cited reasons that the citizens are living in fear.

One recent action that should help improve MPD's ability to close homicide cases is the appointment of a highly qualified Chief Medical Examiner for the District—Dr. Jonathon Arden. Dr. Arden assumed responsibility for the District's Medical Examiner's Office (Office) on April 15, 1998. We expect that he will bring about major improvements in the Office. The CJCC, Janet Reno, the Attorney General, and Dr. Camille Cates Barnett, the Chief Management Officer, all played key roles in convincing Dr. Arden to accept the position. We are committed to providing Dr. Arden with the resources and support he needs to be successful and to ensure that improvements in the Medical Examiner's Office are lasting.

The CJCC is now turning its attention to the much-needed forensic support that will provide MPD with the tools to close more cases and build better cases for prosecution. We will investigate all options and determine what is most

feasible and can meet the Districts needs. For example, we may investigate the possibility of establishing a regional facility if that is what would best meet MPD's needs, as well as those of the surrounding jurisdictions. The CJCC will continue to investigate all options diligently – this is a critical element in improving the public safety situation in the District.

But forensic support is not the only gap in the infrastructure. MPD still suffers from a lack of sufficient facilities and equipment. The buildings are in a state of severe disrepair. Many of them lack adequate air conditioning. The paint is peeling from the walls. The plumbing is decrepit. The list goes on. I invite the members of this committee and their staff to tour these facilities with me and the other members of the CJCC and experience the deplorable working conditions that our police officers are enduring. I am confident you will agree that we cannot expect the members of MPD to perform under such conditions.

The current restrictions on the use of "take-home" vehicles for command staff present another obstacle. In order to protect the safety of MPD members and allow them to do their jobs effectively, they must be able to respond to emergencies at a moment's notice. It is unacceptable to expect senior command staff to respond to crime scenes and other emergencies in their personal vehicles. This situation presents a significant potential threat to their personal safety. I encourage this committee to work with Chief Ramsey to

develop appropriate guidelines on the use of take-home vehicles to effectively reduce the risk to citizens of the District that this broad prohibition causes.

Furthermore, MPD and the other members of the public safety community continue to operate with inadequate and outdated field technologies. Together with the Chief Management Officer and the new Chief Technology Officer, Ms. Suzanne J. Peck, the CJCC is investigating options for a new state-of-the-art wireless communications system that will allow all public safety agencies to communicate on the same system. There is also a computer-aided dispatch (CAD) initiative that will integrate all calls for service, both emergency and non-emergency, through a central dispatch center. This type of integrated infrastructure will dramatically improve service to the District's citizens.

Almost all of the reforms and initiatives I have discussed so far require enabling information technologies. MPD has taken the lead in this area and is developing an information technology infrastructure and information system that can serve as the hub for the other criminal justice and public safety agencies in the city. MPD is already testing the selected records management system and supporting data base that will serve as the data hub.

The Court Services and Offender Supervision Trustee is leading a CJCC subcommittee on information technology integration. MPD is participating in this and the new Chief Technology Officer is getting engaged with this effort to help

promote inter-agency coordination. MPD continues to move forward with the initial records management system, the mobile data computers (MDC), the paperless reporting system, the investigative software packages, and the potential link to an integrated CAD system.

The CJCC is committed to ensuring that all the public safety and criminal justice agencies are involved in the migration from the current, antiquated technologies to a new state-of-the-art, integrated information system that will be a model for cities nationwide. But this is a costly undertaking. MPD and the other CJCC members are researching every possible source for funding this endeavor, as well as the many other topics I have discussed.

The CJCC also recently convened their second two-day session devoted to exploring issues and opportunities in the District's criminal justice system and planning our agenda for the months ahead. We held our first session in January of this year and our second session in mid-April. We have benefited greatly from support we have received from the National Institute of Justice (NIJ), the Kennedy School of Government at Harvard University, and other important criminal justice practitioners and scholars from around the country. We look forward to continuing our partnership with these individuals and organizations.

The CJCC is bringing a new sense of energy and commitment to addressing the District's crime problems. There is a feeling that, for the first time, the criminal justice agencies and other District government agencies are

beginning to truly collaborate on issues, and to share information and responsibility for solving some of the District's crime problems. The level of cooperation and collaboration should continue to improve with the on-going implementation of the City-wide management reforms. We have laid the foundation to build effective and lasting partnerships among these agencies. We must now focus our attention on more effectively bringing the community into these partnerships.

While it is clear that progress has been made, there is still a great deal of work to be done to reach our goal of a fully effective, well managed police department and a safer City. The Authority is committed to working with Chief Ramsey and the other CJCC members to ensure that major reform in the police department occurs. The District's residents deserve a quality of life that makes the nation's capital one of the safest cities in the country. We are committed to that goal.

Mr. Chairman, that concludes my testimony. I would be happy to respond to any questions that you might wish to ask.

Appendix

Agreement of the Criminal Justice Coordinating Council

May 28, 1998

AGREEMENT

This Agreement is entered into by the Mayor of the District of Columbia, the Chief of the Metropolitan Police Department ("the MPD"), the Chair of the Council of the District of Columbia, the Chair of the Judiciary Committee of the Council of the District of Columbia, the Chief Judge of the Superior Court of the District of Columbia, the United States Attorney for the District of Columbia, the Corporation Counsel of the District of Columbia, the Chief Management Officer, the Corrections Trustee of the District of Columbia, the Offender Supervision Trustee of the District of Columbia, and three members of the District of Columbia Financial Responsibility and Management Assistance Authority ("the Authority") -- or their respective successors -- hereafter referred to collectively as "the Parties".

WHEREAS, there is a need for coordination of the criminal justice system, the identification of areas of mutual interest to the Parties, and the mobilization of the resources of the Parties to improve the justice system;

WHEREAS, the Parties desire to ensure the safety of persons living, working or visiting the District of Columbia and their property, to reduce the occurrence and fear of all types of crime, and to improve the quality of life throughout the District of Columbia;

WHEREAS, the Parties recognize that the criminal justice system must be coordinated and organized to permit the most effective and efficient use and deployment of personnel and technology resources;

WHEREAS, the Parties recognize that the agencies within the criminal justice system must recruit the finest available personnel, provide for the continuing training and professional development of officers and personnel of all ranks, and prepare officers and other personnel for promotion to positions of increasing responsibility;

WHEREAS, the Parties recognize that the MPD is an integral part of the criminal justice system; that the organization, staffing and operation of the MPD should be designed to maximize the level of police services and visibility at the community level, that the MPD's capacity to deal with homicide, gangs, drugs, domestic violence, and all other types of crimes and criminal behavior must be maintained, and that the MPD must establish trust and respect within the community;

WHEREAS, Congress in Public Law 105-174 has validated an employment agreement signed by the Chief of the MPD, the Mayor, and the Authority.

The Parties agree that:

1. The District of Columbia Criminal Justice Coordinating Council ("Coordinating Council") is hereby established by and between the hereto signed Parties and their successors in office;

2. The Coordinating Council shall use its best efforts to coordinate the activities and mobilize the resources of the Parties in improving public safety in and the criminal justice system of the District of Columbia;

3. The Parties shall cooperate with and support the Coordinating Council and each other in carrying out the purposes of this Agreement;

4. The Coordinating Council shall assist the Chief of the MPD in discharging his/her responsibilities by:

a. Meeting regularly with the Chief of the MPD and his/her staff to:

- Receive reports on the state of the MPD;
- Receive reports on MPD plans and operations;
- Receive reports on the latest D.C. crime statistics;
- Receive such other reports as the Coordinating Council deems

appropriate relating to crime and other law enforcement matters and to their impact on the criminal justice system of the District of Columbia;

b. Making recommendations regarding operational, organizational and personnel matters as are believed necessary to improve public safety in the District of Columbia and maintain the efficiency and effectiveness of the MPD.

5. The Coordinating Council also shall:

a. Define and analyze issues and procedures in the criminal justice system, identify alternative solutions, and make recommendations for improvements and changes in the programs of the criminal justice system;

b. Receive information from, and give assistance to, other District of Columbia agencies concerned with, or affected by, issues of public safety and the criminal justice system;

c. Make recommendations regarding operational, organizational and personnel matters as are believed necessary to improve public safety in other District of Columbia criminal justice agencies.

6. The business of the Coordinating Council shall be conducted and its decisions made, insofar as possible, by consensus. When consensus cannot be achieved, the will of the majority of the Coordinating Council shall prevail;

7. The Memorandum of Understanding dated December 10, 1996 among the Mayor, the Council of the District of Columbia, the Chief Judge of the Superior Court,

the United States Attorney, the Corporation Counsel, and the Authority is hereby rescinded and replaced.

Marion Barry, Jr., Mayor of the
District of Columbia

Linda Cropp, Chair of the
Council of the District of Columbia

Eugene N. Hamilton, Chief Judge
Superior Court of the District
of Columbia

Jack Evans, Chair
Committee on the Judiciary
Council of the District of Columbia

Andrew F. Brimmer, Chair
District of Columbia Financial
Responsibility and Management
Assistance Authority

Wilma Lewis, United States Attorney
for the District of Columbia

Stephen D. Harlan, Vice Chair
District of Columbia Financial
Responsibility and Management
Assistance Authority

John M. Ferren, Corporation Counsel
of the District of Columbia

Constance Newman, Member
District of Columbia Financial
Responsibility and Management
Assistance Authority

Camille C. Barnett
Chief Management Officer

John L. Clark
Corrections Trustee of the
District of Columbia

Jay A. Carver
Offender Supervision Trustee
of the District of Columbia

Charles H. Ramsey, Chief
Metropolitan Police Department

Mr. TAYLOR. Thank you.

DISTRICT OF COLUMBIA COURTS

Mr. TAYLOR. Judge Wagner.

OPENING STATEMENT OF CHIEF JUDGE ANNICE M. WAGNER

Judge WAGNER. Good afternoon. I thank you for this opportunity to appear to make this presentation. As you know, I am Chairperson of the Joint Committee on Judicial Administration, the policymaking body for the District of Columbia Courts. By statute, we prepare the budget submissions to Congress for the courts. We have prepared a very detailed, written statement which we will leave with you and with members of your staff for review. There are only a few things that I would like to highlight this afternoon.

First of all, the courts, caseloads remain enormous. The Court of Appeals experienced records filings again this year—over 2,000 cases were filed. The Superior Court also had enormous case filings—over 161,000 cases filed. Nevertheless, both courts are working very hard to keep pace with the workload, and in the Court of Appeals for the first time, our dispositions have exceeded the number of cases that we took on. We have reduced the amount of time on appeal in the Court of Appeals and we are addressing these caseloads.

BUDGET REQUEST FOR D.C. COURTS

Now at the same time, this was an unusual year. Our request this year is $133,358,000. That amount is about $25 million over the amount actually approved as an appropriation last year. However, as you view this, we think you have to view it against the backdrop of an aberrant year. It was a transition year. It was the first year that we were under the Revitalization Act, and there were unanticipated costs for implementation of the Act. For part of the year, there were employees who remained with us, and for another part of the year, there were employees who were transitioned to the new offender supervision trustee.

We believe that our budget base is somewhat lower than it would have been had it been a normal year for us. The reason for that is that there is inherent in any effort to predict how an organization is going to function with one of its functions removed and how the new organization is going to function once it is transferred the new entity. Therefore, it was difficult to project costs. As a result, we believe that costs were underestimated for the courts in recognition of the transfer of adult criminal probation out of the court system by some $8 million. The magnitude of the increase is much smaller when you consider that the budget was somewhat understated.

The Federal government is supporting a large amount of our request, and we are appreciative of that. However, there is a significant amount of our request which is not being supported or not recommended, and we feel that those items are very, very important, and we urge you to consider them. They involve the most critical issues in our system—children, technology, security, janitorial services, and lawyers who represent children and indigent defendants.

Those are the items that we urge you to give careful consideration to, in addition to what we have in the written submission.

SECURITY SYSTEM

We are in desperate need to revamp our security system and have requested money to do that. We actually do recover contraband coming through the doors of the courts on a daily basis. I do not know how many items of contraband we recovered this year, but I know in previous years we have recovered up to 4,000 items of contraband. It is very important that we keep pace with what is going on for security. In addition, when you have 10,000 people coming and going from your building everyday, you have to have janitorial services. They are there for long periods of time, they are using all of the facilities in the building, and you just have to keep those facilities sanitary.

Chief Judge Hamilton will elaborate further, I am sure, on some of these items which do affect the whole court system.

INCREASE IN FEES FOR ATTORNEYS FOR INDIGENTS

Really there is not a great deal more that I have to say except that I do believe that our lawyers—that we are requesting an increase from $50 per hour to $75 per hour is a modest increase to ask. It is well below the rates that lawyers are paid, and they are called upon to represent children who are neglected and abused in our system. They are called upon to represent indigent defendants who are entitled, by the Constitution, to representation. We have to pay them. If we do not pay for these things, we cannot keep our cases moving.

GENERAL JURISDICTION OF COURTS

As you know, we have no control over the demands on our system. Our courts have general jurisdiction, and handle virtually every kind of case imaginable—probate, tax, civil, and criminal. We have felt the impact of the increased efforts of the police department on our court system with a substantial increase in our misdemeanor cases. Thus, the work of one entity impacts another.

TECHNOLOGY AND Y2K

The only other thing I would say is that everyone is concerned about being ready for the new century and technology. The courts are somewhat behind in technology, largely because of fiscal constraints in prior years. We have to be able to communicate with each other, as Mr. Harlan says. In the Court of Appeals, we also have to be able to communicate with each other and with the court system, and we are very dependent upon computers in order to keep pace with the lawyering that is going on outside of the courthouse.

Therefore, we would urge you to support funding that would allow us to be ready to keep our—just allow our courts to keep up with the pace of the new technology. It is really virtually impossible, but we do really need to make an effort to meet the demands for the administration of justice. The courts are a part of the safety valve of the community. People look to us to resolve their disputes

in an amicable way. The community looks to us for redress of grievances, and to handle criminal cases in the community. We can only do this if we are able to have adequate funding for the courts.

Again, our submission will be indexed so that you can look through it and easily grasp those areas that I have highlighted and others that are equally important to your consideration of our budget requests. We thank you for the opportunity to address you on this matter.

PREPARED STATEMENT OF CHIEF JUDGE ANNICE M. WAGNER

[Chief Judge Wagner's prepared statement follows:]

STATEMENT OF THE HONORABLE ANNICE M. WAGNER
CHAIR OF THE JOINT COMMITTEE ON JUDICIAL ADMINISTRATION
IN THE DISTRICT OF COLUMBIA
ON THE DISTRICT OF COLUMBIA COURTS FISCAL YEAR 1999 BUDGET REQUEST

BEFORE THE SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA
APPROPRIATIONS, COMMITTEE ON APPROPRIATIONS,
U.S. HOUSE OF REPRESENTATIVES

JUNE 24, 1998

STATEMENT OF THE HONORABLE ANNICE M. WAGNER CHAIR OF THE JOINT COMMITTEE ON JUDICIAL ADMINISTRATION IN THE DISTRICT OF COLUMBIA BEFORE THE SUBCOMMITTEE ON DISTRICT OF COLUMBIA APPROPRIATIONS, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES

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STATEMENT OF THE HONORABLE ANNICE M. WAGNER
CHAIR OF THE JOINT COMMITTEE ON JUDICIAL ADMINISTRATION
IN THE DISTRICT OF COLUMBIA
BEFORE THE SUBCOMMITTEE ON DISTRICT OF COLUMBIA
APPROPRIATIONS, COMMITTEE ON APPROPRIATIONS,
U.S. HOUSE OF REPRESENTATIVES

JUNE 24, 1998

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to make this presentation in support of the budget request for the District of Columbia Courts for fiscal year 1999. Pursuant to D.C. Code § 11-1743 (1995), the Joint Committee on Judicial Administration in the District of Columbia (Joint Committee),[1] submits for your consideration on behalf of the District of Columbia Courts a total operating budget request for fiscal year 1999 of $133,358,000. This amount is $30,358,000 above the budget approved by Congress for the Courts for fiscal year 1998. However, to evaluate fairly the Courts' request, it is important to recognize that the Courts' budget base for FY 1998, from which the request for additional resources for FY 1999 is measured, was artifically low primarily because of the uncertainty

[1] Pursuant to law, the Joint Committee is the policy-making body for the District or Columbia Courts. It is responsible for submission of the annual budget requests for the District of Columbia Courts, accounts and auditing, procurement and disbursement, general personnel policies, and development of statistical and management systems, among other functions. By statute, five judges serve on the Joint Committee: the Chief Judge of the District of Columbia Court of Appeals, its chair; the Chief Judge of Superior Court; and one associate judge from the appellate court and two associate judges from Superior Court, who are elected annually by the judges of their respect courts.

of the cost impact upon the Courts of implementation of the National Capital Revitalization and Self-Government Improvement Act of 1997 (Revitalization Act), Public Law No. 105-33. This circumstance resulted, in part, from the difficulties inherent in projecting precisely future budgetary requirements for the Courts upon transfer of its adult probation function to a successor entity. Specifically, prior to implementation of the Revitalization Act, the Joint Committee sought approval from Congress for its FY 1998 budget request of $123,502,000 and 1473 FTEs, which it believed to be the the minimum necesary to maintain a fair and effective system of justice. Included in the Courts' request were the employees and costs for performing the adult probation function. Subsequent to the Courts' preparation of its FY 1998 budget request, the adult probation function was transferred to the Pretrial Services, Defense Services, Parole, Adult Probation and Offender Supervision Trustee (Trustee) under the Revitalization Act. In November 1997, Congress approved $103,000,000 for operations of the Courts. It is the understanding of members of the Joint Committee that the $20,000,000 difference between the amount approved by Congress for Court operations and the amount requested represents an amount appropriated to fund adult probation under the Trustee. However, based on the Courts' analysis, budgeted costs, and actual experience, the costs of the Courts for providing the service amounted to no more than approximately $12 million. For this reason, the Courts were underfunded by approximately $8 million in FY 1998. Thus, during

this transition year, it appears that the Court's budget base was some $8 million less than it would have been (i.e. $103,000,000 instead of $111,000,000). It is against this backdrop that the Courts request for an additional $30,358,000 must be viewed.

Some of the increased costs essential for operations of the Courts derive from the impact of the implementation of the Revitalization Act upon employer costs for employee benefits as described more fully in this submission. Some of our request for funding above the levels for the prior year is required to meet cost increases for expenditures mandated by law, such as medicare expenses, health care costs, costs of representing children and other parties in child abuse and neglect cases (CCAN expenses) and indigent defendants under the Criminal Justice Act. Most of the remainder of the requested increase is required to provide for or maintain the courts' automation systems, security and custodial services, judicial and non-judicial compensation adjustments, and other essential functions in the District of Columbia Court of Appeals, the Superior Court of the District of Columbia, or the Court System, which provides support services for both courts. Included in the budget is authorization for 1,320 full-time equivalent positions (FTEs), representing only 13 positions more than those authorized in fiscal year 1998.

We are informed that of this amount, the Office of Management and Budget (OMB) on behalf of the President supports the Courts' budget request to the extent of only $120,561,000. While we appreciate the support for this portion of the Courts' budget request, we must

point out that the $12,797,000 which is not recommended includes funding for such critical operations as security and janitorial services for one of the city's busiest buildings, the child enforcement program, child abuse program services, telecommunications, procurement, juvenile drug court, an integrated case management system for domestic violence (criminal, civil and family cases), Urban Services Program contracts, and a long overdue rate adjustment for lawyers who represent parties in child abuse and neglect cases and indigents under the Criminal Justice Act. An itemization of the amounts associated with each of these important categories requiring funding is set forth in Appendix A to this statement. In addition, the courts request $14,465,000 in fiscal year 1999 to finance critical capital facilities management projects.

The judicial branch remains acutely aware of the importance of management efficiencies. Through careful monitoring and cost containment measures, over the past several fiscal years, the judicial branch has returned to the District government over $12.3 million in annual appropriation authority and raised over $2 million in ongoing annual revenue increases. Recognizing the need for continued fiscal restraint, but at the same time mindful of the continuing demands being placed upon the judicial branch for the fair and expeditious adjudication of cases, the Joint Committee approved a no-frills operating budget request for FY 1999 which will allow the Courts to meet their Constitutional and statutory responsibilities of addressing the matters which come within the

jurisdiction of the Courts. The workload of the courts is substantial and increasing in some areas as the subsequent sections of this submission will reflect.

The remainder of this statement in support of the budget for the Courts is in three parts: (1) Part I, Budget Request for the District of Columbia Court of Appeals; (2) Part II, Budget Request of the Superior Court of the District of Columbia; and (3) Part III, Budget Request for the Court System. Each section contains a summary of the work of the three entities within the District of Columbia Courts and an explanation for the amount requested in the FY 1999 budget to perform that work efficiently.

I.

District of Columbia Court of Appeals--FY 1999 Budget Request

Overview

Congress established the District of Columbia Court of Appeals as the highest court of the District of Columbia in 1970. The court consists of a chief judge and eight associate judges. The cases before the court are determined by randomly selected, three-judge divisions, unless a hearing or a rehearing *en banc* is ordered. A hearing or rehearing before the court sitting *en banc* may be ordered by a majority of judges in regular active service. The court sits *en banc* only when consideration by the full court is necessary to maintain uniformity of its decisions or when the case

involves a question of exceptional importance.[2]

As the highest court of this jurisdiction, the District of Columbia Court of Appeals is authorized to review all final orders and judgments and specified interlocutory orders of the Superior Court. The court also has jurisdiction to review decisions of administrative agencies, boards and commissions of the District government, and to answer questions of law certified by the Supreme Court of the United States, a court of appeals of the United States, or the highest appellate court of any state. The court also reviews proposed rules of the trial court and promulgates its own rules and the rules of professional conduct for members of the District of Columbia Bar. The Bar of the District of Columbia is one of the largest in the country, with over 68,000 members. The court has the authority to approve the rules governing attorney disciplinary proceedings. Additionally, the court has established rules governing the admission of members of the District of Columbia Bar and the unauthorized practice of law in the District.

Caseload

In 1997, the D.C. Court of Appeals experienced the highest level of case filings in its history (2,076). It is only the fourth time that case filings have exceeded 1,800. By comparison, 2,008 cases were filed in 1996, and 1,832 were filed in 1995. In

[2] The *en banc* court consists of the judges of the court in regular active service, except that a retired judge may sit to rehear a case or controversy if he or she sat on the division at the original hearing. *See* D.C. Code § 11-705(d)(1995).

relative terms, measured by the number of filed cases divided by population the cases filings in our appeals court is one of the highest in the nation.[3] Even in absolute terms, focusing on the number of cases filed without regard to population, the caseload of the D.C. Court of Appeals exceeded the appellate caseloads reported by appellate courts in twenty states.[4]

Judicial productivity was high in 1997. The court experienced a 19% increase in overall case dispositions in 1997 over 1996 (from 1,783 in 1996 to 2,129 in 1997). This represents a significant achievement for the D.C. Court of Appeals. First, it constitutes the highest number of case dispositions in the history of this court; second, it represents the second successive year that case dispositions increased by approximately 20% over the previous year; and last, it was the first time since 1991 that the court disposed

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[3] In fact, the 1996 caseload was the highest per capita in the nation, with 375 filings per 100,000 residents. *See, Examining the Work of State Courts, 1996, p.73, from the National Center for State Courts, (NCSC).5, Table 3, from the National Center for State Courts (NCSC).* Although 1997 data are not yet available from the National Center for State Courts, the increased filings in the Court of Appeals for 1997 portends that the Court of Appeals will retain its number one ranking in filings on a per capita basis.

[4] In 1996, the following states reported lower case filings than the D.C. Court of Appeals: Alaska, Arkansas, Connecticut, Hawaii, Idaho, Nebraska, New Mexico, North Dakota, South Carolina, Utah, Delaware, Maine, Mississippi, Montana, Nevada, New Hampshire, Rhode Island, South Dakota, Vermont, and Wyoming. *See, Examining the Work of State Courts, 1996, p.73 (NCSC).*

of more cases than were filed.[5] In addition, in 1997 the D.C. Court of Appeals considered almost 7,300 motions and petitions (including over 1,900 substantive motions), processed 3,236 applications for admission to the District of Columbia Bar, either by examination (412) or motion (2,824), and issued almost 5,000 certificates of good standing, which are typically required for attorneys to gain admission to the bars of the federal courts and other jurisdictions.

I am pleased to report that in spite of three consecutive years of record appeal filings, the court continued to manage its caseload effectively. Average time on appeal declined by thirty-six days; from 672 days in 1996, to 636 days in 1997. A major contributor to the reduction in overall time on appeal was improved efficiency by the judges of this court in issuing decisions on the merits of appeals. The time between argument or submission to decision was reduced from 100 days in 1996 to 82 days in 1997. The overall time on appeal for 1997 was 81 days shorter -- or 555 days - if the time cases were stayed is excluded from the

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[5] The total number of dispositions for 1996 (1,783) is higher than the case resolutions reported by appellate courts in twenty-seven states for the same year. In 1996, the following states reported fewer case resolutions than the D.C. Court of Appeals: Arkansas, Connecticut, Hawaii, Idaho, Nebraska, North Dakota, Utah, Delaware, Mississippi, Montana, Nevada, New Hampshire, Rhode Island, South Dakota, Vermont, Iowa, Alabama, Massachusetts, Kansas, North Carolina, Minnesota, Indiana, Wisconsin, Kentucky, New Jersey, Arizona and Oregon. *See Examining the Work of State Courts, 1996, p.81 (NCSC).* Figures with which to make comparisons for 1997 were not available when this submission was prepared.

calculation of the time on appeal.[6] This court has taken and will continue to explore measures to enhance the timely processing of appeals consistent with assuring a full and fair consideration of each litigant's appeal.

Management and technological developments

In response to its pending caseload, the court has made management improvements and used its available resources to expedite resolution of pending cases. In 1996 and 1997, the following initiatives were undertaken to improve case processing:

- case monitoring procedures were streamlined to enhance timely compliance with the court rules by those who seek appellate court review;
- the court streamlined the process for calendaring of cases in instances were the appellee has declined to file a brief;
- an on-line computer connection to the District of Columbia Bar was placed in service to improve the court's ability to confirm Bar membership status, address changes and other attorney locator information;
- the court renovated its public office to improve public-service and enhance access for the disabled;
- record preparation procedures in criminal appeals were improved;
- the court modified the programming of its computerized case docketing system to simplify preparation of the mandates that are issued at the conclusion of appeals;

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[6] A number of factors contribute to the overall time on appeal. One factor in appeal processing time, which we tracked for the first time in 1997, was the delay in processing cases that was attributable to the time a case was stayed while awaiting the outcome of a separate, but related proceeding. For example, some civil appeals in our court are stayed pending the outcome of a bankruptcy proceeding involving one or more of the parties. In addition, for reasons of judicial economy, it is the court's practice to stay the processing of a direct appeal in a criminal case during the pendency of a motion for a new trial in a case that is the subject of a direct appeal.

- a new appeal case filing system was installed to improve the capacity and efficiency of case file storage and retrieval;

- training sessions for attorneys appointed under the criminal justice act and the child abuse and neglect program were held to enhance the efficient use of the appellate process by these users of the system;

- this court entered into a fixed-price contract with a provider of computer legal research services to reduce the costs of this vital service which the court had purchased previously at an hourly rate;

- the court's informational brochure, "Your Case on Appeal," which is now available in Spanish, was revised to improve the ability of *pro se* litigants to prosecute their appeals more efficiently;

- the court compiled information and forms useful to *pro se* appellants which it sent to all *pro se* appellants;

- the court streamlined procedures for calendaring bar disciplinary cases in which the respondent concurs with the discipline recommended by the court's board on professional responsibility; and

- an informational brochure for attorneys who prosecute juvenile interlocutory appeals was developed and distributed to improve case processing.

The court continues to utilize practices initiated in prior years which have enhanced efficiency. Among these were:

- notification to counsel of the expected time-frame for argument in appeals screened for the regular calendar, confirming readiness for argument and avoiding potential scheduling conflicts;

- speedier resolution of uncontested motions for non-dispositive procedural relief as a result of amendments to d.C. App. R. 27;

- use of summary dispositions to resolve cases on the merits without full briefing;

- division of calendars into categories based upon case complexity to enable the court to manage its time more efficiently;

- consolidation of related cases.

Budget Summary

In order to maintain its current operating level, to upgrade its local area network to enhance its operating capability and prepare for the "year 2000" issue, to fund cost increases associated with implementation of the Revitalization Act, and to address the increasing disparity between the compensation rates for court employees and those of federal employees performing comparable job responsibilities, the Court of Appeals requests an appropriation of $7,393,000 for FY 1999, and 96 FTEs. This represents an increase of $1.08 million, with no increase in FTEs over FY 1998. Approximately one-third of this increase, $330,000, is requested to replace the local area network (LAN) and printers currently in use in the Court of Appeals. The court's LAN was installed in 1993. It operates with 100 personal computers and 20 printers. This system is used for word processing, legal research,[7] and internal e-mail, among other functions. Upgrading the LAN system in the Court of Appeals would provide greater memory and processing capacity which is essential to address several critical problems with the court's outdated technology. Included among these issues are the following: (1) the court's LAN servers are running out of disk capacity which a new system would expand; (2) because of funding arrangements with the General Services Administration (GSA) the rapidly expanding use of the internet, the court must establish internet access, and the current desktop

[7] Lexis and Westlaw can be accessed through the LAN.

systems do not have sufficient memory and processing capacity to adequately provide internet access in a LAN-based environment; (3) the speed and efficiency of the court's communications capacity, used for Lexis legal research and the electronic transmission of opinions, could be improved greatly by the increased number and speed of the modems that could be utilized; and (4) the court's LAN is reaching the limit as to the number of printers that can be served in its current configuration. A new system would allow for the service of an increased number of printers, which may be needed in the next 3-5 years.

The Court of Appeals is requesting funding for the following additional costs which are explained below.

Revitalization Act Costs

Federal Benefits/Employer's Costs - $158,000: With the passage of the Revitalization Act, the court's non-judicial staff who are not enrolled in the Civil Service Retirement System became eligible for the Federal Employees Retirement System (FERS) and the Thrift Savings Program (TSP). The FERS program requires a 10.7% employer contribution, which is more than twice the 5% previously contributed by the court to the District's retirement program available to these employees. Under the TSP, the court is assessed, for the first time, a 1% flat charge and contributes matching funds in cases where employees participate in this program. The District had no employer contribution, deferred compensation program. In order to provide for these additional fringe benefit costs, $158,000 is required.

Statutorily mandated costs

Civil Service Retirement System Employer's Contribution- $20,000: "The Balanced Budget Act of 1997" (Public Law 105-33) mandated that the employer's contribution rate for employees enrolled in the Civil Service Retirement System program be increased by 1.51%. To finance this additional cost, $20,000 is required.

Compensation Adjustment (Judicial), $30,000: a 2.3% Pay adjustment was provided by statute for judges in fiscal year 1998. This is the first adjustment for judges since January 1993. Only $30,000 is required by the Court of Appeals to finance this pay adjustment.

Compensation Comparability

Compensation Adjustment (Non-Judicial)- $542,000: During the past five years, there has been an increasing disparity between the compensation rates of court employees and those of federal employees performing the same or comparable job responsibilities in this area. Prior to December 1997, the last pay scale adjustment for the court's non-judicial employees was effective October 1, 1993. The average differential between the court's October 1993 pay scale and the federal rates of pay, effective January 1998, was more than 18%. This situation has had an adverse impact on the court's ability to retain employees and in recruiting the most qualified potential applicants. In an effort to reduce partially this differential, effective on December 7, 1997, the Joint Committee authorized a 7% pay scale adjustment. In order to

fund total compensation comparability in FY 1999, $542,000 is requested.

Superior Court of the District of Columbia-FY 1999 Budget Request

Overview

The Superior Court of the District of Columbia is a unified court with general jurisdiction jurisdiction over virtually all local legal matters. The court consists of divisions which provide for all local litigation functions including criminal, civil, juvenile, domestic relations, probate, tax, landlord and tenant, and some traffic cases. These divisions include Civil Division, the Criminal Division, the Family Division, the Probate and the Tax Division. Judges of the court rotate to each division on a scheduled basis. There are fifty-nine active judges on the court, including the Chief Judge. The court is assisted in its work by judges in senior status and by fifteen hearing commissioners.

The Superior Court has a tremendous workload. During 1997, 163,010 new cases were filed or came to issue, and 26,104 cases were reactivated/certified/transferred, for a total of 189,114 cases. The greatest increases in the court's caseload continued to be in the Domestic Violence Unit, followed by criminal misdemeanors and adoptions. Cases in the Domestic Violence Unit increased by 110%. Since 1997, all divisions have shown an increase in pending cases except for the Civil and Tax Divisions. The overall pending caseload of the court increased 3% during 1997.

Activity in the court's new Domestic Violence unit continued to impact the Social Services Division. During 1997, clients under supervision in the Domestic Violence Intervention Program due to court orders increased 276% (from 194 to 729), and clients in the program under deferred sentencing supervision increased by 318% (from 103 to 43).

In spite of its heavy workload, in 1997, the Superior Court disposed of more cases than were filed. While there were 158,752 filings, the court disposed of 187,415 cases. The court can not control the demands of the citizens on the courts. In order to continue to address all matters over which the court has jurisdiction, it is essential that adequate funding be provided.

In order for Superior Court to function efficiently during fiscal year 1999, the Joint Committee has submitted a total budget request for Superior Court in the amount of $80,427,000 with 1,101 FTEs. A full explanation of the reasons for the request by category is explained below.

Revitalization Act Costs

Federal Benefits/Employer's Costs- $1,164,000: With the passage of the Revitalization Act of 1997, the Court's non-judicial staff who are not enrolled in the Civil Service Retirement System became eligible for the Federal Employees Retirement System (FERS) and the Thrift Savings Program (TSP). The FERS program requires a 10.7% employer contribution for most employees and 23.3% for Probation Officers, much more than the

5% previously contributed by the Court to the District's retirement program available to these employees. With TSP, the Court is assessed, for the first time, a 1% flat charge and must contribute matching funds in cases where employees participate in this program. The District had no employer contribution, deferred compensation program. The sum of $1,164,000 is required in order to provide for these additional fringe benefits costs.

Statutorily Mandated Costs

Civil Service Retirement System Employer's Contribution- $389,000: "The Balanced Budget Act of 1997" (Public Law 105-33) mandated that the employer's contribution rate for employees enrolled in the Civil Service Retirement System program be increased by 1.51%; therefore, $389,000 is requested to finance this additional cost.

Compensation Adjustment (Judicial)- $183,000: A 2.3% pay adjustment was provided by statute for judges in fiscal year 1998. This is the first adjustment for the judges since January 1993. Only $183,000 is required to finance this pay adjustment in Superior Court.

Counsel for Child Abuse and Neglect Program- $750,000:

Payment levels for the Counsel for Child Abuse and Neglect (CCAN) Program for fiscal years 1987 through 1997 have risen steadily from $1,077,100 to nearly $6,200,000. Child abuse and neglect case filings have increased 94% in the last five years, from 832 in 1991 to 1,615 in 1996. Since the CCAN Program operates on a cash basis, that is with the extended cost of CCAN cases being payable in future fiscal years, it is projected that the fee payments for this program will be $6,900,000 in FY 1999, or $750,000 above the program's current base. This is not a discretionary expenditure because legal representation in child abuse and neglect cases is constitutionally mandated, and the rates of compensation are set by statute.

Compensation Comparability

Compensation Adjustment (Non-Judicial)- $6,843,000: During the past five years, there has been an increasing disparity between the compensation rates of Court employees and those of federal employees performing the same or comparable job responsibilities. Prior to December 1997, the last pay scale adjustment for the Court's non-judicial employees was effective October 1, 1993. The average differential between the Court's October 1993 pay scale and the federal rates of pay, effective January 1998, is more than 18%. This condition has had an adverse impact on the Court's ability to retain employees and to recruit the most qualified potential applicants. To reduce partially this differential, effective on December 7, 1997, the

Joint Committee on Judicial Administration authorized a 7% pay scale adjustment. In order to authorize and fund total compensation comparability in F.Y. 1999, $6,843,000 is requested.

Counsel for Child Abuse and Neglect Rate Adjustment- $1,200,000: Since January of 1990, court appointed counsel assigned to cases in the federal court here in the District have been paid at a rate of $75 per hour. Beginning in 1993, attorneys appointed by the Superior Court to represent clients in abuse and neglect cases have been compensated at only $50 per hour. From this fee, attorneys are expected to pay for all of their overhead expenses, self-employment taxes, etc. This is to request funding for the cost of raising the hourly rate for attorney services in this program from $50 to $75 per hour. While on an annual basis this increase will amount to $3,000,000, only 40%, or $1,200,000 would be the projected impact of vouchers paid in fiscal year 1999 at the new $75 per hour rate.

Technological Requirements

Integrated Case Management System- $1,500,000: The Superior Court's management information system consists of 18 separate databases. These are single-purpose, mainframe-based systems that cannot be linked or shared. For example, in the Family Division there is a juvenile and neglect information system, another separate system for divorce and custody matters, and still another for paternity and child support cases, making it

impossible for judges to secure comprehensive information on family-related cases. It is critical for a judge to be able to identify quickly all aspects of an individual's involvement with the criminal justice system.

In addition to the inability to communicate internally, the Court's computerized information systems are not able to communicate with other criminal justice agencies, such as the Metropolitan Police Department, the U.S. Attorneys Office and the Pretrial Services Agency. As a result, the Court cannot provide information to, or access information from, the D.C. WAN (Wide Area Network) -- the cornerstone of the District's justice system network. As a result, the District of Columbia's ability to reduce crime and enhance public safety is seriously impaired. The instant and accurate management and transmittal of information on offenders and cases is absolutely essential to Superior Court's ability to meet its responsibilities to the community it serves. An integrated case management information system, compatible with those operating in the Metropolitan Police Department and other criminal justice agencies, would provide: critical links to the existing interagency databases, such as the Criminal Justice Information System (CJIS), National Criminal History Improvement Program (NCHIP), and High Intensity Drug Trafficking Area (HIDTA), and permit instant access to information on offender status, bench warrants and arrest warrants; effective tracking of offender activity in the community; exchange of official documents between agencies; and

enhanced public safety. Other benefits of an integrated system include the elimination of courtroom delay, reduction in continuances, speedier case disposition and resolution, and long-term cost savings due to increased efficiencies of operation. The Court requests $1,500,000 to fund this effort.

Jury Management System- $189,000: The Courts' current juror management system is inadequate for today's heavy demand. Among the problems experienced are: the inability to access the juror system when the mainframe computer is down; the continuous malfunction of the system which results in summoning individuals for jury duty too often (or within less than a two year time frame), continuous failed programming of the system to prevent such problems as the summoning of jurors who have recently served on jury duty, and the continuous failure to remove jurors who are deceased, no longer live in the District or are permanently unable to serve due to illness. There are also problems with ensuring that juror summonses are issued and mailed out 45 days in advance of the date of service on a consistent basis. In addition, there are problems with the juror pool counter not working correctly on a consistent basis so that the Juror's Office is never sure how many jurors are available at any given time. There is also the need to have daily statistical reports that accurately reflect staff productivity, juror attendance, the status of juror summonses as well as juror responses to those summonses and the need to produce these reports on a consistent

basis. Additional problems include jurors receiving duplicate summonses to serve on different dates and the inability to find staff time to correct addresses in the system so that the summonses are not returned. All of these factors contribute to the Court's inability to reach its goals of improving the quality of the master jury wheel, increasing jury summons yield, and maximizing office productivity and efficiency.

In order to assist the Court in accomplishing the latter goals, it is necessary to move away from the computer mainframe as a sole means of jury management. A commercial automated jury system would help the Court reach these goals, as well as fiscal reduction goals. Such a system is designed to provide the following services that the Court desperately needs:

- the ability to eliminate duplicate names among the multiple lists (voter and driver's license lists), so that jurors do not receive duplicate summonses from the master list for different dates;
- the ability to eliminate from the source lists anyone unable to serve as a juror, such as the deceased, persons who have recently served on jury duty, current felons, etc.;
- the ability to summon jurors 45 days in advance to a specific date on a consistent basis;
- the ability to allow assignment of group numbers for use in managing jurors with a call-in or call-off system;
- the ability to allow the Court to print summonses without having to rely on and pay the expense of an outside vendor;
- the ability to credit jurors with the appropriate pay automatically;
- the ability to define juror pay rules to facilitate varying pay policies, such as no pay for the first day;

of service, different rates for different days of service, etc.;

- the ability to produce employer verification forms;
- the ability to return jurors to the pool after voir dire by scanning the juror's bar code, even if the mainframe computer goes down;
- the ability to allow jurors addresses to be updated immediately, thereby eliminating the expense of sending summonses to incorrect addresses;
- the ability to provide an automated call-in system whereby citizens can defer juror dates without staff involvement; and
- the ability to automatically capture (on a daily, monthly and yearly basis) statistics and produce jury management reports that can be analyzed to determine procedures that may be instituted in order to reduce the costs of operating the jury system.

On-Going Operational Cost Requirements

Child Support Enforcement Program- $70,000: The core of the President's welfare reform legislation is an efficient child support establishment and enforcement program. To accomplish this, high performance standards have been set and many new program elements are proposed, some of which were scheduled to be in place on October 1, 1997. To successfully reach the established standards, legislation requires implementation of several programs, including: an expanded community-based paternity acknowledgment program through the District's hospitals, clinics and birthing centers; administrative establishment of paternity and child support orders for approval by the Court; nationwide new-hire reporting using IRS Form W4; assumption by the Court and the D.C. Office of Corporation

Counsel of the federal and local tax intercept program; implementation of revised review and modification procedures and effective use of license revocation as an enforcement tool. For the District to meet its expected level of performance, in spite of an anticipated 100% jump in case filings, the Court's active partnership with the Office of the Corporation Counsel is essential. Approval of adequate staff resources are absolutely necessary to have a successful program in the District. Total costs for the positions needed by the Court would be reimbursable by at least 66% through a cooperative agreement with the Office of the Corporation Counsel. While the details of many of the necessary changes to the District's program are being worked out, there is a need for the eight positions described below.

In light of the installation of the federally mandated statewide child support computer tracking system, which requires a much greater manipulation of case jackets within the file room including bar code scanning prior to their removal from and after their return to the file room, the Court requests two senior file clerk positions (CS-05). Additionally, welfare reform places many more responsibilities on the Court, such as new-hire reporting, greater emphasis on administrative case processing, mandatory review and modification of existing orders and increased use of license revocation processes and greater customer service, to mention a few. Each of these new functional areas will require increased access to the file storage area. Therefore, the demands of the file room warrant at least three

file clerk positions.

The Court has also requested funding for two new positions to serve as Title IV-D Intake Clerks (CS-08), Paternity and Child Support Branch of the Family Division to work out of the Domestic Violence Clerk's Office. The Court also seeks to create four additional positions, entitled Enforcement Monitors (CS-08), to fill a variety of new roles. These will include the functional areas established by the welfare reform legislation as follows: new-hire reporting, administrative case processing, increased review and modification of existing orders and expanded use of the license revocation processes. There is also a need to create a Customer Service Unit within the Branch which, with staff from Family Finance, should resolve several quality service issues that have been expressed by the public. One of these positions will be used to cover this function. To finance these operational needs, $70,000 is requested.

Child Abuse Program Services, $32,000: The District of Columbia is unique in that the Court, rather than the local social service agency, is responsible for supervising children who have been abused. (In many jurisdictions, the Department of Human Services serves this function). This unique responsibility creates unique program requirements. The D.C. Courts request $32,000 to purchase the services of case aides to meet the needs of child abuse victims.

The Court's professional staff of social workers and probation officers require assistance with several

responsibilities associated with the supervision of child abuse victims, including transporting the children to medical or school appointments and supervising visits with the children's parents. Supervised visits between parent and child are ordered in approximately 20% of the child abuse cases filed at the Court. Case aides would also assist or teach families essential skills, such as housekeeping and budgeting. During the past six months, child abuse complaints have doubled, placing even greater demands on case managers responsible for large caseloads. Purchase of service funds are required to ensure that the children under court supervision are safe and secure, as well as that they receive the services that they are entitled.

Urban Services Program Contracts - $45,000: The Urban Services Program (USP), established in October 1995, is an innovative, urban-based correctional option, consisting of a highly-structured, year-long intensive supervision and retraining program which targets youthful offenders aged 14 to 26. The program consists of a 30-day residential boot camp (Phase I), followed by an intensive 11-month aftercare component which includes educational/vocational training and support services (Phase II: Life Preparation) and continuing probation supervision and assistance during re-integration into the community (Phase III: Transformation). Inflation costs for the Urban Services contracts are expected to increase the cost of this program by $45,000 between fiscal year 1997 and fiscal year 1998. The Urban Services Program is one which serves both the

Court as well as the Offender Services operation.

In the boot camp phase of the program, offenders are subject to 30 days of strict military-style discipline and intensive physical conditioning, while participating in team building, guided group interaction and counseling sessions. (The boot camp is located at Jones Cottage in Laurel, Maryland on the grounds of Forest Haven, a former minimum security correctional facility.) During Phase II, offenders are under intensive probation supervision at the Family and Youth Resource Center, a day reporting center at Hamilton Junior High School in the District of Columbia, where they receive training which prepares them to either obtain employment or return to school. In Phase III (Transformation), offenders continue to be supervised by probation officers while employed or at school. The Superior Court's FY 99 request for $45,000 is to cover inflationary adjustments.

Telecommunication Service- $132,000: With the greater utilization of facsimile machines, more dedicated data processing lines, and the general increased cost of basic service, the telecommunication services expenses and utilization have increased and are expected to continue to increase in the near future. The estimated cost in fiscal year 1999 of all court communication costs is expected to amount to $874,000. This is $132,000 above the Court's adjusted base of $742,000. This is an essential cost of doing business, for which full funding needs to be provided.

Currently, the Audix Telecommunications System operates with 24 ports. If every Audix user were to retrieve their messages at one time the system would "crash." This would have the following repercussions: (1) no caller would be able to leave a message through the Audix system; () all callers dialing into the system would receive a busy signal; and (3) all incoming calls (the public) would also receive a busy signal.

The Court proposes a system that would expand the number of ports from 24 to 72 and make the system Year 2000 compliant. The Intuity is ADA compliant for the hearing impaired. Without this upgrade, the system will crash on January 1, 2000.

Court Improvement Initiative

Juvenile Drug Court, $465,000: Juvenile drug use and related drug offenses represent a continuing concern for the criminal and juvenile justice systems in the District of Columbia. The number of juveniles arrested on drug charges increased 29% between 1992 and 1996, from 544 to 703. Drug offenses comprised nearly one-fifth (19%) of all juvenile cases filed in the Superior Court of the District of Columbia in 1996. Between 1990 and 1996, the percentage of juvenile arrestees testing positive for drug use increased 204%, from 635 to 1,929 juveniles. Last year 64% of juveniles who entered the District's juvenile justice system tested positive for at least one drug. Further, the availability of Alcohol and Other Drugs (AOD) and the prevalence of academic failure, antisocial behavior and

family conflict have potentially devastating consequences, such as future delinquent or criminal behavior, teen pregnancy and school drop out.

Current case processing of juvenile drug cases further demonstrates a need for a juvenile drug court in the District. Specifically, in the second half of 1996, only 37% of juvenile cases reached adjudication in 1-3 months, while 18% reached adjudication in 3-6 months, 19% in 6-12 months and 26% in over 12 months. Every juvenile is tested for drug use upon arrest, and the results are made available to the judge prior to the initial hearing. Currently, if a juvenile tests positive, he will continue to be tested and will be referred to the Court's 12-week Drug Education and Support Group. Unfortunately, few additional or individualized services are currently available in the District. At intake, the judge may order treatment, but if the juvenile refuses to participate in treatment or discontinues treatment, there is little recourse available to encourage treatment. Moreover, there is currently no systematic way to sanction juveniles who continue to test positive. It is widely acknowledged that effective drug treatment for juveniles is considerably more complex than for adults, and involves, among other things, consideration of the family environment, peer group influences, educational needs and parental substance abuse history. A juvenile drug court in the District would provide an infrastructure that can effectively support a continuum of care which uses a holistic approach to treating a

youth within the family, school and community.

The proposed District of Columbia Superior Court Juvenile Drug Court Program will be a 12 month program aimed at intervening in the lives of youth engaged in substance abuse and delinquent behavior through intensive supervision, comprehensive family services and drug treatment services. It is estimated that up to 300 juveniles will be eligible to participate in the program in the first year. The specific goals of the program would be:

- To reduce drug use and related crime among juveniles through ongoing judicial supervision, drug testing and the provision of offender services, where juveniles will be held accountable for testing positive, while at the same time receiving individualized community-based drug treatment and education;
- To reduce the rates of commitment to juvenile institutions for non-violent drug using juvenile offenders through treatment opportunities, where institutional commitment will be used as a last resort for juveniles who violate their drug court contract;
- To reduce overcrowded dockets in juvenile court; and
- To provide access and opportunity to those juveniles or families with limited financial resources (i.e., minorities, uninsured and the working poor).

The proposed drug court will not only offer treatment, but will also address the multiple and complex needs of substance using youth who are referred to the Court and their families. The program includes regular court appearances before a Family Court Judge, mandatory drug and alcohol testing, supervised treatment and drug education. The overall treatment plan is supervised by a Case Manager and includes: court supervision,

drug testing, group counseling, individual counseling, family counseling, life skills, educational programming and mentorship.

With the implementation of a Juvenile Drug Court, cases will move to adjudication more quickly than through the regular system of case processing (approximately one-half of delinquency cases currently take over 6 months or 180 days to reach adjudication). It is anticipated that all cases referred to the Juvenile Drug Court through Intake will move to disposition at the first status hearing, which is usually held seven to ten days after the initial hearing. At the first status hearing eligible candidates will enter a plea and agree to participate in the Juvenile Drug Court Program and the disposition hearing will be continued, pending successful completion of the Program. Thus, for cases where the juvenile is detained prior to the initial hearing a case will move to adjudication within approximately 11 days and community cases will move to adjudication within approximately 24 days.

The foregoing represents the best judgment of the members of the Joint Committee and the Courts on the fiscal requirements for the Superior Court in fiscal year 1999 in order for it to be able to continue to meet efficiently its responsibilities for the administration of justice.

Court System

Pursuant to District of Columbia Code §11-1703, the Executive Officer of the District of Columbia Courts is responsible for the administration of the District of Columbia Court system and serves as the primary provider of administrative services for the District of Columbia Court of Appeals and Superior Court. The Court System consists of the Executive Office, Fiscal Office, Administrative Services, Personnel, Court Reporting and Recording, and the Center for Education, Training and Development. Among the primary responsibilities under the purview of the Executive Office is the Criminal Justice Act Program, Court Security, Facilities Management and Capital Improvements.

Fiscal Year 1999 - Budget Request

The Court System has always demonstrated its commitment to management efficiency, quality public service, and fiscal responsibility. The President noted in the January, 1997 announcement of his National Capital Revitalization and Self-Government Improvement Plan that there were no conditions for implementation of the Revitalization Plan in respect to the Courts because the District Court system is deemed to work well and will continue to be self-managed. The fiscal year 1999 Budget Request for the Court System reflects its resource needs in the areas of security, technology, facility operational maintenance, employee services and the budgetary impact of the Revitalization Act. For

fiscal year 1999, the Court System's appropriated budget request is $45,538,000 and 123 FTE's, an increase of $6,752,000 and 3 FTEs.

Revitalization Act Impact Costs

The enactment of Public Law 105-33, the "National Capital Revitalization and Self-Government Improvement Act of 1997" resulted in additional cost to the Court System. The Court's non-judicial employees who are not enrolled in the Civil Service Retirement System became eligible for the Federal Employees Retirement System (FERS) and the Thrift Savings Program (TSP) in FY 1998. The FERS program requires a 10.7% employer contribution which is more than twice the 5% previously contributed by the Court System to the District's retirement program available to these employees. With TSP, the Court System is assessed, for the first time, a 1% flat charge and contributes matching funds in cases where employees participate in this program. The District government required no employer contribution for its deferred compensation program. In order to provide for these fringe benefit costs $132,000 is required in fiscal year 1999.

Payroll, Accounting and Disbursement Services

Since Public Law 105-33 prescribes a federal budget process and funding source, it was no longer appropriate or feasible to have the Courts' payroll, accounting and disbursing services provided by the District government. Therefore, the Courts entered into a memorandum of understanding (MOU) with the General Services

Administration to provide these services. It is estimated that the fiscal year 1999 contract will be $400,000. Previously, these services were provided by the District government at no cost to the Courts.

Audit Service

Section 11244 of Public Law 105-33 mandates that the annual audit of the Courts' accounts no longer be performed by the District government. These audits had been conducted previously at the conclusion of each fiscal year, at no cost to the Courts. The Courts must now contract with a qualified auditing firm to perform its annual independent audit. This new expense to the Courts is estimated to be $100,000.

Security

Since fiscal year 1990, the District of Columbia Courts have been responsible for managing its security requirements. Safety measures were implemented that dramatically improved our security. Security for the court facilities is provided by Court Security Officers through a contract with the United States Marshal Service. In fiscal year 1998, the contract for these services is $3,100,000. Generally, the contract has increased at an average annual inflationary rate of 3%. In fiscal year 1999, $93,000 is requested to provide for the inflationary increase.

With domestic terrorism on the increase and incidents becoming increasingly violent, we have been extremely fortunate that the

District of Columbia Courts have not experienced any serious security breaches or incidents, as other federal and local government buildings and courthouses around the country. This is attributable to the striking improvements in security since the Court System assumed responsibility for this service. However, we must be ever vigilant about maintaining adequate security for the courts. Annually the courts receive numerous bomb threats. Since the beginning of this year, the court has received three serious bomb threats that have necessitated a full court sweep by United States Marshals, Court Security Officers and the Metropolitan Police. To further emphasize the importance of adequate security at the court, it is worthy of note that according to the U.S. Marshall Service well over 325 weapons are detected per month by Court Security Officers. A reduction in staffing, risks forfeiting the gains we have made. The judges, staff, and more importantly, the public will be put in jeopardy if we are forced to reduce staffing and enhancements to our system for lack of appropriate funding.

Security Equipment

In addition, $200,000 is requested for the purchase of upgraded security equipment. Over one million people enter the Moultrie courthouse each year. Current security systems do not have the ability to detect non-metallic security threats, and this represents a significant weakness in our security system. Three aged X-ray machines in the Moultrie Courthouse would be replaced

with newer technology; two at the Indiana Avenue entrance, and a new machine would be purchased for use in the Mailroom, to scan packages and incoming packages. A small mobile X-ray machine would also be used for emergencies and high security trials. A Linx security card system has been installed at each of the secured corridor doors throughout the Moultrie Courthouse. Additional funding is needed to expand existing keycard access to include secure stairwells and Judges' chambers.

Plant Maintenance Services

The Court complex consists of six buildings. Three of the buildings are over fifty years old with numerous plumbing and electrical problems. The steam in the older buildings leak, which causes severe plumbing problems. The electrical system in most of the buildings have not been upgraded in a number of years and are not equipped to handle all of the Court's electronic demands. As a result, with our computers, facsimiles and copier machines, the electrical system requires the immediate attention of on-site personnel. Years of deferred maintenance have left each of the Courts' facility systems, especially the plumbing and electrical systems, in need of immediate and constant repair. These failing systems impact not only staff, but the Court's users and the general public. In an attempt to reduce contractual services in both the plumbing and electrical areas and to meet increased facility needs, we are requesting three positions at a cost of $99,000 in fiscal year 1999. These professional building operations

staff (electrician, plumber and a journey-man level building engineer) will assist the Court in meeting the continuing challenges we face in providing safe facilities without building code violations.

Facility Management Services

The Court is one of the most frequently used facilities in the city. The Court complex averages 13,800 people per day. The complex must be regularly cleaned and maintained for a safe and pleasant environment. Janitorial and related service contracts amount to $900,000 per year. An increase of $27,000 is requested for fiscal year 1999. This increase is due to the most recent Wage Rate Determination under the Federal Service Contracts Act for janitorial service contracts. The total statutory increase is significantly larger, approximately $85,000. However, the adjusted rate was announced subsequent to submission of our budget request. We anticipate that through negotiation with the service provider there can be cost savings for some portion of the increase this year. Additional savings may be realized by reducing the scope of work and resoliciting the contract during the fiscal year.

Procurement Staff

The Procurement and Contracts Branch requires additional staff due to the increased workload caused by the impact of the President's National Capital Revitalization Act. This critical staff will assist in absorbing many of the competitive bid

solicitations that were previously the responsibility of the District of Columbia s Department of Public Works, and the Department of Administrative Services. These contracts are in excess of the small purchase limit of $25,000 and require formal solicitation. They include contracts for elevator and escalator services, air conditioning preventive maintenance and control systems, trash removal, printing services and leases. Other responsibilities of the Contract Specialists will be assisting the contracts for the Capital budget expenditures that have been outlined for fiscal year 1999 and beyond. The Court is requesting two (2) Contract Specialists at the cost of $78,000 in fiscal year 1999 to work on negotiated service contracts, leases and other advertised procurements.

Telecommunicate Disaster Recovery System

A Telecommunication Disaster Recovery System would upgrade the software to our existing telephone system by allowing the telephone company to switch the Courts phone lines to an alternate location in instances where the telephone system inside the courthouse is inoperable as a result of events such as bomb threats or snow emergencies. This will prevent the Court from being inaccessible for indeterminate periods of time. This upgrade will also allow the Court to block frequent harassing callers from outside of the Court which has been a constant problem for judges and certain offices which receive a high volume of public calls. These frequent callers numbers would be programmed to be blocked out of the

switch thus preventing these incoming calls. This is a one-time expense of $50,000.

Additionally the Court is moving to building in redundancy to our existing fiber wiring between the Court and local telephone service provider. Another fiber run would be installed to an alternate location of the service provider to provide a backup system in cases of emergency outage. If damage occurs to lines, the system would automatically switch to the alternate location. An emergency of this nature has occurred in the recent past when persons working in area streets cut our lines, resulting in twenty-five percent of the Court being without telephone service for several days. The annual rental fee for keeping this dedicated fiber link active and maintained is $40,000. No new wiring would occur inside of the Court building. This wiring would all be in public streets. The total cost of the Telecommunication Disaster Recovery System in fiscal year 1999 is $90,000.

Compensation Adjustment

During the past five years, there has been an increasing disparity between the compensation rates of Court employees and employees of the federal government performing comparable job duties and responsibilities. Prior to December 1997, the last pay scale adjustment for Court non-judicial employees was effective October 1, 1993. The average differential between the Court's October 1993 pay scale and the federal rates of pay, effective January 1998, is more than 18%. This condition has had an adverse

effect on the Court's ability to retain employees and to recruit the most qualified potential applicants. To reduce partially this differential, effective on December 7, 1997, the Joint Committee on Judicial Administration authorized a 7% pay scale adjustment. In order to authorize and fund compensation comparability in fiscal year 1999, $891,000 is requested.

Criminal Justice Act Program Rate Adjustment

Since January of 1990, court appointed counsel assigned to criminal cases in federal courts in the District of Columbia have been paid at a rate of $75 per hour. Beginning in 1993, attorneys appointed in the District of Columbia Courts to represent indigent defendants in criminal matters have been compensated at only $50 per hour. From this fee, attorneys are expected to pay for all of their overhead expenses, self-employment taxes, etc.

The Courts request funding for the cost of increasing the hourly rate for attorney services in the Criminal Justice Act program from $50 to $75 per hour. While on an annual basis this increase will amount to $11,675,000, only 40%, or $4,670,000 would be the projected impact of vouchers paid in fiscal year 1999 at the new $75 per hour rate.

Compensation Adjustments (Executive Officer position)

In fiscal year 1998, a 2.3% pay adjustment was provided by statute for judges and the Executive Officer. This is the first

adjustment received since January 1993. Title 11-1703(c) of the D.C. Code provides that the Executive Officer is to be compensated at the same rate as an Associate Judge of the Superior Court; therefore, $3,000 is required to finance this pay adjustment.

Civil Service Retirement System Employer's Contribution

"The Balanced Budget Act of 1997" (Public Law 105-33) mandated that the employer's contribution rate for employees enrolled in the Civil Service Retirement System program be increased by 1.51%. An increase of $47,000 is requested to finance this additional cost.

Conclusion

The Courts are proud of their record of sound, conservative management of resources. The judges and staff of the courts work hard and are productive, even in the face of large and increasing workloads. As we continue to seek efficiencies in our operations, and to identify ways to economize, we cannot lose sight of the critical importance of attracting and retaining capable staff. The work of the court requires skill, thought, attention to detail, experience and judgment. In short, it requires people - - people who are trained, skilled, and capable professionals. The pay comparability increase we request will assist the court in attracting and retaining the experienced and dedicated staff that is essential to maintaining and improving the operations of the courts. Without adequate funding and sound functioning courts, confidence in our system of justice can be eroded seriously.

Therefore, we urge you to provide adequate funding for the courts of the District of Columbia.

APPENDIX A

ITEMS IN THE DISTRICT OF COLUMBIA COURTS' FY '99 BUDGET REQUEST THAT WERE NOT SUPPORTED BY THE PRESIDENT

COMPENSATION COMPARABILITY

- **Counsel for Child Abuse and Neglect Rate Adjustment, $1,200,000**: Since January of 1990, court appointed counsel assigned to cases in the federal court in the District have been paid at a rate of $75.00 per hour. Beginning in 1993, attorneys appointed by the Superior Court to represent clients in abuse and neglect cases have been compensated at only $50.00 per hour. From this fee, attorneys are expected to pay for all overhead expenses, self-employment taxes, etc. This is to request funding for the cost of raising the hourly rate for attorney services in this program from $50.00 to $75.00 per hour. While on an annual basis this increase will amount to $3,000,000, only 40%, or $1,200,000 would be the projected impact of vouchers paid in fiscal year 1999 at the new $75.00 per hour rate.

- **Criminal Justice Act Program Rate Adjustment, $4,670,000**: Since January of 1990, court appointed counsel assigned to criminal cases in the federal court in the District have been paid at a rate of $75.00 per hour. Beginning in 1993, attorneys appointed in the District of Columbia Courts to represent clients in criminal matters have been compensated at only $50.00 per hour. From this fee, attorneys are expected to pay for overhead expenses, self-employment taxes, etc.

  The Courts request funding for the cost of raising the hourly rate for attorney services in this program from $50.00 to $75.00 per hour. While on an annual basis this increase will amount to $11,675,000, only 40%, or $4,670,000 would be the projected impact of vouchers paid in fiscal year 1999 at the new $75.00 per hour rate.

TECHNOLOGY

- **Integrated Case Management System, $1,500,000**: The Superior Court's management information system consists of 18 separate databases. These are single-purpose, mainframe-based systems that cannot be linked or shared. For example, in the Family Division there is a juvenile and neglect information system, another separate system for divorce and custody matters, and still another for paternity and child support cases, making it impossible for judges to secure comprehensive information on family-related cases. It is critical for a judge to be able to identify quickly all aspects of an individual's involvement with the criminal justice system.

In addition to the inability to communicate internally, the Court's computerized information systems are not able to communicate with other criminal justice agencies, such as the Metropolitan Police Department, the U.S. Attorneys Office and the Pretrial Services Agency. As a result, the Court cannot provide information to, or access information from, the D.C. WAN (Wide Area Network) -- the cornerstone of the District's justice system network. As a result, the District of Columbia's ability to reduce crime and enhance public safety is seriously impaired.

The instant and accurate management and transmittal of information on offenders and cases is absolutely essential to Superior Court's ability to meet its responsibilities to the community. An integrated case management information system, compatible with those operating in the Metropolitan Police Department and other criminal justice agencies, would provide: critical links to the existing interagency databases, such as the Criminal Justice Information System (CJIS), National Criminal History Improvement Program (NCHIP), and High Intensity Drug Trafficking Area (HIDTA), and permit instant access to information on offender status, bench warrants and arrest warrants; effective tracking of offender activity in the community; exchange of official documents between agencies; and enhanced public safety. Other benefits of an integrated system include the elimination of courtroom delay, reduction in continuances, speedier case disposition and resolution, and long-term cost savings due to increased efficiencies of operation.. The Court requests $1,500,000 to fund this effort.

- **Telecommunication Service, $132,000**: With the greater utilization of facsimile machines, more dedicated data processing lines, and the general increased cost of basic service, the telecommunication service expenses and utilization have increased and are expected to continue to increase in the near future. The estimated cost in fiscal year 1999 of all court communication costs is expected to amount to $874,000. This is $132,000 above the court's adjusted base of $742,000. This is an essential cost of doing business, for which full funding needs to be provided.

  Currently, the Audix telecommunications system operates with 24 ports. If every Audix user were to retrieve their messages at one time the system would "crash." This would have the following repercussions:. (1) No caller would be able to leave a message through the Audix system; (2) All callers dialing into the system would receive a busy signal; and (3) All incoming calls (the public) would also receive a busy signal.

  The Court proposes a system that would expand the number of ports from 24 to 72 and make the system Year 2000 compliant. The Intuity is ADA compliant for the hearing impaired. Without this upgrade, the system will crash on January 1, 2000.

- **Telecommunication Disaster Recovery System, $90,000**: This is an upgrade of software to our existing telephone system. It will allow the Court to block out threatening calls from outside of the Court which has been a constant problem for our Judges and certain offices which receive a high volume of calls. This upgrade would also allow the transfer of phones to other court buildings or alternate work sites during an emergency so the court could continue to serve the public. In many instances our equipment or lines have not malfunctioned, but it still may be impossible to operate our systems from inside of the buildings. This could be a result of events such as bomb threats or snow emergencies, which have the effect of shutting down the entire Court for some period of time. This is a one time expense of $50,000.

  Additionally the Court is moving to build in redundancy to our existing fiber wiring runs between the Court and our service provider. Another fiber run would be installed to the Southwest Central Office to allow for redundancy in case of emergency outages. If damage occurs to our lines, the system would automatically switch to the alternate Central Office. This type of emergency has occurred in the recent past when power company workers cut our lines, resulting in twenty-five percent of the Court being without telephone service for several days. This is an annual expense of $40,000.

CHILDREN/YOUTH

- **Child Abuse Case Services, $32,000**: The District of Columbia is unique in that the court, rather than the local social service agency, is responsible for supervising children who have been abused. (In many jurisdictions, the Department of Human Services serves this function). This unique responsibility creates unique program requirements. The D.C. Courts request $32,000 to purchase the services of case aides to meet the needs of child abuse victims.

  The Courts' professional staff of social workers and probation officers require assistance with several responsibilities associated with the supervision of child abuse victims, including transporting the children to medical or school appointments and supervising visits with the children's parents. Supervised visits between parent and child are ordered in approximately 20% of the child abuse cases filed at the court. Case aides would also assist or teach families essential skills, such as housekeeping and budgeting. During the past six months, child abuse complaints have doubled, placing even greater demands on case managers responsible for large caseloads. Purchase of service funds are required to ensure that the children under court supervision are safe and secure, as well as that they receive the services to which they are entitled.

- **Urban Services Program Contracts, $45,000**: The Urban Services Program (USP), established in October 1995, is an innovative, urban-based correctional option, consisting of a highly-structured, year-long intensive

supervision and retraining program which targets youthful offenders aged 14 to 26. The program consists of a 30-day residential boot camp (Phase I), followed by an intensive 11-month aftercare component which includes educational/vocational training and support services (Phase II: Life Preparation) and continuing probation supervision and assistance during re-integration into the community (Phase III: Transformation). Inflation costs for the Urban Services contracts are expected to increase the cost of this program by $45,000 between fiscal year 1997 and fiscal year 1998. The Urban Services Program is one which serves both the Court as well as the Offender Services operation.

- **Juvenile Drug Court, $465,000**: Juvenile drug use and related drug offenses represent a continuing concern for the criminal and juvenile justice systems in the District of Columbia. The number of juveniles arrested on drug charges increased 29% between 1992 and 1996, from 544 to 703. Drug offenses comprised nearly one-fifth (19%) of all juvenile cases filed in the Superior Court of the District of Columbia in 1996. Between 1990 and 1996, the percentage of juvenile arrestees testing positive for drug use increased 204%, from 635 to 1,929 juveniles. Last year 64% of juveniles who entered the District's juvenile justice system tested positive for at least one drug. Further, the availability of Alcohol and Other Drugs (AOD) and the prevalence of academic failure, antisocial behavior and family conflict have potentially devastating consequences, such as future delinquent or criminal behavior, teen pregnancy and school drop out.

  Current case processing of juvenile drug cases further demonstrates a need for a juvenile drug court in the District. Specifically, in the second half of 1996, only 37% of juvenile cases reached adjudication in 1-3 months, while 18% reached adjudication in 3-6 months, 19% in 6-12 months and 26% in over 12 months. Every juvenile is tested for drug use upon arrest, and the results are made available to the judge prior to the initial hearing. Currently, if a juvenile tests positive, he will continue to be tested and will be referred to the Court's 12-week Drug Education and Support Group. Unfortunately, few additional or individualized services are currently available in the District. At intake, the judge may order treatment, but if the juvenile refuses to participate in treatment or discontinues treatment, there is little recourse available to encourage treatment. Moreover, there is currently no systematic way to sanction juveniles who continue to test positive. It is widely acknowledged that effective drug treatment for juveniles is considerably more complex than for adults, and involves, among other things, consideration of the family environment, peer group influences, educational needs and parental substance abuse history. A juvenile drug court in the District would provide an infrastructure that can effectively support a continuum of care which uses a holistic approach to treating a youth within the family, school and community.

  The proposed District of Columbia Superior Court Juvenile Drug Court Program will be a 12 month program aimed at intervening in the lives of

youth engaged in substance abuse and delinquent behavior through intensive supervision, comprehensive family services and drug treatment services. It is estimated that up to 300 juveniles will be eligible to participate in the program in the first year. The specific goals of the program would be:

- To reduce drug use and related crime among juveniles through ongoing judicial supervision, drug testing and the provision of offender services, where juveniles will be held accountable for testing positive, while at the same time receiving individualized community-based drug treatment and education;
- To reduce the rates of commitment to juvenile institutions for non-violent drug using juvenile offenders through treatment opportunities, where institutional commitment will be used as a last resort for juveniles who violate their drug court contract;
- To reduce overcrowded dockets in juvenile court; and
- To provide access and opportunity to those juveniles or families with limited financial resources (i.e., minorities, uninsured and the working poor).

The proposed drug court will not only offer treatment, but will also address the multiple and complex needs of substance using youth who are referred to the Court and their families. The program includes regular court appearances before a Family Court Hearing Judge, mandatory drug and alcohol testing, supervised treatment and drug education. The overall treatment plan is supervised by a Case Manager and includes: court supervision, drug testing, group counseling, individual counseling, family counseling, life skills, educational programming and mentorship.

With the implementation of a juvenile drug court, cases will move to adjudication more quickly than through the regular system of case processing (approximately one-half of delinquency cases currently take over 6 months or 180 days to reach adjudication). It is anticipated that all cases referred to the Juvenile Drug Court through Intake will move to disposition at the first status hearing, which is usually held seven to ten days after the initial hearing. At the first status hearing eligible candidates will enter a plea and agree to participate in the Juvenile Drug Court Program and the disposition hearing will be continued, pending successful completion of the Program. Thus, for cases where the juvenile is detained prior to the initial hearing a case will move to adjudication within approximately 11 days and community cases will move to adjudication within approximately 24 days.

- **Child Support Enforcement Program, $70,000:** The core of the President's welfare reform legislation is an efficient child support establishment and enforcement program. To accomplish this, high performance standards have been set and many new program elements are proposed, some of which were scheduled to be in place on October 1, 1997. To successfully reach the established standards, legislation requires implementation of several programs, including: an expanded community-based paternity acknowledgment paternity program through the District's hospitals, clinics and birthing centers; administrative establishment of paternity and child support orders for approval by the Court; nationwide new-hire reporting using IRS Form W4; assumption by the Court and the D.C. Office of Corporation Counsel of the federal and local tax intercept program; implementation of revised review and modification procedures and effective use of license revocation as an enforcement tool.

  For the District to meet its expected level of performance, in spite of an anticipated 100% increase in case filings, the Court's active partnership with the Office of the Corporation Counsel is essential. Approval of adequate staff resources are absolutely necessary to have a successful program in the District of Columbia. Total costs for the positions needed by the Court would be reimbursable by at least 66% through a cooperative agreement with the Office of the Corporation Counsel. While the details of many of the necessary changes to the District's program are being worked out, there is a need for the eight positions described below.

  In light of the installation of the federally mandated statewide child support computer tracking system, which requires a much greater manipulation of case jackets within the file room including bar code scanning prior to their removal from and after their return to the file room, the Court requests two senior file clerk positions (CS-05). Additionally, Welfare Reform places many more responsibilities on the Court, such as new-hire reporting, greater emphasis on administrative case processing, mandatory review and modification of existing orders and increased use of license revocation processes and greater customer service, to mention a few. Each of these new functional areas will require increased access to the file storage area. Therefore, the demands of the file room warrant at least three file clerk positions.

  The Court has also requested funding for two new positions to serve as Title IV-D Intake Clerks (CS-08), Paternity and Child Support Branch of the Family Division to work out of the Domestic Violence Clerk's Office. The Court also seeks to create four additional positions, entitled Enforcement Monitors (CS-08), to fill a variety of new roles. These will include the functional areas established by the Welfare Reform legislation as follows: new-hire reporting, administrative case processing, increased review and modification of existing orders and expanded use of the license revocation processes. There is also a need to create a Customer Service Unit within

the Branch which, with staff from Family Finance, should resolve several quality service issues that have been expressed by the public. One of these positions will be used to cover this function.

OPERATIONAL COST REQUIREMENTS

- **Security Equipment, $200,000**: Replace three aged X-ray machines in Moultrie Building with newer technology; two at front door and one at John Marshall entrance, and add one new machine in the Mailroom for packages and mail. These current systems do not have the ability to detect non-metallic threats that may be passed through the newer technology. Over one million people each year utilize these entrances, and this represents a significant weakness in our security system. The small mobile X-ray, at a cost of $100,000, would also be used for emergency and for high security trials. The Court has recently upgraded its Linx Keycard system to each of its secured corridor doors throughout the Moultrie Building Courthouse. To expand existing Keycard access system to include secure stairwells and Judge's chambers in Moultrie Building $100,000 is requested.

- **Court Security, $93,000**: The full year court security contract between the Courts and the United States Marshal Service amounts to $3,100,000 in fiscal year 1998. Each year, this contract has increased at an average annual inflationary rate of 3%. In order to provide for the added inflationary costs in fiscal year 1999, $93,000 is requested.

- **Janitorial Services, $27,000**: Janitorial and related service contracts amount to $900,000 per year. The additional inflationary costs anticipated for fiscal year 1999 is $27,000. This increase in costs is a requirement because of the increase in the most recent Wage Rate Determination for our janitorial services contract. While this increase is significantly larger, it is expected that there can be cost avoidance for some portion of this increase by rebidding the contract. Therefore, the $27,000 increase is insufficient to cover the cost of the increase of the hourly wage rates for janitors as mandated by the U.S. Department of Labor.

- **Building Operations Staff, $99,000**: Effective FY 1998 the District of Columbia Courts will assume full responsibility for all capital projects, facilities management and plant maintenance. The Court is requesting three positions (electrician, plumber and a journey-man level building engineer) because of the increased facility needs and the continuing challenges faced in providing safe facilities which comply with all building codes. There are six buildings under the Court's jurisdiction. Three of the buildings are over fifty years old with numerous plumbing and electrical problems. The steam in the older buildings leaks, which causes severe plumbing leaks. The electrical system in most of the buildings have not

been upgraded in a number of years and are not equipped to handle all of the Court's modern technology. Years of deferred maintenance by the District of Columbia executive branch which was previously responsible for this work, have left court facility systems, especially plumbing and electrical systems, in need of immediate and constant repair and attention.

- **Procurement Staff, $78,000:** The Procurement and Contracts Branch is in need of additional staff as a result of the increased workload caused by the impact of the President's Revitalization Act. This critical staff will assist in absorbing many of the competitive solicitations that were previously the responsibility of the District of Columbia's Department of Public Works, and the Department of Administrative Services. These contracts are in excess of the small purchase limit of $25,000 and require formal solicitation. They include contracts for elevator and escalator services, air conditioning preventive maintenance and control systems, trash removal, printing services and real estate leases. In addition, this staff will assist in contracting for the Capital budget expenditures that have been outlined for fiscal year 1999 and beyond. The Court is requesting two (2) Contract Specialists at the CS-11 level to work on negotiated service contracts, leases and other advertised procurements.

Mr. TAYLOR. Thank you. Judge Hamilton.

OPENING STATEMENT OF CHIEF JUDGE EUGENE HAMILTON

Judge HAMILTON. Right. Thank you, Mr. Chairman, and the members of committee. Let me express my thanks for the opportunity to be here this afternoon to speak on behalf of the superior court of the District of Columbia's budget.

As has been pointed out quite clearly, the crime rate in the District of Columbia is substantially down. In my judgment, it is substantially down as a result of a coordinated effort that began, first of all, by the Memorandum of Understanding Partners and their efforts of going forward in a consolidated and collective manner with respect to all criminal justice agencies within the District of Columbia. That momentum, which has been started, of course, should be and is expected to continue.

As a result of that collaborative effort, however, the criminal caseload in the Superior Court is up substantially. New case filings in the Superior Court increased in 1997 by 15.6 percent. The disposition of criminal cases in the Superior Court increased by 17.5 percent. Criminal cases pending have increased approximately 12 percent overall, considering a somewhat unusual increase in domestic violence pending cases of 109 percent, which is unusual by virtue of the fact that these cases were not accounted for previously. But overall, an increase of approximately 12 percent of pending criminal cases in the Superior Court.

Now those cases resulted from the police work that was done on the street and processing a lot of those cases in the police department. Those cases ended up in the court to be processed over a longer period of time than it takes the police department to dispose of those cases. I have included in my statement, Mr. Chairman, a list of matters that I would very much appreciate the committee considering. I would request that my statement be attached to the record.

Mr. TAYLOR. Without objection.

PREPARED STATEMENT OF CHIEF JUDGE EUGENE N. HAMILTON

[Chief Judge Hamilton's prepared statement follows:]

EUGENE N. HAMILTON

CHIEF JUDGE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

IN THE UNITED STATES HOUSE OF REPRESENTATIVES

HOUSE APPROPRIATIONS COMMITTEE

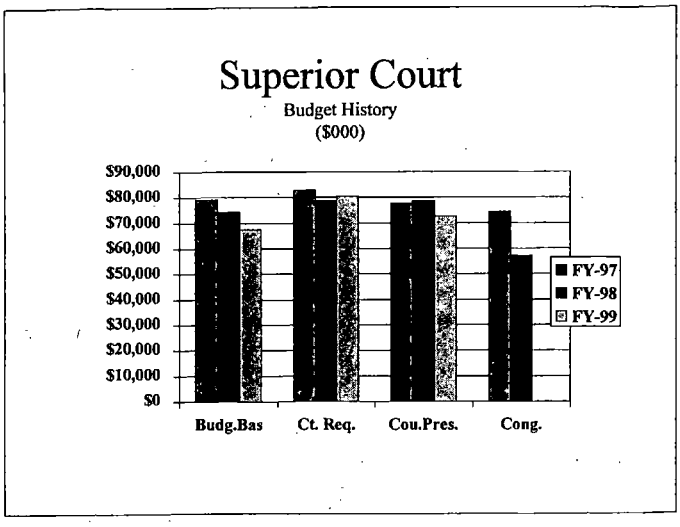
SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA

JUNE 24, 1998

Mr. Chairman and Members of the Subcommittee I am delighted and honored to appear before your today in support of the FY-99 Budget of the Superior Court of the District of Columbia. The Superior Court has submitted a FY-99 Budget Request in the sum of $80,427,000 for 1,101 FTE's.

The Superior Court has submitted with the District of Columbia Courts a complete Budget Document which I will not repeat during this hearing, it is requested that the Superior Court's complete Budget Document with all supporting information be made a part of the Record of these hearings. It is also requested that my writen Statement in its entireity be made a part of the Record of these hearings.

The present fiscal year has presented unprecedented and non-recurring problems, due to revitalization and the difficulty naturally arising from the fact that no one could fully anticipate all of the problems that would arise out of the complete assumption of the funding of the District of Columbia Courts by the Federal Government. These problems have made it somewhat difficult to construct the Superior Court's FY-99 Budget base, but as best I can determine, the Superior Court's Budget History for the purpose of establishing the FY-99 base is as follows:



The Superior Court started out in FY-97 with a budget base of $79,319,000, with 1,236 FTE" s . The Court requested $82,712,000 and 1,246 FTE"s. The 10 new FTE's were to support the USP. The Council recommended $77,690,000 and 1,251 FTE"s. The Congress approved $74,295,000 and 1,251 FTE"s.

FY-98-The Superior Court started out with a Budget Base of $74,295,000 and 1,244 FTE"s. The Court requested $78,801,000 and 1,257 FTE"s. The Council supported $78,801,000 and 1,257 FTE"s. The Congress approved $77,901,000 with 1,249 FTE's. There was deducted from these amounts $20,000,000 for the Supervision Trustee and 158 FTE's , adult supervision officers. In addition $750,000 was deducted from the Superior Court's Budget for the establishment and operations of the Truth in Sentencing Commission. The Superior Court has been left with a working approporiation of $57,151,000 and 1,091 FTE"s.There is a pending request for a supplemental appropriation to reimburse the Superior Court for excess deductions.

FY-99-The Superior Court requested a Budget of $80,427,000 with 1,101 FTE's. This Budget is constructed as follows:

FY-1998 appropriation	$57,151,000
Excess deducted for Supervision Trustee	9,486,000
Deducted for Truth in Sent.	750,000
Total FY-99 Base	$67,387,000

Requested Adjustments

• FY-99 Base		$67,387,000
• Revitalization Act Costs		+1,164,000
• Statutorily Mandated Costs:		
• Compensation adj. Judicial	+183,000	
• Civ. Serv. Ret. Court Cont.	+389,000	
• CCAN Program	+750,000	+1,322,000
• Compensation Comparability:		
• Adj. Nonjudicial pay	+6,843,000	
• CCAN Rate AdJ.	+1,200,000	+8,043,000

All of these requested adjustments, except the CCAN Rate Adjustment have been fully supported by OMB and are necessitated by the Revitalization Act. The sum of $1,164,000 is required due to the higher costs for Civil Service Retirement System for Non-judicial staff that were not previously covered under Civil Service Retirement.

The $183,000 sum is to cover a judicial COLA statutorily mandated.

The $389,000 sum is to cover the court's statutorily increased contribution for employee benefits of 1.51% . This is the employer's contribution under CSR.

The $750,000 sum is to cover the increased cost for representation in child abuse cases due to an increase in cases, not due to an increase in hourly rate.

The $6,843,000 sum is to cover the cost of bringing the pay of the non-judicial staff in line with pay of comparable federal employees.

The $1,200,000 sum is to raise the rate for CCAN representation from $50 per hour to the indigent rate paid in the District Court of $75 per hour.

One of the main items requested by the Superior Court that has not been supported by the Office of Management and Budget are funds necessary to plan and implement an integrated case management system in the amount of $1,500,000.

At present, there is absolutely no relational aspect of the Superior Court's information system, so that it is impossible to automatically know that different cases are related to each other either as a result of the same parties or witnesses or other circumstances. If there is, at present, a civil protection case and a criminal assault case involving domestic violence with respect to the same parties or one of the same parties, there is no way for these cases to be automatically related and each could very easily be disposed of in isolation.

The Superior Court must be able to relate such cases to each other, so that unnecessary hearings and trials can be avoided and related cases can be routinely be considered for assignment to the same judge to avoid inconsistent dispositions.

There are many additional reasons why cases should be automatically related by many parameters, such as Police Identification Numbers, Social Security Numbers, names, addresses and dates of birth. Defendants in criminal cases may have unpaid fines and restitution orders and at the same time become judgment creditors in personal injury cases. Petitioners

in adoption proceedings may have criminal cases pending in which a child is the victim. Cases could be related, but be separated by a few years and go completely undetected.

In order to operate an effective and efficient trial court, it is absolutely essential that immediately upon the entry of a case or party into any Division of the court that automatically any related case or party be identified. The requested integrated case management system would accomplish this result and will greatly allow the lodging with a single judge all related cases.

Moreover, the integrated case management system will give the Superior Court the ability to share information with outside Agencies and data sources. For example, the court would be able to share and use information regarding addresses for paternity and child support matters, custody orders, bench and arrest warrants and jurors.

The second important request by the Superior Court which has not been supported by OMB is the sum of $70,000 to cover 33% of the cost of eight new FTE's to enable the Superior Court to meet new requirements associated with paternity establishment and child support enforcement. Welfare Reform has imposed new requirements for new-hire reporting and the use of other enforcement tools, such as tax refund intercept, license revocation and dependent support apportionment. In addition, there must be greater review of the outstanding support orders. Moreover, in order to back fill the support requirements of children who will no longer be eligible for welfare, the court must process expeditiously an anticipated 100% increase in child support cases. All of these requirements are essential to meeting

the requirements of welfare reform and it is essential that the court be provided the additional FTE's with which to meet these obligations.

The third major item that was not supported by OMB was the sum of $32,000 to purchase services for children who are under the jurisdiction of the Superior Court as a result of having been abused by a parent or care-taker. Over the last six (6) months, child abuse complaints have doubled which has created an unprecedented demand for services for abused children who have been placed under the supervision of the Superior Court. The requested $32,000 would allow the Superior Court to appropriately respond to this demand.

The fourth major item that was not supported by OMB is the sum of $132,000 for telecommunication service for the Superior Court. The Superior Court operates about 75 courts each weekday, in which hundreds of cases are scheduled for various proceedings, including trial, sentencing, motion hearings and other matters. There are hundreds of jurors, parties, lawyers and witnesses scheduled to be present in the Superior Court on each regular court day. All of these circumstances produce thousands of calls that come into and go out of the Superior Court's telecommunication system on each regular court day.

The Superior Court's telecommunication system has only 24 ports that are just not enough to accommodate the ever increasing telecommunication traffic in the Court. The Court's system must be increased to 72 ports. Moreover, the Court's system must be made year 2000 compliant or it will crash on January 1, 2000.

The fifth major item that was not supported by OMB is the sum of $78,000 for two FTE's to perform the additional procurement and contract work necessitated by revitalization. These two employees are needed to do procurement for services previously performed by the District of Columbia government for which the Superior Court is now responsible to provide for itself. These services include elevator and escalator maintenance, air conditioning, trash removal, printing and leases.

The Sixth major item that was not supported by OMB is the sum of $45,000 for the Superior Court's Urban Services Program. This is an innovative highly structured probation program for youthful offenders 14-26. The entire program is one year in duration and it commences with a 30-day residential boot camp requirement that is designed to interrupt the negative non-productive life style of the typical youthful offender and prepare them for highly structured community supervision phase. This latter experience is designed to place the offender in employment or school at its completion. This is a highly successful Program that is about four years old and the $45,000 is necessary to meet inflationary costs of the Program.

The Seventh major item that was not supported by OMB is the sum of $465,000 for the support of the Superior Court's new Juvenile Drug Court. Last year 64% of the juveniles who entered the Superior Court tested positive for at least one illegal controlled substance. If a child is drug free he or she has a much lower risk of being involved in juvenile activity than if using drugs. If drug free, a child has a much greater probability of not being a run away and truant from school than if he or she is a drug user. Through the use of appropriate doses of various

treatments and sanctions, the Juvenile Drug Court will cut the use of illegal drugs by juveniles in the District of Columbia by at least 50%.

The Superior Court operates one of the nation's first and most successful adult drug courts and we must do no less for the children of the Nation's Capital.

I, therefore, urge you to give favorable consideration to each and everyone of the Superior Court's Requested Adjustments and support the Court's requested Budget of $80,427,000.

Thank you.

Superior Court
F.Y. 1999 Budget Request

F.Y. 1998 Appropriation (1,249 FTEs)		$ 77,901,000
Adjustment for Transfer of Adult Probation (-158 FTEs)		-10,514,000
Adjusted F.Y. 1998 Budget Base (1,091 FTEs)		$ 67,387,000
Requested Adjustments		
Revitalization Act Costs:		
Federal Benefits/Employer's Costs		+ 1,164,000
Statutorily Mandated Costs:		
Compensation Adjustment (Judicial)	$+ 183,000	
Civil Service Retirement System Employer's Contribution	+ 389,000	
Counsel for Child Abuse and Neglect Program	+ 750,000	+ 1,322,000
Compensation Comparability:		
Compensation Adjustment (Non-Judicial)	+6,843,000	
Counsel for Child Abuse and Neglect Rate Adjustment	+1,200,000	+ 8,043,000
Technological Requirements:		
Integrated Case Management System (Domestic Violence/Criminal/Civil/ Family Cases)	$+1,500,000	
Jury Management System	+ 189,000	+ 1,689,000
On-Going Operational Cost Requirements:		
Child Support Enforcement Program (+8 FTEs)	$+ 70,000*	
Child Abuse Program Services	+ 32,000	
Urban Services Program Contracts	+ 45,000	
Telecommunication Service	+ 132,000	
Procurement Staff (+2 FTEs)	+ 78,000	+ 357,000
Court Improvement Initiative:		
Juvenile Drug Court		+ 465,000
F.Y. 1999 Budget Request (1,101 FTEs)		$ 80,427,000

* = Costs partially reimbursable through the federal Title IV-D program.

SUPERIOR COURT

Revitalization Act Costs

Federal Benefits/Employer's Costs, $1,164,000: With the passage of the "National Capital Revitalization and Self-Government Improvement Act of 1997" (Public Law 105-33), the Court's non-judicial staff who are not enrolled in the Civil Service Retirement System became eligible for the Federal Employees Retirement System (FERS) and the Thrift Savings Program (TSP). The FERS program requires a 10.7% employer contribution for most employees and 23.3% for Probation Officers, much more than the 5% previously contributed by the Court to the District's retirement program available to these employees. With TSP the Court is assessed, for the first time, a 1% flat charge and must contribute matching funds in cases where employees participate in this program. The District had no employer contribution, deferred compensation program. The sum of $1,164,000 is required in order to provide for these additional fringe benefits costs.

Statutorily Mandated Costs

Compensation Adjustment (Judicial), $183,000: A 2.3% pay adjustment was provided by statute for judges in fiscal year 1998. This is the first adjustment for the judges since January 1993. Only $183,000 is required to finance this pay adjustment.

Civil Service Retirement System Employer's Contribution, $389,000: "The Balanced Budget Act of 1997" (Public Law 105-33) mandated that the employer's contribution rate for employees enrolled in the Civil Service Retirement System program be increased by 1.51%; therefore, $389,000 is requested to finance this additional cost.

Counsel for Child Abuse and Neglect Program, $750,000: Payment levels for the Counsel for Child Abuse and Neglect (CCAN) Program for fiscal years 1987 through 1997 have risen steadily from $1,077,100 to nearly $6,200,000. Child abuse and neglect case filings have increased 94% in the last five years, from 832 in 1991 to 1,615 in 1996. Since the CCAN Program operates on a cash basis, that is with the extended cost of CCAN cases being payable in future fiscal years, it is projected that the fee payments for this program will be $6,900,000 in FY 1999, or $750,000 above the program's current base. This is not a discretionary expenditure because legal representation in child abuse and neglect cases is constitutionally mandated, and the rates of compensation are set by statute.

Compensation Comparability

Compensation Adjustment (Non-Judicial), $6,843,000: During the past five years, there has been an increasing disparity between the compensation rates of Court employees and those of federal employees performing the same or comparable job responsibilities. Prior to December 1997, the last pay scale adjustment for the Court's non-judicial employees was effective October 1, 1993. The average differential between the Court's October 1993 pay scale and the federal rates of pay, effective January 1998, is more than 18%. This condition has had an adverse impact on the Court's ability to retain employees and in recruiting the most qualified potential applicants. To reduce partially this differential, effective on December 7, 1997, the Joint Committee on Judicial Administration authorized a 7% pay scale adjustment. In order to authorize and fund total compensation comparability in F.Y. 1999, $6,843,000 is requested.

Counsel for Child Abuse and Neglect Rate Adjustment, $1,200,000: Since January of 1990, court appointed counsel assigned to cases in the federal court here in the District have been paid at a rate of $75.00 per hour. Beginning in 1993, attorneys appointed by the Superior Court to represent clients in abuse and neglect cases have been compensated at only $50.00 per hour. From this fee, attorneys are expected to pay for all of their overhead expenses, self-employment taxes, etc. This is to request funding for the cost of raising the hourly rate for attorney services in this program from $50.00 to $75.00 per hour. While on an annual basis this increase will amount to $3,000,000, only 40%, or $1,200,000 would be the projected impact of vouchers paid in fiscal year 1999 at the new $75.00 per hour rate.

Technological Requirements

Integrated Case Management System, $1,500,000: The Superior Court's management information system consists of 18 separate databases. These are single-purpose, mainframe-based systems that cannot be linked or shared. For example, in the Family Division there is a juvenile and neglect information system, another separate system for divorce and custody matters, and still another for paternity and child support cases, making it impossible for judges to secure comprehensive information on family-related cases. It is critical for a judge to be able to identify quickly all aspects of an individual's involvement with the criminal justice system.

In addition to the inability to communicate internally, the Court's computerized information systems are not able to communicate with other criminal justice agencies, such as the Metropolitan Police Department, the U.S. Attorneys Office and the Pretrial Services Agency. As a result, the Court cannot provide information to, or access information from, the D.C. WAN (Wide Area Network) -- the cornerstone of the District's justice system network. As a

result, the District of Columbia's ability to reduce crime and enhance public safety is seriously impaired.

The instant and accurate management and transmittal of information on offenders and cases is absolutely essential to Superior Court's ability to meet its responsibilities to the community it serves. An integrated case management information system, compatible with those operating in the Metropolitan Police Department and other criminal justice agencies, would provide: critical links to the existing interagency databases, such as the Criminal Justice Information System (CJIS), National Criminal History Improvement Program (NCHIP), and High Intensity Drug Trafficking Area (HIDTA), and permit instant access to information on offender status, bench warrants and arrest warrants; effective tracking of offender activity in the community; exchange of official documents between agencies; and enhanced public safety. Other benefits of an integrated system include the elimination of courtroom delay, reduction in continuances, speedier case disposition and resolution, and long-term cost savings due to increased efficiencies of operation. The Court requests $1,500,000 to fund this effort.

Jury Management System, $189,000: The Courts' current juror management system is inadequate for today's heavy demand. Among the problems experienced are: the inability to access the juror system when the mainframe computer is down; the continuous malfunction of the system which results in summoning individuals for jury duty too often (or within less than a two year time frame), continuous failed programming of the system to prevent such problems as the summoning of jurors who have recently served on jury duty, and the continuous failure to remove jurors who are deceased, no longer live in the District or are permanently unable to serve due to illness. There are also problems with ensuring that juror summonses are issued and mailed out 45 days in advance of the date of service on a consistent basis. In addition, there are problems with the juror pool counter not working correctly on a consistent basis so that the Juror's Office is never sure how many jurors are available at any given time. There is also the need to have daily statistical reports that accurately reflect staff productivity, juror attendance, the status of juror summonses as well as juror responses to those summonses and the need to produce these reports on a consistent basis. Additional problems include jurors receiving duplicate summonses to serve on different dates and the inability to find staff time to correct addresses in the system so that the summonses are not returned. All of these factors contribute to the Court's inability to reach its goals of improving the quality of the master jury wheel, increasing jury summons yield, and maximizing office productivity and efficiency.

In order to assist the Court in accomplishing the latter goals, it is necessary to move away from the computer mainframe as a sole means of jury management. A commercial automated jury system would help the Court reach these goals, as well as fiscal reduction goals. Such a system is designed to provide the following services that the Court desperately needs:

- the ability to eliminate duplicate names among the multiple lists (voter and driver's license lists), so that jurors do not receive duplicate summonses from the mater list for different dates

- the ability to eliminate from the source lists anyone unable to serve as a juror, such as the deceased, persons who have recently served on jury duty, current felons, etc.

- the ability to summon jurors 45 days in advance to a specific date on a consistent basis

- the ability to allow assignment of "group" numbers for use in managing jurors with a call-in or call-off system

- the ability to allow the Court to print summonses without having to rely on and pay the expense of an outside vendor

- the ability to credit jurors with the appropriate pay automatically

- the ability to define juror pay rules to facilitate varying pay policies, such as no pay for the first day of service, different rates for different days of service, etc.

- the ability to produce employer verification forms

- the ability to return jurors to the pool after voir dire by scanning the juror's bar code, even if the mainframe computer does down

- the ability to allow jurors addresses to be updated immediately, thereby eliminating the expense of sending summonses to incorrect addresses

- the ability to provide an automated call-in system whereby citizens can defer juror dates without staff involvement

- the ability to automatically capture (on a daily, monthly and yearly basis) statistics and produce jury management reports that can be analyzed to determine procedures that may be instituted in order to reduce the costs of operating the jury system.

On-Going Operational Cost Requirements

Child Support Enforcement Program, $70,000: The core of the President's welfare reform legislation is an efficient child support establishment and enforcement program. To accomplish this, high performance standards have been set and many new program elements are proposed, some of which were scheduled to be in place on October 1, 1997. To successfully reach the

established standards, legislation requires implementation of several programs, including: an expanded community-based paternity acknowledgment paternity program through the District's hospitals, clinics and birthing centers; administrative establishment of paternity and child support orders for approval by the Court; nationwide new-hire reporting using IRS Form W4; assumption by the Court and the D.C. Office of Corporation Counsel of the federal and local tax intercept program; implementation of revised review and modification procedures and effective use of license revocation as an enforcement tool.

For the District to meet its expected level of performance, in spite of an anticipated 100% jump in case filings, the Court's active partnership with the Office of the Corporation Counsel is essential. Approval of adequate staff resources are absolutely necessary to have a successful program in the District. Total costs for the positions needed by the Court would be reimbursable by at least 66% through a cooperative agreement with the Office of the Corporation Counsel. While the details of many of the necessary changes to the District's program are being worked out, there is a need for the eight positions described below.

In light of the installation of the federally mandated statewide child support computer tracking system, which requires a much greater manipulation of case jackets within the file room including bar code scanning prior to their removal from and after their return to the file room, the Court requests two senior file clerk positions (CS-05). Additionally, Welfare Reform places many more responsibilities on the Court, such as new-hire reporting, greater emphasis on administrative case processing, mandatory review and modification of existing orders and increased use of license revocation processes and greater customer service, to mention a few. Each of these new functional areas will require increased access to the file storage area. Therefore, the demands of the file room warrant at least three file clerk positions.

The Court has also requested funding for two new positions to serve as Title IV-D Intake Clerks (CS-08), Paternity and Child Support Branch of the Family Division to work out of the Domestic Violence Clerk's Office. The Court also seeks to create four additional positions, entitled Enforcement Monitors (CS-08), to fill a variety of new roles. These will include the functional areas established by the Welfare Reform legislation as follows: new-hire reporting, administrative case processing, increased review and modification of existing orders and expanded use of the license revocation processes. There is also a need to create a Customer Service Unit within the Branch which, with staff from Family Finance, should resolve several quality service issues that have been expressed by the public. One of these positions will be used to cover this function. To finance these operational needs, $70,000 is requested.

Child Abuse Program Services, $32,000: The District of Columbia is unique in that the court, rather than the local social service agency, is responsible for supervising children who have been abused. (In many jurisdictions, the Department of Human Services serves this function). This unique

responsibility creates unique program requirements. The D.C. Courts request $32,000 to purchase the services of case aides to meet the needs of child abuse victims.

The Courts' professional staff of social workers and probation officers require assistance with several responsibilities associated with the supervision of child abuse victims, including transporting the children to medical or school appointments and supervising visits with the children's parents. Supervised visits between parent and child are ordered in approximately 20% of the child abuse cases filed at the court. Case aides would also assist or teach families essential skills, such as housekeeping and budgeting. During the past six months, child abuse complaints have doubled, placing even greater demands on case managers responsible for large caseloads. Purchase of service funds are required to ensure that the children under court supervision are safe and secure, as well as that they receive the services that they are entitled.

Urban Services Program Contracts, $45,000: The Urban Services Program (USP), established in October 1995, is an innovative, urban-based correctional option, consisting of a highly-structured, year-long intensive supervision and retraining program which targets youthful offenders aged 14 to 26. The program consists of a 30-day residential boot camp (Phase I), followed by an intensive 11-month aftercare component which includes educational/vocational training and support services (Phase II: Life Preparation) and continuing probation supervision and assistance during re-integration into the community (Phase III: Transformation). Inflation costs for the Urban Services contracts are expected to increase the cost of this program by $45,000 between fiscal year 1997 and fiscal year 1998. The Urban Services Program is one which serves both the Court as well as the Offender Services operation.

In the boot camp phase of the program, offenders are subject to 30 days of strict military-style discipline and intensive physical conditioning, while participating in team building, guided group interaction and counseling sessions. (The boot camp is located at Jones Cottage in Laurel, Maryland on the grounds of Forest Haven, a former minimum security correctional facility.) During Phase II, offenders are under intensive probation supervision at the Family and Youth Resource Center, a day reporting center at Hamilton Junior High School in the District of Columbia, where they receive training which prepares them to either obtain employment or return to school. In Phase III (Transformation), offenders continue to be supervised by probation officers while employed or at school. The Courts' FY 99 request for $45,000 is to cover inflationary adjustments.

Telecommunication Service, $132,000: With the greater utilization of facsimile machines, more dedicated data processing lines, and the general increased cost of basic service, the telecommunication services expenses and utilization have increased and are expected to continue to increase in the near future. The estimated cost in fiscal year 1999 of all court communication costs is expected to amount to $874,000. This is $132,000 above the

court's adjusted base of $742,000. This is an essential cost of doing business, for which full funding needs to be provided.

Currently, the Audix telecommunications system operates with 24 ports. If every Audix user were to retrieve their messages at one time the system would "crash." This would have the following repercussions:. (1) No caller would be able to leave a message through the Audix system; () All callers dialing into the system would receive a busy signal; and (3) All incoming calls (the public) would also receive a busy signal.

The Court proposes a system that would expand the number of ports from 24 to 72 and make the system Year 2000 compliant. The Intuity is ADA compliant for the hearing impaired. Without this upgrade, the system will crash on January 1, 2000.

Procurement Staff, $78,000: The Procurement and Contracts Branch is in need of two additional employees to adjust for the increased workload resulting from the impact of the President's Revitalization Act on the Court. This critical staff will assist in absorbing many of the competitive solicitations that were previously the responsibility of the District of Columbia's Department of Public Works, and the Department of Administrative Services. These contracts are each in excess of the small purchase limits of $25,000 and would each require a formal solicitation. They include contracts for elevator and escalator services, air conditioning preventive maintenance and control systems, trash removal, printing services and real estate leases. In addition, this staff will assist in contracting for the Capital budget expenditures that have been outlined for fiscal year 1999 and beyond. The Court is therefore requesting these additional two (2) Contract Specialists at the CS-11 level to work on negotiated service contracts, leases and other advertised procurements.

Court Improvement Initiative

Juvenile Drug Court, $465,000: Juvenile drug use and related drug offenses represent a continuing concern for the criminal and juvenile justice systems in the District of Columbia. The number of juveniles arrested on drug charges increased 29% between 1992 and 1996, from 544 to 703. Drug offenses comprised nearly one-fifth (19%) of all juvenile cases filed in the Superior Court of the District of Columbia in 1996. Between 1990 and 1996, the percentage of juvenile arrestees testing positive for drug use increased 204%, from 635 to 1,929 juveniles. Last year 64% of juveniles who entered the District's juvenile justice system tested positive for at least one drug. Further, the availability of Alcohol and Other Drugs (AOD) and the prevalence of academic failure, antisocial behavior and family conflict have potentially devastating consequences, such as future delinquent or criminal behavior, teen pregnancy and school drop out.

Current case processing of juvenile drug cases further demonstrates a need for a juvenile drug court in the District. Specifically, in the second half of 1996, only 37% of juvenile cases reached adjudication in 1-3 months, while 18% reached adjudication in 3-6 months, 19% in 6-12 months and 26% in over 12 months. Every juvenile is tested for drug use upon arrest, and the results are made available to the judge prior to the initial hearing. Currently, if a juvenile tests positive, he will continue to be tested and will be referred to the Court's 12-week Drug Education and Support Group. Unfortunately, few additional or individualized services are currently available in the District. At intake, the judge may order treatment, but if the juvenile refuses to participate in treatment or discontinues treatment, there is little recourse available to encourage treatment. Moreover, there is currently no systematic way to sanction juveniles who continue to test positive. It is widely acknowledged that effective drug treatment for juveniles is considerably more complex than for adults, and involves, among other things, consideration of the family environment, peer group influences, educational needs and parental substance abuse history. A juvenile drug court in the District would provide an infrastructure that can effectively support a continuum of care which uses a holistic approach to treating a youth within the family, school and community.

The proposed District of Columbia Superior Court Juvenile Drug Court Program will be a 12 month program aimed at intervening in the lives of youth engaged in substance abuse and delinquent behavior through intensive supervision, comprehensive family services and drug treatment services. It is estimated that up to 300 juveniles will be eligible to participate in the program in the first year. The specific goals of the program would be:

- To reduce drug use and related crime among juveniles through ongoing judicial supervision, drug testing and the provision of offender services, where juveniles will be held accountable for testing positive, while at the same time receiving individualized community-based drug treatment and education;

- To reduce the rates of commitment to juvenile institutions for non-violent drug using juvenile offenders through treatment opportunities, where institutional commitment will be used as a last resort for juveniles who violate their drug court contract;

- To reduce overcrowded dockets in juvenile court; and

- To provide access and opportunity to those juveniles or families with limited financial resources (i.e., minorities, uninsured and the working poor).

The proposed drug court will not only offer treatment, but will also address the multiple and complex needs of substance using youth who are referred to the Court and their families. The program includes regular court appearances

before a Family Court Hearing Judge, mandatory drug and alcohol testing, supervised treatment and drug education. The overall treatment plan is supervised by a Case Manager and includes: court supervision, drug testing, group counseling, individual counseling, family counseling, life skills, educational programming and mentorship.

With the implementation of a juvenile drug court, cases will move to adjudication more quickly than through the regular system of case processing (approximately one-half of delinquency cases currently take over 6 months or 180 days to reach adjudication). It is anticipated that all cases referred to the Juvenile Drug Court through Intake will move to disposition at the first status hearing, which is usually held seven to ten days after the initial hearing. At the first status hearing eligible candidates will enter a plea and agree to participate in the Juvenile Drug Court Program and the disposition hearing will be continued, pending successful completion of the Program. Thus, for cases where the juvenile is detained prior to the initial hearing a case will move to adjudication within approximately 11 days and community cases will move to adjudication within approximately 24 days.

TECHNOLOGY—COORDINATED CASE MANAGEMENT SYSTEM

Judge HAMILTON. I would ask, however, if I could point out two matters that I think are very, very important as far as the Superior Court's budget is concerned—keeping in mind that we are in the trenches, too, you know, we are on the firing line. We are in the first line of defense. That is our computer system. It does not do the police department any good to become high-tech and to be able to move and process their cases expeditiously if they come to the court and they hit a snag. The court has to be able to process its cases as quickly and expeditiously as the police department does.

For that reason, we have requested the funds necessary to implement a coordinated case management system which will permit us to expeditiously process all these cases so that we know exactly what we have. For example, we cannot really know now whether or not the same person has two or three cases pending in the court that really might be related to each other. They ought to be married by an automated process. So we need this equipment to be able to do that.

JUVENILE DRUG COURT

The second item, Mr. Chairman and members of the Committee, that I would really draw your attention to and that is the funds that are necessary to implement and operate our juvenile drug court. Now we just had a national conference on drug courts here in the city a couple of weeks ago. The evidence is in—it is clear. Drug courts do work. As a matter of fact, we have one of the most successful drug courts operating right here in the District of Columbia in the Superior Court for adults. It has substantially impacted the crime rate in the city by substantially reducing the use of illegal controlled substances which, of course, is one of the things that drives criminality beyond any question.

Now if we can operate a drug court for adults, I say we just cannot avoid the conclusion that we need to at least do the same for the juveniles. Because I think we can be more successful in operating the drug court for juveniles, better than we can for adults. Sixty-five percent of the juveniles that came into the court last year tested positive for one drug—65 percent. It is my judgment that if we had a state of the art juvenile drug court, we could substantially reduce that number of juveniles coming through the system, thereby reducing truancy and criminality among juveniles in the city.

So I draw your attention specifically with emphasis on those two items for your consideration. Thank you very much.

RECENT DEATH OF POLICE OFFICER IN NORTH CAROLINA

Mr. TAYLOR. Thank you. I would like to say to Chief Langston, not as a question, that you lost a member in my district at the beginning of the week. In fact, we have a representative at his funeral now.

VESTS AND EQUIPMENT FOR POLICE OFFICERS

I am also a member of the appropriations subcommittee on Commerce, Justice and State, which funds law enforcement agencies. We are going to ask for an inquiry into the type of vest that is being provided officers. This officer was shot through his vest and was killed at a distance. I know we have $40 million in the CJS appropriations request which will be marked up today. On that end I would like it if you and Chief Ramsey could give us information in that area, so that when we are providing our officers with equipment, we have the very best equipment possible.

CHAIRMAN APPLAUDS CHIEF RAMSEY'S COMMONSENSE APPROACH

Chief Ramsey, I am convinced your approach to assessing the quality of performance before you ask for an increase to your budget could well be imitated in D.C. [Laughter.]

I am certainly delighted with that type of approach. I appreciate from all the points you spoke to, especially the area of administrative leave as well as a number of the other items that you talked about. I know the lack of education, especially physical improvements and the condition of police officers are of serious concern.

PHYSICAL FITNESS STANDARDS

Would you be able to have your officers in good physical shape measured by some kind of standard—the Air Force physical fitness standards or some other standards? We had that discussion last year. It seems to me that there was going to be objections from the unions and so forth on that sort of thing. I think this might be leading to disability claims that really could be avoided in some cases if the officers were in better physical condition.

Chief RAMSEY. I agree with you, sir. I think that if we can really work to establish standards throughout the organization and obviously it would vary because we have people with different ages and departments. What you would expect a 22-year-old police officer would be somewhat different than a 55-year-old police officer. But there are standards that take all of these things into account. We have to start at some point and time. We did get the union to agree to sit down with us and work toward establishing physical standards. We will have a dual track, if you will, for the veteran police officer there will be one standard. But we can really have a far more richer standard for a lot of people that are just coming on that do not have to adhere to their entire career. So it is kind of grandfathered in, although there will be some standards for veteran officers. We do not want to lose half the force either trying to get them to run a mile and one-half and keel over. So you have to phase certain types of things in, but we are going to move very aggressively toward establishing some kind of standard as it relates to their physical condition.

Mr. TAYLOR. These are men and women who have to protect the people of the city and it is better to be in shape to run the mile and one-half in pursuit of an objective or your formal duties than it is to try to get into shape when you are confronted with a real-life situation.

1,500 OFFICERS ON STREET IN 24-HOUR PERIOD

How many officers are on the streets in a 24-hour period?

Chief RAMSEY. When you take a look at days off and the number of people that would be on administrative leave, I would say it would be pretty fair to say that at any given time over a 24-hour period or a given shift.

Mr. TAYLOR. About 24-hours.

Chief RAMSEY. Over a 24-hour period, you would probably have 3,600 individuals—and this is a ballpark. I think it would be fair to say somewhere in the area of maybe 2,300; then you figure days off; those that are on administrative leave, actually physically available for duty—somewhere in the area of about one-third of what we would normally have which certainly would be under that. Two-thirds, I am sorry, one-third would be unavailable to do.

PARK POLICE HELICOPTER AVAILABILITY

Mr. TAYLOR. Chief Langston, what is the process for calling the Park Police for your helicopter service? I know we worked in this area last year, but are you reimbursed by the District, for instance, when your helicopter is needed by the city police?

Chief LANGSTON. No, sir. There is no reimbursement within the city unfortunately. We are reimbursed, however, by the Secret Service when we fly protection for the President.

Mr. TAYLOR. How many times last year do you recall that the Park Police responded to non-Federal clearly local matters.

Chief LANGSTON. 205 times for the police and 30 times for the D.C. Fire Department and 2 times for the D.C. Housing Department police.

Mr. TAYLOR. What percentage of arrests are made by the Park Police—versus the city police—on "Federal land inside the city?"

Chief LANGSTON. I cannot give you a comparison on that. You are asking how many arrests we make per police officer versus a Metropolitan police officer?

Mr. TAYLOR. Yes.

Chief LANGSTON. I do not know their statistics. I could not compare that. I do know that we have a very high arrest rate from our officers, but I have not made a comparison.

RESIDENCY REQUIREMENT FOR POLICE OFFICERS

Mr. TAYLOR. Chief Ramsey, I know that in Chicago you had a residency requirement for police and firefighters, of course. How do you think that worked and how would that requirement work here. We have talked about this for some time, so it will not be something new to the Committee.

Chief RAMSEY. Well, sir, in Chicago all city employees had to live within the City of Chicago—police, fire, streets and sanitation—it did not matter. That is not the situation here. However, there are pros and cons to residency like everything else. My personal feeling, coming into a situation that I am really not accustomed to, not having a residency requirement but having the 25-mile radius requirement.

My feelings are that it is very critical that police officers be close enough to be able to respond quickly in an emergency. We cannot

afford to have officers who live an hour away from their place of employment—or two hours away because if we ever needed to assemble people for an emergency, we simply did not get them. If they live within a reasonable distance from the city—and 25 miles that is currently established right now—although I have not been here long enough and we have unfortunately had to recall people to see just how that works. It is my feeling that as long as it is within a reasonable distance, I do not have a particular problem with some people living outside of the city. If that had not been the case, and if we were in a situation where there was already residency, I would be arguing very, very heavily to have people remain in the city. If we do anything around residency, in my opinion, we need to maybe look at future new hires to see if we can impose some kind of residency requirements. But the costs associated with forcing people to move back into the city and so forth, and I really do not know if there is a direct correlation between the level of service provided by individuals and where they actually reside. My personal feeling is that I would like to see more people living in the District of Columbia. I live in the District of Columbia. My new executive assistant lives in the District, but I also think that we need to be a little more flexible since this is something that is been in existence for some time now.

TAKE-HOME CARS—LAW IGNORED

Mr. TAYLOR. Last year's appropriations bill prohibited take-home cars for officers who did not live in the District, yet the Department ignored that law and high-ranking police officials were found to have accidents in official cars outside the city. In fact, we were getting complaints that disability claims might be filed by the police officers for those accidents. What have you done so far to see that that law is obeyed? Are there any exceptions that you would propose in the law?

Chief RAMSEY. Well, I mean, the law is the law. I believe it should be adhered to. Let me say that first. I do not care if it is me, if it is one of my assistant chiefs or whomever. If the law says you do not take a vehicle out of the city for personal use, then you just do not take it out of the city for personal use. However, I think we need to revisit that for one reason and that is there are some situations where we have people—and I will give you an example, the emergency response team for example that are special people with specialized skills that have to respond to a hostage-type situation. When they do not have a vehicle available to them what it does is forces them to leave their residence, go to the headquarters, pickup their vehicle and equipment and then go out to the scene. That to me seems like an unnecessary waste of time which can result in the loss of life.

So I think that we need to be able to carve out limited exceptions for people—and I do mean limited exceptions. I do not mean just taking the car home for the sake of taking it home. A person who is actually on-call that particular evening who may indeed be called out should have a vehicle at their disposal. So I do think there needs to be some flexibility, but I do not have a problem overall with not taking a car out of the District. I do not really think that we should be paying for the gas and mileage placed on cars for peo-

ple who choose to live outside the District with the exception of something very narrow as I have just described.

ADDITIONAL D.C. POLICE REQUIRED IF PARK POLICE WERE NOT AVAILABLE

Mr. TAYLOR. If you, the Metropolitan Police Department, did not have the Park Police to call on, do you have any idea how many additional officers you might need? I am not talking about patrolling the Federal area, I am talking about the city in general.

Chief RAMSEY. Well let me just say this. Of all the agencies that we have here in the District of Columbia, we rely on the Park Police more than any others. We have a very, very strong working relationship with the Park Police. I would just be shooting from the hip to give you a ballpark figure about what I think we would need. But I am here to say that if we lost the Park Police, we would be in serious trouble in a lot of ways. Not only is it in the downtown areas that we rely on the Park Police, all the parks throughout the city. We have constant joint operations. We now utilize their helicopters since we no longer have that capability.

We rely on the Park Police a lot. But when I talked about doing some other things such as maybe some joint roll calls and some critical areas that are problems for both of us. So we would have to really come to you and ask for a significant increase in the personnel and equipment if we did not have the Park Police. Like I said of all agencies, I think we work with them the most in the District.

Mr. TAYLOR. Mr. Moran?

RESIDENCY REQUIREMENT—PROBLEMS CREATED

Mr. MORAN. Thank you, Mr. Chairman. Let us talk a bit about the residency requirement. First of all, because it was brought up. It would seem that police officers have a special concern with regard to residency requirements. Chicago is a larger city than D.C. obviously. To some extent, D.C. is divided economically West of Rock Creek Park, the homes are considerably more expensive.

Chief RAMSEY. I have just experienced that.

Mr. MORAN. I will bet. [Laughter.]

I will bet. But on a police officer's pay, there are very few police officers who can afford to live West of Rock Creek Park. Thus the homes available are more likely to be in those neighborhoods that they spend the most time policing, and thus there is an endangerment consideration that exists for police officers which does not exist generally for other municipal employees. The other issue that goes beyond police officers, of course, is quality of the pool from which you must recruit. It would be considerably more narrow if you are putting restrictions on officers that they have to live in the District, and thus have to depend upon the District school system. I assume that they would have confidence in the District's public safety, but one does not know.

RESIDENCY REQUIRMENT—USE OF INCENTIVES INSTEAD

I know the policy that you have to articulate, but I think it is useful to bring out those issues. I look for you to look at incentive

programs that might serve as an alternative just in case this legislation does not actually get enacted. I think that is a possibility, and if it is not enacted you may want to come up with a carrot approach that would provide incentives for officers to live in the District. Mr. Taylor touched briefly on something that I want to ask a little more about.

TOO MANY UNIFORMED OFFICERS IN DESK JOBS

We had a extensive hearing—this subcommittee did last year. Mr. Harlan was there. Some of the statistics that were brought out that had been done by a good study that I know is accurate is that we have more police officers per 1,000 residents than any other city in the Nation. We have a police budget that is considerably larger per capita than Philadelphia, Baltimore, or Detroit, but they make more arrests than we do in Washington. What the hearing focused on was the fact that of the approximately 3,600 officers that we have, more than two-thirds made fewer than 10 arrests in a year. I know you were very much aware of these statistics, but I think that we want to get an update from you on the record as to how you have addressed some of those statistics. Because they really are damming in terms of getting the maximum use out of your uniformed officers. You have 12 out of the 15 employees in the Human Resources office who are uniformed police officers; 19 uniformed officers were in communications; and 138 uniformed officers in Personnel Development—it just does not seem as though we were maximizing use of uniformed officers and distributing civilian positions in areas where its most appropriate.

The other issue was overtime. But let me ask you first, in terms of getting more uniformed officers out on the beat and filling civilian-oriented positions with civilians.

Chief RAMSEY. Well, that is one of the things that we have been looking at very carefully and really trying to redeploy our resources. As I stated early on that my sense was that the Department is not organized in a way that really maximizes the use of resources. That includes resource allocation. There is no doubt that we have too many police officers performing functions that civilians ought to be performing. That is why I have asked for an increase of 100 civilian positions in this year's budget—in the 1999 budget, rather, so that we can again continue to move toward civilianization. Whether or not there has been an increase in arrest activity. I honestly cannot tell you. I do not know if there has been or not. That is why we have got to establish performance standards so that we have certain expectations of people whatever that might be and then hold them to it.

TOO FEW POLICE CARRYING THE DEPARTMENT

But we have too few people that are basically carrying us as a department, not just police officers, but as you move up in the ranks you start to see the same thing.

You always have your one or two people who are very, very good. You burn them out because you tend to then find somebody that will do it, so you give them everything and then you wind up burning them out. Rather than having everybody carrying their fair share of the load. We do have dead weight in the Metropolitan Po-

lice Department. There is absolutely no doubt about it. We need to weed it out. We need to kick some people in the tail to make sure they do what they are supposed to do. Then hire people that are motivated and committed to public safety. We have got to make this an organization where people clearly understand what is expected of them, hold them accountable for seeing to it that for 8 and one-half hours per day, they give us 100 percent and not 25 percent, not 30 percent, or 50 percent—but 100 percent. That is the only thing that is acceptable.

Managers have to see that their subordinates do what they are supposed to do. Right now, we really do not have the systems in place to really have performance standards throughout the department. We have pockets of standards where we have very good managers and work very good teams and motivated people. But then you can just as easily go and find people that are not motivated at all and be very, very loyal. I have not solved that yet, sir. I am aware of it and we are working toward it.

Mr. MORAN. Well, this is obviously what we want to hear. We want to know that you are aware of it. We are not asking for results overnight, but as long as you make it sufficiently high priority.

OVERTIME COSTS OF $18 MILLION

The overtime, as well, is costing us $18 million per year. I think we are more than aware of the overtime situation. Are you addressing that?

Chief RAMSEY. But you know something? You're earlier question.

Mr. MORAN. Yes.

Chief RAMSEY. That affects overtime.

Mr. MORAN. Sure.

Chief RAMSEY. A lot of overtime is because the few people that are willing to work overtime and do things are the ones that again, we continue to have in the court system when we are looking at the conversation with the U.S. Attorney's office—they need certain follow-up done. Well, they got some detectives that they know that if they give an assignment, they are going to go out and do whatever it takes to do it. They have others that they are reluctant to give things to because they just are not that committed. So you wind up with people that have a lot of overtime booked up. You have others that do not do enough to earn the paycheck they get, let alone overtime. So there is an imbalance. If everybody carried their workload, it would have a direct impact on your overtime because you would not have to use as much overtime in order to get the job accomplished. So you are right it impacts all that.

HELICOPTERS—COSTS ASSOCIATED WITH D.C. WORK

Mr. MORAN. I have one last question for the Park Service. In looking at these numbers, the total cost for the use of the helicopter by the Park Service in D.C.—the D.C. amount came to $62,000. I think it is a tough sale——

Chief LANGSTON. Well, let me correct something before you get on that. There is an area there that I would strike out that says manpower cost. Personnel manpower costs consist of officers who

would be flying regardless. Why they put that in there, I am really not sure.

Mr. MORAN. Well, I can figure out why they put it in there, but you are right that is——

Chief LANGSTON. The flight hours of 92.2 figured on the hours of how much it cost us to operate a helicopter for our——

Mr. MORAN. Well, let me suggest this. I think, Mr. Chairman, that instead of buying a helicopter for the Park Service in this budget, which is far more monitored than the Interior budget, that we ought to keep the Park Service funded in the Interior budget and reimburse the Park Service for the time and resources that are used on supplementing the D.C. Metropolitan Police Department's responsibilities. I am afraid we set a precedent there that would be difficult to sustain and even to justify in this year to take $13 million out of this budget, or some significant portion of that, and put into a Park Service helicopter. I think reimbursing the Park Service will let us deal with the need for another helicopter in the Interior budget. We can discuss that further.

Mr. TAYLOR. We will be talking about that. I would like to recognize that Congresswoman Northup is with us. Thank you for being here. Mrs. Northup, do you have any questions?

RESISTANCE TO CHANGE

Mrs. NORTHUP. Let me just briefly welcome Chief Ramsey. For the time I have been here, I am very impressed with your focus and the fact that you articulate your vision so well. Everybody will understand. My experience has been that people are afraid of change. They do not like change. They are comfortable with what they have had. I just wondered as you talk about making actual changes and changing the culture and environment of the police department, what is the resistance?

Chief RAMSEY. Well there is a natural—you are absolutely right, there is a natural resistance to change whether it is a small change, large change—whatever. I think that what is important for us to do is to develop good training and education for people prior to making the actual changes that need to take place. You have to prepare people for change. A lot of the resistance is because people are afraid. They just do not know what their new roles are going to be. They do not know how they fit into the new system. So you need to clearly articulate the new roles and responsibilities that go along with this change.

Once you have prepared for change, then once you implement it, it is far less threatening. You are always going to have a percentage of people that are going to argue and complain. But there are people that argue and complain about what they do now. So you are going to have that small group. But the vast majority of people, I think if you prepare them properly and they clearly understand and you answer all their questions and are sensitive to the fact that change is very, very traumatic, I think you could minimize—that was my experience in Chicago. When people began to see the benefits of it and how it could actually help them do their jobs more effectively, then you start to get by in and that is the key to the whole thing.

MAYOR'S SECURITY DETAIL

Mrs. NORTHUP. One other thing. I may have missed it earlier Have you resolved the problems of the Mayor's security?

Chief RAMSEY. That has not come up previously. The Mayor's security detail was cut from 30 to 15 and that is where it stands today. We are constantly reviewing to find out what it is that is actually necessary.

Mrs. NORTHUP. Is there still conflict between——

Chief RAMSEY. Not that I am aware of. It is stabilized at that level. It was cut in half and that is where it has been for the last 3 or 4 months.

Mrs. NORTHUP. That is all, Mr. Chairman.

Mr. TAYLOR. Thank you, Mrs. Northup. I want to point out that I have been impressed by Chief Ramsey's remarks. I have just finished penciling you in, "Chief Ramsey believes that laws should not be ignored in the District of Columbia." [Laughter.]

You would be surprised how many people would disagree with us in this Committee.

FIRE FIGHTERS PAY RAISE

I would like to ask Fire Chief Edwards. Does last year's pay raise bring your department up to the regional pay average? I think you spoke to that a moment ago about spreading it over a period of time. Let me ask you, too, about one of the complaints that our office gets is that you send out a fire truck and sometimes a hook and ladder truck to respond to medical emergencies. What is the policy as far as coordinating between EMS and the fire department? Can we provide safety without those extremes?

HOOK AND LADDER TRUCKS USED FOR MEDICAL CALLS

Chief EDWARDS. Mr. Chairman, due to the large volume of requests for medical assistance in the city, we utilize a first respondent-type response, sir. That first response program allows us to put a trained individual on the scene of a medical request. Through the use of a—I would say a whole triage-type of program and communications division, we try to maintain that presence only on the critical care calls. That would be calls that would be life-threatening in nature. This is done by a series of questions that the call-taker asks of the caller. The determination based upon those answers would tell that individual what type of equipment to dispatch.

The first response program is a valid program in this urban setting. We, for whatever reason, have a systemic problem for medical service and delivery to the citizen in most major urban areas. This program allows the patient or the requestor for the service to get the care as rapidly as possible. I think our problem has stemmed from the fact that we have not educated the public, educated the user as to when and what to call for. But I do believe it is a valid program. We have reduced the number of responses that we put out first response to units. First response to units meaning engine companies, ladders companies or heavy rescue squads. They have been reduced somewhat. We are attempting to keep them only on what those types of responses that are classified as critical. But I

look at it as—Mr. Chairman, Mr. Miconi and the other distinguished panel member—you having experienced a medical problem. Mr. Miconi being trained in CPR or some form of medical training, he then is the first response to your call. That is the same way that we look at that. We want you or any patient to get into the system as rapidly as possible because that they will entail a more positive outcome for the patient. So it is really a viable program. This is not the only community that uses it. The use of it has been reduced compared to what it was a year ago or two years ago. Two years ago, we were dispatching first response to every request for ambulance. We are not doing that now.

IMPACT OF COMMERCIAL HELICOPTER FLIGHTS IN DISTRICT

Mr. TAYLOR. I would like all three of the law enforcement members here to address this question. It is my understanding that a private helicopter take off and landing operation has been established about a mile from the Capitol. This site will apparently serve both for tourist flights to fly about the city outside of the restricted zone, and for potential commuter flights to New York. Can you assess what this service is going to be. Will it in any way conflict with the fire, police, or park police doing your jobs and responding to emergency situations?

Chief LANGSTON. Mr. Chairman, we think it is going to cause a great deal of hazard in the air, especially around the helicopter corridor which is helicopter corridor number 1 which is the Anacostia River area. That is where all the helicopters that are commercial or public aviation fly up and down to get to—are routed up and down to get to National Airport. Also, the Marine Corps next month, the Park Police, and aviation are right in that corridor and they respond to emergencies very quickly out of that area. Our aviation section is about a mile from here right on the Anacostia River on the other side of the South Capitol Street bridge. We have a concern that increased helicopters are going to cause us problems especially with the military helicopters that come up and down the Potomac River and the Anacostia River. It could create an additional hazard to the folks here. There are restricted areas of B–56 areas that are in and around the Capitol and around the White House that they are prohibited from going into. They simply have to hover over or operate in certain areas. Put those in conjunction with the news helicopters that are up there now, it is going to be an awfully congested area above our city. I have a real concern with that.

Mr. TAYLOR. Well, I have not seen a report as to whether they can operate in different kinds of weather and what type of command station they will have to keep it safe. I do not know. But it is a concern to us.

CONCLUSION OF PUBLIC SAFETY HEARING

Well, I believe that has answered the questions we have. We may be talking with you again as we get closer to a markup. It is our contention to mark-up towards the end of next month. We have talked to Chairman Livingston about that and we will try to have the subcommittee markup, if at all possible by then, so that we will

be ready long before we leave for August to send the bill over to Senate.

We have other hearings that will start at 3 o'clock and we are a few minutes early, so we will be in recess for about 30 minutes.

Thank you, very much.

[Recess.]

TESTIMONY OF MEMBERS OF CONGRESS AND OTHER INTERESTED INDIVIDUALS AND ORGANIZATIONS

WEDNESDAY, JUNE 24, 1998.

D.C. BUDGET FOR FY 1999

WITNESS

HON. DAVID A. CATANIA (R) AT-LARGE MEMBER, COUNCIL OF THE DISTRICT OF COLUMBIA

Mr. ADERHOLT. [presiding]. The Committee will come to order.

We now move to our final panel with Members of Congress, elected District officials, and the general public. We have a long list of witnesses and I want to put everybody on notice that we intend to close the hearing no later than 5:30 p.m. this afternoon. I want to assure all those who are on the witness list that they will be able to enter their statements into the record, and it will be there for full consideration by the Committee.

We have several Members of Congress who have notified us of their intention to testify. If they are not here now, we'll certainly accommodate them when they arrive.

Please note that each witness will have a maximum of five minutes. And so I strongly encourage everyone if they could to summarize their testimony in that regard.

Our first witness will be David Catania, an at-large member of the D.C. Council. We welcome you to the Committee.

STATEMENT OF DAVID A. CATANIA

Mr. CATANIA. Thank you. Members of the Committee, my name is David Catania, and I am one of two Republican members of the D.C. Council. I have come here today to respectfully request that this Committee approve the District's Fiscal Year 1999 budget as submitted. As you are aware, this budget is the product of consensus process involving the Mayor, the Council, and the Control Board. I have participated actively in this process and can honestly say that this budget represents a compromise among the various participants.

I firmly believe that every participant in this process can point to several aspects of the budget that they would change if the decision were left entirely to them. However, in the final analysis, this budget—this process produced a budget with a surplus, which is an extraordinary accomplishment given the level of need in this city. Simply put, I support this budget.

Now, after several months of negotiations and debate, the District's budget is before Congress for approval. I ask that you honor

our work. I am well aware of the power that the Constitution affords this Congress over the District of Columbia. I am not asking for this Congress to ignore its responsibilities to the District. Rather, I am requesting that this Congress exercise respect for the notion of local government and democratic principles.

I would like to share a brief passage from Alexis de Toqueville's "Democracy in America." In the chapter entitled "Why the Americans Raise Such Insignificant Monuments and Others that are Very Grand," de Toqueville confirms that "true monuments to American greatness can be found in its democratic ideas, and not in its granite structures." He writes about the decision to build this capital city and warns of what will happen if we lose sight of the ideas that make us great. He explains that "the Americans have traced out the circuit of an immense city on the site which they intend to make their capital, but which up to the present time is hardly more densely populated than Pointoise, though according to them it will one day contain a million inhabitants. They have already rooted up trees for ten miles, lest they should interfere with the future citizens of this imaginary metropolis. They have erected a magnificent palace for Congress in the center of the city and have given it the pompous name of the Capital."

De Toqueville continues that "democracy does not lead men to a vast number of inconsiderable productions, it also leads them to raise some monuments on a larger scale; but between these two extremes, there is a blank. A few scattered specimens of enormous buildings can therefore teach us nothing of the social condition and the institutions of people by whom they were raised. I may add, though, the remark is outside my subject, that they do not make us better acquainted with its greatness, its civilization, and its real prosperity. Whenever a power of any kind is able to make a people cooperate in a single undertaking, that power, with a little knowledge and with a great deal of time, will succeed in obtaining something enormous from efforts so multiplied. But this does not lead to the conclusion that the people are very happy, very enlightened, or very strong."

He continues that "the Spaniards found the city of Mexico full of magnificent temples and vast palaces, but that did not prevent Cortes from conquering the Mexican Empire with six hundred foot-soldiers and sixteen horses."

Over 150 years ago de Toqueville wrote these words, the residents of the District of Columbia are surrounded by monuments to democratic principles that are far removed from the everyday lives of Washingtonians. Let us not confuse the greatness of our strength and wealth with the greatness of our civilization. We are a great nation because we believe in the radical notion that individuals should control their destiny. Yet, in the nation's capital, our residents are still waiting for this dream to be realized.

I know that the District has been poorly served by its elected leadership in the past. I am not here to make excuses for prior governments. I can tell you that the Council is maturing and improving with experience. We are becoming ever more rigorous in our oversight and stewardship of the District. But yes, we have a long way to go before we perfect our local government. But this is no

reason to deprive our citizens of the right to have their democratic institutions respected.

I am requesting that this Congress respect the notion of local government. The residents of the District should be permitted the same dignity afforded every other American, which includes the right to chart our own destiny. To this end, the elected leadership of the District has made commitments to certain issues, including, among others, domestic partnership, adoption for unmarried couples, and needle exchange for intravenous drug-users. I support each of these commitments. I appreciate that members of this Congress may not agree with the District's elected leadership in these areas. I understand that you have the right and authority to impose your will on us. However, legal authority and moral authority are not the same.

At long last, the time has come to respect the decisions of elected representatives of the District and resist the temptations of paternalism. As a Republican, I believe in the concept of local government, and, as a Republican, I am opposed to intrusive Federal involvement in matters that are undeniably local in nature. In addition, as a Republican, I firmly believe that individuals, not governments, can best decide for themselves the proper course of their own lives. These are core Republican beliefs, and they should be applied by this Republican Congress in a consistent manner.

I would be happy to answer any questions this Committee may have about the process. Perfect timing, by the way.

PREPARED STATEMENT OF DAVID A. CATANIA

[The prepared statement referred to follows:]

TESTIMONY OF
DAVID A. CATANIA
MEMBER OF THE D.C. COUNCIL (AT-LARGE, REPUBLICAN)
TO THE
HOUSE DISTRICT OF COLUMBIA APPROPRIATIONS SUBCOMMITTEE
JUNE 24, 1998

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true monuments to America's greatness can be found in its democratic ideas and not its granite structures. He writes about the decision to build this capital city and warns of what will happen if we lose sight of the ideas that make us great. He explains that:

"The Americans have traced out the circuit of an immense city on the site which they intend to make their capital, but which up to the present time is hardly more densely peopled than Pontoise, though according to them, it will one day contain a million inhabitants. They have already rooted up trees for ten miles around lest they should interfere with the future citizens of this imaginary metropolis. They have erected a magnificent palace for Congress in the center of the city and have given it the pompous name of the Capital."

de Tocqueville continues:

"Thus democracy not only leads men to a vast number of inconsiderable productions, it also leads them to raise some monuments on the largest scale; but between these two extremes there is a blank. **A few scattered specimens of enormous buildings can therefore teach us nothing of the social condition and the institutions of the people by whom they were raised.** I may add, though the remark is outside my subject, that they do not make us better acquainted with its greatness, its civilization, and its real prosperity. Whenever a power of any kind is able to make a whole people cooperate in a single undertaking, that power, with a little knowledge and a great deal of time, will succeed in obtaining something enormous from efforts so multiplied. **But this does not lead to the conclusion that the people are very happy, very enlightened. or even very strong.**"

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"The Spaniards found the city of Mexico full of magnificent temples and vast palaces, but that did not prevent Cortes from conquering the Mexican Empire with six hundred foot-soldiers and sixteen horses."

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I would be happy to answer any questions that you may have.

Mr. ADERHOLT. Perfect timing. That was good. Thank you for your testimony.

Mr. Moran, do you have any questions?

Mr. MORAN. No, I am going to sit down. I am going to hold on to those quotes by de Toqueville. But I appreciate where you're coming from, and I hope that we can get there. But we're not there yet. And until D.C. has a viable tax base to support a reasonable level of municipal services on its own, I do not think that you're going to have all of the democratic authority and powers that you'd like to see.

Mr. CATANIA. Congressman, I appreciate that but fiscal—there are two very different issues—between fiscal accountability and fiscal healthiness, and the right to have elected leadership. And so, I would submit—tomorrow in the Council we will be having a hearing on the subject of an elected Attorney General for the District of Columbia, which would take the Office of Corporation Counsel out from underneath the Mayor. It would put it under an elected person. It would broaden the prosecutorial authorities. I think that democracy has been hampered in the District by a very poor system of government. Democracy is a theory of government. It is not, in and of itself, a system of government. And the system that we have, where we have no power to enforce our own laws. We have no power to protect the corpus of our government; that we are put in a position of our taking our hat and putting it in our hands, and walking across the street to the U.S. Attorney's office, and asking him or her, at any respective time, to please enforce the law against those who would perpetrate corruption and misconduct against the government. So, until we have a system of government that is truly internally consistent and capable of governing with all the powers that accompany any decent government, we will not be a more accountable form of—a more accountable local government.

But I do not see that there is any relationship between our tax base and our ability to have a say over our own destiny.

Mr. MORAN. Well, then, you look with clouded eyes—probably ideologically clouded eyes. I do not fault you for that. But the reality is that, unless an entity is going to be economically self-sufficient, it is not going to attain statehood; and without statehood, you're not going to have all the democratic powers that you seek. But I do not want to extend the debate. I am just telling you that that is the reality of the situation. If you want statehood, you're going to have to have the kind of economic viability that would enable you to——

Mr. CATANIA. And, Congressman, I am not suggesting that I am——

Mr. MORAN [continuing]. Sustain the economy——

Mr. CATANIA [continuing]. In favor of statehood. What I am in favor of is a better system of local government, one that permits the enforcement of local laws by locally accountable individuals. And what I am here today—and I strayed a bit from the subject, and I apologize. What I am here today to discuss is the budget and the fact that through a consensus budget process with the local elected leadership with the appointed representatives of Congress and the president, we managed to put together a budget with a surplus. And so, having said that, I would hope that we would

have—you would—the Congress would respect the decisions made by the elected and appointed leadership and not attempt to make a petri dish out of the District of Columbia for one form of experimentation or another. Whether I agree or disagree, it is no more morally defensible for members of Congress from, you know, Alabama, Arkansas, Virginia or anywhere to impose their will on the District of Columbia than it would be for us to impose our will on them.

Mr. MORAN. I have used that term on many an occasion to fight the things that apparently we would agree with. So, I do not take issue with you. And I do think there will be more and more incremental reforms as D.C. gets on its feet, both in reality as well as in perception.

Mr. ADERHOLT. Thank you for your testimony Councilman.

WEDNESDAY, JUNE 24, 1998.

D.C. BUDGET FOR FY 1999

WITNESS

HON. CAROL SCHWARTZ (R) AT LARGE MEMBER, COUNCIL OF THE DISTRICT OF COLUMBIA

Mr. ADERHOLT. The next witness will be Council Member Carol Schwartz.

Ms. SCHWARTZ. Good afternoon.

Mr. MORAN. Good afternoon, Carol.

STATEMENT OF CAROL SCHWARTZ

Ms. SCHWARTZ. Rather than read a statement, I summarized it in bullet form. And I heard the end of my colleague's statement, David Catania, and agree with the consensus budget request and ask that it be approved.

First, I want to talk about the budget points. And that is the District's consensus budget was achieved through cooperation, tough decision making, and hard choices. It is the result of countless hours spanning seven months of difficult work, including Council committee hearings, mark ups, and 10 days of budget planning sessions involving the Mayor, the Council, the Authority, the CFO, and the CMO.

The consensus fiscal year 1999 budget is a product of the very system established by Congress for the express purpose of restoring fiscal austerity and discipline to District budgets. This budget embraces those qualities. It was built by consensus with your own entities—the Financial Control Board, the Chief Financial Officer, and the Chief Management Officer.

Priority was given to critical services such as education, public safety, and public works—important services which will help the District in its efforts to provide quality services to residents, businesses, and visitors.

The fiscal year 1999 budget provides for much needed pay raises for non-union employees, whose wages have, over the years, become sorely out of sync with unionized employees and certainly the salaries of your own creations—the Financial Authority, the CFO,

and the CMO, salaries as a matter of fact, which have been found to be excessive in some instances.

Also included are pay raises for employees in the public safety sector to bring them more in line with surrounding jurisdictions. The continued loss of employees to those surrounding jurisdictions, including the Federal Government, with better pay and benefits weakens the District's ability to adequately staff and provide essential and vital services like police, fire, and corrections.

The fiscal year 1999 budget also provides for $11.3 million in tax relief to city businesses and residents. The Council and Authority desired to do much more tax relief, but the D.C. Public School budget pressures prevented that. I know you share our goal of tax relief on this Committee.

This budget also continues the absolutely critical process of eliminating the District's accumulated deficit. In October 1996, it was more than $500 million. By the end of fiscal year 1999, if this budget is adopted, the accumulated deficit will stand at $41 million, a more than 90 percent decrease. A pretty impressive example which the Federal government would do well to follow.

This budget includes funds for sorely needed management reforms and technical assistance, which was called for by countless consultant studies authorized by the Financial Authority and paid for with District funds. Is that not what Congress intended?

The budget is about fiscal austerity, discipline, and planning. It seeks to provide critical funding for important city services while continuing to cut the fat out of District government and bureaucracy.

To reject this consensus budget means to reject the very system put into place by this body. This budget represents but another step in the process towards complete fiscal solvency and growth for the District.

Now I want to talk just a moment about form of governance. Above all else, the question of governance for the District of Columbia should remain up to the citizens of the District, and not imposed by congressional mandate.

Article 1, Section 8, clause 17 of the U.S. Constitution clearly empowers the U.S. Congress to exercise plenary authority over the District. But because you can does not mean you should.

And I hope that you will reject the urge to load this budget with riders. The District of Columbia does not need to be the guinea pig for 535 individual congressional agendas. That is not fair.

And speaking of your constitutional authority over the District, such power should not be used contrary to one of the very purposes for which the Constitution was drafted—to secure the blessings of liberty. Are such blessings to be forever denied the residents of the District of Columbia?

Well, that completes my prepared statement, and I am available to answer questions that you might have.

Mr. ADERHOLT. I do not have any right now. We will submit your statement for the record. And we appreciate you coming and testifying before the Committee today. Thank you very much.

PREPARED STATEMENT OF CAROL SCHWARTZ

[The prepared statement referred to follows:]

Statement of Councilmember Carol Schwartz before the House Appropriations Subcommittee on the District of Columbia

June 24, 1998

I. Budget Points

- **The District's consensus budget was achieved through cooperation, tough decision-making and hard choices. It is the result of countless hours spanning seven months of difficult work, including Council committee hearings, mark-ups and 10 days of budget planning sessions involving the Mayor, Council, Authority, CFO, CMO.**

- **The consensus fiscal year 1999 budget is a product of the very system established by Congress for the express purpose of restoring fiscal austerity and discipline to District budgets. This budget embraces those qualities. It was built by consensus with your own entities -- the Financial Control Board, Chief Financial Officer and Chief Management Officer.**

- **Priority was given to critical services such as education, public safety and public works -- important services which will help the District in its efforts to provide quality services to residents, businesses and visitors.**

- **The FY 1999 budget provides for much-needed pay raises for non-union employees whose wages have, over the years, become sorely out-of-sync with unionized employees and certainly the salaries of your own creations -- the Financial Authority, CFO and CMO (salaries, as a matter of fact, which have now been found to be excessive in some instances).**

- **Also included are pay raises for employees in the public safety sector to bring them more in line with surrounding jurisdictions. The continued loss of employees to those surrounding jurisdictions (including the federal government) with better pay and benefits weakens the District's ability to adequately staff and provide essential and vital services like police, fire and corrections.**

- **The fiscal year 1999 budget also provides for $11.3 million in tax relief to city businesses and residents. The Council and Authority desired to do much more tax relief but DCPS**

budget pressures prevented that. I know you share our goal of tax relief, Mr. Chairman.

- This budget also continues the absolutely critical process of eliminating the District's accumulated deficit. In October 1996, it was more than $500 million dollars. By the end of FY99, if this budget is adopted, the accumulated deficit will stand at $41 million (a more than 90% decrease)! A pretty impressive example which the federal government would do well to follow.

- This budget includes funds for sorely needed management reforms and technical assistance which were called for by countless consultant studies authorized by the Financial Authority and paid for with District funds. Is that not what Congress intended?

- This budget is about fiscal austerity, discipline and planning. It seeks to provide critical funding for important city services while continuing to cut the fat out of District government and bureaucracy.

- To reject this consensus means to reject the very system put into place by this body. This budget represents but another step in the process towards complete fiscal solvency and

growth for the District.

II. Form of Governance

- Above all else, the question of governance for the District of Columbia should remain up to the citizens of the District -- and not imposed by congressional mandate.

- Article 1, Section 8, clause 17 of the U.S. Constitution clearly empowers the U.S. Congress to exercise plenary authority over the District. BUT BECAUSE YOU CAN DOES NOT MEAN THAT YOU SHOULD.

- And I hope that you reject the urge to load this budget with "riders". The District of Columbia does not need to be the guinea pig for 535 individual congressional agendas. That is not fair.

- And speaking of your constitutional authority over the District, such power should not be used contrary to one of the very purposes for which the Constitution was drafted . . . to "secure the blessings of liberty". Are such blessings to be forever denied to the residents of the District of Columbia?

Ms. SCHWARTZ. Well, thank you. And please be kind.
Mr. ADERHOLT. Thank you.

WEDNESDAY, JUNE 24, 1998.

FIRE DEPARTMENT BUDGET

WITNESS

RAYMOND SNEED, PRESIDENT, D.C. FIRE FIGHTERS ASSOCIATION

Mr. ADERHOLT. Our next witness is Ray Sneed, President of the D.C. Fire Fighters Association. Welcome to the committee. We look forward to hearing from you.

STATEMENT OF RAYMOND SNEED

Mr. SNEED. Thank you very much.

Good afternoon, Chairman, and members of the D.C. Subcommittee on Appropriations, and staff. I am Raymond Sneed, President of the D.C. Fire Fighters Association, Local 36, with the International Association of Fire Fighters.

And I appreciate the opportunity to appear today to offer comments on the proposed fiscal year 1999 operating budget for the D.C. Fire and Emergency Medical Department.

We are pleased to see that the D.C. Fire and the M.S. Department is finally receiving the financial assistance that we so desperately need due to the cuts we sustained from 1989 through 1995.

Despite the lack of fire fighting gear, faulty radios, fire trucks that barely functioned, unsanitary fire stations and the prospect of no pay raises, D.C. fire fighters performed their duties. It could never be said of D.C. fire fighters that 10 percent of the workforce performed 90 percent of the work. My members labored together in the attempt to make the best of a bad situation.

If it had not been for this Committee and the support of the Subcommittee and the full Committee, I shudder to think where we would be today in the Fire Department.

However, please allow me to respectfully issue a warning to the elected leaders of Washington, D.C. and the members of this Subcommittee who will ultimately improve or hopefully increase this budget.

MASSIVE DEFICIENCIES

Just as it took approximately six years for the Department to get overwhelmed by constant yearly budget reductions, the massive deficiency cannot and won't be corrected overnight.

TRAINING ACADEMY CONDEMNED

For example, currently the District of Columbia Fire Department cannot train our fire fighters in their chosen profession at our Fire Training Academy. Our training facilities have been condemned since 1988, and its lies in ruin at the Blue Plains location. It is not only embarrassing, Mr. Chair, it is an eyesore also. Currently, our rookies have to go over to Alexandria or Fort Belvoir, Virginia, or

Prince George's County to get the training that we need to perform our job.

PROCUREMENT PROBLEMS

And procurement? That is still a problem. We have had two brand new hook and ladders at $480,000 each sit in the fire house because the city had not paid for them. And the frustrating thing about it, the money to purchase that apparatus was appropriated in the 1997 budget. So the minute the manufacturer had built that equipment, it should have been paid for at that particular time. But we still had to wait for 30 days after days after delivery before the city paid for them because the manufacturer will allow that much time before those units are paid for.

LEAKY ROOFS ON FIRE HOUSES

Last night, Channel Seven did a piece on the Fire Department, and I was kind of stunned because I thought somehow the reporter had gotten a copy of my testimony because she talked about the deplorable conditions of the Fire Department, the fact that we had leaky roofs and stations that needed repairs. And that was the same thing that I want to identify here today.

We have fire stations with leaky roofs. We have station doors that fail to open. Heating plants that need to be replaced. We have malfunctioning air conditioning units that are in modern fire stations that—where the windows will not open because it really wasn't designed that way. And I noticed today in the Fire Chief's testimony he is requesting $2,106,000 for repairs for the fire houses. Now, it might sound like a lot of money, but if you have worked in the D.C. Fire Department, you will note that that is a long way from what we really need in order to come up to par.

CLARIFICATION OF INFORMATION

What I have done, Mr. Chairman, in the budget that was presented to the Congress, there are several areas in there where they identified instances where it would appear that the D.C. Fire and Ambulance Department is living the good life. And they went back and took a study from other cities and compared us to those. And what I have done—I have identified all of those areas, and I have also made comments on what we thought was appropriate and where we thought this body was actually being misled by those numbers.

While our fire fighters certainly were not pleased over the budget reduction of the past, accompanied by an increased workload, with less personnel, they continued to do their job and what not.

PAY PARITY WITH POLICE OFFICERS

And that brings me to my final point: There's always pay parity between the D.C. Police and the Fire Fighters, going back as far as when pay raises were given to both bodies by Congress. And our police officers and fire fighters have the same pension system. However, since the inception of the Control Board, pay raises in both police—well, in the Police Department—have been legislated. And we were fortunate enough to come before this body last year

and get—and have a pay increase legislated. But my point now is our brothers and sisters in blue have received an additional 10 percent salary increase, and it is supposed to be effective from the 1999 budget. And I think one of those increases goes back to February 1 of 1998; and the second will be effective 10–1–98. So what we did, we went to the District Government. We asked elected officials, especially the Council's Judiciary Committee, which is over the D.C. Fire Department, and they saw the need to maintain pay parity with the police. And there was a five percent—of the monies included in the budget originally—for a five percent pay increase for fire fighters. But once that budget went through the final process, that five percent mysteriously disappeared. So what we're doing now is asking this body to understand the needs of the fire fighters and include that language in the appropriations bill that would give us the 5 percent pay increase.

Thank you.

I'll try to answer any questions that you might have.

PREPARED STATEMENT OF RAYMOND SNEED

[The prepared statement referred to follows:]

FIRE FIGHTERS ASSOCIATION

LOCAL No. 36
INTERNATIONAL ASSOCIATION
of FIRE FIGHTERS

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STATEMENT OF RAYMOND SNEED, PRESIDENT

D.C. FIRE FIGHTERS ASSOCIATION,

LOCAL 36, OF THE INTERNATIONAL ASSOCIATION

OF FIRE FIGHTERS, AFL-CIO-MWC

JUNE 24, 1998

Chairman Taylor, members of the D.C. Sub-Committee on Appropriations and staff; I am Raymond Sneed, President of the District of Columbia Fire Fighters Association, Local 36, of the International Association of Fire Fighters, AFL-CIO.

I appreciate the opportunity to appear today and offer our comments on the proposed FY 1999 operating budget for the D.C. Fire and Emergency Medical Services Department and its impact on the citizens who live, work, visit and do business in the Nation's Capital.

The proposed FY 1999 operating budget for the DCFEMS Department is $101,577,000 and 1,764 FTEs, an increase of $3,360,000 and one FTE over the FY 1998 budget.

We are pleased to see that the DCFEMS Department is finally receiving the financial assistance we have so desperately needed due to the wanton cuts we sustained from 1989 through 1995.

Time doesn't permit me to revisit the tragic results of those cuts, but I'm sure the more senior members of this committee and Mr. Miconi remember the Washington Post editorial of August 24, 1995 asking the question, "Can D.C. Fight Two Fires at Once?", and the Washington Post headline of April 6, 1996 declaring "Aging, Rundown Equipment and Facilities Plagued D.C. Fire Department". Neighborhoods were daily subjected to Fire House Roulette as up to eight fire units were closed for 24 hours in order to save money and wear and tear on emergency equipment.

Despite the lack of fire fighting gear, faulty radios, fire trucks that barely functioned, unsanitary fire stations and the prospect of no pay raises . . . D.C. fire fighters performed their duties. It could never be said of D.C. Fire Fighters that 10% of our workforce performed 90% of the work. My members labored together . . . and attempted to make the best of a bad situation.

If it hadn't been for your leadership Mr. Taylor, and the support of other members of the Subcommittee and Full Committee, I shutter to think where we would be today. When members of Congress responded to the multiple alarm fire at the U.S. Treasury Building . . . and saw what D.C. fire fighters were forced to work with . . . this is when our budget cycle began to turn around.

However, please allow me to respectfully issue a warning to the elected leaders of Washington, D.C. and the members of this subcommittee who will ultimately approve . . . or hopefully increase . . . this budget.

Just as it took approximately six years for our department to get overwhelmed by the constant yearly budget reductions, the massive deficiencies can't and won't be corrected overnight. For example: Currently, the District of Columbia Fire Department can't train our fire fighters in their chosen profession at our Fire Academy. Our fire training facility has been condemned since 1988 and lies in ruins at its Blue Plains location. It is not only an embarrassment, but an eye sore as well. Currently, our rookies

go to Alexandria, VA, Ft. Belvoir VA, or Prince George's County, MD for their actual live fire training.

Because of the Fire Department's inability to maintain a vehicle replacement program, fire trucks that should be placed into a reserve fleet are used as front line pieces . . . often experiencing mechanical failures.

And procurement? Mr. Chairman, we had two brand new hook-and-ladders, each at a cost of $480,000 that sat in D.C. fire stations, fully equipped, but couldn't be placed in service because the city hadn't paid for them?

Also the ordering of 2,400 female uniform work shirts when we only have 56 female fire fighters. And we can go on with other examples, but time and space don't permit!!

Fire stations with leaking roofs; station doors that fail to open; heating plants that need to be replaced, malfunctioning air-conditioning units in modern fire stations where windows are designed not to open.

I said all that to say this . . . I'm concerned over several bold headlines that appear in the city budget submission, that unless rebutted or explained, would indicate that the DCFEMS is "living the good life" and we are well on our way to financial recovery.

For example, Figure 2 on page A-157 - "Per Capita Spending for DCFEMS Increased Dramatically in FY 1997." Of course it increased! It had no where to go but

up, due to the disastrous results of past budget reductions that I have previously described.

Figure 3, "D.C. Spends More Per Capita on Fire and EMS Services Than Most Benchmarked Cities." The Benchmarked cities are: Atlanta, GA; Indianapolis, IN; Boston, MA; Baltimore, MD; Seattle, WA; Phoenix, AZ; and Milwaukee, WI. The explanation for this is very simple. It has to do with the fire fighters work week. Cities north of Washington, D.C. work a 42-hour week; cities south or west, work a longer work week, ranging from 50 hours to 56 hours per week.

Atlanta, GA - 53 hr. work week
Indianapolis, IN - 48 hr. work week
Boston, MA - 42 hr. work week
Baltimore, MD - 42 hr. work week
Washington, D.C. - 42 hr. work week
Seattle, WA - 45 hr. work week
Milwaukee, WI - 50 hr. work week
Phoenix, AZ - 56 hr. work week

Obviously, it takes more fire fighters to staff a 42 hr. work week . . . 16% more .

- The budget document consistently compares the District against cities with a population of 529,000. We dispute these figures. Next to New York City, Washington, D.C. has the highest influx of daily workers and visitors. Except for several months during the Winter, D.C. hotel occupancy is nearly 100% capacity. Last year alone, 22M tourists visited the Nation's Capital.

- The budget document states, "the average fire department in a city with a population of 529,000 is comprised of over 10 percent volunteer personnel." This is totally misleading and is inaccurate. **There are no large cities with a 10% volunteer fire fighting force.** What you do have are jurisdictions such as Fairfax

County, VA; Montgomery County and Prince George's County, MD; whose professional fire fighters are augmented by volunteer fire fighters.

- Figure 4: "D.C. has more employees per 1,000 citizens than benchmarked jurisdictions." Again, it's a misleading statement. Atlanta, Indianapolis, Boston, and Seattle are only 1st responders and perform no transportation for medical emergencies. Again, it takes more personnel because in Washington, D.C. we both treat and transport the sick and injured.

In our opinion the only true measure of uniformed personnel is to look at the staffing of the Fire Fighting Division. These are the fire fighters who respond to your emergency when you call 911.

The onduty staffing for the benchmark cities are:

Phoenix	- 300 on duty fire fighters
Boston	- 280 on duty fire fighters
Baltimore	- 276 on duty fire fighters
Milwaukee	- 270 on duty fire fighters
Washington, D.C.	**- 229 on duty fire fighters**
Indianapolis	- 196 on duty fire fighters
Seattle	- 196 on duty fire fighters
Atlanta	- 178 on duty fire fighters

As you can see we rank in the middle.

During the same time period our budget was being reduced, so was the staffing of the Fire Fighting Division.

- January 1, 1992 - on duty fire fighting staff = 304 fire fighters
- January 31, 1992 - on duty fire fighting staff = 271 fire fighters
- November 1, 1992 - on duty fire fighting staff = 269 fire fighters
- October 31, 1993 - on duty fire fighting staff = 248 fire fighters
- April 1, 1995 - on duty fire fighting staff = 228 fire fighters
- August 26, 1997 - on duty fire fighting staff = 229 fire fighters

According to the National Run Survey conducted by Fire House Magazine, Washington, D.C. is the 7th busiest Fire Department in the Nation.

Engine Co. 10, for the six consecutive years, is the busiest Engine Company in the USA. Last year they responded to 6,743 calls for emergency assistance.

While our fire fighters certainly weren't pleased over the budget reduction of the past, accompanied by an increased workload with less personnel . . . they continued to produce which leads me to my final point.

There has always been pay parity between D.C. police and fire fighters, going as far back as to when the pay raises came from Congress. Police officers and fire fighters pay were identical as is our pension system. It's only been since the advent of the Financial Control Board, who began the practice of legislating salary increases, bypassing he collective bargaining process, when the members of MPD pulled ahead of D.C. fire ighters.

Thanks to your efforts, Chairman Taylor, last year we were able to close the gap n the pay issue. However, due to recent legislative action by the D.C. City Council and he Financial Control Board, uniformed members of MPD have received an additional 10- ercent salary increase. Effective Feb. 1, 1998, they were legislated a 5% salary crease and an additional 5% effective 10-1-98."

The D.C. City Council Committee on the Judiciary, and the Full Council, in an attempt to assist us in maintaining pay parity had report language that "directs the

department to fund a $3,000,000 (5%) pay raise for fire fighters in FY 1999, in order to achieve pay parity with a pay increase to police officers in FY 1998.

However, when the Council budget was fine tuned by the Mayor and the Control Board, fire fighters salary increase were axed out. We respectfully request the D.C. Subcommittee on Appropriations add the Council language providing for a 5% salary increase to be added to the FY 1999 D.C. Appropriations Bill.

The uniform members of the D.C. Fire Department are an integral part of the public safety family and are certainly deserving of maintaining pay parity with MPD. Any assistance the subcommittee could provide in achieving this would be appreciated.

We are now prepared to answer any questions from the members of the Subcommittee.

Mr. ADERHOLT. I do not have any questions at the present time. Of course, your statement has been submitted for the record. We appreciate your taking time to address the Committee. And we thank you for being here today.

Mr. SNEED. Thank you very much.

Mr. ADERHOLT. Thank you.

WEDNESDAY, JUNE 24, 1998.

BOYS TOWN USA—HOMELESS YOUTH

WITNESS

FATHER VAL PETER, EXECUTIVE DIRECTOR, BOYS TOWN USA

Mr. ADERHOLT. Father Peter with Boys Town?

Father PETER. Yes. Thank you very much, Congressman, for giving me a chance to talk to you. You know, I have a boring report that is written, but I am not going to talk about that.

Mr. ADERHOLT. Good.

STATEMENT OF FATHER VAL PETER

Father PETER. And I just wanted to come, and I want to thank you for the opportunity. My name is Val Peter. I am the successor of Father Flanagan, and my job here this afternoon is very briefly to let you know what we're doing in the District of Columbia and why we want to do more.

We are in 18 States, the District of Columbia, taking care of 31,000 kids, and the reason we come to the District of Columbia—we came five years ago—cause the District's got a lot of problems. And we're very good at the kinds of problems that we work on. We work on kids who are extremely troubled—kids going to prison, coming out of prison, whatever it might be. We have lots of success. The reason why we have success is not because we're magicians or anything like that. We have done for the last 30 years research on the behavior, aggressive behavior of troubled children. It is called microbehavioral analysis. We're a bunch of science folks who have gotten into the behavioral side of things. Eight-two percent success rate with our kids in the District—and across the—what's does that mean? It means 82 out of 100 kids who come to us with these kinds of problems go away and do not have those problems.

BOYS TOWN FACILITY IN D.C.

The reason I am here today is because five years ago we came to the District. We have a short-term residential: we're taking care of 300 District kids a year.

In addition to that, we have a long-term residential, which is small. We're taking care of about 10 or 20 kids. In addition, we have foster care in the District, and taking care of 50 to 100 kids. The last thing is we do parent training in Anacostia and throughout the District.

I do not think there's a day goes by we do not get three, four, five, ten calls where people can you do more. We would like to do more. My purpose here today isn't, you know, to ask for any specific thing. My purpose here is to ask for your support. We have

a terrific program. We'd like to double the size of it in the District. And I just want you, Congressman, and the other members of the District to know we're very committed to this. We are very good at what we do.

FUNDING FROM PRIVATE SOURCES AND LONG TERM COMMITMENT

Two other things. Just last things that you ought to know. And the first one is that two-thirds of all our funding comes from private sources. Always has. Always will. So we do not plan to, you know, hook a pipe to the government and ask you to start pumping our way. And we're going to be here for 30, 40, 50 years. We're not a fly by night.

BOYS TOWN USA IS NONDENOMINATIONAL

The second to last thing you got to know. I am a Catholic priest. Boys Town is not a Roman Catholic organization. Never was. Father Flanagan was very wise. He said, let's make it non-denominational. We do not get involved in anybody's politics except the politics of children.

So in the end, what I am asking you—I am just here to make kind of a interim report. Say thank you for what you are doing. Would you please support us as we try to take care of more kids in the District. We work real hard with everybody else here.

STORY OF 9-YEAR OLD BOY

One story, and then I'll quit. Here's a boy, 9-years-old, he comes to us in the District. He's been in 16 foster homes. His with us for two years; he's got runaway problems; he's got violence problems, he's got truancy in school; and he's got suicide problems. In two years, this kid is now—the anxieties have diminished and he's ready to get better. Why? Three simple reasons.

Number one, we teach you skills. I say to him, Cedric, you want to get your needs met in a way that everybody's going to applaud to that everybody's going to curse, we can show you how. So we teach you skills. We help you build relationships, and we help you take charge of your own life. We say that very simply. We say, Cedric, you want to get better, you got to shut up, you got to lighten up, and you got to grow up. And we can help you do all of those.

So I want to thank you very much. You guys are doing terrific work. And that is all I have to say.

Mr. ADERHOLT. thank you for your work through Boys Town and the work that you do for the at-risk boys and girls over there. And we thank for your testimony. We will place your written testimony in the record?

Father PETER. Yes, please.

PREPARED STATEMENT OF FATHER VAL PETER

[The prepared statement referred to follows:]

**TESTIMONY OF FATHER VAL PETER,
EXECUTIVE DIRECTOR OF BOYS TOWN USA,
BEFORE THE HOUSE APPROPRIATIONS
SUBCOMMITTEE
ON
THE DISTRICT OF COLUMBIA**

Thank you, Chairman Taylor, Mr. Moran, and the members of the DC Subcommittee for providing me with the opportunity to appear before you.

My name is Father Val Peter. I am Executive Director of Boys Town USA.

I believe that most of you are aware of the mission of Boys Town: We help transform the lives of homeless, troubled and at-risk boys and girls between the ages of 9 and 18 years old.

Some of you may have even seen the Frank Capra film, which stared Spencer Tracy and Mickey Rooney, called "*Boys Town*." The movie was based on the real-life story of Boys Town. Tracy portrayed Fr. Flanagan, who founded Boys Town in 1917 to care for homeless and troubled boys. Rooney played an angry young man whose outrageous behavior got him into trouble.

The movie reflected that period's social culture. Rooney's character was considered a bad kid because he engaged in cigarette smoking, fist fighting, swearing, and throwing a brick through a storefront window. These were the types of children for whom we cared in the early years.

Our society has changed dramatically since the film's debut in 1938. Today, our children struggle with far more serious issues such as teen pregnancy, drug addiction, gang violence, serious crime, and physical and sexual abuse.

Just as Boys Town met the needs of troubled boys in the 1920's, Boys Town continues to meet the needs of both boys and girls of the current generation with its proven, time-tested, research-based programs. We directly serve more than 31,000 children per year through our residential family services, emergency shelter services, family preservation program, treatment foster care, parent training, reading center, the Boys Town National Research Hospital, and Boys Town's national crisis hotline.

Boys Town is about hope and promise – the promise that there is a better future for every boy, girl and parent who sincerely wants positive change in his or her life.

The programs of Boys Town are constantly being evaluated for excellence and effective service delivery. Outcome studies have shown that the Boys Town program can significantly and positively alter the life course of disadvantaged and troubled children. Despite the fact they have far more personal, academic and family problems than do mainstream students, a recent study shows that Boys Town graduates excel in several categories. For instance:

- At the two-year point after graduation, their performance was virtually identical to main stream graduates for the same time period. Included in this comparison are factors such as post-secondary education enrollment, rates of simultaneous employment and school attendance, income level, use of welfare services, etc.

- Even starting several years behind, Boys Town graduates attend college at rate identical to mainstream students.

- Only 16 percent of Boys Town graduates report use of illegal substances compared to 38 percent for mainstream students of regular public high school.

In the early 1980's, Boys Town planned for a new phase of growth. With a proven youth care program in hand that could be replicated in other locations, Boys Town USA was created in 1984 and charged with the expansion of Boys Town programs to major cities throughout the United States. Since then, satellite sites have been established in 18 inner cities and the District of Columbia.

In response to the increasing at-risk youth in the District, in 1992, Boys Town purchased St. Gertrude's School and Development Center. It now serves as a place of hope and love for troubled inner city children from age nine to 18.

I could have filled this room with kids who are in need here in the District or kids who have transformed their lives at our DC facility since 1992, but to protect their right to privacy, I did not do that.

The stories of each child are disturbing, but not unusual. Devon is a thirteen-year-old boy, who at the age of nine was taken away from his parents because of physical abuse and neglect. For example, Devon's mother beat him regularly with a belt buckle. Devon passed through 16 foster and group homes during a span of 18 months, all of which were unsuccessful. As a result, Devon suffered from homicidal tendencies, violent aggression towards others, and severe depression. Devon was hurting little boy and at the brink of losing hope.

Devon came to Boys Town two years ago. Today, Devon has overcome his destructive behavior and is getting good grades. By next year, he will be ready to be placed in a therapeutic foster care home.

Boys Town accomplishes success in Washington, like with Devon, through three successful family based programs. The are the following:

- Emergency Short-Term Residential Services – Boys Town provides an important safety net for youth and families in crisis. It is a true home-away-from-home which serve more than 300 boys and girls per year. Three components make this a unique approach: family style living, Boys Town treatment technology, and family reunification.

- Treatment Foster Family Services – Already under contract with the District, this program is now recruiting foster parents from the community. Foster families are carefully selected, professionally trained, fully supported 24 hours a day and counseled to ensure the finest care of the District's children.

- Residential Treatment Services – A long-term residential home serves at least six children. The children live in a true family home where Boys Town's unique child-care technologies, blended with a generous measure of love and care, challenges these troubled children to make the right choices in life. A professionally trained

married couple, called "family teachers," will have primary treatment responsibility for the children.

While Boys Town in the District serves more than 300 troubled children, on any given day, Boys Town receives three dozen phone calls from agencies and individuals in the District asking us to take children.

We hope to serve more children by expanding our successful programs to serve more than 600 children per year.

Mr. Chairman, Mr. Moran, and Members of the Subcommittee, we seek your support of Boys Town and its time-tested programs that help to transform the lives of troubled children. We ask that you support the expansion of our existing facility in the District that will include four additional long-term homes and one more emergency shelter that will serve 300 more boys and girls. It is an investment in our children's future that will help meet the urgent demands of our needy children here in the Nation's Capitol.

# # # #

CONTACT: TOM KELLER 202-371-9580

Mr. ADERHOLT. Thank you.

Father PETER. I have tried not to be boring. There's three rules: be clear, be brief, be gone. I was clear. I have been brief, and now I am gone. [Laughter.]

Mr. ADERHOLT. You met all three. Thank you.

WEDNESDAY, JUNE 24, 1998.

FUNDING LEVELS AND POLICY DECISIONS

WITNESS

DAVID J. SCHLEIN, NATIONAL VICE PRESIDENT, DISTRICT 14, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

Mr. ADERHOLT. David Schlein? How you doing today?

Mr. SCHLEIN. Good. Good afternoon.

Mr. ADERHOLT. You are David Schlein with the American Federation of Government Employees.

Mr. SCHLEIN. Yes.

Mr. ADERHOLT. Thank you for being here today.

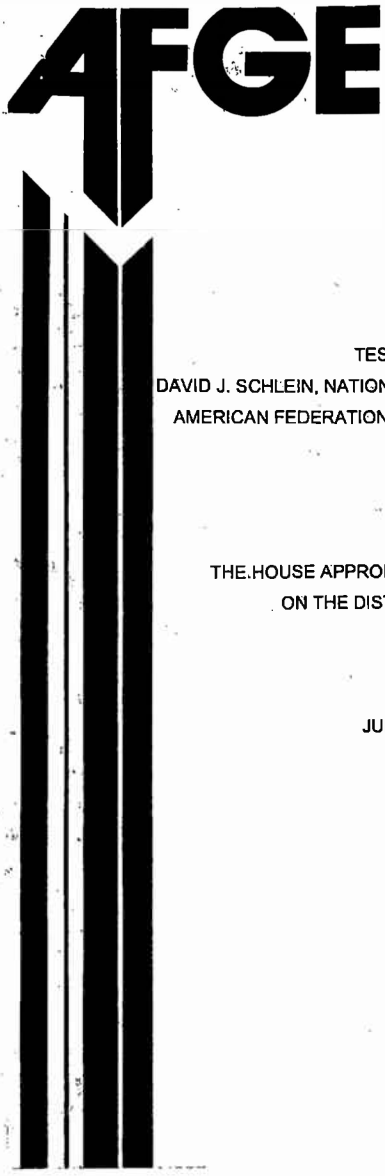
PREPARED STATEMENT OF DAVID J. SCHLEIN

Mr. SCHLEIN. Thank you.

Mr. Chairman, I am going to summarize my statement and ask that it be submitted for the record with our attachments.

Mr. ADERHOLT. Certainly.

[The prepared statement referred to follows:]



American Federation of
Government Employees, AFL-CIO

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TESTIMONY BY

DAVID J. SCHLEIN, NATIONAL VICE PRESIDENT, DISTRICT 14

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

BEFORE

THE HOUSE APPROPRIATIONS SUBCOMMITTEE

ON THE DISTRICT OF COLUMBIA

ON

JUNE 24, 1998

Mr. Chairman and Members of the Subcommittee: Thank you for the opportunity to present our views in writing.

The 14th District of the American Federation of Government Employees (AFGE) represents nearly five thousand employees of the District of Columbia and several of its independent Authorities. These are the front-line employees who do the demanding, often dirty, and sometimes dangerous, and almost always thankless work that keeps the city running.

Workers want Real Management Reform

Like you, AFGE believes that addressing the urgent and glaring crisis in management is the long-term key to prosperity for the City and to assuring that the City's residents and visitors to our nation's capitol receive service excellence.

The cause of the City's twin financial and management crises has never been that rank and file City workers are overpaid, or that there are too many people hired to pave the roads, fix the school boilers and roofs, renew licenses, maintain water and sewer lines, clean up the parks, or process the paperwork. Unfortunately, it is that political patronage had come to mean a management job or lucrative private contract. There were, and still are, too many bosses and not enough front-line workers or equipment or spare parts to get the job done. There were, and still are, questionable contracting practices that result in contracts let without proper regard to the price, the quality, or the experience of the contractor.

And like you, as hardworking and dedicated employees, our DC members are extremely frustrated, when the City's government just doesn't work. Our members are the folks who try to continue to deliver services to District residents and businesses in an

efficient, professional, and humane way -- despite the obstacles and frustrations caused by layers of redundant management, lack of training, materials, and/or equipment. They are the folks who arrive to work on time and do their jobs -- despite untrained, unprofessional, politically well-connected "managers" who ignore ideas on how to make government work better. They are the skilled workers who keep plugging away at their work – despite having their salaries cut twice in the past 24 months, their earned benefits reduced or eliminated, and their pay for overtime, hazardous duty, and holiday work being severely reduced. We are proud of our DC members. As public employees for DC Government they truly are the unrecognized heroes and heroines toiling under exceptionally difficult, demanding and often dreary conditions.

Let's be clear. Our members have no stake in the status quo of management. As the front-line workers our members have a keen awareness of the problems with the city's operations. It is because they are closest to the delivery of services, that our members and their union representatives can offer a clear perspective on solving these problems. Transforming the DC governmental system into one that inspires public confidence in the city's ability to deliver high quality public service in a cost-effective manner is our goal.

Collective Bargaining Agreements are Key to Management Reforms

But DC employees cannot participate in the kind of city transformation -- that both you and our members seek – unless they are treated with at least the basic tenets of worker fairness by sound management. Such basic principles include the right to bargain collectively over the terms and conditions of work.

Unfortunately, the very institution of collective bargaining has been placed at risk

because of the absence of clear lines of authority and management accountability in bargaining. With whom are the unions to bargain? What entity is legally able to represent Management and the City? Is it the Mayor, the Chief Financial Officer (CFO), the Control Board, the Council, the Office of Labor Relations and Collective Bargaining, the new CMO, the Congress or all or some of the above? The very modest agreements our union negotiated with the City, which were ratified in July, 1997, have yet to go into effect. They have languished for months, as the Mayor, the CFO, and the Authority play a shell-game of "Who has the authority?" Currently, they sit at the Control Board waiting for approval.

Labor-Management Need to be Partners in Creating and Implementing Solutions

We understand that our members' futures are dependent on resolving the city's ongoing financial and management crisis. We also know that it is the front-line employees who do the city's work who must be in the center of any effort to fix the city's delivery of services.

We are pleased to see that Camille Cates Barnett has signed on to participate in the DC Labor-Management Partnership Council. To transform how this city runs we must transform the relationship between management and labor. We must move away from adversarial postures and move towards working in partnership to identify problems and craft solutions, to form an alliance for real change. We welcome the opportunity to work with Ms. Barnett in partnership for real and lasting change in how this city operates.

Indeed, over two and a half years ago AFGE, AFSCME and the City successfully applied for a grant from the Federal Mediation and Conciliation Service (FMCS) to

establish a labor-management pilot program at the Fleet Maintenance Division at the Department of Public Works. The project has already yielded impressive results in improving efficiency and labor management relations. Furthermore, the grant required that a city-wide labor-management partnership committee be established. Both FMCS and the Department of Labor have generously donated resources and expertise to make the project a success. The successes achieved by this project as well as its historic successes in the federal government and other cities such as Philadelphia, Cincinnati, Indianapolis, Fort Lauderdale, etc. gives us reason for hope.

Management Reform Consultant's Reports

We have a few comments on the reports by various business consultants hired by the Authority to analyze shortcomings in the management, operations, and structures of the agencies under its direct operating authority. Attached to this testimony is AFGE's response is entitled: **Service Excellence: A Union's Vision for the District of Columbia.** In it we respond specifically to the consultants reports on Emergency Medical Services, and the Departments of Employment Services, Consumer and Regulatory Affairs, Public Works, Health, and Housing and Community Development. We have also responded to the so-called "cross-cutting" reports which focus on personnel management.

Our approach to the consultants reports was systematic. We analyzed their "findings" and "recommendations" from the perspective of whether they would further the following eight AFGE goals and principles:

1. Strengthening collective bargaining in order to make reforms effective.
2. Empowering employees and treating us with respect.

3. Improving management accountability

4. Improving performance management

5. Improving the rewards system

6. Flatten and modernize the management hierarchy

7. Support the development and use of skill

8. Create Service Excellence.

Number eight is last, but certainly not least, as we believe the preceding seven to be its necessary pre-conditions.

Our findings at this point indicate that where union leaders and members have been actively engaged in the process of analyzing agencies' strengths and weaknesses, and formulating reform proposals, the consultants findings were more accurate and the ideas for restructuring have been seen by workers as more likely to be effective.

Unfortunately, we have little indication that as agency's move to implement recommendations, that employees through their unions will be involved.

Our report makes several recommendations which we hope will be implemented:

1. Accelerate the development to the city-wide labor management committees. The Authority needs to make a strong commitment to the process.

2. Establish labor-management committees in each department. These offer the best channels for workforce participation to shape and implement effective reforms.

3. The severe workforce downsizing of the past several years should be brought to an end. There should be no further contracting out where city personnel can do the job.

4. Improve management accountability. Consistent leadership for reform must

start from the top

5. Allow the collective bargaining process to work. Pay our members the salaries agreed to in our negotiated contract.

Conclusion

The front-line workers of the District of Columbia remain ready, willing, and able to work with any official or authority who approaches the job of improving the financial management and service delivery challenges we face with integrity, with a rational plan, and with respect for the crucial role we will play in any revival of this City.

Thank you for your time and consideration.

SERVICE EXCELLENCE

A UNION VISION FOR THE DISTRICT OF COLUMBIA



Presented by the
American Federation of Government Employees, AFL-CIO

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Service Excellence:
A Union Vision for the District of Columbia

Presented by
The American Federation of Government Employees (AFGE), AFL-CIO

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Service Excellence: A Union Vision for the District of Columbia

Presented by the American Federation of Government Employees, AFL-CIO

Summary

Service Excellence presents a plan for reforming DC government by involving those who have firsthand knowledge of the District's agencies, their problems and the needed solutions – Washington's front-line workers. Labor-management partnerships for reform have succeeded in building quality public services in other cities. We can build a successful partnership reform here. And the reform process can't work without drawing on the knowledge, insights and concerns of the District's workforce.

As the largest union of DC employees, AFGE has mobilized its members to review 13 consultant reports commissioned by the Control Board to develop recommendations for DC management reform. We knew from experience across the country that labor participation can be a highly effective process for creating successful reform initiatives.

AFGE Findings

Our principal findings in reviewing the consultants' recommendations tracked eight principles for effective reform that we developed before the consultants' reports were completed.

The different agencies experienced a wide variation in the extent of union/workforce involvement in the development of the consultant assessments and reform proposals. One basic finding ties all the consultant reports together.

- **Where the union leaders and members have been more actively engaged in the process, the consultant findings are more accurate and the proposed reforms are seen by frontline workers as more likely to be effective.**

When the consultants reached out to the local unions and frontline workers, seeking their full participation their reports hit close to the mark in defining reform programs that are well matched to the needs of the agencies. When the consultants excluded the local unions and had only minimal or deeply flawed interactions with frontline workers, the assessments are full of factual errors and their reform proposals badly miss the target. This shows that labor participation is a highly effective process for creating successful reform initiatives. This participative method should be systematically implemented in following through with the city's management reform process.

Service Excellence

Principle 1: Strengthen Collective Bargaining to Make the Reforms Effective

Because of the urgency of rapid, effective reforms, we propose to work with the Authority and with senior agency managers to **establish channels for labor participation in the reform process, both city-wide and in each of the city's agencies.** An intensive effort to mobilize all the knowledge and good ideas in the Department is needed on a priority basis.

- To provide ongoing problem-solving capability, we propose to **accelerate the development of the City-Wide Labor-Management Committee.** Meeting on a more frequent basis, the Labor-Management Committee can help provide an environment supportive of the reform process.
- To directly address and support the organizational change – both city-wide and in each of the Departments – we propose that an active subcommittee of the Labor-Management Committee be created as a **City-Wide Joint Redesign Committee.**
- **Within each department, we propose Joint Redesign Committees and Labor-Management Committees.** These offer the best channels for workforce participation in the process of shaping and implementing effective reforms and advancing the city to Service Excellence.

Based on the general principles of successful government reforms around the country, the labor-management partnerships should be undertaken city-wide, not one agency now, and others later. If we're in an emergency reform mode, then workforce participation needs to be organized from the beginning. We need input from the front-line worker: What do you think you need to do your job better, more efficiently, with better customer service?

Finally, the consultants typically see the collective bargaining functions of the city –where they are acknowledged at all – in a negative and defensive way. We think collective bargaining should be seen as a vehicle for problem solving and dealing successfully with the challenges faced by DC government, DC citizens, and DC employees.

Principle 2. Empower employees and treat them with respect

A basic premise of employee participation in reforming their organizations is that they can not be punished for that participation – at least not if the reforms are meant to succeed. DC workers and our unions need to be mobilized as partners in the reform process, not treated as uninterested observers or pieces to be moved around on other people's chess boards.

- The severe workforce downsizing of the past seven years must be brought to an end now if we are now to embark on a successful reform process. Most consultant reports recognize this basic fact. One at least plainly does not.

- There should be no more layoffs and no further contracting out where city personnel can do the job. This city can't make further cuts while expecting to rebuild morale and employee initiative
- Agencies and the city should reject those few consultant recommendations to fire current employees and make them re-apply for their existing jobs, with the likelihood of bringing in new outside hires.
- Agencies should not pursue policy of further "hollowing out" of internal capacity through additional staff cuts and contracting out. This is inefficient and ineffective in improving service quality.

The city must recognize in practice that ultimately "people are our most important resource." Agencies and the city can not give insincere lip service to this principle while continuing to treat the workforce primarily as a cost to be cut – rather than a resource to be developed and built upon. This kind of inconsistent, destructive message will only engender further disillusionment and cynicism among the workforce this approach and undermine efforts to reform service delivery in DC government.

Principle 3. Improve Management Accountability

The most important prerequisite for effective reform is consistent leadership for reform from the top. This is needed within each agency. Even more important, consistent top level leadership for reform is needed for the city as a whole.

- The Authority needs to firmly express its commitment to workforce and union participation in the reform process. Department directors need to hear this message loud and clear, and more than just once. The Mayor and the City Council also need to endorse this direction for reform of service delivery in the District.
- Agency heads need to provide consistent leadership within their departments and for their senior managers. Labor participation should be built into every manager's job evaluation.
- The city needs to recognized that labor participation in design and implementation of agency systems and technologies, goals, objectives and metrics will yield more effective results for everyone's goals.

Principle 4. Improve performance management

Several key points that come up across all the agency reports that demand urgent attention.

- The personnel function needs a radical overhaul, not only on a city-wide basis, but within every agency as well. Hiring decisions, performance evaluations, and promotions today are typically not objective and not geared to meeting agency service delivery goals. Personal relationships and

cronyism must be replaced by objective assessments based strictly on performance and merit.

- Frontline workers should be integral participants in process redesign, bringing in new technologies, and establishing feasible goals for continuous improvement in service quality and cost effectiveness. As designers of the systems and their performance metrics, they will have every incentive for achieving the goals they have helped to establish.
- It is wrong to blame employees for productivity and quality problems. W. Edwards Deming, the long-time DC resident recognized as the father of the quality movement, said that quality problems are 90 percent due to bad **management.** It is wrong and ineffective to try to remedy quality problems by punishing or replacing workers.

Principle 5. Improve the rewards system and allow the bargaining process to work

We think it is possible to design *appropriate* positive performance incentives, for teams, work groups, and other groups that work together to produce superior quality or greater cost effectiveness. These are issues that ultimately must be collectively bargained.

Principle 6. Flatten and modernize the management hierarchy

Modernization of management means more than using new technologies. High participation, high learning, high performance work systems mean demands for new management approaches and skills. We would like to see modernized high performance work systems matched by high performance management.

Principle 7. Support the development and use of skill in the workplace

Very few of the consultant reports recognize that workforce skill is fundamental to high quality, high productivity service delivery. High performance work systems and jobs require skill and continuous learning.

- We need to develop skill requirement profiles for the new jobs in our reformed agencies, objectively assess existing workforce skills, and develop systematic training programs for all city workers.
- Joint training committees should be set up in the agencies and city-wide.
- Adequate budget resources must be secured to support a training program that reaches the agreed minimum of 2 percent of payroll for each employee.

Principle 8. Create excellence in customer service

We in AFGE believe that this city's agencies can be reformed to provide service excellence for residents, commuters, and visitors to Washington DC. We stand

ready to work with the Authority, agency heads and senior managers, and elected officials to make this goal a reality.

"The District Government must do more to involve the District's labor unions in the financial recovery of the District." [1] ***– The Authority, May, 1997***

Part I. Introduction

SERVICE EXCELLENCE: A Union Vision for the District of Columbia makes the case for involving front-line union members in the reform of their workplace. In the end, it is up to us, the District's workers, to transform the rough mandate of laws passed by Council and Congress into the indispensable reality of quality government services and benefits. Front line workers know what it will take to turn this city around. Whether fighting illegal drugs or caring for the poor, DC workers know the barriers to service excellence and we want to help The Authority break them down. Reform can only succeed if it builds on the knowledge and insights of the people who best know what's wrong with DC government and how to fix it – DC workers and their unions.

The Authority has hired 13 outside consulting firms to conduct organizational assessments and make improvement recommendations for seven agencies and four city-wide services. AFGE District 14 has shared these assessments and recommendations with the front line workers from the respective agencies. This report presents a front line analysis of the consultants' work. *Merging workforce insights with consultant expertise is critical to successful reform.*

SERVICE EXCELLENCE identifies **eight basic principles** that are the foundation for successful reform efforts. These all hinge on seeing city workers and their unions as valuable resources for reform – not as roadblocks to be avoided.

1. *Strengthen collective bargaining to make the reform process effective*
2. *Empower employees and treat them with respect*
3. *Improve management accountability*
4. *Improve performance management*
5. *Improve the rewards system and allow the bargaining process to work*
6. *Flatten and modernize the management hierarchy*
7. *Support the development and use of skill in the workplace*
8. *Create excellence in customer service*

Restoring DC's fiscal health while at the same time improving service delivery is a challenge that can only be met if Congress and the city's political leaders work with, rather than against, DC front-line workers and their unions. This report proposes concrete steps the city can take to achieve effective management reforms through an indispensable method: involving front-line workers and their unions in reform of our city.

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[1] Human Resource Management Reform: A Strategic Approach, May 1997, The District of Columbia Financial Responsibility and Management Assistance Authority, p 23

Service Excellence

The American Federation of Government Employees (AFGE) – in addition to being the largest union representing federal government workers in the United States and overseas – represents some 5,000 employees working for the District of Columbia government. AFGE District 14 provides supervision and support to its 14 locals representing D.C. workers. AFGE Council 211, comprised of all D.C. local unions, also serves the membership through coordinated activities. AFGE represents DC employees at the following agencies:

Department of Public Works
Water and Sewer Authority
Department of Human Services
Department of Health
Department of Administrative Services
Board of Parole
Department of Employment Services
Department of Fire and Emergency Medical Services
Department of Recreation and Parks
Department of Housing and Community Development
D.C. Public Housing Authority
Metropolitan Police Garage
Department of Consumer and Regulatory Affairs
D.C. Energy Office/Office of Planning

BACKGROUND

Congress is now spending millions of taxpayer dollars to have outside consultants tell them what AFGE and our members have been trying to tell them for years: *Poor management is the biggest problem facing the District of Columbia.*

AFGE and the DC workers we represent have time and again raised concerns about the management problems in our city, but no one listened. We also have offered our views on how the problems could be solved, but our advice and offers to help were put aside while the financial fires were put out (largely through reducing pay and benefits for front-line workers). Now, as top-down consultant reports are presenting management reform plans – usually developed without meaningful involvement of the workers who have the best knowledge of what is wrong with DC government systems and of how to fix them – it is time for DC workers to be heard.

The Track Record of Reform to Date: Little or No Workforce Participation, Disproportionate Impact on Front-Line Workers

DC's unionized workers have already borne a disproportionate share of the spending cuts made – without meaningful workforce input – to address the financial crisis we had no part in creating. Over the past two years, DC workers have suffered pay cuts of more than $40 million, which have severely impoverished many working families in the District. What is more, we have borne the shame and humiliation of blame for the City's inability to deliver decent, reliable, effective and cost efficient services to City residents. Yet in agency after agency, budget cuts were implemented by halting needed training, neglecting needed equipment purchases and repairs, reducing front-line staff, and delaying the purchase of essential materials and supplies. When management deprives workers of the resources we need to do our jobs, a crisis like the one now facing the District is inevitable.

Since 1995 when the Authority was established and given ultimate authority over the city's budget, its management, its procurement, and its labor contracts, the only real changes that have been implemented are job reductions and pay and benefit cuts for front-line service delivery workers and reductions in income assistance to the very poor. Meanwhile, the City has twice rolled back property taxes, which now stand at 1993 rates. These cuts have severely reduced the revenue available to the District to meet its budget shortfall.

In the past two years, unionized city workers have endured:

- 12 days of mandatory, unpaid furloughs
- 6% salary reductions for the last half of FY 1995
- 3% salary reductions throughout FY 1996 and FY 1997
- A 2% reduction in the employer's contribution to the post-1987 pension plan, made up by the employees (in effect, another 2% reduction in pay)
- Restrictions on overtime pay
- The temporary elimination of optical and dental benefits.

These cuts were far deeper than those imposed on the non-union workforce. Outside contractors and service providers have not been asked to re-negotiate their contracts at all. In the midst of a severe budget crisis the City continues to spend millions of dollars in wasteful contracting out.

Union workers have also borne the brunt of job elimination. The Authority in its May, 1997 report, *Human Resource Management Reform: A Strategic*

Approach,[2] points out that, instead of targeting reductions at the management level as directed by the Authority, most reductions have been of employees in lower pay grades who actually deliver services. In August 1995, the Authority called for the District to reduce full-time equivalent (FTE) personnel from 40,208, to 35,771 by September 30, 1996. Although the District met the targeted FTE level, the majority of the reductions have occurred in the front-line workforce, not in the management ranks. Seventy-two percent of the net 2,488 non-school reductions have occurred in grades 9 and below, and 42% have occurred in grade 5 and below.

In addition to destroying morale, management's self-serving approach to reducing the workforce has resulted in:

- Severe shortages of employees with critical expertise, especially in procurement, information services, and environmental engineering skills
- A disproportionate distribution of workload, with the result that many employees who perform critical tasks are overworked
- An excessive amount of overtime being worked by critical personnel, particularly in the Public Safety agencies.

Collective bargaining, grievance and arbitration are the traditional processes that workers have available to them to voice and resolve these important financial and workplace issues. But even these most fundamental vehicles have broken down under the weight of the City's crisis. Although the Financial Responsibility and Management Assistance Act of 1995 called for the Authority to approve all labor union contracts, there have been no labor union contracts agreed to by the District and a bargaining unit in the two years of the Authority's existence. In fact, agreements reached by City officials and the unions sit waiting for the most basic of decisions: determining who has the authority to implement the agreements. A court-mandated settlement on back pay has languished for months waiting for Control Board approval. Compensation agreements ratified last summer sit in the CFO's office waiting to be submitted to the Authority.

Critical Role of Workforce Involvement

According to the Authority's own report, "The District Government must do more to involve the District's labor unions in the financial recovery of the District." [3] The report goes on to recommend that the city work with the city's unions and the Federal Mediation and Conciliation Service to expand the current city-wide joint labor-management effort to include the formation of joint councils in selected departments and agencies. AFGE stands ready to work with the City

[2] Human Resource Management Reform: A Strategic Approach, May, 1997, The District of Columbia Financial Responsibility and Management Assistance Authority
[3] Human Resource Management Reform: A Strategic Approach, May 1997, p 23

and the FMCS to expand this important initiative. We believe that a strong partnership will provide our members with the voice in the reform process that we have been seeking all along. However, a strong partnership can only emerge within the context of a strong and viable system of collective bargaining that allows for workers interests in financial and employment security to be aired and addressed.

This is an extremely important point. If workers' knowledge, insights, and interests are not taken into account, then the reform process simply will not work. Whatever the reform process does, whether it cuts costs or not, it is the DC workers who must ensure that it is done well and that it meets the needs of a demanding public. Every endeavor of the DC government ultimately relies on the skills, ability, and motivation of DC workers. Before workers will fully support the reform process, we must first know that our efforts to improve the city will also serve to improve the quality and stability of our work lives.

A Reform Process That Will Last: Labor-Management Partnership

The problems with the District government are deeply rooted in its ineffective organizational structure and obsolete management philosophy. The current organizational model is based on centralized control of a multi-layered, autocratic management hierarchy. With its emphasis on control, rules, and standardization, this model is designed to take the thinking out of work and to devalue and discourage employee participation in workplace decision making. In this system, DC's front-line workers are hamstrung by red tape and often pointless rules, buried under stacks of pointless paperwork, and if managed at all, micro-managed to within an inch of their lives. The central message of this system is that workers can not be trusted to do the right thing.

By the early 1980's American business and government began to abandon this outdated management philosophy of command and control in order to remain competitive and survive in a new world of tough global competition, new complex technology, and lightning-fast communications. These companies learned the hard way that in the transformation from an industrial age to an information age a premium is placed on intelligent, highly trained, creative workers who have the resources and responsibility to analyze new situations and act quickly and effectively in response to new opportunities.

As more organizations moved to form new systems that support the development and use of skill in the work process, they discovered that the knowledge and creativity of their employees was often the margin of difference between mediocrity and excellence. There is no question that the engines that drove the change in successful companies and government agencies have been the principles of employee empowerment and labor-management partnership.

Service Excellence

Employee empowerment rests on a simple but powerful notion: the people who are closest to the work know where the problems are and usually have the best solutions. Not all good ideas flow from the top down. When front-line workers are trusted to identify and correct problems, and when their decisions are supported by top management, they will be motivated to make continuing and meaningful improvements to the work they do. The key is to push decision making down and give workers the authority to think creatively and act independently, within the context of the organization's objectives and values.

The Positive Role of Labor-Management Relations

The evidence shows that long-term organizational success is bound together inseparably with good relations between labor and management. Time and again it has been proven that effective labor-management partnerships have led to increased productivity, greater quality, better customer service, and greater employee satisfaction on the job. Union involvement in the design and implementation of reforms strengthens both the reforms and the process by which the reforms are designed and implemented. Notable union contributions to reform efforts include:

1. *Unions provide reform efforts with credibility.* Employees are skeptical about the potential of the reform effort to make a real difference. The involvement of the union will send the message that The Authority is making a meaningful attempt to fundamentally reform the District. Labor-management partnership is the first step in developing a culture based on mutual respect and trust.

2. *Unions provide workers with an independent locus of control in the reform process.* Collective bargaining will ensure workers that they will receive a share of the gains they help to achieve, and the protection of the union encourages employees to speak their minds on controversial issues without fear of reprisal.

3. *Unions promote and help to institutionalize change within agencies.* Unions remain long after the elected leaders and top managers who initiated the change process. The union and its members are the only constant, and therefore are the ones who will carry on the changes long after the reforms are implemented.

4. *Unions bring needed knowledge, insight, and skill to the change process.* AFGE represents workers in a number of government agencies. We can share information, ideas and experiences gained from our other partnerships and joint reform initiatives. This type of learning exchange could help to create a powerful synergy within the DC reform initiative.

Service Excellence

As DC employees who believe deeply in public service, AFGE members want to participate in positive ways to improve the performance of our government. But time and again we have been frustrated. For years we have offered thoughts on how to make government work better and more efficiently, but we have been told "that's management's job." Now the Authority has hired consultants to do what we have been willing to do all along, identify problems and recommend proactive changes in how the city is operated. Next, the consultants' studies and recommendations will go to a team of top leaders and managers to implement, even though the reports have clearly identified management as the primary reason why many of the city's problems exist in the first place.

DC's problems of inefficient and outdated management can not be solved by top-down, consultant driven reforms. AFGE provides the Authority with the only viable path to effective reform – to partner with city employees in the reform process. That is why AFGE urges the Authority to pursue a reform approach that recognizes that DC's front-line workers are the solution. We urge the Authority to involve the union and our members in the Management Reform Teams that are about to implement the consultants' recommendations.

AFGE's *Service Excellence* Principles

Underlying AFGE's involvement in the reform initiative will be a set of basic principles we will use to shape and evaluate the DC reform process. These principles are based on a solid understanding of how to make the system changes needed if the DC Reform process is produce the results it has promised to District residents. Our principles will allow the City to develop and implement a reform process that draws upon the knowledge and talent of its workforce in improving the District Government and enhancing the community we serve.

1. *Strengthen Collective Bargaining to Make Reforms Effective.* To succeed, the reforms must broaden the scope of bargaining and provide employees with a voice in improving productivity, increasing efficiency and enhancing customer service. New vehicles for labor relations that expedite the bargaining process and grievance administration will provide workers with the protection they need, and serve to free up the time of labor representatives to play a meaningful role in the reform process. The framework of labor-management councils should be expanded to other departments and be provided with a role in the evaluation and implementation of the consultant's recommendations.

2. *Empower Employees and Treat Them with Respect.* Employees hold the key to solving the City's service problems. No one knows the problems that DC faces better than the dedicated workers who serve this City. Our front-line workers through their unions should be given a voice in the reform process, and in every day decisions regarding the delivery of the services they provide.

3. *Improve Management Accountability.* Systems that support strategic planning and the establishment of performance goals must be established. Further, these systems must include mechanisms that hold management accountable to achieving goals and to behaviors that support a professional and equitable work environment for employees. If management is not held accountable to reforms, the reform process will not produce needed results.

4. *Improve Performance Management.* Earlier in the 20th century performance management systems focused on identifying and disciplining individuals for non-performance. The current system in DC still functions in this negative way. Today it is realized that performance results from many factors, some individual, but many more that are group or organizational in nature. DC needs a new performance management system that will provide individuals with clear direction on positive work related goals, and which will support team work and problem solving. Any change in the performance management system should provide for bargaining and direct involvement in its design by the employees whose performance the system will measure. If employees do not have ownership in the system, they will have no real confidence in its fairness or effectiveness.

5. *Improve the Rewards System and allow the bargaining process to work.* Instead of establishing an arbitrary awards system that will reinforce cronyism, allow us to negotiate a fair system where we emphasize gainsharing and make increased productivity our goal.

6. *Flatten and Modernize the Management Hierarchy.* The District's current command and control system is supported by an excessive management hierarchy that must be dismantled in size and scope. Once employees are empowered to make operational decisions, managers are freed up to focus on longer term strategic concerns. This system needs less managers and it needs different managers. The managers who remain in an empowered work system must assume new roles that require different skills. For example, managers must build and support teamwork, aid in troubleshooting and provide clear goals and performance measures. Individual managers who remain must be supported through training and performance management mechanisms if they are to succeed in assuming their new roles.

7. *Support the Development and Use of Skill in the Workplace.* If employees are to take on a broader role in the work process, training and skill development must be viewed as a strategic investment in quality – not as a cost to be controlled or eliminated. One of the worst causalities of the budget crisis has been the virtual elimination of front-line worker training. What little training that still exists in the City is concentrated in mid-to-upper level management while the front line workers who actually deliver city services are

ignored. Action must be taken to turn the training deficit around. However, the skills gap in the city is not merely a training challenge. The current command and control work organization does not support workers in using the skills they already have. The work structure must also change if workers are to bring current and new skills to bear in their work.

8. *Create Excellence in Customer Service.* Like other governmental agencies and private employers, the DC government must focus on providing prompt, cost-effective, and customer-responsive services. This is what taxpayers demand and what the public has every right to expect. It is also what DC's union-represented employees want to deliver. Our city's government systems, supported by an empowered work force and engaged unions, should aim for and consistently deliver excellence in customer service.

As a first step toward our involvement in the reform process, AFGE shared the consultant's studies and recommendations with union members on the front-line of the agencies under review. This report contains their views on those reports. Included is an evaluation of the recommendations against AFGE's SERVICE EXCELLENCE principles, and in cases where we think the consultants are off base, we provide what we believe to be a more viable course of action.

Part II
The AFGE Response
To Consultant Assessments and Recommendations

Introduction: Stakeholder Participation and Consultant Recommendations in the Reform Process

Consultants can use a variety of methods to help a client understand and respond to its strengths and weaknesses. An essential key to success is the degree of involvement the selected method affords the stakeholders in the problem identification and resolution process. Effective assessments generate a consensus regarding the barriers to effectiveness and create ownership within an organization for the implementation of chosen solutions. *Without stakeholder buy-in, proposed solutions often sit on a shelf collecting dust, rather than producing the results they were intended to help achieve.*

Effective consultants (and managers) involve workers and their unions in the design of studies. They use the knowledge of the people who work within a system to identify issues around which people can be mobilized. Successful consultants go beyond cursory surveys and focus groups and rely heavily methods that involve key stakeholders directly in analyzing problems and crafting solutions.

The consultants hired by the Authority to conduct the organizational assessments and develop reform recommendations often fell far short of the best practice benchmarks for stakeholder participation. The selected consultants relied heavily on managers in the information gathering and assessment process. Those consultants who chose to involve workers through the use surveys, town meetings and focus groups limited worker involvement to discussing questions that the consultants viewed as important. The consultants shaped the questions, assessed the data, and decided what issues to pass on for further consideration and what to leave out. Worker involvement also often occurred on management's' terms. Workers were selected by managers to participate in the study, yet many managers may not see it as in their best interest that all views be heard. In most cases basic methodological rules for soliciting worker views were violated: the consultants almost always mixed managers in with frontline workers in their focus groups, thus limiting the ability of workers to freely express their views.

The Authority has invested too much money and political capital in the Reform Process to see it hampered by ineffective studies and implementation processes. The candid, informed views of frontline workers, provided on their own terms, is

essential if the process is to produce valid data and positive results in successful, effective reforms.

Overview: Main AFGE Findings

As AFGE members responded to consultant reports for six agencies and the city-wide personnel function, we found a remarkably consist pattern in our findings and recommendations across the agencies and the personnel function.

First, we noted the wide variation in the extent of union/workforce involvement in the development of the consultant assessments and reform proposals in the different agencies. Those differences in the quality of worker participation in generating the reports led directly to differences in the quality of the reports themselves.

- **Where the union leaders and members have been more actively engaged in the process, the consultant findings are more accurate and the proposed reforms are seen by frontline workers as more likely to be effective.**

When the consultants reached out to the local unions and frontline workers, seeking their full participation – as in Emergency Medical Services – their reports hit very close to the mark in diagnosing problems and then in defining reform programs well matched to the needs of the agencies. These reports treat the workforce with respect and generally integrate workforce insights and employee interests (e.g., job security, increased training, adequate resources for doing our jobs) into their reform proposals.

When the consultants excluded the local unions and had only minimal or deeply flawed interactions with frontline workers – as in the report on the Department of Housing and Community Services, at the extreme end of the spectrum – the assessments are replete with erroneous findings and their reform proposals miss the target by a wide margin. These low quality processes have generated resentment and resistance already – creating early barriers to successful reform. These barriers will have to be addressed and overcome soon if reform is to succeed in those agencies.

This remarkably consistent pattern underscores the need for active union involvement in the design and implementation of the reform process. In short,

- **Labor participation is a highly effective process for creating successful reform initiatives. This method should be followed in the rest of the city's management reform process.**

Service Excellence

Certain other fundamental themes stand out in common across the seven individual agency and functional reports developed by AFGE members and local unions. These basic themes fit well within the framework of the union's eight Service Excellence principles.

Principle 1: Strengthen Collective Bargaining to Make the Reforms Effective

Because of the urgency of effectively implementing well conceived reforms in the shortest possible time, we propose to work with the Authority and with senior agency managers (and outside consultants, as needed) to establish a joint reform, redesign, and implementation process in each of the city's agencies. An intensive effort is needed to mobilize all the knowledge and good ideas in the Department on a priority basis. We feel such joint initiatives will make the reform process much more successful.

- To provide ongoing problem-solving capability, we propose to accelerate the development of the **City-Wide Labor-Management Committee.** Meeting on a more frequent basis, the Labor-Management Committee can provide a forum for solving problems that may arise in the general framework surrounding the reform process. It can help provide an environment that consistently supports the reform process.

- To directly address and support productive organizational changes – both city-wide and in each of the Departments – we propose that an active subcommittee of the Labor-Management Committee be created as a **City-Wide Joint Redesign Committee.** This would be a practical working group. It would support and facilitate the redesign initiatives in each department and in city-wide functions. Interacting with agency directors and local union leaders, it would work toward consistency in following "best practice" approaches across the agencies.

- **Within each department, we propose a similar structure of Joint Redesign Committees and Labor-Management Committees.** These offer the best channels for workforce participation in the process of shaping and implementing effective reforms and advancing the city to Service Excellence.

Based on the general principles of successful government reforms around the country, the Labor-Management partnerships should be undertaken city-wide, not one agency now, and others later. If we are in an emergency reform mode, then workforce participation needs to be organized from the beginning. We need input from the front-line worker. What do you think you need to do your job better, more efficiently, with better customer service?

Service Excellence

It has to be recognized that most of the consultant reports have poorly recognized the fundamental linkage between collective bargaining and successful reform in union-organized city governments. While there is some variation across the reports from different consultants on the various agencies, the majority of the consultant processes have shown little recognition of the unions as potential partners in the reform process. They have, with important exceptions, limited the engagement of unions in the assessment and redesign processes. They have failed to develop proposals for union participation in the redesign efforts, or for redesign teams. For those consultant reports that did recommend benchmarking of best practices around the country, they generally selected the "best practice" sites themselves, according to unstated and questionable criteria, and they failed to propose ideas for labor to participate in designing or conducting the benchmarking analyses. None of them recognized the importance of labor-management committees as channels for advancing a successful reform process

The collective bargaining responsibilities of the city – where they are acknowledged at all – are typically seen in a negative and defensive way.

- **Collective bargaining should be seen as a vehicle for problem solving** and dealing successfully with problems that that are faced in common by DC government, DC citizens, and DC employees and their unions. Labor-management partnerships for work system redesign are basic building blocks of best practice in municipal government reform around the country.

Workers are principal stakeholders, along with DC citizens as the "owners" of city government and citizens as customers of the full range of public services. Workers as stakeholders participate collectively through their unions and individually in their own workplaces. Several reports advocate a "stakeholder" process (e.g., in DCRA) but fail to recognize that workers are basic stakeholders.

Principle 2. Empower employees and treat them with respect

A basic premise of employee participation in reforming their organizations is that it won't work if employees are to be punished for their participation. DC workers and our unions need to be mobilized as partners in the reform process, not treated as uninterested observers or pieces to be moved around on other people's chess boards, and then discarded.

- The severe workforce downsizing of the past seven years must be brought to an end if we are now to embark on a successful reform process. Most consultant reports recognize this basic fact. One at least plainly does not (Price Waterhouse at Housing and Community Development).

Service Excellence

- There should be no more layoffs and no further contracting out where city personnel can do the job. This city can't make further cuts while expecting to rebuild morale and employee initiative
- Agencies and the city should reject recommendations to fire current employees and make them re-apply for their existing jobs (DHCD), with the likelihood of bringing in new outside hires.
- Agencies should not pursue policies of further "hollowing out" their internal capacity through additional staff cuts and contracting out. This is inefficient and ineffective in improving service quality.
- **The city must recognize in practice that ultimately "people are our most important resource." Agencies and the city can not give insincere lip service to this principle while continuing to treat the workforce primarily as a cost to be cut – rather than a resource to be developed and built upon.** Treating city employees as the problem, rather than the solution, will only engender further disillusionment and cynicism among the workforce and undermine efforts to reform service delivery in DC government.

Finally, it must be recognized that genuine workforce empowerment is not a significant recommendation in most of consultant recommendations for agency reforms. While some agency recommendations do call for more modern organizational structures, notably on the management side (e.g., fewer layers of management), there are virtually no calls for restructuring work systems toward best practice high participation, high performance systems. Traditional top-down bureaucratic thinking predominates.

- There are important opportunities for creating more effective service delivery through empowering employees with wider, more holistic job responsibilities and supporting them in these new roles with appropriate training.

Principle 3. Improve Management Accountability

The most important prerequisite for effective reform is consistent leadership for reform from the top. Such leadership is needed in each agency. Even more important, consistent leadership for reform based on workforce participation is needed for the city as a whole.

- **The Authority needs to express its commitment to workforce and union participation in the reform process.** Department directors need to hear this message loud and clear, and more than just once. The Mayor and the City Council also need to endorse this direction for reform of service delivery in the District.

- **Agency heads need to provide consistent leadership** within their departments and for their senior managers. The message needs to flow

down through senior management ranks as well as through the leadership structures of the unions. Participative change processes are often resisted by middle managers who are fearful of unfamiliar new roles – in spite of the fact that the new approaches can provide superior service delivery and cost effectiveness.

- Labor participation in design and implementation of agency systems and technologies, goals, objectives and metrics will yield more effective results for everyone's goals.

Without this kind of leadership commitment, the reform process is not likely to succeed.

Principle 4. Improve performance management

Several key points come up across all the agencies for improving performance management.

- The personnel function needs a radical overhaul, not only on a city-wide basis, but in each agency as well. Hiring decisions, performance evaluations, and promotions are not objective or geared to meeting agency service delivery goals. Personal relationships and cronyism must be replaced by objective assessments of performance and merit.

- Frontline workers should be integral participants in process redesign, bringing in new technologies, and establishing feasible goals for continuous improvement in service quality and cost effectiveness. As designers of the systems and their performance metrics, workers will have every incentive for achieving the goals they have helped to establish.

- It is wrong to blame employees for productivity and quality problems. W. Edwards Deming, the long-time DC resident recognized as the father of the quality movement, said that quality problems are 90 percent due to bad **management**. However, several consultant reports seem to place the principal blame for bad performance on workers. They therefore, wrongly, seek to remedy the problems by punishing and/or replacing workers. This approach can not lead to successful reforms or improvements in service quality.

Principle 5. Improve the rewards system and allow the bargaining process to work

AFGE is interested in exploring *appropriate* approaches to positive performance incentives, for teams, work groups, and other groups that work together to

produce superior quality or greater cost effectiveness. These are issues that ultimately must be collectively bargained.

Principle 6. Flatten and modernize the management hierarchy

Modernization of management means more than using new technologies. High participation, high learning, high performance work systems mean demands for new management approaches and skills. We would like to see modernized high performance work systems matched by high performance management. Neither empowerment nor respect plays a significant role in most of consultant recommendations for agency reforms:

As noted above (principle 2, empowerment and respect) traditional top-down bureaucratic thinking about reforms and operations will cause the city to miss important opportunities for creating more effective service delivery.

Principle 7. Support the development and use of skill in the workplace

Very few of the consultant reports recognize that workforce skill is fundamental to high quality, high productivity service delivery. High performance work systems and jobs require skill and continuous learning.

- We need to develop skill requirement profiles for the new jobs in our reformed agencies, objectively assess existing workforce skills, and develop systematic training programs for all city workers.
- Joint training committees should be set up in the agencies and city-wide.
- Adequate budget resources must be secured to support a training program that reaches the agreed minimum of 2 percent of payroll for each employee.

Principle 8. Create excellence in customer service

We in AFGE believe that this city's agencies can be reformed to provide service excellence for residents, commuters, and visitors to Washington DC. We stand ready to work with the Authority, agency heads and senior managers, and elected officials to make this goal a reality.

Service Excellence

City Departments: Responses to Consultant Reports

Emergency Medical Services
AFGE Local 3721

The quality of emergency health care response provided by the District's Emergency Medical Services is in a crisis condition that is deeply troubling to many of those who live and work in DC. Response times for the most critical ambulance service, advanced life support, are unacceptably slow. These dangerously long response times threaten the health and lives of those who need emergency medical service in the District. Turning this situation around, quickly and effectively, is a critical test for DC government and for the reform process.

DC's EMS system has been the focus of many studies over the years, but effective reforms have not previously been implemented. Many EMS employees are weary of good recommendations not being implemented. We want it to be different this time.

TriData Corporation has studied the EMS system since September. TriData's team was built around knowledgeable experts with extensive hands-on work experience in emergency medical systems; they weren't just academic experts. They used two criteria in developing their assessment and their reform proposals. First, "What is best for the patient?" And second, "How to provide the desired level of service most effectively." We think these are good questions to start with.

TriData had extensive contact with the local union representing EMS employees from the beginning of their assessment effort. They reached out to the local union leadership and met and spoke with union executive board members repeatedly as the study moved forward. In addition they went to firehouses and spoke with individual firefighters and EMS personnel. We feel we had a great deal of input. In general we support most of their recommendations because our thinking and insights were included in the process of developing the recommendations.

- Our local union needs to continue participating in the process of shaping reforms as recommendations are finalized and the EMS system moves into the implementation phase of reform. We propose to work with management (and with support from consultants, as needed) to launch a **Joint Redesign Team** that can work intensively on creating a successful reform effort. We know that active involvement of frontline EMS employees and their union will

result in better reform projects that will be more quickly and more enthusiastically put into effect.

- To provide ongoing support for the Joint Redesign Team and to deal with other ongoing issues facing the EMS Bureau, we want to build on recent preliminary discussions to create an **EMS Labor Management Committee**. Such an ongoing committee can deal with issues beyond the scope of the critical near-term reform and redesign challenge.

Evaluation of Reform Recommendations against AFGE's Service Excellence principles

In reviewing the written reports from TriData on Emergency Medical Services, we have compared their recommendations with AFGE's eight principles of Service Excellence. Our main findings are summarized below.

Principle 1. Strengthen collective bargaining to make the reform process effective

The good beginning by TriData needs follow-through from top-level management and the union to assure that the collective bargaining aspects of the reforms are properly addressed.

- Some of the contemplated changes in organizational structure, in job descriptions, and in the personnel system require bargaining as a legal matter, but these and other reforms could be strengthened, we feel, by incorporating supportive language in the collective bargaining agreement.

Principle 2. Empower employees and treat them with respect

The TriData methodology for gathering information for their reports has been to empower workers to participate from the early stages of the reform process. The report and its methods have also treated frontline workers with respect – recognizing their high levels of qualifications and the extremely high extent to which they are overworked under current inefficient, outmoded EMS systems.

- It is critical for frontline employees to have empowered roles in the next stages of the reform process – when specific reform strategies are finally determined and when implementation plans are put into effect. The EMSB Joint Redesign Team we have proposed can help make sure that this happens properly and effectively.
- Providing supportive telecommunications and other technologies, increasing the number of ambulances, and improving operations protocols will make it easier for employees to do a quality job.

Service Excellence

Principle 3. Improve management accountability

The proposed reforms go a long way toward upgrading management accountability at the EMSB.

- The critical underlying organizational point is that Emergency Medical Services are medical, public health services. They should be organized under a Director who is a medical doctor to provide patient-centered, medically oriented services. The culture and mission of fire fighting organizations are unlikely to change to give adequate emphasis to the needs of the EMS system.
- Setting a goal for 8:00–8:59 minute response for critical calls provides a measure of progress in system effectiveness.
- Upgrading computer-based automatic tracking systems will allow EMS to understand and continue to improve operational patterns.

The TriData proposal (No. 5) to make the EMS promotion process competitive and to review managerial positions and incumbents is sound. We agree with the TriData's statements that

> There is an active distrust of the EMSB supervisors and management among the field providers; it pervasive and organizationally limiting . . . [T] here is a widespread feeling that promotions [to and within management ranks] are made on the basis of cronyism and without regard to the merit of the individual for the position. (p 4-39)

We also concur with their recommendation that "some impartial review of the qualifications of incumbent managers will need to be undertaken."

Principle 4. Improve performance management

We believe that greater team-based operational autonomy would be a natural extension of the TriData recommendations, but this is not stated as an explicit goal.

Continuing workforce participation in shaping specific operational goals and performance metrics for individual units will help assure that the goals are realistic and have the support of EMS employees.

Principle 5. Improve the rewards system and allow the bargaining process to work

Our local is interested in exploring innovations and improvements in reward

systems for individuals and groups of employees who work together in teams or operating divisions.

Principle 6. Flatten and modernize the management hierarchy

We concur with the TriData recommendations to flatten, strengthen, focus, and modernize the management hierarchy.

Principle 7. Support the development and use of skill in the workplace

The TriData reform project to better integrate EMS documentation, quality assurance and training provides for close, supportive linkages between improving service quality and assuring that employees have all the skills they need to do an outstanding job.

- We would like to expand ongoing involvement of the union in planning for the training office to make sure that skills are defined with broad enough scope to support system-oriented learning and portable skill sets.

Principle 8. Create excellence in customer service

We feel that the reforms proposed by TriData provide a strong starting point toward the reform process for creating excellent customer service. If the frontline workforce and the union can play meaningful roles, and if the investments in new equipment, systems, and technologies can be made, we are confident that we can move the Districts EMS system rapidly toward Service Excellence.

Service Excellence

Department of Employment Services
AFGE Local 1000

The Department of Employment Services (DOES) has a long history in labor-management partnership. We believe that management and the union can work together to rebuild that departmental partnership in a way that can substantially strengthen the reform process that is about to be launched.

AFGE Local Union 1000 has a good working relationship with the current DOES executive director. The local's six person executive board currently sits in on the Director's monthly executive staff meeting. The Executive Director and the President of the local union co-chair a DOES Labor-Management Committee that meets monthly and addresses a range of agency issues. The incumbent Executive Director will have left office on November 21, 1997.

These relatively structured channels for high level labor-management communication and problem solving can be traced back to a departmental Labor Management Partnership created in 1991. The Labor-Management Partnership facilitated negotiation of a win-win departmental contract in only seven days and laid a solid foundation for joint problem solving and development of high performance organization at DOES. A notable example of our accomplishments at that time was that every DOES employee received a full week's training on quality service in customer-focused, employee-centered operations – *"how to provide customer service the first time, on time, all the time."*

Unfortunately, the DOES Labor-Management Committee that succeeded the original Labor-Management Partnership has been more adversarial than cooperative in recent years. Subsequent Executive Directors and many managers have not maintained the same high level of commitment to an active, productive partnership that was shown by the Director and senior managers in 1991.

Over the past 90 days, DOES has been the subject of an assessment and development of recommendations for reforms by the Technical Assistance and Training Corporation (TATC). The TATC consultants met with the two top local union officers toward the beginning of the assessment phase of their work. They said they would follow up with our union leadership, but there has been no further contact from TATC since that first meeting. TATC has likewise not organized strong participation by frontline workers in its process of information gathering and developing recommendations. Frontline employees appear in their report as objects to be reengineered rather than as important agents of the change process. With its organizational focus on training issues, however, TATC does call for important and much needed increases in the Department's

investments in staff training. But, again, their approach provides for little labor participation in shaping these training or other reform efforts.

As employees at DOES, we want to encourage senior management to reinvigorate the labor-management partnership that was so productive at the beginning of the 1990s.

- In a setting of emergency priority for agency reform, we would like to work with senior management to create a **Joint Redesign Team**. This Redesign Team would bring together the best thinking within the Department – from all sources, including the frontline workers who actually deliver the Department's services – and to combine them intelligently with outside resources, such as consultants, on an as-needed basis.
- To address the broader, longer term issues of upgrading the Department's service quality, timeliness, and cost effectiveness, we propose that we work with senior management to recreate the **Labor-Management Partnership** that flourished under the agency's pro-active top leadership six years ago.

As frontline employees, we understand where the Department's problems lie, and how they could be effectively remedied. All we want is an opportunity to combine our knowledge with that of the management team to design and implement reforms that will really work in practice, not just in theory or on paper. We are ready to take up this challenge with you.

Evaluation of Reform Recommendations against AFGE's Service Excellence principles

Local 1000 has studied the assessment and recommendations from TATC. We have analyzed their reform proposals in light of the eight principles of Service Excellence that AFGE has developed for this city-wide reform effort.

Principle 1. Strengthen collective bargaining to make the reform process effective

The evidence of best practice reform of government services around the country makes it clear that real workforce participation in, and ownership of, the assessment and reform process leads to the most effective reform proposals and the most successful implementation of reforms. Ownership from the beginning is always more powerful than "buy in" to somebody else's project after it is ready to move forward.

- With union representation of the workforce, labor participation in the reform process can provide highly effective channels for workforce participation in the reform effort. This can take the form of design or redesign teams, labor-

management committees, or broad labor-management partnerships. Local 1000 proposes to build on all three of those options, as spelled out above.

Collective bargaining represents a time-tested process for establishing joint reform programs. Consultation, joint fact-finding, problem-solving, benchmarking, or design committees can operate under the umbrella of collective bargaining, without entailing formal bargaining on every issue or even most issues. Collective bargaining is needed when issues of terms and conditions of employment come up. Indeed, collective bargaining is legally required for those issues. But bargaining can provide a broad umbrella under which workers can participate in reform efforts, knowing that their interests are properly represented and protected. It is the best, most inclusive approach to problem solving and organizational improvement.

Unfortunately, neither collective bargaining nor AFGE is recognized at all in the reform proposals from TATC. This repeated oversight is a fundamental flaw in the process of developing the consultants' proposals. It undermines the prospects of seeing their reform proposals successfully implemented.

- The positive role collective bargaining plays in effecting changes in job descriptions, performance evaluation criteria, training, compensation, and other issues should be spelled out in serious reform projects.

Principle 2. Empower employees and treat them with respect

TATC's process of assessment and developing reforms has flagrantly disempowered employees by effectively excluding them from participation. We think it is difficult, if not impossible, for employees who are disempowered in the redesign process to become empowered in the following stages of implementing reforms and operating new work systems.

TATC's reform recommendations at various points come close to proposing basic concepts of high participation, high performance work systems, but they shy away from the target at the last moment, at least where frontline workers are concerned. While it is suggested that managers develop and operate a number of new cross-functional activities, the TATC recommendation on the most basic point of continuous improvement in operations states that the agency should only:

> *consider* establishing process improvement teams to involve employees in improving quality of service, and to increase a feeling of employee empowerment. (p xix, p 4-20, emphasis added)

There is an important difference between "a feeling of employee empowerment" and measures that actually empower frontline workers. [4]

[4] It should be noted that TATC does call for involving information technology users in their proposed redesign process for information systems [p 4-2]. In this context they describe

- Proposals to further cut Department staff levels are the opposite of both empowerment and respect. Where some areas are found to have excess personnel, those employees should be reassigned and retrained so that the Department can maintain a commitment to its staff members. Treating staff as disposable or expendable fundamentally undermines morale.

Finally, the consultant's the one single concrete proposal for employee "empowerment" deserves to be cited in full:

> Empowering employees to decorate their own areas would boost employee morale, improve the appearance of office space, and may make the space more inviting to the public (p xxiii, p 4-29)

- AFGE recommends that work groups and job responsibilities be redesigned on a joint basis to genuinely empower frontline workers. When workers understand the goals, objectives, and responsibilities of their work groups, they should be able to devise means for fulfilling the mission through benchmarking best practices, studying their own work flows and processes, and solving problems as they are identified. This is the basis of assuring quality and of continuous improvement in the quality and cost effectiveness of service delivery.

Principle 3. Improve management accountability

TATC makes a number of positive recommendations for improving management systems and accountability. Achieving longer tenure for the Executive Director is critically important, as would be recruiting a Director who has a proven track record in promoting participation and partnership with workers and their union. Developing systems for planning, more active communication, redesigning how work is done and jobs are defined, establishing performance metrics (including quality but also cost), and upgrading computers and communications systems are all important for a more successful Department.

- What is missing in these recommendations are significant roles for frontline workers in redesigning systems, implementing changes, and operating new processes with high levels of employee participation and empowerment. Those roles need to be added through the work of the proposed Department-wide Redesign Team and in smaller redesign teams within DOES divisions and bureaus.

We are concerned that the consultant's report makes no mention of the pending proposals to merge and privatize the disability and workers' compensation

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worker/user participation as key to "a rational, bottom-up planning process" that is otherwise missing in their report.

systems. The City Council has held hearings on this subject and it has been discussed on Capitol Hill. We feel that any actual savings from such a move would be generated by denying claims – whether or not those claims are valid.

- AFGE strongly opposes the idea of merging and privatizing the disability and workers compensation programs.

Principle 4. Improve performance management

The TATC recommendations for redesigned job functions with integrated job descriptions and performance evaluation metrics are steps in the right direction. Again, more active autonomous roles for the frontline workforce on issues like monitoring quality and improving work processes would improve these recommendations.

The personnel system needs much greater attention than provided by TATC. Hiring practices are widely perceived as arbitrary, often unfair, and disconnected from qualifications and skills needed to fulfill the Department's mission. AFGE addresses many of these issues in our report on city-wide personnel functions (below).

- We support reforms to move away from cronyism and personal favoritism toward a merit system based on objective criteria and implemented with even-handedness and fairness. Although linked to city-wide reforms, counterpart changes will have to be implemented within DOES itself. Evasions of personnel procedures should be identified and reversed as soon as possible whenever they occur.

- Periodic personnel evaluations should be made more objective and fair by having them performed by coworkers, by more than one supervisor, and by customers inside and outside the agency. This more thorough, balanced system can do more to help identify areas of needed improvement. To be fully effective, it should apply to all employees of DOES, both frontline workers and supervisors and managers.

Finally, AFGE Local 1000 recognizes our own need to change if we are to play a fully positive role in achieving service excellence. As employees we need to clarify our fair expectations of one another on issues such as absenteeism if we are to move into a world of high performance work systems.

Principle 5. Improve the rewards system and allow the bargaining process to work

Our union is interested in sitting down with management to explore improved systems for individual and group awards for outstanding performance. In principle we agree that the rewards system should structure positive incentives for improving the quality of our services.

- We need to explore together possible innovations to implement such positive incentives consistent with fairness and even-handedness.

Principle 6. Flatten and modernize the management hierarchy

TATC has made several recommendations for simplifying the management hierarchy and setting it up to operate on a cross-functional basis, with improved planning and accountability. These suggestions move in the right direction.

- Work systems built around high employee participation and empowerment would lead to a further set of simplifications in the management hierarchy. In some cases there may be more supervisors than needed trying to monitor employees through outmoded command-and-control observation. Many supervisors might function more effectively in new roles as coaches, with their particular areas of specialization strengthened by additional training. Changing work itself is the true foundation of modernizing management.

Principle 7. Support the development and use of skill in the workplace

As mentioned above, the training recommendations are probably the strongest part of the TATC report. We agree that training and skill development should be seen as necessary investments rather than as costs to be minimized. We concur that individual skill development plans should be worked out through a gap analysis based on an objective assessment of skills required for different jobs and the skill portfolio of the employees in those jobs (at all levels). We need to work together to make sure that adequate resources are available to support the needed training in DOES and elsewhere in DC government.

- We suggest that bargaining unit employees and their union need to play a stronger role in the design of these skill profiling and assessment systems. It is too easy for managers or consultants to go off on a tangent and lose track of the skill sets actually needed for excellent performance. Again, it must be recognized that frontline workers have the most direct understanding of what is needed for successful customer service, including the skills of their coworkers and themselves. It is a mistake to exclude us from this critical process.

Service Excellence

Principle 8. Create excellence in customer service

The focal point for all the changes we advocate is Service Excellence. Frontline workers have critical knowledge and insights that need to be mobilized in the process of redesign and reform of the Department of Employment Services. We believe that our participation can produce superior reform proposals that will be supported by the workforce and therefore implemented more rapidly and more successfully.

- We look forward to working with DOES management to bring about those results.

Department of Consumer and Regulatory Affairs
AFGE Local 2725

The Department of Consumer and Regulatory Affairs administers a wide range of programs that impact on the quality of life, public safety, and the regulatory environment for business in the District. Many of these functions have operated poorly in recent years. Since September DCRA has been studied by a KPMG consulting team, which published their assessment and initial reform recommendations earlier this autumn.

The KPMG team arrived on the scene shortly after the appointment of the new Director of DCRA, David Watts. KPMG originally pursued a methodology of very limited workforce and union participation in their process of assessment developing reforms. The consultants did not meet with AFGE leaders at all before publishing their assessment and proposed reforms. As the KPMG reform proposals were being published (October 23rd), Director Watts initiated a series of weekly meetings with the leadership of our local union. He has been taking a very active approach to promoting union involvement in the reform process. He is committed to discussing issues with the unions and to sharing information. He says that the unions need to be part of the reform process from the beginning.

Since these meetings with the new Director began, KPMG has been much more interested in involving the union in the further development of their reform proposals and strategies. Director Watts has evidently instructed the consultants to meet with our Local Union leadership and to discuss reform proposals with us.

The published KPMG proposals contain many positive building blocks for reform at the Department. Their analysis and recommendations give much needed attention to areas of human resources and training for frontline workers as well as managers. We believe that by working proactively with David Watts, we can put in place a reform initiative that will address the real needs of DCRA in ways that can generate active engagement of the frontline workforce and the Union.

- Because of the urgency of the reform timetable, we propose to work with Department management in creating a **Joint Redesign Team for DCRA**. We believe that the Department's employees have a store of knowledge and insights that can add important value to the reform process. By working together, we can develop the most effective reform plans and move them toward rapid implementation, thanks to the informed participation and support of frontline workers.

Service Excellence

- To deal with the wider range of issues at DCRA, we further propose immediate creation of a **Departmental Labor-Management Committee.** Building on the city-wide Labor-Management Committee, this group can build up a practice of developing information and defining and solving problems throughout the Department.

Evaluation of Reform Recommendations against AFGE's Service Excellence principles

Our Local has carefully reviewed the KPMG assessment and reform proposals and evaluated them against the eight AFGE principles of Service Excellence:

Principle 1. Strengthen collective bargaining to make the reform process effective

The KPMG report makes no mention of the collective bargaining or the Union.

DCRA Director David Watts, on the other hand, has recently instituted a series of regular meetings with the Local Union leadership that have started the process of strengthening collective bargaining and creating a stronger foundation for the future reforms.

Principle 2. Empower employees and treat them with respect

- The participative process begun by the DCRA Director needs to become part of the process and procedure for the future work of KPMG. Participation of the local union and front line workers is a necessary part of shaping the reformed agenda, developing an implementation strategy, and monitoring and fine – tuning the reform process as it moves forward.

The KPMG process to date has not treated frontline workers with respect. It has worked around the workers and their unions as a source of independent insight and input. Again however the new Director has sought to remedy this method.

The KPMG reform proposals do call for protecting DCRA workers from further layoffs and RIFs. While certain functions are noted as perhaps no longer necessary, the incumbent employees in those functions are slated in their report for reassignment and retraining to carry out other responsibilities in the Department. We agree with this approach. It reflects an element of respect for DCRA workers -- their need for job security and they move into the reform process. This is important for all employees who are being asked to contribute to improving the organization where they work.

Principle 3. Improve management accountability

Service Excellence

KPMG recommends improved planning, reorganizing some functions processes for setting agency goals, defining objectives, and establishing metrics to track improvements. These are important and positive steps. However, we feel that the union can contribute important insights and perspectives in shaping these changes. Before implementation, the substance of these management system reforms should be reviewed and discussed by the agency's Joint Redesign Committee.

Principle 4. Improve performance management

The KPMG report properly recognizes the importance of human resource issues in creating effective work system in a productive DCRA. It properly connects workflow, job design, skill requirements and training in an integrated whole.

- Redesigned work systems and new job requirements should be addressed by the union and management together to reach the best-informed decisions that will be most effectively implemented. These questions should be taken up by the Joint Redesign Committee and examined on a joint basis for each part of the Department.

Principle 5. Improve the rewards system and allow the bargaining process to work

DCRA, like other city Departments, will benefit from the broader changes in the personnel systems, as outlined elsewhere in this report. We believe that there is room to explore the development of team-based and other collective performance metrics that can appropriately support high participation, high quality operations.

Principle 6. Flatten and modernize the management hierarchy

Simplifying and rationalizing the organizational hierarchy and bringing in new information and telecommunications technology systems, as recommended by KPMG, can be a good start toward flattening and modernizing the management hierarchy. What needs improvement in their recommendations, again, is to build in workforce and union participation.

KPMG even defines the goal, but their proposals don't quite fulfill it. A good example (among many) is found in their discussion of designing computer database software:

> All sections of DCRA must be involved in the integration process. It is imperative that all parties feel that they will benefit from the integration or there will be resistance and no commitment to ensure its success (p 12)

Service Excellence

We, the frontline workers and our union, are definitely parties to these system changes. Our participation will not only minimize the potential problem of resistance or apathy, but will help generate the best choices.

- Direct the Joint Redesign Team to review proposed changes in organizational structure and functions.

- Create a specialized joint design team for new information and telecommunications technologies, with the goal of mobilizing user participation in the evaluation, selection, customization, and implementation of these new technologies.

Principle 7. Support the development and use of skill in the workplace

KPMG's gives very positive attention to the needs for skill development in quality-oriented service delivery. Their proposed comprehensive training plan and program properly recognizes the need for training for new roles and responsibilities, for using new technologies, for maintaining professional skills, and for quality interactions with customers.

- Create a Joint Skill Development and Training Committee to develop the skills training program of DCRA.

Principle 8. Create excellence in customer service

We believe that our frontline workers and Local Union can work in harness with the new Director and, under the right direction, with the consultants in shaping and implementing a very successful reform program for the Department of Consumer and Regulatory Affairs. We welcome the opportunity to participate in make our agency more effective through excellence in customer service.

Service Excellence

Department of Public Works
AFGE Locals 631 and 1975

The Department of Public Works encompasses many functions that impact directly – and nowadays often negatively – on large numbers of DC residents, commuters, and visitors. DPW functions include road maintenance, snow removal, trash collection and street cleanup, maintenance of DC public buildings, parking enforcement, and drivers licenses and motor vehicle inspections, among others. Successful and prompt reform of DPW is, therefore, a priority in the broader effort to turn this city around.

As frontline workers represented by AFGE, we see the many problems at DPW at close range. We see first hand how organizational structures in DPW are fragmented and poorly coordinated and how, as a result, customer service and efficiency are often poor. An ongoing lack of investment in technology, training, and new vehicles and other equipment increases costs and impedes timely delivery of services in a host of areas – from building maintenance and repair to snow removal and waste management.

The work force in the Department of Public Works has been roughly cut in half during the 1990s. Key agencies such as Facilities Operations and Maintenance Administration (FOMA) and Fleet Maintenance have had even more than half their jobs eliminated since 1990, while work assignments have not decreased to the same degree.

FOMA did the maintenance work (e.g., roofs and boilers) for the DC public schools until the mid-1980s, and levels of maintenance were considered to be good at that time. The work has since been contracted out, with disastrous consequences for the school system.

In spite of the difficulties facing the agency and its employees, we have made it clear that we are willing to work with DPW management in seeking more effective ways to deliver quality services. The positive track record of the Labor-Management Committee for Fleet Management and other joint initiatives supported by DPW Director Cel Bernadino in 1997 represent an important set of building blocks for future joint union-agency problem solving and redesign efforts.

Since September DPW has been studied by a consultant group led by Managing Total Performance, Inc (MTPI). While the consultants' recommendations for management reform in DPW contain some valuable insights and suggestions, their process has not adequately engaged the knowledge, insights and interests of the workforce stakeholders. DPW workers and their unions feel they have a great deal to contribute toward improving the department's operations, organization, and processes. What we need is an opportunity to bring that contribution to bear as recognized and valued participants in the process for redesigning the Department of Public Works.

- Because of the urgency of effectively implementing well conceived reforms, we propose to work with DPW management (and outside consultants, as needed) to establish a **Joint Redesign Team.** An intensive effort to mobilize *all* the knowledge and good ideas in the Department is needed on a priority basis. We feel such a joint initiative for reform will make the process much more successful.

- To provide ongoing problem-solving capability, we propose a broader **DPW Labor-Management Committee.** Building on the positive experience of the city-wide Labor-Management Committee and the pilot LMC in DPW's Fleet Services Division, a Department-wide committee would provide an environment that would support the reform process.

Evaluation of Reform Recommendations against AFGE's Service Excellence principles

The consultants' recommendations for management reform and the process they used for determining these recommendations have been evaluated by AFGE union members at DPW against the union's eight principles for Service Excellence. [1]

Principle 1. Strengthen collective bargaining to make the reform process effective.

There was only a limited engagement of the unions in the assessment process. The Department of Public Works is one of the agencies in which the consulting contractors made an effort to reach out to the agency's union leadership. But that effort, however, did not go far enough.

The consultants met with the presidents of the unions representing DPW employees early in the assessment phase. They also met with the Fleet Maintenance Labor-Management Committee and met alone with the union members of the LMC to seek their candid opinions about problems in Fleet Maintenance.

Unfortunately MTPI used these encounters with union leaders only for narrow information-gathering purposes. The consultants posed structured questions, but they did not ask if the union leaders had additional topics that they thought were important to pursue. After those initial sets of meetings, there have been no follow-up discussions with the union leaders by the consultants. The recommendations that we put forward in those early meetings have not been included in the reform proposals developed by MTPI.

[1] This report, prepared by AFGE members and leaders, does not directly address areas of DPW where other unions represent the workforce – e.g., the Solid Waste Management Administration (SWMA), the Division of Transportation (DOT), or the Division of Motor Vehicles.

By and large, the MTPI recommendations do not contain a meaningful recognition of an ongoing role for the Department's unions and frontline employees in the reform process. In spite of the very positive activities of the city-wide Labor-Management Committee and the LMC for Fleet Maintenance, the consultants' recommendations do not identify any ongoing role for labor or the Labor-Management Committee in benchmarking best practices in other jurisdictions, assessing the strengths and weakness of existing DPW systems, or in participating in the redesign of DPW systems.

We particularly note the value of the recent benchmarking trip made by senior DPW managers and union leaders to Indianapolis -- a city that has made major strides in rebuilding its services on the basis of a labor-management partnership. We need to build on this foundation of joint benchmarking and assessment, not ignore it.

- We renew our offer to form a Joint Redesign Committee with Department management on an emergency basis, and to support its work by building up a Labor-Management Committee for the entire department as a whole and for particular Administrations within DPW, as appropriate.

The only major reference to unions and collective bargaining in the Task 2 report is the recommendation that FOMA should "seek changes in labor agreements in areas affecting productivity," even though the specific practices they propose to change ironically originated with DPW management.

- DPW management should work with the union leadership to develop agreement on collective bargaining provisions on all issues that fall under the bargaining mandate.
- Unions must not be viewed in negative terms as obstacles to productivity improvements. Unions can play a positive role.

Principle 2. Empower employees and treat them with respect

Empowering front-line workers as a means toward more effective service delivery at DPW is suggested by a number of specific proposals, but it is never really identified as an important step in its own right.

The report refers to the need to remedy excessive layers of management, high supervisor/staff ratios, and costly (and ineffective) micro-management of workforce activities. Yet the other side of the equation – allowing empowered and properly trained workers the authority to direct their own work within a larger structure of high performance operations – remains unstated.

Service Excellence

- Reforming procurement and management practices so that workers can successfully do their jobs (e.g., by having replacement parts readily accessible for vehicle repair) should be matched by high participation, high empowerment redesign of work processes and teams so that that the Department's work can be done most effectively.

The views of DPW employees were not solicited or meaningfully valued in the consultant's process of assessing current practices or developing their recommendations for reforms.

- DPW workers and their unions would like to see future reforms implemented in ways that do empower them to do the best jobs they can, based on the design of the new work organizations and the training and resources that are available for employees to provide quality services on a cost-effective basis.

We believe that the success of the reform process at DPW depends on the active participation of the frontline workforce in the assessment and redesign process. Top-down reforms coming from senior managers or consultants without worker and union participation is, as spelled out throughout this report, unlikely to succeed.

Principle 3. Improve management accountability

MTPI has made several proposals that have merit for improving management systems and planning. We would, however, suggest important improvements for those proposals.

MTPI proposes creating a "DPW Management Committee," including "business and civic leaders", to provide counsel to the process of determining areas of service improvement.

- Labor leaders representing the DPW workforce should participate as internal members of this committee, and city-wide labor officials should serve on it as external members.

Creating geographically based service districts for street repair; tree maintenance, garbage collection and street cleaning can create closer ties between the DPW workforce and the residents they serve. Many questions need to be addressed for such a reform to be fully effective.

- The city will need to assure that it works with workers and their unions from the outset to coordinate the collective bargaining implications of such a consolidation of service delivery, especially as workers from different jurisdictions would work together on a single project or under a single supervisor.

- The consultant's proposal to integrate DPW service delivery districts should mirror the seven police precincts appear to move in the wrong direction for increasing the effectiveness of DC government. It would be preferable if multi-purpose geographic service districts followed the boundaries of the eight City Council wards. This would strengthen lines of accountability between DC citizens and their elected local representatives. It would ultimately make city government more responsive to citizen needs.

The proposed centralization/integration of facilities management functions now spread among several agencies as well as the proposed upgrading of motor vehicle fleet management and maintenance functions pose similar questions in terms of the nature of the new work systems.

- The City has an opportunity to work with its workers and their unions in FOMA, DECA, DES and in Fleet Management to design high participation, high learning, high performance work systems that will provide excellent customer service in highly efficient operations.

- Identification of "best practice" cities, counties and states for benchmarking analysis should be done on a joint basis. Selection of cases as "best practices" that are built around massive and uncritical contracting out do not qualify as best practices in the eyes of this city's workforce.

Finally, the huge resource shortfall in transportation services and other areas of DPW responsibility is recognized by MTPI, but recognition is not enough. The resource issue must be directly addressed. Suburban Maryland jurisdictions are spending $27,181 per lane mile of street on maintenance, while DC tries to struggle by with $5,289 per lane mile – less than one-fifth as much. DC's pothole repair crew has fallen from well over 100 staff to 22 workers, but DC's tens of thousands of lane-miles of streets have not been reduced. They city's more than 100,000 trees are now maintained by a staff of only 25 – about one-fifth the number in 1990.

- Adequate resources must be appropriated to carry out these functions. Increased efficiencies alone can not close these huge resource shortfalls.
- Contracting out positions as employees retire or quit does not necessarily assure more cost-effective services. DC employees – in properly structured systems with professional management – can provide better quality at lower cost than outside contractors.

Principle 4. Improve performance management

As in other parts of DC government, the personnel system is in disarray. In most parts of DPW it is perceived by our members as unfair, arbitrary, and grossly

inefficient. The dysfunctional hiring and promotion functions directly undermine morale and affect motivation and performance. AFGE has addressed these issues in our response to the city-wide personnel function report (below).

- For DPW, achieving a fair, objective and productivity-oriented set of personnel practices is critical.

We agree that setting goals for service improvement is important for groups within DPW (from Administrations to work teams) as well as for individuals. But we feel that we have important knowledge that needs to be part of the process for setting those goals.

- The determination of service improvement goals and the measurements that can best gauge our progress in meeting them should be taken up as joint redesign initiatives between the affected agencies and the unions representing their employees.

Principle 5. Improve the rewards system and allow the bargaining process to work

The scope and direction of changes outlined in the consultants' management reform recommendations open the doors for collective bargaining to address issues of changing jobs and their responsibilities.

- DPW and the city should move early toward negotiating with AFGE and the other unions to facilitate the smoothest possible implementation of the agreed reforms. (Again, the reforms are only likely to succeed if they are approached through joint design programs between the departments and the unions representing their workforces.)

Creating positive incentives for effective service delivery may be a set of innovations that DPW and its unions can usefully address through bargained innovations in the reward system. Many work groups or teams in DPW have production and quality targets that could be effectively measured through performance metrics that are jointly evaluated, selected, and implemented.

- Groups that meet or exceed targets in cutting costs, improving quality, or cutting response times may be suitable candidates for increased bargained financial rewards, so that innovative workers can share the benefits enjoyed by their service customers and the city's taxpayers.

Principle 6. Flatten and modernize the management hierarchy

A flatter, more modern management hierarchy is a clearly stated objective in many of MTPI's proposed reform projects. The full potential value of these changes in modernizing how work is organized for managers is accompanied by matching changes in modernizing how work is organized for frontline workers, how their jobs are defined, and how their skills are developed for these new jobs.

The benchmarks of best practice indicate that effective reforms should be lead not only to high quality, cost effective customer service, but also to frontline service jobs that are more secure, more autonomous, more challenging, more rewarding and ultimately more enjoyable.

- The jobs and work organizations that will work best for DC are those that combine high workforce participation, high skill, and continuous learning with opportunities for advancement and broader responsibilities with greater autonomy. AFGE is eager to work with DPW to create this parallel evolution of high performance service delivery and high performance jobs.

Principle 7. Support the development and use of skill in the workplace

Developing and implementing new skills for new systems with new job responsibilities will be a critical success factor for reforms at DPW.

Achieving the goals of a well structured, responsive training system that supports high performance work systems will require important investments and a top-to-bottom restructuring of existing training systems. Like other DC agencies, DPW starts with major training and related system deficits. Training has not been widely used over the years to promote training and skill development programs for frontline workers. Most training has gone to managers, and even the little bits of training available for service delivery workers have been early casualties of cost-cutting initiatives in the 1990s.

MTPI has concentrated their training recommendations on building up the skill of management personnel. We agree that upgraded and more consistent management capabilities are sorely needed in DPW. But the success of the organization does not depend on the skills of management personnel alone.

- As organizations and jobs are redesigned, skill gaps should be identified and addressed so that DPW frontline workers as well as managers can have the tools to excel in their job of providing excellent service to DC residents.
- Training should be available for all DPW employees on both technical skills and quality or "people" skills for the upgraded and reorganized systems.
- A joint labor-management skill development working group should be instituted to assist in designing training systems and continuous learning systems for the workplace.

Principle 8. Create excellence in customer service

The consultants' assessments and reform recommendations can be a step in the right direction toward service excellence, but the city will only reach its goals if additional steps are taken by management and labor together, and if the direction of those steps is worked out among the stakeholders.

Building joint labor-management design teams for DPW (as at other DC agencies) is the foundation upon which the elements of high quality, cost-effective customer service can be assembled and developed. We are ready, willing, and able to work with management at DPW to achieve these goals that will benefit the city, its citizens, and its work force.

Department of Health
AFGE Locals 383, 2725, 2978

The Department of Health is a part of DC government that has already begun to turn itself around in late 1997. The assessment and recommendations by the outside consulting firm, University Research Corporation (URC) appears relatively well balanced. What is missing from their recommendations is what was also lacking in their methodology: recognition (by management and by URC) of the positive role of a labor-management partnership in achieving high quality, cost effective health services for the District.

URC is one of the few consultants hired in the Management Reform process to declare participation to be an important part of their methodology. Their framework for design and implementation of reforms is a variety of Total Quality Management (TQM) that emphasizes continuous quality improvement. They present their approach as based on participation and customer orientation (including frontline workers), the use of objective data, a process or systems focus, and a team approach (p 7). Their concept of participation, however, seems to have been developed in non-union settings, since URC made no effort to establish a dialogue with the union leadership.

Unfortunately, our information indicates that actual "employee participation" in the URC processes for conducting the assessment and developing recommendations was heavily tilted toward managers and senior professional staff. The vast majority of frontline workers had little or no contact with the consultants. The local union leadership *per se* was not contacted by URC, and their report does not reflect any awareness of the legally required role of collective bargaining in making changes in the terms and conditions of employment.

- The members and leadership of AFGE at the Department of Health want to work with the Department's management in a **Joint Redesign Team** to create a set of mutually agreed reforms and then to implement them with employee ownership and enthusiasm for the reform process. We have a lot of work to do, but we think the Joint Design Team would be a very positive step toward creating a reform process that can fully succeed. The workforce at DOH has a lot to contribute and can help design and implement reforms that will work for city's residents and visitors as well as for the staff at the Department of Health.

- More generally, we propose setting up a general **DOH Labor-Management Committee** to address the wider range of ongoing planning and problem solving issues that exist now alongside the reform effort and will continue to exist in the years to come.

Evaluation of Reform Recommendations against AFGE's Service Excellence principles

The frontline workers and AFGE local unions at DOH have evaluated the URC assessment and reform proposals against AFGE's eight principles of Service Excellence. We have reached the following conclusions:

Principle 1. Strengthen collective bargaining to make the reform process effective

The participatory process that URC claims to follow needs to be extended, within a union-represented workforce, to include union and frontline worker participation and collective bargaining. The consultant's report hardly acknowledges the existence of the union and the contract at all. It discusses strategic planning, changes in organizational structure and job descriptions, training, personnel evaluation systems, and other fundamental issues without noting the benefits from union participation in shaping the proposed changes and the change process. The legal requirements for collective are not mentioned.

The new senior management team at DOH has begun to recognize the advantages of working with the union and the workforce, rather than ignoring us. Contacts and communications with the new Director and other senior managers have been improving in recent months, starting from a very low point. A training session for managers on the union contract was scheduled for October 1997, to increase manager awareness of contract provisions and procedures (although no union representatives were invited to speak or participate). In general we think the labor-management relationship with the new management team is beginning to move in the right direction.

- We extend our call for the creation of a labor-management Joint Redesign Team to assure full labor input into the reform process at DOH on an intensive, emergency basis.

- A broader DOH Labor-Management Committee, established to deal with the full range of ongoing organizational and operational issues, can provide important support to the proposed Joint Redesign Team in studying problems and developing innovative solutions that lead toward a more effective ways to fulfill the Department's mission. With the training and facilitation support advocated by AFGE for Labor-Management Committees throughout the city, we believe that these processes can be highly effective in strengthening the Department of Health and its divisions.

Principle 2. Empower employees and treat them with respect

The URC proposals recognize many positive qualities of the DOH workforce. Many of their proposals call for creation of cross-functional teams that can operate with considerable self-direction. These are positive steps.

Yet the URC methodology in practice heavily tilted its participative thrust heavily toward managers and senior personnel. To date they have virtually ignored the union. When frontline employees participated in a focus group or meeting, they were mixed in with supervisors and other managers, thus inhibiting candor and limiting full expression of concerns and suggestions.

- We believe that many of the URC reform proposals can be extended to generate work systems that genuinely empower workers, but that will happen realistically and properly only through a new element of labor participation.

- To be meaningfully empowered, employees will need the tools to do their jobs – training, computers and information system technologies, effective telephone systems, and fair personnel systems based on objective facts, not personal favoritism. The full access of frontline workers to these tools needs to be clarified and confirmed by URC and DOH management.

Principle 3. Improve management accountability

The URC recommendations strongly emphasize strategic planning as a way of clarifying agency goals and objectives and determining appropriate metrics and benchmarks to track the extent to which they are being achieved. They also suggest "staff participation" in the strategic planning process.

- Union involvement in the strategic planning process can help assure that the views and knowledge of frontline workers are fully represented in the strategic planning process.

Principle 4. Improve performance management

The broad, integrating perspective of the URC assessment and recommendations on this issue again needs to more fully include frontline workers. The starting point for improved performance management is developing realistic job descriptions with responsibilities and evaluation criteria objectively and accurately spelled out.

Revising the personnel system to eliminate personal favoritism, cronyism, and the predominance of subjective factors is one of the most fundamental changes needed at DOH (and elsewhere in DC government). Virtually all employees are demoralized by a system that seems to be systematically disconnected from both fairness and from advancing the service goals of the Department.

- Postings for new job openings need to be visible, and the criteria for selection clearly spelled out.

- The performance evaluation criteria for each job should be logically matched to requirements for achieving agency missions. They should be determined in consultation between managers and the union.
- The performance evaluation process should be carried out on a more comprehensive and objective basis than it is now, with co-workers and multiple supervisors offering their assessments, perhaps along with internal and external customers.
  - These more comprehensive performance evaluations should be available for supervisory as well as nonsupervisory staff. Frontline employees, as internal customers of supervisors, can provide uniquely valuable in evaluating supervisors' skills.

The objective of continuous improvements in performance should provide opportunities for employees at all levels to contribute ideas and innovations for improved services and processes:

- Opportunities should be provided for employees to make suggestions for improving the implementation of their various assignments

Principle 5. Improve the rewards system and allow the bargaining process to work

The existing system of financial bonuses for outstanding performance is perceived as compromised by a lack of objectivity and fairness. As in other aspects of the personnel system, personal favoritism and personal relationships often appear to predominate over outstanding effort and performance that advances system efficiency and customer service.

- DOH employees are interested in exploring team-based and division based rewards for outstanding effort and performance as a supplement or alternative to individual awards. Performance changes that improve efficiency, cut costs, or improve quality are more often generated by work groups than by individuals.
- Individual employees who perform outstanding work should be fairly and consistently rewarded.
- Employees who do the work of positions above their pay grade should be fairly compensated according to the work they are doing.
- Simple recognition of outstanding employee efforts can do a lot to improve morale. A spectrum of positive recognition and rewards should be available to all employees.

Principle 6. Flatten and modernize the management hierarchy

The URC recommendations recognize the advantages of flatter management hierarchies to replace unresponsive command and control bureaucracies.

Service Excellence

Beyond simply "flatter" management, the operational goal of management should be to support an empowered workforce, to lead in shaping mission goals, metrics and milestones and in mobilizing the participation and initiative of *all* employees. We perceive the URC assessment and recommendations as consistently falling short in these aspects of *modernizing* the flattened management hierarchy so that it supports, empowers, and energizes a fully engaged work force.

Principle 7. Support the development and use of skill in the workplace

The URC recommendations extensively address development of advanced organizational skills for managers. This is important to move DOH forward.

It is equally important that non-supervisory employees increase their skill levels to move the Department forward as far and as quickly as possible. This means more than just narrow technical skills for operating new computers, software and communications systems.

- High performance skills for non-supervisory employees require skills for team operations, problem solving, quality metrics and continuous improvement, among others. Training for DOH personnel should be provided for these high performance skill sets.

- As jobs are redesigned and roles and responsibilities clarified, all employees should be able to assess their current skills objectively against the new skill requirements of their jobs. Individual training plans should be developed for each employee to raise skills to the levels required in the redesigned organization.

Principle 8. Create excellence in customer service

The combination of all these changes should be focused on the goal of increasing excellence in customer service. It is only by mobilizing the knowledge, intelligence, insight and creativity of all employees that the Department of Health will be able to move all of its services toward service excellence.

Service Excellence

Department of Housing and Community Development
AFGE Local 2725

The Department of Housing and Community Development has been the single most battered program in DC government. Since 1990 employment has been cut by 65 percent, from 469 to 164,[2] while the agency's mission and responsibilities have remained basically unreduced. We, the agency's frontline employees have sadly witnessed a decline at DHCD, from being nationally recognized for innovative and productive programs during the 1980s to being generally described as dysfunctional in 1997. The workforce and local union see the principal causes of this decline in repeated changes in top management and ineffective management programs, practices, equipment and systems, and improperly trained management personnel.

In spite of the demoralizing impact of deep RIFs, outmoded technologies and systems, and ineffective management practices, the Department's frontline employees still stand ready to work proactively with top management in redesigning and upgrading DHCD toward the union's goal of Service Excellence. Ironically, we feel we also have had to overcome an outside consultant organization, Price Waterhouse. Price Waterhouse (PW) has developed its assessment and reform recommendations over the past three months as if the workforce and union were principal barriers – not essential enablers and partners – to restoring this agency to quality, efficient service.

Price Waterhouse has shown a unique disregard for the workforce, unique even within the range of the consultant organizations hired by the Authority to assess DC agencies and functions. Price Waterhouse is the only consultant to propose still deeper job cutbacks as part of their proposed solutions, in spite of the depth of job cuts already experienced at DHCD. (We estimate, probably conservatively, that their proposals would eliminate or replace 50 of the remaining 164 jobs, for a further 30.5 percent cut on top of the 65.3 percent cutbacks made earlier in the 1990's.) They further recommend firing still other additional agency staff and allowing them to "compete" with outside applicants for their existing jobs. This is also unique among the recommendations from the consultants in the Management Reform process.

The insensitivity to workforce issues evident in their extreme recommendations is also reflected in their PW's methodology: they met with the union leadership only once, and then only after the union had requested a meeting. Contrary to accepted practice in labor-management consulting and research, they mixed frontline employees and supervisors in their focus group meetings, hampering the candor of the nonsupervisory employees in their only opportunity to put forward their concerns and suggestions for improvement.

[2] The Price Waterhouse Task 2 report inaccurately indicates a cut from 600 employees to 164.

Evaluation of Reform Recommendations against AFGE's Service Excellence principles

With this backdrop, it is not surprising to find that PW's recommendations generally fail to meet the standards of AFGE's eight Service Excellence principles.

Principle 1. Strengthen collective bargaining to make the reform process effective

The PW report fails to recognize the union and collective bargaining as resources that can make the reform process effective. In spite of the union's effort to reach out to the PW team, the consultants did not follow up on the union's offer to assist. There are no references to the union in the report as a potential partner in the process of redesign or implementation of reform strategies. Perhaps accurately in the context of this report, it principally mentions the union as an expected source of resistance to recommendations such as firing workers and making them compete with outside applicants for their own jobs (p 41).

The consultants' rejection of the union's offer of active engagement in the assessment process and in developing reform recommendations, noted above, seems to show that the PW team's aversion to unions is more than incidental. Their approach contrasts poorly with the best practice benchmarks in city government around the country that consistently show a strong role for working labor-management partnerships in designing and implementing reforms.

- AFGE strongly recommends creation of a **Labor-Management Redesign Team** for the Department of Housing and Community Development. Through this redesign team union leaders and members would work with managers to shape reforms that will move the Department toward excellence by building on the knowledge and insight of the DHCD workforce.
- This effort to lead reform via a Labor-Management Redesign Team at DHCD should be a principal effort of a **department-wide Labor-Management Committee** that should be set up as part of a city-wide initiative to develop a productive dialogue between managers and the workforce on a wider range of issues.

Principle 2. Empower employees and treat them with respect

Empowering employees and treating them with respect is essential both to a successful reform process and to future operations characterized by consistent quality and cost effectiveness. The PW process and recommendations fail decisively on both of these fronts.

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We agree with the fundamental insight of W. Edwards Deming that quality problems are 90 percent due to management systems and practices rather than to shortcomings of the workers. The PW report may not have the candor to frankly blame the workers in so many words. Yet their recommendations for cutting jobs another 30 percent or more, transferring major functions to other departments of DC government, and potentially outsourcing additional basic program responsibilities hardly reflect a desire for empowerment or any sense of respect for employees.

A high performance DHCD based on high workforce participation and continuous learning is not a goal in the PW report. Their vision is rather one of a more efficient, somewhat modernized Tayloristic bureaucracy. Yes, they do want to see improved strategic planning (but at the top only) and more consistent personnel and program practices (but designed without workforce input), even positive financial incentives (again designed exclusively top-down by consultants and managers).

What is not mentioned is instructive: not continuous improvement in agency processes arising from insights and innovations of frontline workers; not continuous learning built into redesigned jobs, opening the way for quality improvements and for skill-based career ladders; nor team-based operations with cross-training and workforce-based problem solving. There seems to be little recognition that DHCD management now attempts to regulate the work of the staff with an outmoded authoritarian management style, which results in counterproductive bureaucratization and disharmony in the workplace. The basic idea that we, the workforce, are the backbone of a successful Department, or that workers are our most important resource, finds no place in this report.

- Reorganization with skill development is a superior strategy compared to firings and contracting out. In spite of ample budgets available for training as part of federal housing programs administered by DHCD, skill development training for frontline workers has been virtually nonexistent in recent years. **Instead of further layoffs, contracting out, and forcing employees to reapply for their own jobs, DHCD should develop skill requirements profiles for the jobs in the jointly redesigned agency. Based on an objective assessment of existing skill levels of each employee compared to the skill requirements of their jobs, individual skill development plans should be developed for each employee and appropriate training started immediately to close identified skill gaps.**

As in other DC agencies, policies and procedures for hiring and promotions seem to have been replaced by decisions reflecting personal relationships with managers rather than objective assessments of qualifications and skills. The prevalence of personal favoritism undermines agency morale and impedes efficiency.

- Personnel policies and procedures should be developed in consultation with the union to implement objective; job-related criteria that can are factually – not subjectively – determined in every case. This can be done for DHCD as part of the overhaul of the city-wide Personnel functions.
- Establishing a new direction in the department will depend on energizing and empowering staff to overcome technical, bureaucratic, and resource barriers to improve people's lives. That can best be accomplished if the organization develops and implements its strategy through cultivation of trusting relationship within the Department.

Principle 3. Improve management accountability

We generally agree with the PW recommendations for more systematic strategic planning for and within the department, but see this as being most effective only when the workforce has a recognized, validated role in the process of strategic planning.

- The staff and union should be involved in the strategic planning process of establishing organizational goals, selecting near-term objectives, and determining the performance metrics for tracking progress toward meeting those goals and objectives. Wherever feasible this planning process should draw on the knowledge of the workforce and the new capabilities of the proposed DHCD Labor-Management Committee.

It is also important that the Department have strong, stable management leadership, willing and able to make a commitment to the staff and city. The succession of directors in the 1990's has contributed to a lack of consistent strategic direction.

Principle 4. Improve performance management

The Department's existing negative performance management system, focused on identifying and attempting to punish individuals for non-performance, needs to be replaced by a system that positively identifies performance goals and comprehensively supports the staff in working to achieve them.

Upgrading technical systems – new telephone and computer systems hardware, software, and practices – is necessary, though PW's description of present systems has important inaccuracies. Redesigning agency, program and staff functions can also be positive, but it is much more likely to succeed if the knowledgeable and concerned staff are involved in the redesign process.

- Participation by frontline workers and the union in an redesign team and follow-on implementation teams throughout the Department is essential if workers are to feel ownership of new system goals and objectives and of the corresponding performance objectives and evaluation criteria for individual

jobs. If an attempt is made to impose from the top, without recognizing the knowledge and concerns of the workforce, they are unlikely to succeed or be implemented quickly.

- Agency and program goals, objectives, and evaluation criteria should be closely aligned with the agreed goals, objectives and evaluation criteria for individual jobs and functions.
- Individual staff members should develop individual professional development plans to help identify areas where improvements are needed and to support them in achieving excellence in meeting those objectives.
- The Department's joint redesign team should consider the idea of evaluating job performance on a "360 degree" basis – where supervisors, peers, and customers (internal and external) contribute to developing an objective and complete picture of job performance for each employee. This process can be positive both for frontline workers and for supervisors and even senior managers in helping to develop a culture of continuous improvement.
- Where shortfalls are identified in skills or performance, employees should be given the tools for positive improvement through real access to meaningful training programs to upgrade their individual skills and abilities.
- Threats of firing and contracting out must end for employee morale to be restored and for reforms to move forward effectively.

Principle 5. Improve the rewards system and allow the bargaining process to work

Performance-related financial rewards and non-financial recognition can be important as part of a broader system of positive incentives for service excellence. As addressed as part of AFGE's response to the recommendations for the city-wide personnel system, the union is open to discussing and negotiating such a system. At DHCD the local union is ready to work with a proactive management to fine-tune the implementation of such a system.

Everyone should understand, however, that the city and agencies can not unilaterally design and impose a new compensation system – as apparently suggested by Price Waterhouse (p 61, section 6). Relying on legislation imposed on the District will not be any more effective. The city-wide collective bargaining agreement signed in 1997 puts some of these questions before a Labor-Management Committee.

Principle 6. Flatten and modernize the management hierarchy

High performance management is a natural component of high performance work systems and frontline jobs. Unfortunately the PW report does not identify the need to reduce layers of management or to modernize management functions into coaches and resources for empowered workplace teams.

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Management functions within DHCD are in urgent need of reorganization and reorientation toward supporting frontline employees in doing the work of the agency and away from command-and-control and punishment.

- The culture, structures and functions of managers at DHCD needs to embody the principles of empowering and respecting workers and supporting them as they strive to carry out the agency's mission.

Principle 7. Support the development and use of skill in the workplace

Skill-based operations are an important source of increased productivity and quality in many kinds of organizations. Unfortunately skill development has not been a priority within DHCD in recent years. Training funds are available as part of the federal programs administered by the Department, but few training opportunities have been made available to frontline employees. The PW report focuses on a lack of computer skills without noting that many employees received their first computers only last year. Almost none of them have received training in computers or the software they should or could be using to help them do their jobs more effectively.

- The PW report prefers firing and outsourcing rather than skill development as an organizational strategy. We believe that continuing training and skill development is a necessary part of a high performing organization at DHCD. Employees want to develop their skills, and want to be able to apply those skills in their work.

- The skills and competencies needed at the Department encompass far more than the technical computer skills mentioned by Price Waterhouse. Quality systems, customer relations, financial analysis, and overviews of federal and state/local housing and economic development programs are all needed.

Principle 8. Create excellence in customer service

We, the workers of the Department of Housing and Community Development and our AFGE Local Union, are committed to creating a system that can consistently deliver service excellence for the city and for the low and moderate income residents we are charged to serve. We are ready to work with managers who are willing to work with us.

We believe that the anti-worker approach of Price Waterhouse, which falls outside the spectrum of all the other consultant reports, can not provide an adequate foundation for reform of DHCD. We restate our desire to work with management in shaping the reform process through a Joint Redesign Committee. We would welcome an opportunity to move forward on a path to meaningful reform, starting with basic principles of mutual respect.

City-Wide Functions

The Authority has hired outside consulting firms to examine four city-wide functions through assessments and developing recommendations for reform. Of these four areas – personnel management systems, procurement, budgeting, and information systems – we feel that the personnel management has the most direct impact on how work is done and services delivered in the city. We have focused our comments on this one city-wide function.

The Personnel Management Function

The Authority retained Coopers & Lybrand to conduct an examination of the present services and delivery methods of the Personnel Management Function of the DC Government. The consultants' assessed information from a wide variety of sources, and spoke with many people within the DCOP and city agencies. However, the consultants appear to have made no effort to involve the union in the study process or in the development of their recommendations in any formal or informal way.

As is often the case when organizational assessments are undertaken by external consultants facing time constraints, there are selected errors, overly broad statements and glaring omissions, interspersed with accurate analysis and supportable conclusions. The next section is an overview of AFGE's evaluation of the consultant's report against our SERVICE EXCELLENCE principles. This section is followed by our response to key recommendations. Embedded in these comments are our suggested alternatives to recommendations we believe can not, or will not work given the legal, financial, political or cultural constrains facing the city.

AFGE *SERVICE EXCELLENCE* Principles and the Personnel Consultant Report

Principle 1. Strengthen Collective Bargaining to Make Reforms Effective

Both the findings and recommendations are devoid of substantive knowledge of the legal and practical obligations of employer to employees and their elected union in a unionized work setting. In the hundreds of pages that make up both reports: the assessment and recommendations, the word "union" appears a total of three times. Each time the union is referred to as obstacle to change or good management rather than as the legitimate voice for workers interests and concerns within the organization.

The collective bargaining agreement, the superseding source of personnel rules and regulations in a unionized setting, appears on a list of documents that the

consultant reviewed during the assessment process. The labor-management contract is not referred to at all within the recommendations or work plan. The contract is impacted by many of the consultant's recommendations, yet the consultants do not even mention the city's need to negotiate any of their proposed changes.

Although the city has a legal obligation to bargain many of these matters with the union, the city may also want to consider a negotiated approach to implementing the consultant's recommendations (as modified through stakeholder involvement), if only for the sake of expediency and effectiveness. Coopers and Lybrand in their recommendations note this need, if only indirectly:

> Beyond issues of coordination and cooperation with other functions and Agencies, a major concern regarding the ability of DCOP to implement many of these improvement projects is District culture: will the District employees be able to not only support, but embrace, the changes facing it? Change is not easy for most organizations, and the District is being asked to implement widespread and deep reaching changes. This will require concentrated effort and ongoing monitoring.[3]

Collective bargaining is a process whereby employers work with their employees and their representatives to provide for an equitable distribution of resources and create a safe and just work environment. Through bargaining the parties determine the rules of the game and devise problem-solving mechanisms to assist in resolving issues and disputes. Without collective bargaining, workers have no legitimate rights to a say in their workplace, and are less likely to trust that the rules governing the workplace also take their best interest into consideration. Without an effective voice, workers have no reason to ***support*** or ***embrace*** change, for they will have no real impact in shaping the change, and no influence over how and whether the change is actually institutionalized.

The legal problems raised by ignoring the requirements of collective bargaining are equally fundamental. Substantive changes to the personnel issues – like the compensation system, the classification system, overtime formulas, environmental differentials, performance management measures and processes, recruitment and promotions – are all subjects of collective bargaining. The consultants may be unaware of the city's obligation to negotiate any change in these areas with the union, but AFGE is not, nor are city officials. As a simple legal matter, implementing the consultant's recommendations through the strategies suggested by the consultants will expose the city to very well grounded unfair labor practice charges. In practice and in the minds and lives of DC employees, ignoring these bargained provisions and moving to over-ride them without further collective bargaining with the employees and their unions is unlikely to have any positive result.

[3] Coopers & Lybrand, November, 1997, p 12.

- Collective bargaining works if the parties abide by the rules of engagement set forth in labor relations laws. AFGE strongly advocates that the city do the right thing and engage the city unions in negotiations over many of the proposed changes recommended in this report.

- We recommend that the personnel function be addressed early in the proposed city-wide Joint Redesign Team. The city's Labor-Management Committee should monitor the progress of personnel function reforms over time and propose additional reforms or adjustments every six months. Success in this particular reform effort is critical to the overall effort for the city as a whole and for each of the departments.

Principle 2. Empower Employees and Treat Them with Respect

Our questions regarding the report's assessment against the *SERVICE EXCELLENCE* principle of empowerment are twofold:

- *Are employees empowered by change?*
- *Are employees empowered in the change process?*

In assessing whether the recommendations empower employees, we will assess whether or not a proposed change will provide employees with the information, resources or tools they need to take responsibility for their development, careers and benefits within the city. We also look to see whether the recommendations provide managers with the tools they need to support employees in these objectives. A key priority for AFGE is to ensure that we minimize the amount of variation in the way rules, regulations, and benefits are interpreted and applied throughout the city. If we can create a situation where everyone has the same information, everyone plays by the same rules, and everyone is evaluated through the same system and on same types of measures, then we will have created a situation where employees all who wish to advance in skill and recognition will have support in achieving their goals.

Several recommendations, especially some related those related to providing employees with information they need to plan their careers will help to empower employees within key personnel processes. Other recommendations, to the contrary, may in fact serve to minimize the employees role in building a career within the city.

In order to assess whether employees are empowered in the change process we look at whether employees are provided a voice in designing and implementing changes to the personnel system. The report does not spell out a specific role for employees or for unions in the change process. Therefore we must conclude that the recommendations do little to empower employees in the change process.

- If frontline workers can not create an effective channel for participating in the redesign of the personnel function through the Joint Redesign Committee and

the Labor-Management Committee, we seriously question the ability of a change process to succeed. There must be a meaningful, structured process for workers and their unions to contribute to the design of these changes.

Principle 3. Improve Management Accountability

The consultant recommendations could serve to increase management accountability throughout the city in several ways:

- A major problem the city is the ability of agency heads and mangers to work around the current rules and regulations in promoting, classifying, and disciplining employees. The proposed reorganization recommendations related to the **centralization** of the benefits, compensation, data base, policies and procedures could serve to limit these current abuses. Top leaders like the Mayor and Council would need to back this system by not supporting agency heads or managers who might attempt to circumvent the new systems and procedures once they are in place.

- The recommended **DCOP Steering Committee** representing all agencies to help set DCOP priorities and monitor its performance will help to install a system to hold DOCP accountable to its mission and mandates. Regular labor-management discussion on these issues is essential.

- Mandatory **supervisory training** would improve supervisors' understanding of the rules and regulations and may help to instill a value for fairness and accountability within front line management.

- Cleaning up the **policies** and making them easily accessible to all employees will help to ensure that everyone is held accountable to the same set of rules.

- Recommendation related to **improving position control** and limiting ad hoc work a-rounds to the classification system will limit management's ability to play favoritism in hiring, promotion and classification decisions.

- Supporting agencies in **change management** could help to instill a higher level of professionalism within management and a value for consistency and fairness. Strategies which involve workers and unions in the change process within agencies will help to build relationships between labor and management. Accountability can also improve within the context of a strong relationship based on mutual respect and support for common goals.

Principle 4. Improve Performance Management

The consultant's report is weak on its proposed approach to performance management. They advocate for a measurement-based approach to performance management. Yet organizational performance is based on many

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Principle 7. Support the Development and Use of Skill

The proposed vision and role for the Center for Workforce Development is limited and lacks understanding of today's innovative workplace learning systems that empower employees to take charge of their own development, while they also supporting improvements to organizational performance.

First, the recommendations do not provide a role for employees and their unions in the design, delivery and assessment of training. There are hundreds of best practice examples of labor-management partnerships that have improved the impact of training on organizational and individual goals. These initiatives have developed rich methodologies for involving workers directly in the training process. The consultants have failed to draw on these experiences in developing their recommendations. We believe the program will suffer as a result.

Second, the recommended training program is focused on narrow job related tasks and will have limited impact on goals related to job expansion, and will do little to support employees in developing potable skills they need to maintain employment security in an uncertain economy.

Third, the report does not address the demand side of the skill challenge within the city. Until and unless the city pro-actively addresses the obstacles to the use of skill in the workplace, workers will have little motivation to invest in the development of additional skills to improve their job performance. Workers must be empowered to use the skills they have now to make job related decisions, solve operational problems, and make improvements to the work processes they operate within. Once a work environment that encourages innovation and learning is established, and once workers are acknowledged for the skills they now have, then the demand for and usefulness of in-house training will increase.

Finally, several of the training recommendations, if implemented, will serve to compromise confidentiality, and therefore will limit employee's motivation to make use of the limited resources the program does provide.

8. *Create Excellence in Customer Service.*

An effective human resources and personnel system is fundamental to creating an organization within which excellent customer service is the goal and the norm in practice. Some of the components are present in the C&L recommendations, but others are missing or incomplete, as outlined above. The objective of excellent customer service should be an important standard against which all of the proposals for the personnel function are evaluated.

* * * * *

more factors. Performance is rooted in the nature and configuration of the work organization which includes: the way work is organized, the roles workers play and the skills they use in the work process, the available technology, the access to, use of, and influence over information and many more factors.

- Setting and measuring individual, team and department performance goals will help to improve the way performance is managed. By improving the measurement system, employees and managers will be clearer about their expectations of each other, and this will have positive effects relationships, the culture and work environment.

But in and of itself this increased clarity will not lead to change and improved performance.

- Structural changes in work processes, roles, technologies, methods and practices must also occur to support performance improvement.

Principle 5. Improve the Rewards System

The goals for consultant's recommendations regarding change to the pay and classification system seems to be focused on making them efficient and consistent. For example, the recommendations will serve to:

- increase position control
- increase control over wages and benefits
- align internal pay with the external labor market
- align internal pay plan with consistent values and measures

Although these goals will help to improve the pay and classification system, they will not in and of themselves improve the reward system within the city. A greater respect for equity must be instilled in the culture of the city.

- A system that recognizes and compensates workers for the use of skill and good judgment must be negotiated before people will feel adequately rewarded for their contributions to the city.

Principle 6. Flatten and Modernize the Management Hierarchy

Changes to the classification system and job design should support a flatter management hierarchy within the city, but this is not recognized as a goal in the consultant report. Other than the proposals related to supervisory training and to the change management program, we see limited potential that the proposed changes as spelled out will lead to a more modern approach to management based in employee empowerment and improved labor-management partnerships.

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The persistent undertone of the Coopers & Lybrand reports is that employees and their unions are a big part of the problem faced the city in its personnel management processes – not the inefficient and outdated management system within which we all operate. The consultants never once looked to employees and their unions as allies in their mission to make change. We encourage the Authority to take a different view. We advocate for the use of collective bargaining and the labor-management partnership to negotiate and problem solve the challenges laid out within the consultant's report. The following are several suggestions for how we might work together on these issues.

Specific AFGE Responses to Key C&L Personnel Function Recommendations

DOCP Organization

C&L Recommendation: Employee Relations Division

"...a coordinated Employee Relations function, which includes Labor Relations as part of the DCOP...The Deputy Director, Employee Relations would be responsible for the field delivery of personnel services, for both union and non-union employees.

The Employee Relations department would include personnel specialists who would be resident in Agencies...but these specialists would report to DCOP....to support individual Agency initiatives and priorities, yet assume central monitoring of policy compliance.

The AFGE Alternative: The Office of Labor-Management Relations

The City should expand the Labor Relations Division to include responsibly for collective bargaining, grievance administration and the expansion for the labor-management partnership.

The Division's mission should be expanded to include to support of Agencies in moving toward high performance work organizations which empower employees to develop and use of skill in the conduct of their work.

This mission will be accomplished through the formation of Joint Redesign Committees and Labor-Management Committees within each agency. Each committee will have at least one staff person selected by the union to assist in facilitating workplace transformation and will help the Agency access needed information, assistance and resources from the centralized personnel functions. The Committees will develop and oversee the implementation of an agency

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transformation program that respond to the consultant reports and provide workers with a greater voice in the services they deliver.

The city will also agree not to interfere in the unions' attempts to organize non-union employees and will provide the union with access to discuss membership with non-union employees during work hours, provided such conversations do not interfere with agency operations.

In return the union agrees to enter into a partnership with the city to assist in the implementation of the consultant recommendations.

C&L Recommendation: Center for Workforce Development

"...we recommend...ongoing reviews with Agency management to assure the training and assessment services offered meet the priorities of the Agencies. We also recommend that DCOP completely outsource the employee testing function, and place the interface to testing vendors under the Center for Workforce Development, since it is closely tied to skill assessment.

The AFGE Alternative: The Labor-Management Center for Workplace Learning

We recommend the establishment of a city-wide labor-management committee to assure the training and assessment services offered meet line priorities.

The city-wide committee will develop central programs to meet the development needs of individual workers. The city-wide committee will also work with agency labor management committees to develop programs to meet agency needs and that support the transformation process within the agency.

The Center for Workplace Learning will not assume responsibility of testing until such time the city moves to implement a classification system based on nationally recognized skill standards. Testing for entry and promotion is different than skill assessment in a work system that has yet to moved to a skill based organizational structure. Testing is traditionally used as a screening mechanism where individuals are concerned about job security or income progression. Assessment is more developmental and used by individuals to set goals and guide their education. If these processes are confused, individuals will come to mistrust both. Utilization of training will be effected.

Processes and Work Structure

C&L Recommendation: Reengineer Personnel Processes

"...begin to evaluate and reengineer core personnel processes....the initial process for reengineering be the Recruiting Process....We recommend that in

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doing so, the Recruiting Process be defined to include sourcing, and not confined to the District's paper process."

The AFGE Alternative: Stakeholder Participation in Reengineering Personnel Processes

The initial process for reengineering be the collective bargaining process. Most collective bargaining negotiations are at impasse, and those agreements that have been reached have not been implemented because no one knows who has the authority to do so. Two thirds of the District's workforce is organized. That means that the city now has no effective way to make decisions regarding the wages, benefits, and working conditions effecting two thirds of its workforce. The city needs a vehicle to negotiate the changes recommended by the consultants. The fixing the labor relations process must take the priority over other issues.

Client Service

C&L Recommendation: DCOP Steering Committee

"DCOP should establish an ongoing...Steering Committee...to help set DCOP priorities and monitor...performance."

The AFGE Alternative: Labor-Management Steering Committee

The labor-management steering committee, which will consist of agency and union representatives should establish a DCOP sub-committee to help DCOP establish priorities and monitor performance.

Training

C&L Recommendation: Center for Workforce Development Priorities

"Based on feedback from the Agency Directors and their employees, ... the priorities of the Center ...include:

- Develop a skill assessment tool for departments that can be tied into process redesign, job descriptions, and training
- Make supervisory training a priority
- Make supervisory training mandatory for all newly promoted...supervisors
- Develop a process to provide supervisor training for ...supervisors who never received training

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The AFGE Alternative

The priorities for the Center should include:

- The development of a labor-management infrastructure to guide the development and delivery of training programs to front-line union members
- The development of skill assessment tools based on nationally recognized skill standards that provide workers with portable skills and recognized expertise
- The development of recommendations for how skill standards could be used to guide work re-organization and the development of a pay for skill compensation system
- Improvements to supervisory training

C&L Recommendation: Additional Activities

...Other training needs we identified include...intra- and inter-team building training.

The AFGE Alternative

Intra- and inter-team building training program will be designed and tailored to support agency steering committees in implementing their labor-management transformation plan.

Compensation Philosophy

C&L Issue/Problem: Authority to implement philosophy

"It is not clear who at the DC Government has the authority to implement the Compensation Philosophy."

The AFGE Alternative: Collective Bargaining

If the DC compensation philosophy will be used to govern decisions regarding union employees, then the development of that philosophy is the subject of collective bargaining.

The Labor-Management Steering Committee should develop a recommended philosophy and present their recommendations to the negotiating committees for inclusion in the collective bargaining agreement. The C&L recommended philosophy should be reviewed and considered by the Steering Committee. The Steering Committee will determine whether the recommendations are included in the final statement.

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Job Information and Evaluation

C&L Recommendation: Market Alignment

"...establish what inherent characteristics within a job the City is willing to pay for and identify the appropriate markets for comparison pay....construct a flexible evaluation plan around which jobs can be classified within occupations based on jobs, qualifications, skills and responsibilities."

The AFGE Alternative: Collective Bargaining

The characteristics of jobs and the value of those characteristics are mandatory subjects of collective bargaining.

The job classification system around which jobs are classified is also a mandatory subject of collective bargaining.

C&L Recommendation: Job Evaluation Team

"...establish a job evaluation team consisting of...DCOP, payroll, financial agency personnel, and an Authority designee....responsible for:

- Facilitating...data gathering and exit processes
- Developing appropriate job evaluations for each classification
- Building an internal compensation database
- Gathering qualifications, skills and required responsibilities for each job"

The AFGE Alternative: Collective Bargaining

The evaluation team, *consisting of union and management representatives* will devise a new classification system that will become a part of the collective bargaining agreement once complete.

C&L Recommendation: Computerized Job Evaluation System

"...consider a computerized job evaluation system to analyze and monitor data collection, data analysis and recommendations processes.

The AFGE Alternative: Collective Bargaining

The union-management evaluation team will consider using a computerized evaluation system, provided that system can be designed to weight jobs according to negotiated criteria.

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C&L Recommendation: Evaluate Based on Current Job Descriptions

"...recommends building the data...to evaluate and classify jobs from the current job descriptions for positions."

The AFGE Alternative: Evaluate Based on the Work

This recommendation makes no sense given the finding that the current job system does not reflect how work is or should be organized. The evaluation process should be based the work people will be required to do in transformed work systems, the skills the transformed work system will require workers use, and the value people contribute to the work process and product.

C&L Recommendation: Consistent Approach

"...all jobs regardless of their union, classification, or status be evaluated in a consistent manner which does not provide special treatment to any individual classes of jobs."

The AFGE Alternative: Collective Bargaining

The manner in which union jobs are evaluated is the subject of collective bargaining. If the city wishes to be consistent with the process they use to evaluate jobs, then they will need to use the same process negotiated with the unions to evaluate non-union jobs.

Compensation Process

C&L Recommendation: Redefine pay structure

"...the job evaluation team should ...redefine the current grade, structure and determine whether the current pay structures make sense."

The AFGE Alternative: Collective Bargaining

The union-management evaluation team should negotiate a new grade structure to implement the results of the job evaluation.

C&L Recommendation: Pay for Performance

"Assuming the pay for performance initiative can be carried forth, we see little use for the mechanical pay steps within the current pay structure beyond the competitive market rate."

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The AFGE Alternative: Collective Bargaining

The job evaluation team should negotiate how workers will progress through the new grade structure.

DCOP Technology

C&L Recommendation: Information Technology Task Force

as a management initiative for moving from mainframe to client-server computer technologies

AFGE Alternative: Information Technology Task Force

as an structured opportunity for user participation in determining functional requirements, interfaces, and integrated training systems for the new computer systems.

Capacity for Change

C&L Recommendation: Change Management Capability

"...develop an in-house change management capability to support Agencies in the implementation of recommendations.

The AFGE Alternative:

The Labor-Management Steering Committee should help the city and the union develop internal capacity to support union-management transformation processes in the Agencies. Training and internal consulting in strategic planning, work place change, high performance work organizations, and labor-management partnerships should be offered to managers, union leadership and the selected labor-management facilitators. These leaders in turn should be supported in imparting this information and skill to line workers and managers.

STATEMENT OF DAVID SCHLEIN

Mr. SCHLEIN. My name is David Schlein. I have the honor of serving as National Vice President for the American Federation of Government Employees. We represent approximately 5,000 employees who work for the D.C. Government. These are front-line employees who do the demanding, often dirty, and sometimes dangerous, and almost always thankless work that keeps the city running.

Like you, AFGE believes that addressing the urgent and glaring crisis in management is the long-term key to prosperity for the city and to ensuring that the city's residents and visitors to our nation's capital receive excellent service.

The cause of the city's twin financial and management crises has never been that rank and file city workers are overpaid or that there are too many people hired to pave the roads, fix the school boilers and roofs, renew licenses, maintain water and sewer lines, clean up the parks, or process the paperwork. Unfortunately, it is the political patronage has come to mean a management job or a lucrative private contract. There were, and still are, too many bosses and not enough front-line workers or equipment or spare parts to get the job done. There were, and still are, questionable contracting policies that result in contracts let without proper regard to the price, the quality, and the experience of the contractor.

As hard working, dedicated employees, our D.C. members are extremely frustrated when the city government just doesn't work. Our members are the folks who try to continue to deliver services to District residents and businesses in an efficient, professional, and humane way, despite the obstacles and frustrations caused by layers of redundant management, lack of training, materials and or equipment. They are the folks who arrive to work on time and do their jobs, despite untrained, unprofessional, politically well-connected managers who ignore ideas on how to make government work better. They are the skilled workers who keep plugging away at their work, despite having their salaries cut twice in the past 24 months, their earned benefits reduced or eliminated, and their pay for overtime, hazardous duty, and holiday work being severely reduced. We are proud of our D.C. members. As public employees for D.C. Government, they truly are the unrecognized heroes and heroines toiling under exceptionally difficult, demanding, and often dreary conditions.

Let me be clear. Our members have no stake in the status quo of management. As the front-line workers, our members have a keen awareness of the problems with the city's operations. It is because they are closest to the delivery of services that our members and their union representatives can offer a clear perspective on solving these problems. Transforming D.C.'s governmental system into one that inspires public confidence in the city's ability to deliver high quality public service in a cost effective manner is our goal.

We understand that our members' futures depend on resolving the city's ongoing financial and management crisis. And we know that it is the front-line employees who do the city's work who must be the center of any effort to fix the city's delivery of services.

GRANT FOR LABOR-MANAGEMENT PILOT PROGRAMS AT PUBLIC WORKS

Indeed, over two and a half year, AFGE, AFSCME, and the city successfully applied for a grant from the Federal Mediation and Conciliation Service to establish a labor-management pilot program at the Fleet Maintenance Division of the Department of Public Works. The project has already yielded impressive results in improving efficiency and labor-management relations.

Furthermore, the grant required that city-wide labor-management partnership committees be established. Both FMCS and the Department of Labor have generously donated resources and expertise to make the project a success. The success achieved in this project, as well as the historical success in the Federal Government in other cities, such as Philadelphia, Cincinnati, Indianapolis, Fort Lauderdale, give us reason to hope.

In the rest of my testimony, I talk about some of the highlights that we believe are necessary in management reform. And we have provided you a copy of project that we did that responded to the consultants that were hired by the city, which, of course, came out of last year's appropriations, with what some of our members thought of their reports. And this has been shared, of course, with the city leaders, the City Council, the Authority. And we're working hard to try to implement some of these changes.

Let me just close by also stating that AFGE also supports the District's budget request, and we hope that it will be passed expeditiously.

Thank you very much.

Mr. ADERHOLT. Thank you for being here today, and testifying.

Mr. SCHLEIN. Thank you.

WEDNESDAY, JUNE 24, 1998.

PUBLIC SCHOOLS BUDGET

WITNESS

MARY LEVY, PARENTS UNITED FOR THE D.C. PUBLIC SCHOOLS

Mr. ADERHOLT. Our next witness is Mary Levy with Parents United for D.C. Public Schools.

Thank you for being here today.

STATEMENT OF MARY LEVY

Ms. LEVY. Thank you for having me. I am Mary Levy and I have studied the school system's budget, staffing, and reform efforts for the last 18 years. I am going to speak about three things today.

PER PUPIL SPENDING

The first is per pupil spending in the D.C. Public Schools. Essentially it is a lot less than what one hears. It is, this year, Federal and local funds included, the school system is spending a little under $7,600 a pupil. The reason it is so much more in earlier reports is explained in the notebook attached to my testimony.

What the school system is spending this year is less than in the surrounding suburbs, except for Prince George's County. And it is

a lot less than either Arlington or Alexandria. This is for a population with a much higher rate of disadvantaged children. It is also less than we spent four years ago. In most school systems spending goes up year by year. Ours has gone down year by year until this year. And I lay all that out in these papers, in the details.

NEED TO FILE COURT SUIT TO GET FINANCIAL INFORMATION

Second topic is where the money goes. We haven't got a good account as to where the dollars go exactly because I have not yet succeeded in wresting that from the school system's administration or from the Chief Financial Officer, but I am working on it. And eventually we'll sue them and get the information. We do, however, do extensive monitoring of staff in the school system, and because of the way we do it, it is better than anything the school system publishes. And what I have laid in the testimony here shows where they have come in the last three years and where they are today in terms of their staffing. About six percent of their staff is in central offices. That is for a rather long list of functions, including people like payroll clerks and people who do the personnel processing, communications, management, curriculum, teacher certification. There's a very long list of central office functions. And like I said, they have got six percent of their workers on that. That number is down quite a bit in recent years. And right now, there's really, with the cuts they have just announced, no more to go. Non-instructional services have also been cut, not as much as it looks like, because some of those services have been contracted out, which means the money moves over from staff to non-staff. After they get done cutting the custodians that they say they are cutting, there probably will not be enough of them to keep the schools clean. But we will see. About 78 percent of their local staff is in schools, in school instructional programs. I am not talking about the cafeteria workers or the——

Mr. ADERHOLT. Excuse me. Go right ahead.

Ms. LEVY. When I say school-based, I am not including the custodians or cafeteria workers. That is 78 percent of the locally funded staff. Over the last four years, the school system has cut almost one-quarter of its locally funded employees. Central offices and non-instructional services are down substantially, but they have also cut the classroom. We now have 1,100 fewer teachers and aides than we used to have. They come close to matching their current criteria for staffing, except in one area, and that is special education, where they are very much short on staff.

BUDGET FOR FY 1999

Third topic is next year's appropriation of $545 million. With the central office and the custodial cuts that they have announced, that amount of money will suffice to keep services in the schools about the same as they are now, although middle school and high school class sizes will go up a little. They will have to increase special education substantially in order to keep up with newly identified students. There will be, I think, more testimony about that from someone else later. That leaves them somewhere between $10 million and $20 million to raise teacher salaries, which are 8 to 14 percent behind those in the suburbs, and do any reforms and im-

provements that they ought to be doing such as extensive staff development.

That is the summary of my testimony.

Mr. ADERHOLT. Thank you for being here today. Of course, Chairman Taylor has come in now, and I am going to turn it over to him.

Mr. TAYLOR [presiding]. We appreciate your coming in and your entire statement will be included in the record. Thank you for doing that.

PREPARED STATEMENT OF MARY LEVY

[The prepared statement referred to follows:]

Parents United for the D.C. Public Schools

1300 19th St., N.W. Suite 330 Washington, D.C. 20036 (202) 833-4766

STATEMENT OF MARY M. LEVY
PARENTS UNITED FOR THE D.C. PUBLIC SCHOOLS
BEFORE THE SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA
COMMITTEE ON APPROPRIATIONS
OF THE U.S. HOUSE OF REPRESENTATIVES

June 24, 1998

Good afternoon. I am Mary Levy. Since 1980 I have studied the D.C. Public School system (DCPS) and analyzed its budget and expenditures, first for Parents United, later also for the D.C. Committee on Public Education (COPE). For the last eight years I have also monitored the progress of school reform and tracked the number and functions of the school system's positions and employees. The information I present this afternoon reflects the results of my latest analyses relating to three topics: the amount of per pupil spending by the D.C. Public Schools, where that money currently goes, and the local funding proposed by the District's Control Board and Council for FY 1999.

Per pupil spending in the D.C. Public Schools is less than suburban spending and less than it used to be. *When standardized under an area-wide methodology (that excludes food service, adult ed and summer school and includes teacher retirement)*, the DCPS per pupil budget this year, after new funds added by the Control Board is still substantially lower than per pupil budgets in all but one of the surrounding suburbs.

Alexandria FY 1997	$8,999	Montgomery FY 1997	$7,650
Arlington FY 1997	$9,305	Prince George's FY 1998	$6,171
Fairfax County FY 1998	$7,451	**DC FY 1998 revised**	**$7,343**

Contrary to most school systems, where per pupil spending rises every year District per pupil spending, derived from the most reliable sources available (audited financial reports and this year's Congressional appropriation) has been going down ever since FY 1994. This year, *by the simplest methodology (everything included but capital and teacher retirement payments)* the per pupil budget is $7,570 per student -- $6,418 from local funds and the rest from federal and other grants. Four years ago DCPS spent $7,800 per pupil in nominal dollars, or $8,330 in 1997 inflation-adjusted dollars, about $800 more than this year.

Where the money goes: We regret that we cannot provide a detailed analysis of what the D.C. Public Schools are doing with their money, because budget information for the current year is so far very sketchy and mingles central office with school-based costs. What we can offer is a staffing analysis that is much more detailed and accurate than anything published by the school system. We do it by taking payroll data and correcting it, employee by employee, by cross-reference with directories and other documents reflecting where school system employees actually work. Staffing accounts for a little under 80% of DCPS expenditures, typical of school systems.

DCPS Staff Allocation April 1998

	All Staff	Locally Funded Staff		
Category	**Apr 1998 Headcnt**	**Apr 1998 Headcnt**	**Apr 1998 FTE**	**Percent of total**
Administration/business services	432	381	380	4.3%
Instructional supervision/support central	308	181	180	2.0%
Non-instructional services workers	1,891	1,443	1,414	15.8%
School-based instructional program	7,798	7,102	6,964	77.9%
TOTAL	10,429	9,107	8,938	
Breakdown of school-based instructional program staff except special education				
Teachers general education	4,333	4,130	4,053	
Teachers ESL/bilingual	252	252	252	
Librarians, counselors	367	363	362	
Attendance officers/counselors	34	34	34	
Aides	1,038	679	636	
Principals, asst principals	306	301	301	
School office workers	363	348	347	
Total	6,693	6,107	5,985	
Estimated breakdown of instructional staff for special education				
Teachers special education	665	648	648	
Psychologists/social workers	158	142	142	
Aides	282	206	188	
Total	1,105	996	978	
Breakdown of wage-grade workers				
Custodial and building repairs	1,086	1,085	1,085	
Equipment maintenance	14	14	14	
Food service	467	22	22	
Logistics, supply	39	39	39	
Transportation	285	283	254	

Based on line by line, employee by employee analysis of payroll data as of March 31, 1998

Principal findings:

- Only 6.3% of locally funded staff is in central offices, including all clerical and professional employees who work in central management, legal services, personnel, payroll, accounting, budget, procurement, teacher certification, labor relations, curriculum, instructional supervision, staff training, management information services, facilities management, supply management, transportation, security and food service.
- About 16% of the locally funded staff consists of custodians, repair workers, warehouse workers, bus drivers, and bus attendants; most of these are in schools as custodians or transporting special education students to and from school.
- Almost 80% of the locally funded staff is in school-based instruction, and within this number, about 15% are special education staff.

Changes in Locally Funded DCPS Staff, 1995 to 1998

Category	Apr 1995	Apr 1996	Apr 1997	Apr 1998	
Central offices (administration, business services, instructional supervision/support	906	749	587	562	38%
Non-instructional service workers	2,533	2,332	1,597	1,443	43%
School-based instructional program	8,217	7,882	7,153	7,102	14%
Total	11,656	10,963	9,337	9,107	22%

- Central office staff has been cut substantially between 1995 and 1998-- by almost 40% in the appropriated budget. The numbers above include everyone in administration, management of facilities and other non-instructional services, business services such as legal, finance and information systems, and all staff doing supervision and support of instruction in the schools. More staff has been cut since, perhaps as many as 175. Realistically, central offices are no longer a source for savings.

- Non-instructional services workers, such as custodians, repair workers, cafeteria workers, etc. were cut by about 45% between 1995 and 1998, but in some instances were replaced by contract workers (security aides and bus drivers) or moved to federal funding (food service workers). At least 300 more are scheduled to be cut this summer.

- School-based staff paid with local funds, especially teachers and aides were cut by 14% between 1995 and 1998.

In addition, we have calculated the number of teachers, aides, counselors and other staff, on a school-by-school basis, that are required to fulfill current pupil/staff ratios, which are not low. When we add to these the additional staff required for special education and for staff in schools not included in the published staff allocation ratios, we found that *local schools should have about 7,060 FTE employees in the appropriated budget.* (This analysis excludes Title 1 and other federally funded staff but includes staff to serve newly identified special education students.) *The number actually providing direct services to children is 6,964, or about 100 too few.*

The FY 1999 local funding appropriation: Following a long consensus process, the Control Board, Council, Mayor and CFO agreed upon $545 million for DCPS. Unfortunately, the CFO and DCPS have not yet prepared a budget, showing how it will be spent. We have therefore prepared an estimated budget based on currently available information as to DCPS plans.

By our estimates, the staffing allocation criteria for local schools and staffing needs for special education will apparently require about $330 million. Central office and wage grade staff, after planned reduction will cost about $67 million. Maintenance of current levels of non-staff spending for contract services, texts and supplies, utilities plus increases in special education tuition and transportation would cost about $137 million. Essentially, about $535 million is needed to keep DCPS running at current levels *after cuts in central office and custodial staff* and to provide staff, tuition and transportation for newly identified special education students. This leaves $10 million for any changes, including:

- Salary scales for teachers and principals comparable to those in our surrounding suburbs, so DCPS can recruit and keep good teachers. We currently pay 8-14% less, and catching up will cost $25 to $37 million.
- Intensive professional development for the existing instructional workforce. At the 3% of total budget that is recommended by some education reform experts, that would cost about $15 million, compared to the $1-2 million we apparently now spend.
- Safety net for students likely to be retained in grade because they cannot meet promotion standards, including summer school. We do not have an estimate on this cost, but the job is going to be massive and inevitably expensive if these children are to be rescued.

Thus, $545 million will not take the schools very far on the road to the intensive improvement they need. Thank you for this opportunity to testify.

NOTE ON THE CALCULATION OF PER PUPIL EXPENDITURES

Total dollars in millions (excluding capital, debt service, teacher retirement, carry-over federal funds)

Source	*FY 1994 Expend's (peak year)*	*FY 1998 Revised budget*	*FY 1999 Approved budget*
Local	$545.7	$494.9	$545.0
Federal/other	$84.3	$88.8	??
Total	$629.9	$583.7	??

Nominal Dollars per Pupil (excluding capital, debt service, teacher retirement, carry-over federal funds)

Enrollment	80,678	77,111	77,111 (?)
Local	$6,763	$6,418	$7,068
Federal/other	$1,045	$1,151	??
Total	$7,808	$7,569	??

Inflation-Adjusted (1997) Dollars per Pupil (excluding capital, debt service, teacher retirement, carry-over federal funds)

Local	$7,217	$6,367	$6,956
Federal/other	$1,114	$1,142	??
Total	$8,331	$7,509	??

Published and oral reports on DCPS per pupil spending vary enormously, generating great confusion. We hear numbers from $6,000 to $13,000 per pupil, depending on spending and pupils included in the calculation:

- inclusion or exclusion of federal and other non-appropriated funds
- inclusion or exclusion of federal or other non-appropriated funds carried over from one fiscal year to the next -- inclusion means double counting of funds that we spend only once
- the student count used (enrollment vs. attendance, the inclusion or exclusion of adult, pre-kindergarten and tuition grant students)
- the year used (some reports use different years in comparing D.C. with other school districts)
- use of budget vs. revenues vs. projected expenditures vs. actual expenditures (some reports actually use the budget as requested by the school system, which may be $50 to $100 million more than it receives)

- inclusion or exclusion of capital funding and debt service
- inclusion or exclusion of teacher retirement payments and the school transit subsidy
- inclusion or exclusion of particular programs that do not belong in certain kinds of analyses, such as adult education, summer school, food service and tuition for private placements for handicapped students

The factors making the biggest difference for D.C. are federal funds (about $1,000 per student), carried-over funds (roughly $400 per student), food service ($350-$400 per student), capital funding ($100-$1000 per student), the student count (about $1,000 per student), teacher retirement (until this year, $1,100-$1,400 per student).

What the last point illustrates is that teacher retirement payments distort our reported per pupil spending, because they reflect the deficit in D.C. retirement funds before the federal takeover, not spending for the current education of D.C. children. Unfortunately, the U.S. Department of Education includes teacher retirement payments, and their reporting runs so far behind, this will not be reported for another three years. Right now the Department estimates DCPS FY 1997 expenditures at well over $9,000 a year on the assumption that they will be more than they were in 1995; our calculation, using the Department's methodology, is that DCPS actually spent $8,043 per pupil in FY 1997, and will spend $7,590 per pupil in FY 1998.

Year	DCPS Per Pupil	Source
FY 1994	$8,872	US Dept of Education, published, based on DCPS reports
FY 1995	$8,291	US Dept of Education, published, based on DCPS reports
FY 1996	$8,586	Calculation using USDE methodology and DCPS actuals
FY 1997	$8,043	Calculation using USDE methodology and DCPS actuals
FY 1998	$7,590	Calculation using USDE methodology and DCPS actuals

WEDNESDAY, JUNE 24, 1998.

SPECIAL EDUCATION

WITNESS

TAMMY SELTZER, CO-CHAIR, D.C. SPECIAL EDUCATION COALITION

Mr. TAYLOR. Let's see. Okay. Tammy Seltzer.

Ms. SELTZER. Just like Alka Seltzer.

Mr. TAYLOR. Oh, good. Okay. You have been a relief many times, so maybe I'd like to have you be a relief here today.

Ms. SELTZER. I hope so. I just wish I were a stockholder in the Alka Seltzer company, but the name doesn't bring all of those benefits, unfortunately.

BACKGROUND OF SPECIAL EDUCATION COALITION

Good afternoon. I am Tammy Seltzer. I am a staff attorney at the Bazelon Center for Mental Health Law. And I am speaking here today on behalf of the D.C. Special Education Coalition, which is a diverse group of parents and advocates who are committed to ensuring that children with disabilities in the District receive the special education services which they are entitled under Federal law.

I have prepared a written statement, which I would like to ask be entered into the record.

Mr. TAYLOR. Without objection.

PREPARED STATEMENT OF TAMMY SELTZER

[The prepared statement referred to follows:]

D.C. SPECIAL EDUCATION COALITION

DISTRICT OF COLUMBIA
PROPOSED FY99 EDUCATION BUDGET

TESTIMONY PRESENTED TO:

Honorable Charles H. Taylor, Chairman
House D.C. Appropriations Committee
Subcommittee on the District of Columbia
United States House of Representatives

June 24, 1998

TESTIMONY PRESENTED BY:

Tammy Seltzer
Co-Chair, DC Special Education Coalition

Ms. Seltzer is a staff attorney at the Judge David L. Bazelon Center for Mental Health Law. She may be reached at (202) 467-5730, ext. 16.

I am speaking today on behalf of the DC Special Education Coalition, a diverse group of parents and advocates who are committed to seeing that District children with disabilities receive the education to which they are entitled under federal law. The Coalition has been an active participant in the development of the Compliance Agreement recently executed between the U.S. Department of Education's Office of Special Education Programs (OSEP) and the D.C. Public Schools (DCPS) to rectify the District's longstanding, systemic failure to provide adequate educational services to students with disabilities.

Members of the Coalition have testified numerous times before OSEP, the D.C. Council, and the Emergency Transitional Education Board of Trustees and have met many times with representatives from both OSEP and DCPS. We were instrumental in calling attention to the school system's long history of neglecting students with disabilities, as described in our enclosed booklet, *The Wrong IDEA: How the D.C. Public Schools Fail Children with Disabilities.*

Although we have often criticized DCPS, the Coalition fully supports their FY99 budget request for special education. Denying the request would jeopardize the very reforms necessary to extricate the school system from the morass of unnecessary private school placements, school failure, and expensive litigation.

Superintendent Arlene Ackerman inherited a school system that lacks an adequate infrastructure to provide services to all the children who are entitled to receive them. The lack of educational services has led to two particularly worrisome results: 1) an over reliance on expensive private school placements, and 2) an incentive to underidentify children who qualify for special education

services.

DCPS currently places children in private placements almost 16 percent of the time, a rate which is twice the national average. Contrary to testimony from other DC government officials, the average tuition expense is approximately $23,000 per student, well within the national average. Recent reports of $48,000 per student expenses reflect a change in how DCPS reports these figures. Unlike past reports, the latter figure includes transportation and legal fees incurred by all students within the school system. Although it is true that only special education students receive transportation services, not all of the special education students receiving transportation services attend private schools. Because DCPS centralizes special education programs in certain parts of the city (e.g., only one public school in the city with a level IV learning disability program), many special education students who attend public schools are bussed, often across town. Similarly, legal fees are not limited to students in private school placements.

Underidentification of special education students has been a chronic problem in the District. School systems across the country typically identify 12 to 15 percent of their total school populations as children in need of special education services. In a comparable urban areas, the identification rates are even higher. Baltimore's, for example, is 18 percent. DCPS, however, has been identifying just 9 percent of the total student population as in need of special education services.

The over reliance on private school placements combined with the underidentification of students with disabilities has resulted in the following disparity: a minority of the student population

receives a disproportionate share of the special education budget, while thousands of children who have disabilities do not receive any special education services.

Regardless of testimony to the contrary, DCPS created this untenable situation. The US Department of Education has documented ongoing violations of federal law since the Office of Special Education Programs (OSEP) began monitoring compliance with the Individuals with Disabilities Education Act. As outlined in *The Wrong IDEA*, DCPS often failed to comply with critical IDEA provisions more than 90 percent of the time. (In the 1993 report, for example, OSEP found 100 percent noncompliance with requirements to provide transitional and vocational services, 90 percent noncompliance with transportation requirements, and 92 percent noncompliance with triennial evaluation requirements.) For many years, DCPS wasted funds building a bureaucratic stone wall when they should have been building a school system.

Ms. Ackerman realizes that building the service capacity of the public schools is the only way to address the crisis. Some DC government officials have suggested that Ms. Ackerman doesn't need additional funds to rectify years of neglect, that she could bring back students from private schools, then use the money saved to create services. Simply put, that is **impossible**. District Students are in those private placements because DCPS does not have the services to meet their needs. Until DCPS makes an investment in creating the necessary services, Ms. Ackerman cannot legally move privately placed students back to the public schools. If she cannot move the students, she cannot free funds to create services. If she cannot create the services, then more special education students will need private school placements. To break this vicious cycle, Ms. Ackerman requires an immediate financial commitment to develop public school special education

services.

Given the District's fiscal history, Congress has legitimate concerns that the school system not throw good money after bad. Our interactions with the new superintendent have given us reason to be more optimistic in that regard. Ms. Ackerman is well-informed about the system's problems and has made a significant commitment to reform special education in an historic, three-year agreement with the federal government. This agreement, which had many months of thoughtful community input, is a blueprint for success. Although it was executed just three months ago, Ms. Ackerman has already made strides in fulfilling some of the requirements. Hundreds of children awaiting assessments have been assessed. Just last Saturday, DCPS held its first Child Find screening in recent memory. Ms. Ackerman appears determined to improve educational outcomes for all District students, including those with disabilities.

We encourage this committee to continue your oversight efforts by ensuring that the District fulfills its commitment to the federal government and, more importantly, to the children and that you give Ms. Ackerman the financial investment to finish the job she has started. A vote against DCPS' FY99 budget request dooms children with disabilities to another year of educational neglect, neglect they have come to expect from the District. A vote for Ms. Ackerman's budget request is a giant step toward a functioning school system—something very ordinary in other parts of the country but truly extraordinary for the nation's capital.

Organizational Members of the D.C. Special Education Coalition:

Advocates for Justice and Education
Anacostia/Congress Heights Partnership
Bazelon Center for Mental Health Law
D.C. Center for Independent Living
D.C. Developmental Disabilities State Planning Council
D.C. Down Syndrome Association
D.C. Parents and Friends of Children with Special Needs
D.C. Parent Teacher Association (DC-PTA)
Disability Rights Council of Greater Washington
Family Advocacy and Support Association (FASA)
For Love of Children (FLOC)
Georgetown University Child Development Center
Howard University Research and Training Center
Learning Abilities
Learning Disabilities Association of D.C.
Lt. Joseph P. Kennedy Institute
St. John's Community Services

STATEMENT OF TAMMY SELTZER

Ms. SELTZER. And I will just summarize my statements today.

The Coalition has been a very active participant in recent efforts to rectify some of the long-standing, systemic problems with D.C. Public Schools' special education services. And to everyone's surprise, although we normally criticize D.C. Public Schools, today I am here to support their fiscal year 1999 budget request for special education services.

Denying the request the Coalition feels would jeopardize the very reforms that are necessary to extricate the school system from the morass of expensive private school placements and unnecessary litigation.

Superintendent Arlene Ackerman, as you all know, has inherited a school system that just doesn't have the adequate infrastructure to provide special education services to all the children who need them. And the lack of educational services has led to two particularly worrisome results. One I know that the Chairman's been interested in, and that is the over-reliance on expensive private school placements.

But there's also another result, which you may not be aware of, which is that there's been an incentive to under-identify children with disabilities who qualify for special education services.

D.C. Public Schools currently places students in private school placements at twice the national average, which, as we know, is definitely draining their budget. They also are currently identifying students as needing special education services about nine percent of the time. They are saying nine percent of the population. And what we know is that the national incidence of disability is pretty steady across the country. It is not something that varies that much. And across the country, the average range is from 12 to 15 percent. In urban areas, with the similar socio-economic situation that we have here, the numbers are even higher. Baltimore City, for example, has an 18 percent identification rate, so D.C. at 9 percent is far below that. They have just been not identifying students that need services. So the disparity that we end up with is that a minority of the student population is receiving a disproportionate share of the special ed budget, while thousands of children are receiving no services whatsoever, which is a big concern. And regardless of testimony to the contrary, D.C. Public Schools is really the entity that created the problem. There are years and years of U.S. Department of Education reports showing non-compliance from as back as when they started monitoring. And we're talking about non-compliance in the area of 90 to 100 percent in some areas.

So for many years, D.C. Public Schools has wasted their funds, building this bureaucratic stone wall rather than building a school system that the children deserve. And Ms. Ackerman, to her credit, realizes that building a service capacity of the public schools is the only way to address the crisis that they find themselves in. Some D.C. government officials have suggested that she doesn't need additional funds to rectify this problem; that all she needs to do is bring back some of these private school kids. Then she can take that money and build services for the kids that need them. And based on the information that I have about the law and the way

the system works, I can tell you that that is just impossible for her to do. And I'll explain why.

The D.C. Public School students are in those private schools' placements precisely because there are no services here for them. Until D.C. creates the services, they cannot legally bring those children back. But until they create the services, they are going to keep having additional children that need to go into the private school system. The bottom line is that Ms. Ackerman does need to make an investment into the infrastructure, just like you would make an investment into bridges and roads, before she's going to be able to have a school system that is efficient and doesn't put an extraordinary amount of money into these private school placements.

Given the District's fiscal history, I know that you probably have a lot of concerns that we not throw good money after bad. And I think it is a legitimate concern. But our interactions with Ms. Ackerman have given us reason to be optimistic in this regard.

For one thing, she seems to be very well informed about the system's problems and also seems to have a very clear idea of what needs to happen to fix things. She has signed a historic three-year agreement with the Department of Education outlining the specific steps that they are going to take to fix some of these problems. And it is an agreement, which I brought with me—pretty hefty—that had months of community input as well. And although it was executed just three months ago, I think it is significant to point out that Ms. Ackerman has made progress toward some of the goals in that agreement.

One of the things that she has been able to do is to assess several hundred students who were waiting for assessments over the last months, and last Saturday, D.C. had a Child Find screening for disabilities which is the first time in anyone's memory that that has ever happened even though it is required under the law. So, I would request on behalf of the coalition that you support the budget request that has been made by D.C. public schools.

Mr. TAYLOR. Thank you, Ms. Seltzer. We appreciate your remarks. Thank you.

Ms. SELTZER. Thank you.

WEDNESDAY, JUNE 24, 1998.

CONTROL BOARD STAFF SALARIES

AND

LEGISLATIVE RIDERS

WITNESS

HON. CONSTANCE A. MORELLA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. TAYLOR. I would like to recognize Congresswoman Constance Morella, my fellow worker in the halls upstairs, for her statement. Glad to have you with us.

STATEMENT OF CONGRESSWOMAN CONSTANCE A. MORELLA

Mrs. MORELLA. Thank you very much, Mr. Chairman and Congressman Aderholt. I am delighted to be here before you, and I thank you for the courtesy of allowing me to testify on what I consider to be some important priorities in the District of Columbia appropriations.

As Vice Chair of the Government Reform Subcommittee on the District of Columbia and as a representative of the district that borders the District of Columbia, I have a great concern and a great interest in making the District a safe and thriving place that is a source of pride for the Nation.

CONTROL BOARD EXCEEDED ITS AUTHORITY

Having said that, I want to start off by commending you, Mr. Chairman, for requesting a GAO study examining the pay raises provided to certain staff in the city by the D.C. Financial Control Board. The GAO report confirms that the Control Board exceeded its authority by granting excessive pay raises to Executive Director John W. Hill, Jr. and to General Counsel Dan Resneck and by paying Chief Management Officer Camille Barnett a salary of $155,000. While I believe that we must pay the CMO what she deserves and honor her contract, the raises given to the top executives in the D.C. government are excessive and should be returned, and I support you, Mr. Chairman and appreciate your good efforts in looking into the matter.

RESIDENCY REQUIREMENT FOR EMPLOYMENT

Let me turn to another matter, Mr. Chairman, over which we may have some differences of opinion, and I am referring to the residency requirement. As you know, last March, the D.C. City Council overwhelmingly passed a bill requiring new city workers to live in the District. On May 19th, this act was officially transmitted by the Council to Congress, and unless rejected by Congress, the act will go into effect shortly. I believe that the D.C. appropriations bill would be an appropriate place in which to repeal the Residency Requirement Reinstatement Act. I urge you to do so. Requiring new workers to live in the District would make non-residents second-class citizens and could endanger public safety and education.

When I first came to Congress in the late eighties, the District government was already showing signs of the deficiencies that marked the beginning of a spiraling, economic crisis. Services in the District were deteriorating; businesses were relocating; middle-class residents were moving to the suburbs in search of lower taxes, safer streets, and better schools. From 1990 to 1995, the District lost more than 22,000 households, most of them middle-class taxpayers.

As Congressman Moran has pointed out, many of the people who move to the suburbs have homes. If this residency requirement is implemented, these people will be looking for alternatives to working for the District, and we may lose many competent employees.

Mr. Moran also has pointed out that this proposal will not pass, and it diverts attention from the more important issues that affect the District. If we work hard to make the streets safer and improve

the schools, those former residents will want to move back to the District closer to their jobs. I know that property values already have gone up from my work on the Cafritz Advisory Board. Just look at the old Woodward & Lothrop building that was bought by Ms. Casey for about $13 million. It is now going to sell for about $33 million, and the Washington Opera that was going to be housed there will now be the Kennedy Center clients. So this is an indication of a lot of the goods things that are happening in the District of Columbia.

Many of the workers who do live in the District are underserved and undereducated at this point, and I think we need to work hard together to make sure that we have good training programs for District residents so that they will meet the need of the changing work force. So, I urge you to include language to repeal the residency requirement in the D.C. appropriations bill.

OTHER LEGISLATIVE RESTRICTIONS

I also understand that this subcommittee may be considering the inclusion of language prohibiting unmarried couples in the District from adopting children, preventing the District from using its own local revenues to fund the city's Needle Exchange Program to prevent new HIV infections in injection drug users and their partners, and continuing the prohibition on funding for the D.C. Domestic Partnership Program.

I think that trying to micro-manage D.C. would be counterproductive for the Congress and would encroach on the legitimate roles of the City Council and the Control Board. As Republicans, we have worked to give back local control to our communities, and these provisions will run counter to that objective.

PROHIBITING ADOPTIONS BY CERTAIN UNMARRIED COUPLES

Most Americans agree that the Federal government should stay out of the family law decisions. In fact, Americans, categorically, reject the notion that the Government should take a greater role in deciding who can and cannot adopt children. By a margin of nearly 4 to 1, 74 to 19 percent, the public believes that we should keep the system we currently have rather than allow the Federal government to take a greater role. Congress has traditionally stayed out of family law, recognizing that State and local governments are better suited to address those issues.

The best interest of the child should be the deciding factor in setting adoption policy at the local level. That is best determined by local, trained professionals. Parenting skills, not marital status or sexual orientation, should be considered.

The American Psychological Association reports that studies comparing groups of children raised by gay and non-gay parents find no developmental differences between the two groups of children in their intelligence, social and psychological adjustment, popularity with friends, development of sex role identity or development of sexual orientation. In fact, in 48 States and the District of Columbia, lesbian and gay people are permitted to adopt when a judge finds that the adoption is in the child's best interest.

As of June 22nd of this year, there were 3,600 children in the D.C. foster care system waiting to be adopted. It is hard enough

to find good homes for children; it would be a travesty to make children languish in institutions at great cost to taxpayers when they can have caring, loving homes.

NEEDLE EXCHANGE DRUG PROGRAM

Mr. Chairman, the District of Columbia has one of the highest incidences of HIV infection in the country. Intravenous drug use is the District's second highest mode of transmission, accounting for over 25 percent of all new AIDS cases. For women, where the rate of infection is growing faster than among men, it is the highest mode of transmission.

Scientific evidence supports the fact that needle exchange programs reduce HIV infection and do not contribute to illegal drug use. Despite that, on April 29, 1998, the House voted to prohibit the expenditure of Federal funds for needle exchange programs. D.C. has had a local Needle Exchange Program in place since last year, an important tool in the City's fight against the spread of HIV and an important bridge to drug treatment services.

Now, some members want to tell D.C. that it cannot spend its own funds to prevent new HIV infections. This is simply wrong. Local jurisdictions should be able to decide for themselves how best to fight the HIV epidemic in their own communities. In my State of Maryland, Baltimore has a great program, and they are allowed to fund it with their own money; it has resulted in a significant decrease in the HIV infection rate.

CONCLUSION OF CONGRESSWOMAN MORELLA'S STATEMENT

Mr. Chairman, with so few days on the legislative calendar, Congress cannot afford to hold up the appropriations process by politicizing family and public health decisions. I urge you and the subcommittee to reject such efforts and allow the District of Columbia to make its own decisions on these local matters. You have been very patient and kind to give me the extra time so I could go through those issues of importance to me, and I do hope that you will consider them. If you have any questions, I would be happy to try to answer them.

RESIDENCY LANGUAGE—AUTHORIZING COMMITTEE INACTION

Mr. TAYLOR. Thank you very much for your presentation. As a member of the authorizing committee, do you know whether or not the authorizing committee is going to act on the residency requirement?

Mrs. MORELLA. I do know that if we were to act on it, we would be against it, I believe.

Mr. TAYLOR. As I understand it, the D.C. government has passed it, and the House, either from your committee or ours, has to reject it and the Senate has to do the same and the President has to sign the bill with the rejection language.

Mrs. MORELLA. With the limited period of time, the onus probably falls more on you, but if I could defer and ask Mr. Dennis who is a councilman.

Mr. TAYLOR. It is clearly an authorizing question, and I do not know that we are going to be involved.

Mrs. MORELLA. Is the subcommittee planning to do anything on that that you know of? I would be happy to talk to him right now.

Mr. TAYLOR. Well, heaven forbid that an appropriations committee legislate in an appropriations bill.

Mrs. MORELLA. Oh, I know, we never do that, Mr. Chairman, do we.

Mr. TAYLOR. That's right.

Mrs. MORELLA. Never.

Mr. TAYLOR. Well, thank you so much for your presentation. Mr. Aderholt.

Mr. ADERHOLT. Thank you for being here.

Mr. TAYLOR. Thank you.

Mrs. MORELLA. I will check with the authorizing committee, but I think it would be an excellent opportunity for it to be put into the D.C. appropriations bill anyway.

Mr. TAYLOR. Thank you.

PREPARED STATEMENT OF CONGRESSWOMAN CONSTANCE A. MORELLA

[The prepared statement referred to follows:]

Hon. Connie Morella

Testimony before D.C. Appropriations Subcommittee

June 24, 1998

Mr. Chairman, thank you for this opportunity to testify regarding appropriations priorities for the District of Columbia. As the Vice Chair of the Subcommittee on the District of Columbia, and as the representative from a district that borders on the City, I have a vested interest in making the District a safe and thriving place that is a source of pride for the nation.

Having said that, I want to start my testimony by commending you, Mr. Chairman, for requesting a GAO study examining the pay raises provided to certain staff in

the City by the D.C. Financial Control Board. The GAO report confirms that the Control Board exceeded its authority by granting excessive pay raises to Executive Director John W. Hill, Jr. and to Genenral Counsel Dan Rezneck, and by paying Chief Management Officer Camille Barnett a salary of $155,000. While I believe that we must pay the CMO what she deserves and honor her contract, the raises given to the top executives in the D.C. government are excessive and should be returned. I support you, Mr. Chairman, and I appreciate your good efforts in looking into this matter.

Let me turn to another matter, Mr. Chairman, over which we may have some differences of opinion. I am referring to the "residency requirement."

As you know, last March, the D.C. City Council overwhelmingly passed a bill requiring new city workers to live in the District. On May 19, this Act was officially transmitted by the Council to Congress, and unless rejected by Congress, the Act will go into effect shortly.

I believe that the D.C. Appropriations bill would be an appropriate place in which to repeal the "Residency Requirement Reinstatement Act," and I urge you to do so. Requiring new workers to live in the District would make non-residents second-class citizens and could endanger public safety and education.

When I first came to Congress in the '80s, the District government was already showing signs of the deficiencies

that marked the beginning of a spiraling economic crisis. Services in the District were deteriorating, businesses were relocating, and middle-class residents were moving to the suburbs in search of lower taxes, safer streets, and better schools. From 1990 to 1995, the District lost more than 22,000 households, most of them middle-class taxpayers.

As Congressman Moran has pointed out, many of the people who moved to the suburbs have bought homes. If this residency requirement is implemented, these people will be looking for alternatives to working for the District, and we will lose many competent employees.

Mr. Moran also has pointed out that this proposal will not pass, and it diverts attention from the more important

issues that affect the District. If we work hard to make the streets safer and improve the schools, those former residents will want to move back to the District, closer to their jobs.

Many of the workers who do live in the District are underserved and undereducated. We need to make sure that we have good training programs for District residents so that they will meet the needs of the changing workforce.

I urge you to repeal the residency requirement in the D.C. Appropriations bill.

I also understand that the Subcommittee may be considering the inclusion of language prohibiting unmarried couples in the District from adopting children, preventing

the District from using its own local revenues to fund the City's needle exchange program to prevent new HIV infections in injection drug users and their partners, and continuing the prohibition on funding for the D.C. domestic partnership program.

Trying to micro-manage D.C. would be counterproductive for the Congress and would encroach on the legitimate roles of the City Council and the Control Board. As Republicans, we have worked to give back local control to our communities. These provisions would run counter to that objective.

Adoption

Most Americans agree that the federal government

should stay out of family law decisions. In fact, Americans categorically reject the notion that the government should take a greater role in deciding who can and cannot adopt children. By a margin of nearly four to one (74 to 19 percent), the public believes that we should keep the system we currently have, rather than allow the federal government to take a greater role. Congress has traditionally stayed out of family law, recognizing that state and local governments are better suited to address those issues.

The best interest of the child should be the deciding factor in setting adoption policy at the local level. That is best determined by local, trained professionals. Parenting skills, not marital status or sexual orientation, should be considered. The American Psychological Association

reports that studies comparing groups of children raised by gay and by non-gay parents find no developmental differences between the two groups of children in their intelligence, social and psychological adjustment, popularity with friends, development of sex role identity or development of sexual orientation. In fact, in 48 states and the District of Columbia, lesbian and gay people are permitted to adopt when a judge finds that the adoption is in the child's best interest.

As of June 22, 1998, there were 3,600 children in the D.C. foster care system waiting to be adopted. It is hard enough to find good homes for children. It would be a travesty to make children languish in institutions at great cost to taxpayers when they can have caring, loving homes.

HIV and Needle Exchange Programs

The District of Columbia has one of the highest incidences of HIV infection in the country. Intravenous drug use is the District's second highest mode of transmission, accounting for over 25 percent of all new AIDS cases. For women, where the rate of infection is growing faster than among men, it is the highest mode of transmission.

Scientific evidence supports the fact that needle exchange programs reduce HIV infection and do not contribute to illegal drug use. Despite that, on April 29, 1998, the House voted to prohibit the expenditure of federal funds for needle exchange programs. The District of Columbia has had a local needle exchange program in place

since last year, an important tool in the City's fight against the spread of HIV and an important bridge to drug treatment services. Now, some Members want to tell D.C. that it cannot spend its own funds to prevent new HIV infections. This is simply wrong. Local jurisdictions should be able to decide for themselves how best to fight the HIV epidemic in their own communities.

Mr. Chairman, with so few days left in the legislative calendar, Congress cannot afford to hold up the appropriations process by politicizing family and public health decisions. I urge you to reject such efforts and allow the District to make its own decisions on these local matters.

Mr. Chairman, thank you for this opportunity to discuss several matters relating to the District of Columbia.

WEDNESDAY, JUNE 24, 1998.

DOMESTIC PARTNERSHIP; NEEDLE EXCHANGE; AND PROHIBITION ON UNMARRIED COUPLES ADOPTING CHILDREN

WITNESS

CARL E. SCHMID, CAPITAL AREA LOG CABIN CLUB

Mr. TAYLOR. Is Mary Filardo here? Mr. Schmid, we are glad to have you with us.

STATEMENT OF CARL SCHMID

Mr. SCHMID. Good afternoon. My name is Carl Schmid, and I am appearing today on behalf of Capital Area Log Cabin an organization of gay Republicans and the Human Rights Campaign, the Nation's largest gay and lesbian political organization. We come before you again to express our concern about the inclusion of certain provisions in the D.C. bill which would adversely impact our community.

Our message to you as it was last year is to please, leave us alone. Specifically, I would like to focus on three issues: one, a prohibition on implementation of our domestic partnership law; two attempts to prevent unmarried couples from adopting, and, three, a prohibition on the use of D.C. funds to carry out our AIDS Prevention Needle Exchange Program.

While we, like you, are concerned about how our government is being run and managed, we must ask how involved should Congress be in dictating social policies for District citizens. Now that there is no longer a Federal payment, Congress' role should be decreasing not increasing. I thought we, as Republicans, believe in less government and individual rights. So, why do we have to fight each year over these issues? Aren't there more broader financial management issues to consider than to delve into such local policy issues?

It appears that certain Members of Congress are trying to dictate their own personal views to the District all just for their own political gain.

Our Domestic Partnership Program which has never been allowed to be implemented by the Congress, allows District employees to purchase health insurance at their own cost for their domestic partner. The only benefits the partner receives are visitation rights at nursing homes and hospitals and, depending on the employer, other rights such as sick, parental, and bereavement leave. As you can see, it is very limited. Private employers around the country such as IBM and Mobile are establishing these programs; so are numerous cities like New York, Los Angeles, and Chicago. Why then does Congress prevent the District from implementing its program while other cities are allowed to implement theirs?

Another area where the Congress has tried to interfere with local social issues, as Congresswoman Morella mentioned, is in adoption. Congress has traditionally stayed away from these family laws issues, because they are best handled at the State and local level, but the past three years, one Member has tried to prohibit unmarried couples from adopting. Fortunately, fairer minds have pre-

vailed, and these attempts have failed, but it appears that they have not given up. Adoptions do not happen overnight, but only after careful planning and a lengthy report is conducted that includes a home study, a financial and criminal record check are all done to determine if the prospective parents are fit to adopt. The final decision rests with the court after they conclude the adoption would be in the best interest of the child. These are not issues of Federal legislative concern but decisions best left to local family court to decide on a case-by-case basis.

Finally, needle exchange. As Congresswoman Morella mentioned, the District, sad to say, has one of the highest incidences of HIV in the country. This not only costs precious lives but precious dollars. IV drug use is the District's second highest mode of transmission accounting for over 25 percent of all the new AIDS cases. For women, it is the highest mode of transmission. Unfortunately, the trends do not look good especially for the black community where 97 percent of transmission through IV drug use occurs. Last year, the rate of infection for black women who contract the virus through IV drug use rose by 23 percent while for black men it rose by 12 percent. These increases are occurring while the transmission via other modes and other populations are decreasing because of education and prevention programs. While I am firmly against illegal drug use, I am also against the spread of HIV. The District through its locally funded Needle Exchange Program is seeking to prevent both the spread of drug use and of AIDS, and by blocking it, you would just be doing the opposite. There is no promotion of drug use just the exchange of one used needle which is already out there on the street and which is most likely already infected with the AIDS virus with one uninfected sterile one. To participate in the program clients must be registered and are given information on drug treatment. Without this program, the spread of AIDS would increase, and these IV drug users would remain on the street without any contact with a health care provider.

The introduction of these issues year after year has significantly delayed passage of the D.C. bill. First, Congress has blocked our domestic partnership law, and then they tried to legislate who can and who cannot die, and now they are thinking about going after our local AIDS Prevention Program. When will all of this local meddling stop?

As you consider the bill this year, we urge you to resist adding these extraneous riders. Thank you for the opportunity this year to present our views, and I will be glad to answer any questions you may have.

Mr. TAYLOR. Thank you very much for your presentation. Congress, from the Constitution forward, was determined to have a District of Columbia, and they were going to govern it, and I see no change in that contrary to what you were saying. It is sort of an anomaly in the fact that government is best that governs least, but there is definitely a responsibility in Congress to govern the District of Columbia, but I appreciate your presentation.

Mr. SCHMID. And I agree that the Congress does have a role, and I guess my point is how deeply should the Congress be involved in local affairs? There are such larger financial management issues to look at, and I clearly recognize the constitutional role.

Mr. TAYLOR. We will be marking up toward the end of this coming month, so I appreciate your presentation, and we will be happy to talk with you briefly.

Mr. SCHMID. I appreciate it. Thank you very much.

PREPARED STATEMENT OF CARL SCHMID

[The prepared statement referred to follows:]

TESTIMONY SUBMITTED BY
CARL SCHMID
CAPITAL AREA LOG CABIN CLUB
and the
HUMAN RIGHTS CAMPAIGN
to the
HOUSE DISTRICT OF COLUMBIA APPROPRIATIONS SUBCOMMITTEE
June 24, 1998

Chairman Taylor and members of the Subcommittee, good afternoon. My name is Carl Schmid and I am appearing today on behalf of the Capital Area Log Cabin Club and the Human Rights Campaign (HRC). As you may know, Log Cabin is an organization of gay Republicans, while HRC is the nation's largest gay and lesbian political organization with many members in the District of Columbia. We come before you again to express our concern over the inclusion of certain provisions that members of congress want to insert into the D.C. appropriation bill which would adversely impact our local community. Our message to you, as it was last year, is to please leave us alone. Specifically, today I would like to focus on a prohibition on the use of funds to implement the District's Health Care Benefits Expansion Act, commonly referred to as our Domestic Partnership law, attempts to prevent unmarried couples from adopting children, and a prohibition on the use of local D.C. funds to carry-out its AIDS prevention needle exchange program.

While we as D.C. citizens, like you, are concerned about how our government is being run and managed, and recognize the Congress has a constitutional role over the District of Columbia, we must ask how involved should the Congress be in dictating social policies in the lives of District citizens? Now that there is no longer a federal payment, Congress' involvement should be lessening, not increasing. I thought Republicans believe in less government and individual rights. So, why do we have to fight each year with the Congress over these issues? Aren't there enough bigger and more broader institutional and financial management issues to consider than to delve into such local policy issues? It seems that a small number of congressmen are trying to impose their thinking on the citizens of the District. We believe the citizens of the District of Columbia can best, and should, decide these local issues.

This year as you consider the D.C. Appropriation bill, we urge you to 1) oppose efforts to prevent the District from implementing its Domestic Partnership program; 2) oppose efforts to prohibit unmarried couples from adopting; and 3) oppose efforts to prevent the District from implementing its needle exchange program.

Domestic Partnership

In 1992, the District passed the Health Care Benefits Expansion Act, which became law after its Congressional review period. The law establishes a domestic partnership program, and allows District employees to purchase health insurance *at their own cost* for their domestic partner. The only benefits a domestic partner receives are visitation rights at nursing homes and hospitals, and depending on the employer, it may entitle them to other rights and benefits such as sick, parental, and bereavement leave. As you can see, this is an extremely limited program.

Private employers around the country are establishing domestic partnership programs as are numerous cities, including New York, Los Angeles, and Chicago. Why then does Congress

prevent the District from implementing its program while other cities are allowed to implement theirs?

Adoption

Another area where the Congress has attempted to interfere with local D.C. social issues is in adoption proceedings. Congress has traditionally stayed out of family law matters since family law, including adoption, has been handled at the state and local level. But, for the past three years one member of congress, at the urging of groups outside the District, has tried to attach a rider to the D.C. Appropriation bill that would prevent unmarried couples from adopting a child. Fortunately, fairer minds have prevailed and their attempts have failed, but it appears they still have not given up their fight.

Adoptions do not happen over night, but only after careful planning, and a lengthy report is conducted by trained professionals that includes a home study, personal references, and financial and criminal record checks all in order to determine if the prospective parents are fit to adopt. The final decision rests with the family courts after they conclude the adoption would be in the best interest of the child. Currently, all 50 states and the District of Columbia allow single-parents to adopt, and to date, approximately one-half of the states, including D.C., allow second-parent adoptions. In these instances there is an adoption of a child by a second parent who accepts full legal responsibility for the financial care and raising of the child with the original parent thus, offering greater financial security and health and other benefits for the child. I hope you agree these are not issues of federal legislative concern, but decisions that are best left to local family courts to decide on a case by case basis.

Needle Exchange

The District of Columbia has one of the highest incidences of HIV infection in the country. This not only costs the loss of precious lives, but precious dollars. Intravenous drug use is the District's second highest mode of transmission, accounting for over 25% of all new AIDS cases. For women, where the rate of infection is growing faster than among men, it is the highest mode of transmission. Unfortunately, the trends do not look good, especially for the black community, where 97% of transmission through injection drug use occurs. Last year, the rate of infection for black women who contract the virus through injection drug use rose by 23 %, while for black men it rose by 12 %. These increases are occurring, I should note, while transmission via other modes and in other populations are decreasing because of education and prevention programs.

While I am firmly against illegal drug use, I am also against the spread of HIV. The District of Columbia, through its locally funded needle-exchange program, is seeking to prevent both the spread of drug use and of AIDS. By blocking this local program Congress would be doing the opposite-increasing drug use and the spread of AIDS. There is no promotion of drug use with a needle exchange program, just the exchange of one used needle, that is already out there and most likely infected with the AIDS virus, with an uninfected sterile one. Scientific evidence shows that these programs reduce HIV transmission and do not encourage the use of illegal drugs. To participate in the D.C. needle exchange program, clients must be registered into the program and are given information on substance abuse treatment and rehabilitation. Without the program, the spread of AIDS would increase and these IV drug users would remain on the street without any contact with a professional health care provider.

The introduction of these local issues into the appropriations process significantly delays passage of the D.C. bill year after year. First, Congress sees fit to block our Domestic Partnership law, then, some members of congress try to become involved in family law matters by legislating who can or can not adopt, and now, these same members are going after the District's AIDS prevention program. When will all this local meddling stop? Do these members really care about the love two parents can provide for unwanted District children? Do they really care about the IV drug user on the street who can so easily be infected with HIV? Or, are these members merely picking these issues for quick political gain?

As you consider the D.C. Appropriation bill this year, we urge you to resist including these extraneous riders in the bill. Thank you for the opportunity to present our views today. We look forward to working with you in the future. Thank you.

WEDNESDAY, JUNE 24, 1998.

BOY SCOUTS LEARNING FOR LIFE PROGRAM

WITNESSES

PATRICIA McCRIMMON, PRINCIPAL, NEVAL THOMAS ELEMENTARY SCHOOL

SHIRLEY JONES, TEACHER, KENILWORTH ELEMENTARY SCHOOL

Mr. TAYLOR. We have two witnesses and I would like them to come forward and both sit here at the table: Doctor Patricia McCrimmon who is the principal of the Neval Thomas Elementary School—glad to have you—and Shirley Jones who is a teacher at Kenilworth Elementary School. What we will try to do is let you make your presentation first, Dr. McCrimmon, and then we will go on to Ms. Jones.

I am going to go vote while you are presenting your statements, because we have a series of votes, and we sort of have to trade off being chairman here from time to time so we can make all the votes and not hold you up. We would be glad to have you make your statement.

STATEMENT OF DR. PATRICIA McCRIMMON

Dr. MCCRIMMON. I am Patricia McCrimmon, principal of Neval Thomas Elementary School in the District of Columbia. I would like to begin by thanking the committee for the opportunity to testify. On behalf of all teachers and administrators in District schools, I wish to thank and commend Mr. Taylor.

Mr. Chairman, this is particularly meaningful, because we teach our students that actions speak louder than words. When you came to meet with D.C. teachers, you said that you cared about what we had to say. Then, you told us that we would be invited to appear before Congress, and here we are. You have shown your commitment to teachers and to administrators by keeping your word to us, and we are grateful for your leadership, sir.

The Learning for Life Program provided by the National Capital Area Council of the Boy Scouts of America has filled a void of current curriculum. This program allows students to deal with issues that are relevant to their everyday lives. Cooperative learning techniques are utilized throughout the program. Lessons can be incorporated to involve parents, and its open-ended approach to problem solving gives all children an opportunity to actively participate and achieve success. The program format is flexible in that it can be used as an individual activity or as a unit. Although the content is varied at each grade level, there is continuity in its themes. The activities are engaging, exciting, and child-centered on every level. The wall chart motivates students to complete activities in order to earn recognition stickers. The friendly competition fosters positive relation among the students. The teacher's guide is helpful; it is informative. It can easily be used by a seasoned teacher or by a novice.

In general, it is a program valued by teachers and students at Neval Thomas School. We have used the Learning for Life Program for the past three years, and it has proved to be an excellent sup-

plement to our curriculum. We look forward to using the program once again in our daily curriculum planning.

Although academic achievement is our major goal, our major focus, the Learning for Life Program enhances all phases of our school program. The program is value-centered, and it deals directly with some basic needs of urban youth. Our children need assistance in character building, personal values, self-confidence, and decision making. The Learning for Life Program is designed to provide us with this assistance. It will help us reduce delinquency and strengthen classroom education.

Congressman Taylor, we applaud your efforts on behalf of the schools, and we are hopeful that the program will be expanded to serve all the children of our city. Mr. Chairman, it has taken political courage to intervene in the District's schools. While it would be easier to remain on the sidelines, you choose the more difficult role of true leadership. For that, you deserve our praise and our heartfelt thanks.

Mr. ADERHOLT [presiding]. Thank you very much. You are one of the first groups, I think, of independent teachers to come before this Committee, and I especially applaud you for your presentation. Mrs. Jones, would you make your presentation also?

STATEMENT OF MRS. SHIRLEY JONES

Mrs. JONES. Mr. Chairman, I am Shirley Jones, a teacher at Kenilworth Elementary School in the District of Columbia. I wish to echo my thanks to my colleagues and congratulate you for what you are doing to help youth in our Nation's Capital. I speak for many when I say that we thank you for coming to meet with those of us who serve on the front lines of education. We are very proud of what we do, and it means everything to us when the chairman reaches out to ask us what teachers believe is needed in the schools.

The mission statement of the District of Columbia Public Schools summatively says, "prepare students for their world tomorrow." The Learning for Life Program for education provided by the National Capital Area Council of the Boy Scouts of America is in an alignment posture with that statement. Its statement includes the words "prepare throughout their lives"—referencing the students. If we are to make students ready for life, then the basic foundation of knowledge and character must be built. If there is positive character and ownership of knowledge, students feel good about themselves. Feelings of self-worth and accomplishment generate goal-setting in a positive direction. Therefore, the deduction is student-centered education that builds strong character can translate into greater academic achievement and reduce delinquency.

Paradigm shifts abound. The profession of education, specifically the District of Columbia Public Schools, is experiencing change like never before. The paradigm shifts are noted in societal transition, family structures, the delivery of information technology, and the impersonalization of life. We still, however, must equip our children for life. We are called upon to develop the whole child. The social and emotional part of each child must have healthy character development, then this informs our choices.

Teachers are called upon to satisfy many people with many needs. This requires us to make sound, well informed, focused decision about the delivery of instruction. All of this must be done with our client's best interest at the core of all we do. Our children are and must remain first.

How is this then accomplished? Programs and materials that are well researched, well written, and curriculum friendly are sought as a match for the school's mission. The Boy Scouts of America's Learning for Life Program can help meet the need. It draws from the best practices in education. Chief among these practices is research based approaches. It provides attention to constructivism, cooperative learning, integrations, multiple intelligences, and facilitative instruction. It provides connection, authentic situational lessons that involve problem solving and higher order thinking. It is theme based. It compliments rather than competes with the existing curriculum. It presents new learning in chunks and then provides for its processing. It has a reward system that is immediate as well as long range. It puts life to practice in equipping students to make ethical decisions.

We are charged with teaching children what they must know. They must know how to be productive citizens, so we must teach them how. We must do it in a way that makes it palatable for them. The truest test of any program then becomes, do your children enjoy it? Do children grow by it? Are visible results generated by it? The answer is yes, yes, yes through the Learning for Life Program which assists us in realizing all three.

Please help us to expand this program to all our children. I have today, then, told my students that the United States Congress has shown trust and confidence in our teachers. Mr. Chairman, the work of your committee represents the future of our youth and the destiny of our Nation's capital. Do not let anyone stop your efforts to strengthen what we are trying to do. If they try, just call on us, and the teachers will be here to support you.

Mr. ADERHOLT. Thank you, Ms. Jones, for your testimony, and we will certainly insert your prepared statement in the record, and, Dr. McCrimmon, we will also place your statement in the record.

PREPARED STATEMENTS OF PATRICIA MCCRIMMON AND SHIRLEY JONES

[The prepared statements referred to follow:]

Testimony
To the District of Columbia Subcommittee House Appropriation

Dr. Patricia McCrimmon, Principal
Neval Thomas Elementary School

"I am Patricia McCrimmon, Principal of Neval Thomas Elementary School in the District of Columbia. I would like to begin by thanking the Committee for the opportunity to testify. On behalf of all the teachers in District Schools, I wish to thank and commend Mr. Taylor. Mr. Chairman, this is particularly meaningful because we teach our students that actions speak louder than words. When you came to meet with D.C. teachers, you *said* that you cared about what we had to say. Then you told us that we would be invited to appear before the Congress. . .*and here we are*. You have shown your commitment to teachers by keeping your word to us, and we are grateful for your leadership.

The Learning for Life Program provided by the National Capital Area Council of the Boy Scouts of America has filled a void in our current curriculum. This program allows students to deal with issues that are relevant to their everyday lives.

Cooperative learning techniques are utilized throughout the program. Lessons can be incorporated to involve parents. Its open ended approach to problem solving gives all children an opportunity to actively participate and achieve success.

The program format is flexible in that it can be used as an individual activity or as a unit. Although the content is varied at each grade level there is continuity in the themes. The activities are engaging, exciting, and child-centered on every level.

The wall chart motivates students to complete activities in order to earn recognition stickers. The friendly competition fosters positive relationships among the students.

The teacher's guide is helpful and informative. It can easily be used by a seasoned teacher or a novice. In general, it is a program valued by teachers and students at Neval Thomas Elementary School. We have used the Learning for Life Program for the past three years and it has proven to be an excellent supplement to our curriculum. We look forward to using the program once again in our daily curriculum planning.

Although academic achievement is our major goal/focus, the Learning for Life Program enhances all phases of our school program. The program is values centered and deals directly with some basic needs of Urban youth.

Our children need assistance in character building, personal values, self-confidence and decision making. The Learning for Life Program is designed to provide us with this assistance. It will help us reduce delinquency and strengthen classroom education. Congressman Taylor, we

applaud your efforts on behalf of the schools and are hopeful that the program will be expanded to serve all the children in our city.

Mr. Chairman, it has taken political courage to intervene in the District's schools. While it would be easier to remain on the sidelines, you chose the more difficult role of true leadership. For that you deserve our praise and our heartfelt thanks."

Testimony
To The District of Columbia Subcommittee House Appropriations
Mrs. Shirley Jones, Teacher
Kenilworth Elementary School

Shirley Jones Introduction:

"Mr. Chairman, I am Shirley Jones, a teacher at Kenilworth Elementary School in the District of Columbia. I wish to echo the thanks of my colleague and congratulate you for what you are doing to help youth in our Nation's Capital. I speak for many when I say that we thank you for coming to meet with those of us who serve on "the front lines" of education. We are very proud of what we do, and it means everything to us when the Chairman reaches out to ask us what teachers believe is needed in the schools.

The mission statement for the District of Columbia Public Schools summatively says, ". . . prepare students for their world tomorrow." The Learning for Life Program for Education provided by the National Capital Area Council of the Boy Scouts of America is in an alignment posture with that statement. Its statement includes the words ". . . prepare throughout their lives (students)." If we are to make students ready for life, then the basic foundation of knowledge and character must be built. If there is positive character and ownership of knowledge, students feel good about themselves. Feelings of self worth and accomplishment generate goal setting in a positive direction. Therefore, the deduction is - student centered education that builds strong character can translate into greater academic achievement and reduced delinquency.

Paradigm shifts abound. The profession of education, specifically the District of Columbia Public Schools is experiencing change like never before. The paradigm shifts are noted in societal transition, family structures, the delivery of information - technology, and the impersonalization of life. We still, however, must equip our children for life. We are called upon to develop the whole child. The social and emotional part of each child must be healthy character development, then informs our choices.

Teachers are called upon to satisfy many people with many needs. This requires us to make sound, well informed, focused decisions about the delivery of instruction. All of this must be done with our client's best interest at the core of all we do. Our children are and must remain - First!

How is this then accomplished? Programs and materials that are well researched, well written, and curriculum friendly are sought as a match for the school's mission.

The Boy Scouts of America's Learning for Life Program can help meet the need. It draws from the Best Practices in education. Chief among these practices is research based approaches. It provides attention to constuctivism, cooperative learning, integrations, multiple intelligences, and facilitative instruction. It provides connections, authentic situational lessons that involve

problem solving and higher order thinking. It is theme based. It compliments rather than complete with the existing curriculum. It presents new learning in "chunks" and then provides for it's processing. It has a reward system that is immediate as well as long range. It puts life to practice in equipping students to make ethical decisions.

We are charged with teaching children what they must know. They must know how to be productive citizens. So, we must teach them how. We must do it in a way that makes it palatable for them. The truest test of any program then becomes:

- Do children enjoy it?
- Do children grow by it?
- Are visible results generated by it?

The answer is Yes, Yes, Yes - Through the Learning for Life Program which assists us in realizing all three. Please help us to expand this program to all our children.

I have today told my students that the United States Congress has shown trust and confidence in our teachers. Mr. Chairman, the work of your Committee represents the future of our youth and the destiny of our Nation's Capital. Don't let anyone stop your efforts to strengthen what we are trying to do. If they try, just call on us and the teachers will be here to support you."

Mr. ADERHOLT. We appreciate your attendance here today, and we look forward to working with you in the future on these issues.

Dr. MCCRIMMON. My pleasure, thank you.

Mr. TAYLOR [presiding]. I would like to ask a question if I may since I had to go vote, and it is going to be a little time longer before the next vote.

NUMBER OF STUDENTS AND SCHOOLS IN PROGRAM

I wanted to know how many students have been affected by this program? Do you have a testament?

Dr. MCCRIMMON. Yes, sir, 12,500 in 38 schools in the District of Columbia.

Mr. TAYLOR. And you are interested in our increasing it based on the success so far. What would be your thoughts on that? Is there any idea of how much it should be increased as far as the number of schools? You may want to consult?

Dr. MCCRIMMON. We want to incorporate the program within the entire District of Columbia Public School system, all 162 schools.

Mr. TAYLOR. All right. Well, I was impressed with the success you have garnered so far. I think that you and certainly the dedication of the teachers are a factor in it working. Thank you very much.

Dr. MCCRIMMON. Thank you for your time.

Mrs. JONES. Thank you.

Mr. TAYLOR. We would like to have you—we are voting on the agriculture bill and would love to have you go upstairs in the gallery and watch it in a moment if you would like.

Dr. MCCRIMMON. We will do that.

Mrs. JONES. Thank you, Congressman.

WEDNESDAY, JUNE 24, 1998.

COMMUNITY-BASED HOUSING FOR MENTALLY ILL RESIDENTS

WITNESS

LISA HAWKINS, CORNERSTONE, INC.

Mr. TAYLOR. Is Dr. Edward Eyring here? Lisa Hawkins?

Ms. HAWKINS. I am here.

Mr. TAYLOR. All right. Please come forward. Go right ahead ma'am.

Ms. HAWKINS. Hi.

Mr. TAYLOR. We appreciate your being here.

Ms. HAWKINS. No, I appreciate you having me. My name is Lisa Hawkins, and I have to be completely honest and say that the President and the chair of the Board of Directors of my client, Cornerstone, were supposed to come, but I think they are not here, so I am just going to jump in and give you some brief information and ask that our testimony be submitted for the record.

Mr. TAYLOR. Without objection.

PREPARED STATEMENT OF CORNERSTONE, INC.

[The prepared statement referred to follows:]



Cornerstone, Inc.

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Testimony of

Cornerstone, Inc.

before the
District of Columbia Subcommittee
of the
House Appropriations Committee

United States House of Representatives

June 24, 1998



Cornerstone, Inc.

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June 24, 1998

CORNERSTONE REQUESTS $10 MILLION FOR HOUSING FOR THOSE WITH CHRONIC MENTAL ILLNESS

EXECUTIVE SUMMARY

Cornerstone is a non-profit organization that, since 1995, has helped fund the construction of over 330 units of quality housing for those with chronic mental illness in the District of Columbia. It began when Congress directed that $5 million of federal funds targeted for St. Elizabeth's Hospital ($4 million of which were allocated to Cornerstone) be allocated for community-based housing. Cornerstone is now in its final grant year and, unless refunded by Congress, its operations will end in 1998.

Cornerstone requests a total of $10 million in capital funds to continue its housing program for five years. Such funds would be used for housing for patients ready to leave St. Elizabeth's and for those who are homeless or living in substandard housing.

During its three-year history, Cornerstone has used its public funding to attract $12 million in private support. Continuing this program will allow over 350 patients currently in St. Elizabeth's to be released.

Cornerstone supported housing saves taxpayers millions of dollars. The cost of maintaining patients in St. Elizabeth's exceeds $100,000 per patient annually, all from taxpayer funds. By comparison, housing supported by Cornerstone costs less than $40,000 per unit (of which $10,000 comes from public funds). Thus, if housing were available for the 350 patients in St. Elizabeth's, over $22 million could be saved each year.

Community care for persons with a chronic mental illness is 5 to 10 times *less expensive* than extended hospitalization. It costs between $300 and $500 *per day* for in-patient care at St. Elizabeth's Hospital. Outpatient care costs between $14 and $160 per day.

Thank you for your consideration. Our complete testimony is included with this material.



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June 24, 1998

BEFORE THE DISTRICT OF COLUMBIA SUBCOMMITTEE OF THE HOUSE APPROPRIATIONS COMMITTEE

CORNERSTONE REQUESTS $10 MILLION FOR HOUSING FOR THOSE WITH CHRONIC MENTAL ILLNESS

Cornerstone hereby requests a total of $10 million to continue its housing program for housing for patients ready to leave St. Elizabeth's Hospital and for those who have a mental illness and are homeless or living in substandard housing.

Current Funding

Cornerstone began when Congress directed that $5 million of federal funds targeted for St. Elizabeth's Hospital be allocated, through the DC Commission on Mental Health Services, for community-based housing. Cornerstone has received $4 million since 1995 and is in its final grant year; unless refunded by Congress, its operations will end in 1998.

Cornerstone's Role as a Housing Intermediary

Established in 1991, Cornerstone is a DC non-profit housing intermediary that provides gap financing for the acquisition and rehabilitation of housing permanently dedicated to individuals that have a chronic mental illness. Through grants, loans and lines of credit, Cornerstone provides the financing necessary to make projects feasible. Through a private/public partnership, Cornerstone has established a substantial below-market mortgage fund to stimulate the acquisition and renovation of quality housing.

In almost three and a half years, Cornerstone has participated in adding 336 permanent, quality housing units to the DC market permanently dedicated to individuals with a chronic mental illness at an average cost to Cornerstone of $9,858. The number of units financed by Cornerstone is more than double its contract obligations to the District (of 140) at significantly less cost. In addition, Cornerstone has leveraged its $3 million capital grant from CMHS to secure an additional $12 million in private sector funds that

would not otherwise have been available for housing those with mental illnesses in the District. This includes approximately $1.8 million that Cornerstone has raised from foundations and loan funds for additional grants, lines of credit and guarantees. By conserving funds for loans rather than grants wherever possible, Cornerstone also generated $1.1 million of loans of which borrowers have repaid more than $579,000 to be "recycled" in a revolving loan fund.

In addition to funding dollars, Cornerstone provides expertise on assembling finance packages, technical issues, document review, construction needs and evaluation and review of contractors' bids and qualifications.

Need for Housing

The typical income of residents with mental illness needing housing is less than $7,000 annually, usually from social security payments. Without significant subsidies, existing housing is too expensive. Assuming that individuals can spend up to 30% of income on housing (based on criteria from HUD), mental health consumers should pay no more than $187.50 per month. Private housing is not available at this level.

While the data is inconclusive and there is no consensus on exact numbers, Cornerstone estimates that at least 2,000 additional units of housing dedicated to individuals with a chronic mental illness are needed. These figures are based on studies by the Community Partnership, national literature on homelessness and mental illness, and CMHS' 1997 Housing Plan.

The District's Receiver on mental health has recently indicated that nearly half of the residents at St. Elizabeth's Hospital, between 300 and 400 people, could live in the community if proper housing and support services were available. Others in need of housing include homeless individuals with a mental illness, those in sub-standard housing and adult children of aging parents.

Cornerstone Borrowers and Grantees

Cornerstone borrowers and grantees include housing providers, community development organizations, churches and other religious groups, and community residence facility operators. They include:

Anchor Mental Health Association
Community Connections
Community Housing Trust
Deaf-Reach
Green Door
Housing Opportunities for Women
House of Ruth

Lutheran Social Services
Marshall Heights Community Development Organization
Miriam's House
N Street Village
St. Cyprian Community Action Group
St. Paul's Baptist Church
Woodley House

Cornerstone borrowers are required to enter into binding contracts with Cornerstone. Each is required to sign a Deed of Trust that is recorded among the land records of the District of Columbia. The Deed enforces financial obligations and requires that the acquired and/or renovated housing be dedicated to individuals with a chronic mental illness for a minimum of seven years.

Community Support

Cornerstone enjoys a broad range of community support for its work. Each project is reviewed on a case by case basis based on many criteria, including compatibility with the surrounding neighborhood. Potential borrowers are required to assess any potential community resistance. In three and a half years of operation, there has been no Advisory Neighborhood Commission or other community opposition to projects funded by Cornerstone. No zoning or other relief has been required for any of the more than 300 units that Cornerstone has helped to finance.

Bazelon Center, Building Hope, Cafritz Foundation, Community Connections, Community Housing Trust, Community Partnership, DeafReach, District of Columbia Housing Finance Agency, Enterprise Foundation, Green Door, House of Ruth, and Meyer Foundation all support Cornerstone's request for additional capital funding. Examples of their strong support are attached to this testimony.

Lending Partners and Grant Sources

With $3 million in funds from the District over three years, Cornerstone has leveraged an additional $12 million in private funds from foundations and private lenders. Cornerstone has become a model of a successful private/public partnership. Financing partners include: the Fannie Mae, Meyer, Cafritz, Enterprise and Public Welfare Foundations, the Foundation for the National Capital Region, the Butler Family Fund, the Low Income Housing Fund and the DC Housing Finance Agency.

Economic Impact

Cornerstone's activities have a positive economic impact on the District of Columbia because they result in significant cost savings to the District. Community care for persons with a chronic mental illness is 5 to 10 times *less expensive* than extended hospitalization. It costs between $300 and $500 *per day* for in-patient care at St.

Elizabeth's Hospital. Outpatient care costs between $14 and $160 per day. With capital funding, Cornerstone can expand the availability of appropriate community-based housing to the benefit of the District.

In addition, with financing from Cornerstone, the existing housing stock is being improved. Cornerstone's funds are used to make housing more habitable, thereby improving the quality of life for District residents. Many of the units that Cornerstone funds are being acquired and renovated, thereby reducing blight in certain areas and upgrading the quality of the housing stock.

As a result of Cornerstone's work, individuals in the District serve as care providers for individuals with a mental illness. Cornerstone has created opportunities for employment because it funds renovation as well as acquisition.

Cornerstone's typical leverage of its capital funds is more than 4:1. That is, Cornerstone has used its $3 million in public funds to secure an additional $12 million in private sector funds that would not otherwise have been invested in the District. This includes first trust financing and government grants that would not have been awarded without matching funds and/or additional equity or subordinate debt.

Financing for a particular acquisition/renovation project that Cornerstone funds might appear as follows:

Acquisition Price:	$160,000
Renovation Costs:	$ 30,000
Closing Costs:	$ 10,000
Total Cost:	**$200,000**
Owner equity:	$ 5,000
First trust lender:	$140,000
Other grant/loan source:	$ 10,000
Cornerstone loan:	$ 25,000
Cornerstone grant:	$ 20,000
Total (sources of funds)	**$200,000**

In this example, Cornerstone funding is $45,000 out of a total of $200,000. The leverage is more than 4:1.

Minority and Local Participation

The primary beneficiaries of Cornerstone financing of affordable housing are African-Americans, who represent more approximately 85% of individuals with chronic mental illness in DC. Cornerstone uses a minority financial institution for its banking services (Industrial Bank of Washington) and its projects provide support to minority

community facility owners and minority contractors. Cornerstone has entered into a Memorandum of Understanding with the Metropolitan Washington Chapter of the National Association of Minority Contractors to expand further opportunities for minority contractors and vendors.

Cornerstone's Board is diverse and includes African Americans, Latinos, women and mental health consumers. Its leadership includes African Americans and persons with disabilities.

Cornerstone's office is located in the District of Columbia.

Summary

Cornerstone requests that Congress recognize the importance of capital investment in housing in the District of Columbia for individuals with a chronic mental illness. To continue its housing program, Cornerstone requests a total of $10 million over the next five years.

Thank you for your consideration.

Attachments

- Cornerstone After Three Years: 1995 to 1997 (Overview)

- Letters of Support:
  - Bazelon Center
  - Community Connections
  - Community Partnership
  - District of Columbia Housing Finance Agency
  - House of Ruth
  - Meyer Foundation

- Cornerstone's 1998 Board of Directors

Cornerstone, Inc.

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March 10, 1998

CORNERSTONE AFTER THREE YEARS:
1995 TO 1997 [1]

Introduction

Cornerstone, a nonprofit organization formed in 1991, grew out of an understanding that the most pressing problem facing those with chronic mental illness in the District of Columbia, namely, adequate and affordable permanent housing, could be addressed most effectively by a public/private partnership. Cornerstone's role was to obtain and leverage public funds as a financing intermediary for the establishment of permanent housing dedicated for service to individuals with mental illness in the District. Cornerstone successfully completed this task in 3 years with its first $3 million in capital funds. During the past three years, Cornerstone has leveraged $3 million of capital funds into an additional $12 million of private funds and, as a result, created over 300 units of quality permanent housing.

Background and Summary

The financing program began with a grant by Congress directing that $5 million of federal funds targeted for St. Elizabeth's Hospital in the District be allocated for permanent housing. St. Elizabeth's is the sole public hospital for the treatment of individuals with mental illness in the District. It has continued to house a large number of patients (currently over 300) who otherwise could live in the community if adequate housing and support services were available. However, the absence of quality housing at an affordable cost is a major obstacle. The inadequacy of housing connected to support services also accounts for a substantial number of the homeless population. In addition, existing housing often fails to meet minimum standards of quality and accessibility. And the District's policy of paying full rent for those receiving public support without regard to available permanent housing has the

[1] This Report on Cornerstone's first three years also constitutes its 1997 Annual Report. Further information on specific 1997 activities is summarized in the January 14, 1998 Report by Cornerstone, Inc. to the DC Commission on Mental Health Services.

perverse result of subsidizing a much costlier option and also of giving a disincentive to service providers for establishing permanent housing.

Following approval of the $5 million allocation by Congress, the DC Commission on Mental Health Services (CMHS) issued a Request for Proposal early in 1994 and, after Cornerstone submitted a proposal, awarded a grant to Cornerstone. Thus, in the Fall of 1994, Cornerstone received its first annual grant of $1 million from CMHS to serve as a financing intermediary to encourage construction and renovation of housing permanently dedicated for those with mental illness. Under the grant terms, Cornerstone had an option for a second year grant of $1 million upon satisfactory completion of its first year of operation. CMHS awarded Cornerstone its second $1 million in December 1995. The initial grant obligated Cornerstone to provide financing for 40 housing units each of the first two years. (A housing unit is defined as a permanent residence for one person.) In its third year, Cornerstone again was awarded a one-year contract of $1 million with an option to renew; this contract obligates Cornerstone to support 60 units per year. No award has yet been made under the option for Cornerstone's fourth year, although the Receiver for the District's mental health system has advised Cornerstone that the option will be exercised and an additional $1 million of public funds will be allocated for housing in 1998. At this point (and as further discussed below) no capital funding for future years is available.

Cornerstone's Role As An Intermediary

Cornerstone's role as a financing intermediary is to facilitate ownership of housing dedicated for at least seven years to those receiving assistance for mental illness. When service providers or other organizations such as churches and social service agencies seek to acquire or renovate properties in the District, they now come to Cornerstone for assistance. Most requesters are unable to finance such housing without substantial funding. Their resources are limited; banks are reluctant to extend loans to nonprofits; first mortgages cover only part of the financial requirements; and commercial interest rates impose a debt service beyond the support obtained from client housing subsidies. Few if any requesters could purchase or renovate properties without Cornerstone's financial assistance because they have little capital and their limited resources generally are allocated for specific services.

Typical project financing therefore can only fill part of the needed funds through a down payment by the owner (i.e., service or housing provider) and first mortgage financing by a nonprofit or commercial lender at close to market rates. Invariably a substantial gap exists between this amount and the selling price. And even if additional commercial loans were available, the cash flow generated by most projects could not meet interest and principal payment requirements. Here Cornerstone fills the gap by locating additional lenders, identifying potential cost savings and government licensing requirements, and, of course, by adding grant and loan funds to finance the selling/renovation costs and to ensure that cash flow (including debt service) needs are met.

In fulfilling its assignment, Cornerstone plays several roles. First, it encourages service providers and other private parties (usually nonprofit organizations) to consider the purchase

or renovation of dedicated housing. However, this program continues to be hampered by the lack of a housing policy at CMHS. That is, CMHS' subsidy program favors rentals and thus is a disincentive for housing ownership even though such housing is both more stable and much cheaper. Second, Cornerstone supplies technical assistance on locating financing sources, often connecting requesters to first and second mortgagees. Third, by grant and loan, Cornerstone uses public and privately raised funds to "fill the gap" and make projects possible. Cornerstone provides such funding after thorough review of requester qualifications, inspection of facilities, and review of contracts. Its mix of grants and loans varies depending on the needs of the project and the impact the Cornerstone financing will have on the building of additional housing units. Fourth, Cornerstone is a policy voice for a more effective and efficient housing program through a government/private partnership.

Three Year Overview

As recounted more fully in this report, Cornerstone's first three years have been highly successful as it has exceeded its most optimistic expectations. In addition to encouraging new and renovated dedicated housing, its guidance and financial assistance has resulted in the addition of 309 affordable and quality housing units in the District at an average per unit cost to Cornerstone of $8,938. That is, the number of units financed by Cornerstone is more than double its contract obligation of 140; and its unit costs are 60 percent lower than the contractual average cost of $22,222. In addition, Cornerstone has leveraged its $3 million capital grant from CMHS to secure an additional $12 million in private sector funds that would not otherwise have been available for housing those with mental illnesses in the District. This includes approximately $1.8 million that Cornerstone has raised from foundations and loan funds for additional grants, lines of credit and guarantees. By conserving funds for loans rather than grants wherever possible, Cornerstone also generated $1.1 million of loans of which borrowers have repaid more than $550,000 to be "recycled" in a revolving loan fund.

Year-by-Year Analysis

(1) 1995: During its first full year of funded operations, Cornerstone participated in the funding of 116 units. Cornerstone committed $1.2 million in grants and loans in 1995--about 60% of the funding as grants and 40% as loans--for an average cost per unit of $10,484.

Mental health service providers that have service contracts with CMHS were the primary recipients of funds during 1995. Projects were solicited from local community development organizations linked to specific neighborhoods but with very limited success. Without additional incentives, these non-profit development groups generally are not focused on housing for special needs populations; their properties often must overcome other significant hurdles. Cornerstone projects also included properties purchased at auction, from HUD and from a bank foreclosure list.

Cornerstone established its first guarantee fund/line of credit ($500,000) with a national non-profit lender that provides first trust mortgages at below market interest rates. These funds often made projects feasible by lowering debt service costs. Cornerstone implemented a Deed of

Trust and Grant Agreement, both recorded as part of the land records in the District, to ensure that the units are dedicated to supported housing.

(2) 1996: In 1996, Cornerstone awarded funding for 93 units of supported housing. It issued commitments for $714,525, almost equally split between grants and loans and its average cost per unit was $7,683.

Cornerstone broadened its borrower base in 1996 by including properties dedicated to individuals with multiple special needs, such as substance abuse and HIV/AIDS in addition to mental illness. It also worked with small community residence facility operators and other larger, more established organizations.

Cornerstone further expanded its lending role in 1996 by becoming a short-term bridge lender. In many instances, the District or federal government will issue a commitment but make no provision for the 6 to 12 month gap between that grant and the disbursement of funds. Cornerstone received its first Program Related Investment (a $100,000, one year, interest free loan), negotiated additional lines of credit for its borrowers and matched grants that organizations received from HUD through the Community Partnership.

Cornerstone added key Board members, with particular expertise in construction and housing who screened properties and provided technical assistance to borrowers. Cornerstone developed application and other forms to streamline and standardize its review process.

(3) 1997: In 1997, Cornerstone issued commitments for 100 units of housing. These units were financed by $500,000 in grants and $364,000 in loans for a total of $864,800 at an average cost to it of $8,648 per unit.

In 1997, Cornerstone further expanded its borrower base. In addition to established organizations, Cornerstone focused on working with religious organizations. They can be particularly effective in providing community support and continuity for Cornerstone-funded projects.

Several of Cornerstone's projects in 1997 required multi-layer funding. It also introduced individuals to the DC Housing Finance Agency that now participates in Cornerstone-funded projects.

Cornerstone's Board developed and approved a strategic plan and determined to remain focused, for now, on individuals with a mental illness in the District of Columbia. The Board and staff also focused on strengthening the organizational structure of the Board.

(4) Primary Recipients of Cornerstone Funds 1995 -97:

The primary recipients of Cornerstone funds include:

Anne Frank House

Anchor Mental Health Association
Community Connections
Community Housing Trust
Deaf-Reach
Green Door
Housing Opportunities for Women
House of Ruth
Lutheran Social Services
Marshall Heights Community Development Organization
Miriam's House
N Street Village
St. Cyprian Community Action Group
St. Paul's' Baptist Church
Woodley House

(5) Primary Sources of Cornerstone Capital 1995-97:

A. Grant Funds	
Commission on Mental Health Services:	$3,000,000
Cafritz Foundation:	$25,000
Community Foundation for the National Capital Area:	$5,000
Fannie Mae Foundation:	$100,000
Meyer Foundation:	$85,000
Public Welfare Foundation:	$75,000
	$3,290,000
B. Lines of Credit/Guarantee Funds	
Butler Family Fund:	$60,000
Enterprise Foundation:	$300,000
Fannie Mae Foundation:	$200,000
Low Income Housing Fund:	$1,000,000
Yachad:	$15,000
	$1,575,000

Evaluation

Cornerstone's initial phase, from 1995 to 1997, was a trial period to test a new housing finance model for creating permanent housing in the District of Columbia for those with mental illness. Through a public/private partnership, it established a substantial below-market mortgage fund to stimulate the acquisition and renovation of quality housing. Service providers receiving such funds have become stronger operations with improved balance sheets with the result that still greater amounts of private first mortgage funding is now available for housing development. Others (particularly churches) who either had not previously invested in providing service or had relied solely upon rental housing have moved, albeit very slowly, to permanent housing on selected projects. Cornerstone provided expertise on putting together finance packages, technical issues, document review, construction needs and

evaluation and review of contractors' bids and qualifications. In addition, Cornerstone has become a public voice for permanent affordable and quality housing for this special needs population.

By any measure, Cornerstone has proven that a public/private housing financing intermediary model is workable. With the availability of substantial capital funds and the flexibility a nonprofit can provide (including speedy approvals as necessary), permanent housing for those with mental illness can be created and maintained at a high level of quality and efficiency. Close project review has ensured that each project has met contract guidelines, was sound financially, and was constructed as promised. Continuing quality is ensured by oversight and review on a periodic basis. No project has failed although some have had resources strained, particularly by delays in the District's payment of its contract obligations. In addition, Cornerstone has a policy of providing limited additional renovation funds to projects it has funded (usually after 5 years) on condition that such housing will continue to be committed to those with mental illness.

Efficiency has been assured by a lean and dedicated staff. Only 8 percent of public funds for Cornerstone have been spent on administration. (By contrast, public administration costs of housing authorities typically constitute a substantial portion of program funds.) In addition to leveraging substantial program funds, Cornerstone has attracted major foundation support to defray administrative costs, increase the revolving loan pool, and explore ways for improving its organizational structure and effectiveness.

Continuing Need for Housing (and Cornerstone)

While data is inconclusive and no consensus exists on the number of persons with mental illness without adequate or any housing or who could be released from St. Elizabeth's if such housing were available, Cornerstone estimates that at least 2,000 additional units are needed at this time.[2] These figures are based on a variety of sources, including studies from the Community Partnership for the Prevention of Homelessness, national literature on homelessness and mental illness, and CMHS' 1997 Housing Plan. The District's Receiver on mental health has recently indicated that nearly half of the residents at St. Elizabeth's Hospital, between 300 and 400 people, could live in the community if proper housing and support services were available. Others in need of housing include homeless individuals with a mental illness, those in sub-standard housing and adult children of aging parents.

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[2] This estimate is based on national and local sources. However, figures are impossible to obtain except at great cost and estimates range widely. In 1997, at Cornerstone's request, the Greater Washington Research Center (GWRC) attempted to assess the housing need for this population. In its report, GWRC concludes in part that "there is an urgent need for improved data tracking on the homeless and special needs populations." GWRC asserted that there are at least 1,000 individuals in need of housing but its focus was limited to those living on the streets.

The typical income of residents with mental illness needing housing is less than $7,500 annually, usually from social security payments. Without significant subsidies, existing housing is too expensive. Assuming that individuals can spend up to 30% of income on housing (based on criteria from HUD), mental health consumers should pay no more than $187.50 per month. Private housing is not available at this level.

Funding 1998 and Beyond

Dr. Scott Nelson, the Receiver for the mental health system appointed by the federal Court in November 1997, has advised Cornerstone that CMHS will commit $1 million to Cornerstone for 1998. However, he has also stated that no funds are available for 1999 or thereafter.

As a consequence, Cornerstone is making a series of moves to obtain necessary capital funding. It is requesting $10 million of capital funds for the five-year period beginning in 1999. With that funding, Cornerstone's immediate future would be assured. It would be able to raise substantial additional program and administrative funds from private sources. It could make commitments for projects on a long-term basis. And staff resources would not have to be focused so substantially on fund raising.

This request for a five-year funding program is being submitted to governmental offices in the District (CMHS and the DC Department of Housing and Community Development), in the executive branch (HUD and HHS) and in the Congress. This effort is being undertaken with the pro bono assistance of the law firm of Patton Boggs in DC.

Cornerstone also is developing a private sector fundraising strategy with the assistance of Dr. Michela Perrone, President, MMP and Associates. Her participation is the result of technical assistance grants received in 1997 from the Foundation for the National Capital Area and the Meyer Foundation's Management Assistance Program (MAP). The MAP grant is also providing guidance in a program to strengthen and further develop Cornerstone's Board of Directors and related structures.

Conclusion

In three years, Cornerstone has developed a successful finance model for special needs housing. This public/private partnership has demonstrated that public funds committed on a multi-year basis can be used to leverage substantial private capital. As a result of Cornerstone financing, in the past three years, over 300 housing units have been created or renovated. These additions of permanent housing have significantly increased the quality of life for individuals with mental illness in the District. The challenge for 1998 is twofold: (1) to continue the program of leveraging public capital funds to substantially increase available permanent housing; and (2) to secure additional capital so that this program can continue on a permanent basis.

JUDGE DAVID L. BAZELON CENTER FOR MENTAL HEALTH LAW

...s Rights and Human Dignity

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EXECUTIVE DIRECTOR

...Robert Bernstein, Ph.D.

March 24, 1998

Ms. Nancy Liebermann
President
Cornerstone
1828 Jefferson Place, NW
Washington, DC 20036

Dear Ms. Lieberman:

I am pleased to write this letter in support of Cornerstone's request for a continuation of capital funding. The Bazelon Center was a founding partner of Cornerstone in 1991. It was the joint vision of mental health service providers and the Bazelon Center that created Cornerstone. The Bazelon Center was instrumental in legislation resulting in $5 million for community-based housing for people with chronic mental illness. By expanding the housing stock for individuals with serious mental illness, Cornerstone directly serves *Dixon* class members. Both organizations are committed to securing quality housing for individuals with mental illness in the least restrictive environment.

The Bazelon Center, founded in 1972 as the Mental Health Law Project, is the nation's leading legal advocate for public resources and community-based services and supports for low-income people with mental health needs. For more than two decades, the Center has been at the forefront of myriad efforts to define and protect the rights of people with mental disabilities. Among other landmark cases, the Bazelon Center won was *Dixon V. Barry*, which established the right to treatment in the community for people confined or at risk of confinement in St. Elizabeths Hospital. In its efforts to promote consumer rights, community integration and choice, the Bazelon Center uses both legal and non-legal strategies. These include public education and administrative advocacy aimed at policy makers as well as community organizing, coalition building, and training and technical support.

Cornerstone has participated in the financing of over 300 units of special needs housing at a cost of less than $9,000 per unit. This was double the District's targets and exceeded all expectations. When assessing the viability of a project, Cornerstone always considers issues of concern to clients. For example, the proximity of housing to services, tenants' rights and neighborhood safety are paramount. Cornerstone recognizes these and other issues as essential to mental health consumers who are entitled to the same quality of life as all other residents of the District.

By improving the quality of community-based housing, Cornerstone is making a significant contribution to the welfare of individuals with serious mental illness. The Bazelon Center supports Cornerstone's efforts to seek capital funds. I encourage you to use this letter in your pursuit of further funding.

Sincerely,

Robert Bernstein, Ph.D.

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COMMUNITY CONNECTIONS

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Helen C. Bergman, MSW
Roger D. Fallot, Ph.D.
Maxine Harris, Ph.D.
Co-Directors

Ms. Nancy Leibermann, President
Cornerstone, Inc.
1828 Jefferson Place, NW
Washington, DC 20036

Dear Ms. Liebermann:

I am pleased to write on behalf of Community Connections in support of Cornerstone's request to public and private sources for capital funding beyond 1998. I appreciate the opportunities Cornerstone has given to providers to furnish housing in a cost-effective manner.

Community Connections is a nonprofit mental health agency serving over 350 consumers. The agency offers a full range of services for person with severe and persistent mental illness. Services include case management, psychiatric services, therapy, counseling, vocational programs, and a continuum of housing options.

Community Connections has worked in partnership with Cornerstone to develop permanent, affordable housing for persons with severe and persistent mental illness. Under your direction, Cornerstone has developed over 300 units of housing and has enable mental health providers, often strapped for pre-development funds and acquisition funds, to produce permanent housing for consumers at lower rates. Cornerstone has supplied Community Connections with both short and long term funds at below market rates. Cornerstone's funding has improved Community Connections balance sheet, making other lenders more willing to invest in permanent housing.

With this financial support, Community Connections has been better able to develop quality affordable housing for its clients in a variety of settings. Over the years, Cornerstone has funded the acquisition of apartments allowing clients to live independently as well as the purchase of crisis houses that provide 24-hour staff support for residents in need of more intensive services.

I commend Cornerstone for its essential service to the population it is dedicated to serving. Please feel free to use this letter in connection with Cornerstone's search for capital funding.

Sincerely,

Helen C. Bergman

Helen C. Bergman
Co-Director



THE COMMUNITY PARTNERSHIP
FOR THE PREVENTION
OF HOMELESSNESS

March 31, 1998

Ms. Nancy Lieberman, President
Cornerstone, Inc.
1828 Jefferson Place, NW
Washington, DC 20036

Dear Ms. Liebermann:

The Community Partnership strongly supports Cornerstone's efforts to secure capital funding beyond 1998. The Community Partnership is the agency responsible for planning and coordinating homeless services in the District of Columbia.

Cornerstone's participation in the Partnership's key projects has been critical. Cornerstone has facilitated applications to HUD and provided the financial matches that are required by many federal loans and grants programs. With Cornerstone's participation in various SUPER NOFA applications to HUD, more than 50 housing units were developed that were dedicated to those with mental illness. Without Cornerstone's flexible financing program, the Partnership would not be able to accommodate the scope of services it is able to provide to those with mental illness, including individuals with dual and triple diagnoses, such as HIV/AIDS and substance abuse.

Cornerstone plays a critical role in the continuum of care required for mental illness. The Community Partnership works closely with Cornerstone to identify potential partnerships and to make the best use of limited funds. The Partnership has worked directly with Cornerstone in support of a variety of applications, including those from Community Connections, House of Ruth, Coates & Lane Foundation, Safe Haven Outreach Ministry and Building Hope. Cornerstone is an important link between the Partnership and the Commission on Mental Health Services.

Please feel free to use this letter in connection with seeking capital funding from local and federal agencies and private funding sources.

Sincerely,

Sue Marshall
Executive Director

801 Pennsylvania Avenue, S.E. Suite 360 Washington, D.C. 20003 202.543.5298 Fax 202.543.5653

DISTRICT OF COLUMBIA HOUSING FINANCE AGENCY

1275 K Street, NW • Suite 600
Washington, D.C. 20005
(202) 408-0415
(202) 408-2766 (FAX)

March 31, 1998

Ms. Nancy Liebermann,
President
Cornerstone, Inc.
1828 Jefferson Place, N.W.
Washington, D.C. 20036

Dear Ms. Liebermann,

This letter is in support of Conerstone's campaign to secure capital funds. Since its initial funding three years ago, Cornerstone and the District of Columbia Housing Finance Agency ("HFA") have sought opportunities to work together. In July of 1997, that effort became more focused as staff from the HFA and Cornerstone began working together as part of a task force of mental health and housing agencies. The goal was to streamline the process for matching the needs of persons with chronic mental illness with home ownership and independent living opportunities.

Recently, the HFA and Cornerstone participated as joint funders on a special needs housing development. The HFA will provide a low interest bridge loan and Cornerstone will provide the permanent financing. This collaboration between Cornerstone and the HFA is an example of a successful public-private partnership.

In its short tenure, Cornerstone has come to play an important role as a special needs housing intermediary in the District. The ability to provide flexible terms and interest rates makes Cornerstone a valuable asset to the nonprofit housing development community. We look forward to working with Cornerstone on future projects.

We fully support Cornerstone's efforts to secure long-term capital funding from local and federal sources, as well as from the private sector.

Sincerely,

Milton J. Bailey,
Executive Director



HOUSE OF RUTH

"Because a woman's place is not on the street."

March 25, 1998

Ms. Nancy Liebermann, President
Cornerstone, Inc.
1828 Jefferson Place, NW
Washington, DC 20036

Dear Ms. Liebermann:

I am pleased to write on behalf of the House of Ruth in support of Cornerstone's search for capital funding from public and private sources beyond 1998. Cornerstone plays an essential and unique part in helping to provide quality housing for individuals with mental illness in the District of Columbia.

House of Ruth provides comprehensive social services to women and children throughout the District of Columbia. The 380 women and children helped each day face multiple challenges. They are victims of sustained traumatic abuse and are precariously housed or homeless with severely limited financial resources and only minimal support and help from their families or community.

House of Ruth offers crisis, transitional, and permanent housing opportunities in a variety of settings including apartments and houses. Other services include a developmental and therapeutic day care center for children ages 0-5, a day program for women who are homeless, and employment supports. A domestic violence support center and 24-hour hotline is offered in collaboration with other groups. In total, there are 11 locations in which services are offered.

With over 20 years of experience, House of Ruth understands the factors that lead to homelessness and abuse and the best ways to help women and children by stabilizing the crisis the family is experiencing, implementing intervention services, and actively helping the family attain stability and independence.

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Recently, Cornerstone made a generous grant to the House of Ruth for its Women in Recovery Project. This kind of support assists us in re-engineering the traditional system of service to improve progress toward independent living. With Cornerstone's help, the House of Ruth has been able to continue its practice of engaging in long-term work with each woman and child we serve, delivering services in nurturing environments, and teaching skills for successful daily living. Along with the courageous women and children we serve, we are very grateful for this assistance.

We commend Cornerstone for the work you do to meet the housing needs of those with mental illness, and strongly support your for funding.

Sincerely,

Christel Nichols

Christel Nichols
Executive Director

EUGENE AND AGNES E. MEYER FOUNDATION

March 19, 1998

Ms. Nancy Liebermann
President
Cornerstone, Inc.
1828 Jefferson Place, NW
Washington, DC 20036

Dear Ms. Liebermann,

I want to express my strong support for Cornerstone's request to local and federal government sources for additional capitalization of its grant and loan fund. We understand that current funding from the DC Commission on Mental Health Services ends in December 1998. In three years, Cornerstone has leveraged its $3 million grant from the District to attract $12 million in investments for the District from non-profit and commercial lenders Cornerstone has created a model private/public partnership.

The Meyer Foundation was one of Cornerstone's original funders in support of a private, non-profit housing intermediary for special needs housing—even before it had public funding. Over the last five years, the Meyer Foundation has provided more than $100,000 in grants and technical support to further Cornerstone's mission to expand the availability and quality of housing for persons with a persistent and chronic mental illness.

We believe the board and staff of Cornerstone bring outstanding leadership, credibility and a demonstrated track record of leveraging additional loan and grant funds in support of special needs housing. We have been impressed with Cornerstone's efficient operations, focus on a target population and commitment to providing needed technical assistance to special needs housing providers as well as serving as a financial intermediary.

Cornerstone's accomplishments in three years of funded operations are impressive. It has more than doubled its housing targets established by the District. Cornerstone has participated in the funding of more than 300 units of housing dedicated to persons with mental illness.

We hope that District and federal sources will give detailed consideration to your capital funding requests.

Sincerely,

Julie Rogers
President

FIFTY YEARS BUILDING COMMUNITY

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Ms. Ellen Ward
Project Assistant
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STATEMENT OF LISA HAWKINS, CORNERSTONE, INC.

Ms. HAWKINS. Great, thank you. Cornerstone is a non-profit organization that started in 1991. I do not know if you remember when HHS transferred all of the mental health facilities in the District over to the District, and when they did so they provided funding, of course, for St. Elizabeths and related projects but also directed that $5 million be used through the Commission on Mental Health Services to provide housing outside of St. Elizabeths. Right now, you have a situation where you have a lot of people who are in St. Elizabeths who are suffering from chronic mental illnesses that could live outside if they had the support, but they do not, so they remain at St. Elizabeths at a substantial cost to the taxpayers, and I am sure their quality of life suffers as well.

So, what Cornerstone is, is a financing, housing intermediary. We work with direct providers, and I think we have those listed here, a lot that I am sure you are familiar with like House of Ruth and Green Door, Community Connection, and we work with them to provide financing for them to build housing for these chronically, mentally ill individuals.

To give you a sense of our costs, it costs the taxpayers $100,000 a year to house someone in a mental health facility, specifically, St. Elizabeths. Our costs, Cornerstone, is approximately $10,000 a year, and if you see the last paragraph of our executive summary, $22 million could be saved every year with this sort of program, with this sort of private-public partnership, and, again, would allow individuals who are currently in St. Elizabeths to live in the community.

I just want to give you a few highlights of what we have done in the last four years, and, again, the testimony will be in the record, so I do not want to take up too much time. Since 1995, we have funded the construction of 330 units of quality housing throughout the District, so not only are these individuals now able to live among the community and not be a burden to the taxpayers, but the housing itself has been renovated. Of course, the surrounding communities benefit from that as the housing that was once tear down or substandard is now up to par. In addition, Cornerstone has a knack for leveraging private funds. So, with that $4 million grant that we received, we have leveraged another $12 million, and we hope to continue to do that working with organizations like Sallie Mae, and we have also worked with DHCD in the District, and we have worked with the—if you give me one second I can tell you—Enterprise and Public Welfare Foundations and the D.C. Housing Finance Agency.

I think that about sums it up. Essentially, what we are here to ask is funding to continue our operations. We were funded five years ago. If we are not refunded, our funding will run out, and we will not be able to continue our operations. So, we are asking the Committee for a sizable grant of $10 million over the next five years to continue, keeping in mind, of course, that such an allocation would save the taxpayers of the District a substantial amount of money and allow currently chronically mentally ill individuals in St. Elizabeths, homeless individuals, and individuals who are currently living in substandard housing to now be housed in the com-

munity with support from the direct providers. May I answer any questions for you?

Mr. TAYLOR. The $10 million, that is your request for this year?

Ms. HAWKINS. For the next five years.

Mr. TAYLOR. Okay. Thank you. Mr. Aderholt?

Mr. ADERHOLT. I do not have any questions. Thank you for being here today.

Ms. HAWKINS. Thank you for having me.

WEDNESDAY, JUNE 24, 1998.

TENANT ASSISTANCE PROGRAM (TAP)

WITNESS

JOHN L. ROBINSON, JR., D.C. RESIDENT

Mr. TAYLOR. Monica Beckham? John Robinson? Christine—okay, please come up. Mr. Robinson, please have a seat at the table. Excuse me, and I will come right back.

Mr. ADERHOLT [presiding]. How are you doing today?

Mr. ROBINSON. Good afternoon, sir.

Mr. ADERHOLT. Thank you for being here.

STATEMENT OF JOHN L. ROBINSON, JR.

Mr. ROBINSON. Thank you for letting me come. I would like to take this time to address the House of D.C. Appropriations Subcommittee on the D.C. Tenant Assistance Program. I am a single parent with two children ages 6 and 11. I have had to accept employment with minimal wages and low hours—minimal hours and low wages in which I had to resign due to difficulty obtaining adequate child care. I had to apply and reapply for public assistance so I could care for my children. Without TAP and public assistance, I would not have been able to care for my children.

Currently, I am still on public assistance which I really do not want to be on. I have completed job training programs; I have been actively seeking employment on a continuous basis before and after welfare reform. Without the help from TAP I would not have provided a home for my children. If this program ends and I do not have decent employment, I, myself, and people like me would not have anywhere to go and would end up in homeless shelters which currently are overcrowded, and families already are on the waiting list for public housing.

Right now, there are 800 TAP services that help house over 200 children and families, the elderly, disabled persons, and other individuals. So, I am pleading for me and my family and on behalf of many other children, to help adults and elderly in the same situation that the TAP not be touched and be extended at least over the year 2000 so we can continue to make better lives for ourselves. Thank you for the opportunity to speak to you today.

Mr. TAYLOR [presiding]. Thank you. Did your statement state how much was it that you are looking for?

Mr. ROBINSON. Well, I have been keeping up with the news here lately, and I do not know if you all read the paper today. Currently, we are at about $2 million for this fiscal year which I was told—

I am a current TAP certificate holder right now which ends December 1st—and we are looking for approximately $6 million to maybe carry us on so we can continue to do what we have to so we can get off the program. Right now, I am looking to be employed with the Department of Interior which is good, right now, for me, but other people might not have the opportunity to work at this time, so they would still need this help also. Currently, I would not be able to get off of it right now, but I intend to get off of it as soon as I become able to take care of myself.

Mr. TAYLOR. Thank you, Mr. Robinson.

Mr. ROBINSON. Thank you for listening to me.

Mr. TAYLOR. We appreciate your presentation.

PREPARED STATEMENT OF JOHN L. ROBINSON, JR.

[The prepared statement referred to follows:]

Testimony of John L. Robinson, Jr.

Before the U.S. House of Representatives
District of Columbia Appropriations Subcommittee

Regarding the D.C. Tenant Assistance Program

June 24, 1998

I'd like to take this time to address the House D.C. Appropriations Subcommittee on the D.C. Tenant Assistance Program (TAP). I'm a single parent with two children ages 6 and 11. I've had to accept employment with minimal hours or low wages, from which I've had to resign due to difficulty obtaining adequate child care. I had to apply and re-apply for Public Assistance so I could care for my children. Without TAP and Public Assistance I would not have been able to care for my children. Currently I'm still on Public Assistance and TAP.

I've completed job training programs and have been actively seeking employment on a continuous basis before and after welfare reform. Without the help from TAP I could not have provided a home for my children. If this program ends, and I don't have decent employment, I myself and people like me will not have anywhere to go and will end up in homeless shelters, which are currently overcrowded with families already on the waiting list for public housing.

Right now, there are 800 TAP certificates that help house over 2000 children and families, elderly adults, disabled persons, and other individuals. So I'm pleading for me and my family, and on the behalf of the many other children, adults and elderly in the same situation, that TAP not be cut and be extended at least to the year 2000 so we can continue to make better lives for ourselves.

Thank you for the opportunity to speak before you today.

WEDNESDAY, JUNE 24, 1998.

D.C. BLACK CHURCH INITIATIVE

WITNESS

REVEREND ANTHONY EVANS, CHRIST LIVING MINISTRY

Mr. TAYLOR. Christine Warnke, Commission for Women? Reverend Evans, Anthony Evans?

Reverend EVANS. Yes.

Mr. TAYLOR. You are with the Christ Living Ministry.

Reverend EVANS. How are you doing, Mr. Chairman?

Mr. TAYLOR. Good to see you.

STATEMENT OF REV. ANTHONY EVANS

Reverend EVANS. Very good. Thank you, Mr. Chairman, for meeting with us today to share some thought concerning the D.C. Black Church initiative. The D.C. Black Church initiative, sir, is a coalition of 800 black and white churches in the District who have decided to come together to provide some social justice ministries, because we feel very strongly that the District government is broken.

We wanted to have an opportunity to comment on the local consensus budget that you are now considering before your committee. The budget recently submitted to the Congress by the District government is not a consensus budget in any sense of the word, because our voices of 800 churches are not on that budget. We have tried to talk with the mayor, the City Council, the Control Board only to be ignored. Within my written testimony is a letter to Sandy Allen and to Control Board member Stephen Harlan, many believe that this is an—and, so we tried to meet with them, and we never had a chance to sit down to discuss the particulars of a DCBCI plan.

Many believe that our request of $30 million over the next 6 years is unreasonable, but it is not given the fact of what we are presently doing in this city, and what we wanted to do is expand the existing services that we are doing and to be able to make sure that the poor in this city truly have a safety net.

Mr. Chairman, yourself, you have recognized that this consensus budget proposed is fully padded. As a matter of fact, you blankly said, sir, that it is like throwing money down in a rat hole. So, simply put, Mr. Chairman, we are asking you to only take $30 million out of that rat hole and give it to the D.C. Black Church initiative so that we will be able to deliver the goods and services.

Your mailing, sir, pointed out the fact of management reform, and management reform means nothing to the three children in the District that goes to bed hungry every night. This budget does not answer the question, but BCI promised that this job would be done. We are now coordinating over 250 churches to deliver food to the poor. The District government cannot do that, neither can they promise that they can do that either. The Washington Post is filled with horror stories as to the District Government in terms of waste. We estimate conservatively that there is at least $100 million that can be attributed to waste, fraud, and abuse, and we are only asking for $30 million of that budget.

We will ensure that this money is spent strategically, because we have spent over the past 2 years surveying the 800 churches as to the needs of their congregations, and we have a plan that will eradicate a lot of concerns in the District. For instance, under this plan right here, we plan to create 30,000 volunteers. No other city in American can boast the fact that they have 30,000 volunteers who are willing to roll up their sleeves and provide services to their cities. Out of that 30,000 volunteers there are over 5,000 people who will provide volunteer service with the D.C. Public School systems. In terms of one hand, it is about providing security in terms of kids not being shot by going to school and on the other hand by staffing what we hope to do is 450 after-school programs, and these after-school programs have three purposes: one, that they will act as a safe house, because we strongly believe that they still will not enter into the church to shoot anybody but also to enhance the academic performance.

You recently read in the paper about the test scores from the DCPS in terms of saying that 46 percent of the students in 11th grade scored below basics in reading, and 83 percent of those students in the 10th grade scored below the basic in mathematics. With our 450 after-school programs to enhance those academic lackings, then what we propose is the fact that we will be able to uplift those test scores. So, we propose averting by lifting up 30,000 volunteer, 8 family crisis centers, 450 after-school programs and also motivate at least 150 churches to offer free day care for the poor, and this is in reference to the year 2000. As we all know, the 2000 is fast approaching, and those who have not attained employment from the welfare rolls will be eliminated, and, then, therefore, where will they go? They will come directly to us.

And this is in reference to the Year 2000. And as we all know that the Year 2000 is fastly approaching, and that those who have not attained employment for the welfare rolls will be eliminated.

And then, therefore, where will they go? They will come directly to us. And we do not have the money, not the management, not the structure in place to be able to accommodate that large population that will be coming to the road. And given the fact that the District Government system is broken, and they cannot efficiently deliver the goods and services, we are caught in the middle.

And so we propose this plan, and this plan we hope to save the District $180 million in savings. And in doing so, $50 million of direct savings in terms of the volunteer hours we put in, the use of the church vans, the use of the church space, the church facilities. And also, what we are currently doing now in direct contribution to anybody who walks through our doors, to take care their rent or light bill.

What we are saying, Mr. Chairman, is that times are getting extremely tough for the church to do that. And we believe that the church, and especially the Black church has proven itself that we can deliver these services, faster, more efficient, cost efficient, than any other group there is, and proven.

And we have also just demonstrated our will in Jasper, Texas, where we had that terrible racial incident. It was the Black church, sir, who kept the lid on everything there. And it will be the black

and white church here in the District who will keep the lid here on this city right here.

And so, we are giving this city enormous services. And what we ask for bold and direct leadership coming from you, Mr. Chairman, as you have demonstrated in the past, you and Senator Faircloth. And by moving so—you even said, Mr. Chairman, that at least $500 million in the current D.C. Consensus Budget is wasteful.

We only want $30 million of that $500 million budget that you cited in The Post. We only want $30 million. And the savings that we are going to bring to this district is just phenomenal. And we have spent the past 2 years putting together this coalition of 800 black and white churches.

And also, sir, and the last thing as a byproduct of this whole coalition, is that this city will have better race relations than any city in America.

Mr. TAYLOR. Well, I appreciate your presentation.

What type of structure do you have for the D.C. Black Church Initiative, the 800—are you incorporated? Do you have petitions from them? Or how would you go about certifying to the Congress that you have 800 black and white churches in this initiative?

Reverend EVANS. I will have—which we have shared with you through your personal staff, Mr. Rogers there. We have letters from every head of the churches, pledging their support to this coalition. In addition to that, we are a 501(c) status organization.

And also that money will be accounted for in essence, simply because one of the big six accounting firms promised us that they would do volunteer work with us by auditing our books.

So we are assured of the credibility incident in terms of the management of that money. We have the churches that we have been recruiting for the past 2 years. And every head of the church—a matter of fact, we just got a strong letter from the head of the American Lutheran Church to join this coalition as well.

So all of the churches are on board, and they have been on board for quite a long time.

What we are asking is that, we have a systematic plan to deliver the goods and services to the poor and the needy of this city. This city does not have such a plan. And in addition to that, raising 30,000 volunteers who are able to assist our local law enforcement agency.

Right now, Mr. Chairman, we have somebody loose in our community, who has ran a red light and killed a child. He jumped out of a stolen vehicle, and he is in our community loose.

With those 30,000 volunteers, if they were in place today, we could have assisted the law enforcement in identifying that individual who did that.

Presently right now there are such terrible relationships between our D.C. Police Department and the citizenry, and we have been working to improve that. We are the only entity that has the power to do that.

And we are the only entity that has the numbers. Because we can take 30,000 right out of our congregations. We do not have to go searching for these people. These people sit in our church services every single Sunday.

In addition to that, Mr. Chairman, if I can make one last comment. We did not come up to this Committee asking for something that we were not willing to make some hard choices for.

We have identified for the Committee offsets in the current budget that will total $30 million.

Mr. TAYLOR. That is in your statement.

Reverend EVANS. That is in my statement and is in the back of my statement right there. And we give the committee five different ways of funding this particular initiative.

Mr. TAYLOR. Well, thank you, that is most thoughtful. Your written statement will become part of the record, and we will be looking over all of this.

PREPARED STATEMENT OF REV. ANTHONY EVANS

[The prepared statement referred to follows:]

Written Testimony for the Budget Hearing for the House Subcommittee on the District of Columbia, From Rev. Anthony Evans

I am enormously happy to submit this written testimony to the House Subcommittee on the District of Columbia.

It has become increasingly apparent that the District government's service delivery system is not only broken, but also irreparable. In our city, minority suicide rate is steadily increasing. Our children are bringing guns to school to solve their conflicts and taking drugs to escape their problems. Four out of five children go to bed hungry at night. Parents either have to leave their young children alone, or opt to not work. In addition, as you well know, by the year 2002, the comprehensive Welfare Reform Bill will terminate tens of millions of benefits that are going to needy families, unless employment is found. The recipients are given three to five years to find a job that would meet their growing family needs. For those families who fail to do so, the church has becomes the last resort for finding any measure of relief. ***Regardless, all welfare payments will end by the year 2002, making the church and other charitable organizations the only social outlets for finding adequate food, shelter and clothing and for helping individuals to sufficiently support themselves and their families, thus, shifting the burden from the state to the church. Our Nation's capital is most certainly in a severe crisis.***

The only organization left in the District, which can deliver these services to the community is the faith community. What has not been done, is that sufficient funds have not been provided by the government for the church and non-profit organizations, to deal with this burden. In addition, there is no present structure locally, either provided by the non-profit organizations or by the faith community to handle the large numbers of needy individuals that will exist after the year 2002.

We are asking for an allocation of $30 million to expand and begin many of our programs. Although we are asking for $30 million, when we are fully operational we will save the District of Columbia $180 million per year in in-kind services, the use of church facilities and transportation and the use of our 30,000 volunteer Corp, outlined below.

Already in existence is a program that has the potential of being able to handle this. This program is the DC Black Church Initiative. The DC Black Church Initiative was created in 1986 to begin to deal with many of the stubborn social ills of the District. When it is fully established, the DC Black Church Initiative will be a coalition of 800 black and white churches, ministries and non-profit organizations to improve economic development opportunities, combat crime, violence, poverty and many of the other social problems in the District. The DCBCI will solve all the problems of the present programs in terms of inefficiency, funding, and size. The key components of the DC Black Church Initiative are as follows:

- ***Creation of a Corp of 30,000 volunteers from within our congregations.***
- ***Creation of eight family crisis centers.***
- ***Creation of 450 after school programs.***
- ***Job training and placement.***
- ***Beautification of our blighted neighborhoods.***

Through these programs and services to the poor and helpless, we will create a secure safety net for the poor. We will feed, clothe and shelter them with only this $30 million of a $5 billion budget, approximately $482 million of which will come from the Federal government and is the only government assistance we will need, though we will work with local authorities where the law mandates. Furthermore, this allocation will only amount to $5 million for FY 1999, since we are asking for this money to appropriated over six years. In the next section is a complete listing of all options for funding our Initiative.

When we receive this money, we will be able to fully implement all of our programs and achieve all of our goals. Our plan will integrate churches, non-profit organizations and government to efficiently, cost-effectively, yet fully deliver the necessary services to the citizens of the District.

The Initiative hopes to enhance and maximize ministries and programs that have proven to be effective models. Many of the programs currently exist in our churches, such as in Shiloh, People's, Metropolitan, and Michigan Park Christian Church are the types of programs we wish to duplicate in other parts of the city. We hope to expand these programs and improve them, to identify the most needy areas of our city. We have been working closely with WIN and the Church Association, who serve as the liaison with the faith community.

Our Vision for Funding the DC Black Church Initiative and Justifications

We have developed five plans for funding our Initiative. All of these plans involve allocating the money over a period of six years, at $5 million per year or allocating $30 million in the DC Budget for FY 1999 for the DC Black Church Initiative.

1. In the proposed DC Budget, under the section entitled Financial Plan, it is recorded that the President will give $120 million to the District for economic development and educational purposes. Since parts of the DCBCI, like our job training programs and after school programs are targeted at such areas, our first option would utilize this pool of $120 $15 million of which would be allocated to the DCBCI. Then $15 million in offsets would be used as funding for the remaining $15 million needed for the DCBCI. ***(See attached $15 million offsets).***

2. In our second option, we propose that $30 million of the aforementioned $120 million, be allocated for the DC Black Church Initiative.

3. Our third option is to remove the noted $30 million in offsets in the DC Budget and allocate it to the DC Black Church Initiative. ***(See attached $30 million offsets)***.

4. Our last option is for Congress to Authorize the appropriation of $30 million for the DC Black Church Initiative for Fiscal Year 2000.

5. The allocation of $30 million from the Federal Budget in new money for the funding of the DC Black Church Initiative.

Ranking the above options: These options are numbered from one to five, with one being the most desirable and five being the least desirable.

Justification for Funding: On February 12, 1998, The Mayor and City Council met and agreed on ten key budget decisions that would guide the FY 1999 budget development process. Numbers eight, nine and ten of these key decisions are Funding for DC Public Schools, Health Policy and Program Enhancements and Service Improvements. Since the DC Black Church Initiative is consistent with these objectives, and aims to assist the District in the areas, while generating $180 million in savings, the DC Black Church Initiative will help the District accomplish these goals, while paying for itself over the long term. ***Since the healthy economy created a $170 million surplus for FY 1999, a healthy economy will quadruple the savings generated by our Initiative for FY 2000, given the fact that we will save the city $180 million annually.*** The Congress also mandated the District to perform management reform in certain agencies. Of the eight agencies cited by Congress for mandatory management reform, DCBCI deals with four of the most crucial of those agencies ***(Health, Housing and Community Development, Human Services and Public Works)***.

The innovative approaches DCBCI impacts on each of these agencies can be reviewed as an impetus in which direction that management reform should take. For instance, the issue of Human Services: DCBCI brings to creative means of monitoring of and following through/following up on clients. This would help the District learn how to effectively track a given clients actions, thus helping them to measure these services' effectiveness.

The District Budget holds public education as a policy priority. An additional $24 million has been allocated to the District Public Schools for their Targeted Assistance Program. Of course, the budget does not explain what this means, but one can surmise that this program should assist students in maximizing their academic potential. The DCBCI Targeted Assistance Program is the expansion of 50 after school programs to 450, thus bringing ***thousands of volunteers***, in conjunction with the schools, to the students to provide academic enrichment, behavior modification and counseling. The most persuasive is that our program is already up and running; it only needs to be fully funded. We will provide the same services as the DCPS's program, but at a ***fraction of***

the cost. This is because we will rely on trained volunteers as our core leaders in these after school programs.

Despite the short-term and long-term economic outlook, the DCBCI will be able to maintain their services both in quantity and quality, at a fraction of the cost that it would take any District agency, thus creating the most effective safety net in the District ever for our children. Even if the economy takes a turn for the worse, the poor in the District of Columbia would still have a secure safety net. They will not go hungry, thirsty or homeless.

Control Board Reaction to the DC Back Church Initiative

Camille Barnett, the new city administrator, said that she would be glad to see the community become involved in the respiration of city services. Moreover, she said she would be happy to the religious community become more involved in the city as well as work along with it to improve conditions. They do not believe, though, that the church deserves $30 million to accomplish this. They believe that they can use the church's services free of charge, but the churches also have expenses that must be paid for. However, when we faxed her the overall outline of the DC Black Church Initiative, we received no reaction.

In addition, we have written Stephen Harlan, who is stepping down from the Control Board, in an April 23 letter, regarding the DCBCI proposal only to receive no reaction.

We tried for two years to get our Initiative approved through the District government, including the Mayor's office, the City Council, and the Control Board, but we were not given our democratic right to make our argument to the city government. We are now appealing to you to help us fund our Initiative.

We hope that you will give us a fair chance to gain funding for our Initiative and help us to realize our goals. Thank you for all your time.

Rev. Anthony Evans

Offsets and Justifications of $30 million from the DC Budget to fund the DC Black Church Initiative

Office of the Mayor
- Management Reform: $6 million

Justification: The management reform in the DC Budget, which has been mandated by the Mayor's Office is simply a waste of money. Our program is designed to save the Government money of long-term.

Department of Human Development
- Temporary Assistance to Needy Families: $5 million
- Youth Services: $3 million
- Mental Retardation: $1 million
- Early Childhood Development; $1 million
- Employment Services: $1 million

Justification: Through our eight family crisis centers, 7000 foster care homes, 7000 new beds for the homeless, 450 after school programs, job readiness programs, and big brother/sister program, we will deliver the services that these agencies could have, but we will deliver them more cost-effectively than could these agencies. They have been committed to delivering these services for years but have failed to do so.

Metropolitan Police Department
- Patrol Services Bureau: $4 million

Justification: Through our eight family crisis centers and 30,000 volunteers that we will raise, we will work with the Metropolitan Police Department to help investigate missing persons and assist in the counseling and sheltering of battered women. By using our crisis centers and volunteers, we will save the District money every year.

Department of Public Works:
- Parking services: $1 million
- Transportation: $1 million
- Solid Waste: $1 million

Public Health Services: $2 million

Preventive Health Services: $3 million

Justification: Our plan has in it, a plan in connection with Howard University to develop a strategic plan to halt the spread of illness among the citizens of the District of Columbia, including education programs dealing with prevention of cancer and an anti-smoling campaigns.

Department of Recreation:

- Recreation services: $1 million

Justification: One of the Initiative members, the Sojourner House, has plans to implement Youth recreation services to keep children off the streets and away from crime and violence.

Offsets and Justifications of $15 million from the DC Budget to Fund the DC Black Church Initiative

Department of Human Development:
- ❖ Temporary Assistance for Needy Families: $2 million
- ❖ Youth Services: $1 million

Justification: Through our eight family crisis centers, 7000 foster care homes, 7000 new beds for the homeless, 450 after school programs, job readiness programs, and big brother/sister program, we will deliver the services that these agencies could have, but we will deliver them more cost-effectively than could these agencies. They have been committed to delivering these services for years but have failed to do so.

Metropolitan Police Department:
- ❖ Patrol Services: $4 million

Justification: Through our eight family crisis centers and 30,000 volunteers that we will raise, we will work with the Metropolitan Police Department to help investigate missing persons and assist in the counseling and sheltering of battered women. By using our crisis centers and volunteers, we will save the District money every year.

Deparment of Public Works:
- ❖ Parking Services: $1 million
- ❖ Transportation: $1 million
- ❖ Solid Waste: $1 million

Department of Public Schools:
- Instruction: $4 million

Justification: Our 450 after school programs, deal with social issues, but also serve to strengthen any given child's academic development. If a student begins to slip academically in class, the after school programs will step in to given he or she additional after school help.

Preventive Health Services: $1 million

Justification: Our 450 after school programs, deal with social issues, but also serve to strengthen any given child's academic development. If a student begins to slip in class, the after school programs will step in to given he or she additional after school help.

Mr. TAYLOR. Thank you very much for your presentation.

Reverend EVANS. I certainly appreciate the time. Thank you so much, sir. And congratulations on the leadership that you have shown for the District. We are behind you.

WEDNESDAY, JUNE 24, 1998.

HOMELESS

WITNESS

DR. EDWARD J. EYRING, GOSPEL RESCUE MINISTRIES

Mr. TAYLOR. Dr. Edward Eyring.

Dr. Eyring, we are glad to have you here.

STATEMENT OF DR. EDWARD J. EYRING

Dr. EYRING. Well, thank you, sir. I appreciate the opportunity of returning after a year.

The first thing I want to do is thank you for the kindness of last year, particularly the assistance of your capable staff in helping us.

I am always stunned when people are talking $30 million, and we are talking about $200,000. I am really still very grateful for the help that we get.

I was invited to talk about good news. So I wanted to tell you some of the good things that are happening in Gospel Rescue Ministries here in the District, and I have divided my comments into three areas. One is program, one is facilities, and one is our operating paradigm.

In terms of the program, our particular emphasis has been on our school. We have one of the largest adult education facilities in the District. We are particularly interested in one in computer literacy. And the second is in a work strategy called Work Net.

This is a strategy basically based on the giftings and desires of an individual, with the intent of putting them into an entry level job and a career track that they choose, what they want to do. In other words, it is not just survival jobs, and it is not just go out there and get a job, and then learn how to read later.

We have some rather significant concerns about the present strategy on what they call Work First, as a method. And I can tell you, I have lots of degrees, and I have done a lot of studying, and I cannot get through an audited course, and I cannot get through a night course. You know, I am just not one of those people who can handle an education on the side.

I really do believe that it is important that these people be educated before they are sent to work. And I think it is probably a strategic issue that the Congress ought to consider this whole idea of work force, and shoving people off the welfare rolls, just to sort of get them off the rolls, rather than really caring about the individuals.

So we are more into that mode. And I think this Work Net strategy is an excellent one. We are applying it to all the people that come either to our school or that come through our ministries.

In the area of facilities we are hard at work on the women's facility that you know about, and helped us get funding partially for.

We do not have it underway yet. We are still going through the permitting and a variety of other bureaucratic problems, but I think there should be a break in that soon, and we are encouraged that we will be able to do that.

We have also opened up a facility called Barnabus House, which is a transitional living facility for people that graduated from our other ministries. We have a vision for taking over the city, one block at a time, or one house at a time. Obviously, I will not live to be the million years old that I have to be to get that accomplished. But that is what we would really like to do.

And we have managed to get the crack house next door closed, and we have managed to get the abandoned house boarded up. We have already made a significant change in the District by working with the police, we get along very well with, to reduce crime in the neighborhood, and then also move these men to a facility.

It is interesting. Many people get out of a facility like ours. They do not have credit. They have not established that they can work. So we offer them a place to work, and live, and pay rent, and be able to say, hey, we are credible—we are creditworthy citizens, and then maybe they can get loans for homes, that type of thing, when they get through.

So it is a self-sustaining approach, where the people live there, and they take care of themselves. They support the facility. So I thought you would be interested in that.

In terms of paradigm shifts, there is an idea that I want to suggest that might be applicable to the Congress.

We have changed our purpose statement from, providing rescue services to the poor and the needy of the Washington area in the name of Jesus, to transforming lives of people without hope, by modeling the character of Jesus. And the idea is not service delivery, but transforming lives.

The second idea is that there are plenty of folks without hope that are not necessarily poor and needy. And poor and needy is sort of a demeaning kind of a concept, sort of like us and them. We are looking at people. Lots of people do not have hope.

And then the third part is modeling the character of Jesus. We feel we have adopted some core values. The first is integrity, which means basically doing what we say we are going to do. Community, which is family, bringing people together. Compassion, which is love for one another. And fun.

The reason we introduced fun is that we think that Jesus had a good time. I cannot imagine more fun than standing up in front of the storm and saying, stop. And the challenges, the excitement—I think that is probably why a lot of people come to Congress. It is fun. Even though I know you are tired, and I know this is a hard job. You still are in the middle of a lot of exciting stuff. It is not boring, if nothing else.

So, I just thought you would be interested in some of the good news, and some of the stuff that we are doing. And naturally, we would like to talk over some of these different ideas with you and your staff at any time.

Mr. TAYLOR. Certainly.

I have never thought of Congress as being fun. I know you are probably right. I have only been here 8 years, so I suspect I will find it eventually.

Thank you very much. I would like to see how you are doing with your women's project, and see what is going on.

Dr. EYRING. All right. Well, we will talk to Roger, and see about that.

Mr. TAYLOR. Good. Well, thank you very much, Doctor, for making your presentation.

PREPARED STATEMENT OF DR. EDWARD J. EYRING

[The prepared statement referred to follows:]

TESTIMONY BEFORE THE SUBCOMMITTEE ON COMERCE, STATE, JUSTICE AND THE JUDICIARY-JUNE 24, 1998

THANK YOU, CONGRESSMAN TAYLOR, AND MEMBERS OF YOUR COMMITTEE, FOR INVITING ME TO ADDRESS YOU TODAY REGARDING THE ACCOMPLISHMENTS OF GOSPEL RESCUE MINISTRIES. DURING THE YEAR SINCE WE SPOKE TO YOU LAST.

THIS IS SOMETHING I RELISH, SINCE GOSPEL RESCUE MINISTRIES IS PROUD TO BE A PART OF WHAT WE THINK IS A REVIVAL IN THE DISTRICT. I WOULD LIKE TO ADDRESS THREE AREAS OF ACCOMPLISHMENT, OUR PROGRAMMING, OUR FACILITIES AND OUR OPERATING PARADIGM.

AS TO PROGRAM, WE HAVE ENLARGED THE STAFF OF OUR SCHOOL OF TOMORROW, AND HAVE BEGUN AN INITIATIVE CALLED WORKNET, WHICH IS OUR RESPONSE TO THE NEED FOR PLACING UNEMPLOYED AND UNDEREMPLOYED PEOPLE INTO CAREER OPPORTUNITIES AT THE ENTRY LEVEL. EACH INDIVIDUAL IS TESTED TO DETERMINE THE MOST LIKELY CAREER PATH TO SUCCESS. WE TALK ABOUT SUCH THINGS AS CORPORATE CULTURE WHICH THE PERSON MUST UNDERSTAND. FOR EXAMPLE, IF THE PERSON WANTED TO GO INTO THE BANKING INDUSTRY HE/SHE WOULD NEED TO KNOW THAT BUSINESS SUITS AND CLEAN CUT HAIR ARE PART OF THE CULTURE (ALTHOUGH PERHAPS UNSPOKEN) WHEREAS IF THE INTEREST IS IN ENTERTAINMENT, DREDLOCKS AND

TORN JEANS MIGHT BE APPROPRIATE. WE HAVE DECIDED THAT EVERY PERSON WHO PASSES THROUGH OUR MINISTRIES WILL BE ASSESSED IN THE AREA OF CAREER INTEREST AND GIFTING BEFORE BEING ALLOWED TO "GO GET A JOB". IN FACT WE HAVE SOME REAL RESERVATIIONS ABOUT THE GOVERNMENT'S NOTION OF "WORK FIRST". WE DO NOT THINK IT IS EITHER WISE OR PRACTICAL TO DEPEND ON A PERSON GETTING AN EDUCATION AFTER HE/SHE IS WORKING. I ONLY THINK ABOUT MY OWN EXPERIENCE WITH ADULT EDUCATION AND AUDITED CLASSES. NOT VERY GOOD, AND I AM A PROFESSIONAL STUDENT, AS YOU PROBABLY KNOW. IF YOU ARE INTERESTED IN DISCUSSING THIS FURTHER I WOULD LOVE TO DO SO.

IN THE AREA OF FACILITIES WE HAVE COMPLETED OUR BARNABAS HOUSE, A TRANSITIONAL LIVING FACILITY FOR GRADUATES FROM OUR OTHER MINISTRIES. WE WONDER HOW MANY RECOVERED ADDICTS CAN ACTUALLY RETURN TO THEIR ORIGINAL HABITAT WITHOUT DANGER OF RELAPSE. WE HAVE A VISION FOR RECLAIMING WHOLE BLOCKS AT THE SAME TIME, TO DEVELOP SAFE COMMUNITIES FOR THESE PEOPLE. THE DISTRICT IS PARTICULARLY WELL SUITED TO THIS TYPE OF RECLAMMATION SINCE LARGE PARTS ARE LYING ABANDONED AND UNUSED, INCLUDING MANY SCHOOLS. WE HAVE A DREAM FOR UTILIZING SOME OF THIS PROPERTY WHICH WE WOULD LIKE TO DISCUSS FURTHER WITH YOU.

WE ARE STILL WORKING ON THE WOMEN'S FACILITY, THE FULTON HOTEL, WHICH WE TALKED ABOUT LAST YEAR. IT HAS BEEN A FOUR YEAR STRUGGLE, AND ONE THAT IS NOT YET EVEN IN ITS FINAL STAGES, BUT WE ARE HOPEFUL THAT WE CAN COMPLETE THE PROJECT, SINCE THE NEEDS OF ADDICTED WOMEN AND CHILDREN ARE RISING AT A EVEN FASTER RATE THAN THOSE OF MEN. WE DISCUSSED SOME OF THE DIFFICULTIES WE ARE ENCOUNTERING WITH CITY COUNCIL YESTERDAY AND WOULD LIKE TO INVOLVE YOUR COMMITTEE AS WELL.

FINALLY, IN TERMS OF PARADIGM SHIFTS, WE ARE NO LONGER CONSIDERING OURSELVES TO BE A SOCIAL SERVICE AGENCY. OUR NEW CONCEPT IS THAT WE ARE IN THE BUSINESS OF TRANSFORMING LIVES, AND OUR NEW PURPOSE STATEMENT NOW READS "TRANSFORMING LIVES OF PEOPLE WITHOUT HOPE BY MODELING THE CHARACTER OF JESUS" INSTEAD OF THE PREVIOUS STATEMENT WHICH SAID "PROVIDING RESCUE SERVICES TO THE POOR AND NEEDY OF THE WASHINGTON AREA IN THE NAME OF JESUS". THESE CHANGES IN WORDING EXEMPLIFY OUR CONVICTION THAT IT IS ONLY BY CHANGING THE HEART OF A MAN OR WOMAN CAN WE HOPE TO HAVE SUBSTANTIAL, SUSTAINED RECOVERY FROMT THE GRIP OF ADDICTION OF ANY TYPE.

THE BROADENED SCOPE OF OUR SERVICE FROM TO "THE POOR AND NEEDY" TO "PEOPLE WITHOUT HOPE" INDICATES THAT A NUMBER OF

OUR STAKE HOLDERS ARE WITHOUT HOPE, NOT ONLY THOSE WHO ARE FINANCIALLY DISADVANTAGED.

AND THE CHANGE FROM "IN THE NAME OF JESUS" TO "MODELING THE CHARACTER OF JESUS" WE THINK SAYS THAT WE WANT TO COME ALONG SIDE AND ESTABLISH FRIENDSHIPS WITH THE PEOPLE WITHOUT HOPE MORE THAN LECTURING OR TEACHING THEM.

BY THE WAY, THE CHARACTER TRAITS OF JESUS THAT WE HAVE CHOSEN TO EMULATE ARE **INTEGRITY, COMMUNITY, COMPASSION AND FUN**.

INTEGRITY MEANS TO US HONESTY, TRUTHFULNESS, TRUSTWORTHINESS, AND RESPECT FOR THE GOODS AND QUALITY OF OTHERS. COMMUNITY MEANS ESTABLISHING OUR MINISTRIES AS A FAMILY AND LOOKING OUT FIRST FOR THE INTERESTS OF OTHERS. COMPASSION INCLUDES MERCY, LOVE AND THE PASSIONATE DESIRE TO HELP THOSE IN NEED. AND FUN INDICATES THAT JESUS WAS A PARTY ANIMAL. HE REALLY ENJOYED LIFE AND HE COMMUNICATES THE CHALLENGES, EXCITEMENT AND JOY OF LIVING TO ANYONE WHO WILL LISTEN.

ACTUALLY, YOU MIGHT CONSIDER ADOPTING THESE CORE VALUES FOR THE CONGRESS. CERTAINLY A BIT MORE INTERGRITY, COMMUNITY, COMPASSION AND FUN MIGHT CHANGE THE IMAGE OF THIS GREAT ORGANIZATION FOR THE BETTER.

THANKS SO MUCH FOR THIS OPPORTUNITY. I LOOK FORWARD TO UPDATING YOU AGAIN NEXT YEAR.

WEDNESDAY, JUNE 24, 1998.

MUNICIPAL FISH WHARF

WITNESS

T. RODNEY OPPMANN, ATTORNEY AT LAW

Mr. TAYLOR. Our next witness is T. Rodney Oppmann. Yes. Please come forward, if you do not mind.

Mr. OPPMANN. Good afternoon, Mr. Chairman.

Mr. TAYLOR. Glad to have you, sir.

Mr. OPPMANN. Thank you. I am here on behalf of some of the lessees at the Fish Wharf, which is federal property.

I did not know that I would be appearing until yesterday, and I wonder if it would be possible to submit a brief statement for the record within a few days?

Mr. TAYLOR. Certainly.

Mr. OPPMANN. Thank you.

Mr. TAYLOR. Without objection, that will be fine.

Mr. OPPMANN. Thank you.

PREPARED STATEMENT OF T. RODNEY OPPMANN

[The prepared statement referred to follows:]

T. RODNEY OPPMANN
ATTORNEY AT LAW

TELEPHONE: (703) 998-1717
FAX (703) 998-8699

1701 PRESTON ROAD
ALEXANDRIA, VIRGINIA 22302

July 13, 1998

The Honorable Charles Taylor
Chairman
Appropriations Subcommittee on
the District of Columbia
Washington DC 20515

VIA FAX AND VIA U. S. MAIL [FAX 202 225-8044]

Attn: Mr. Americo Miconi
Re: Municipal Fish Wharf Lessees
Brief Statement (For the Record)
Hearing of June 24, 1998

Dear Chairman Taylor:

Enclosed herewith is my Brief Statement (For the Record) which you indicated on June 24 could be added at a later date.

Again, thank you for the opportunity to appear before your Subcommittee on the District of Columbia to offer testimony on behalf of my clients who are lessees at the Municipal Fish Wharf, which is federal real property.

We sincerely hope that the U. S. Army Crops of Engineers can be designated as the federal agency with permanent federal oversight responsibility for both the Municipal Fish Wharf and for our neighbors at The Washington Marina Company.

Please do not hesitate to contact me if you or your staff have any questions with respect to my Brief Statement or if I may otherwise be of assistance.

My clients join me in thanking you and the members of your Subcommittee for any assistance which Congress may provide us with respect to the resolution of problems which are outlined in my witness testimony and the Brief Statement.

Respectfully submitted,

T. Rodney Oppmann
Attorney at Law
On behalf of:
C. & F. EVANS SEAFOOD, INC. and
STAN EVANS SEAFOOD, INC., both
T/A Jessie Taylor Seafood
EVANS BROTHERS SEAFOOD, INC.
T/A Custis and Brown Seafood and
PRUITT'S SEAFOOD, INC.
T/A Pruitt Seafood

Lessees at the Municipal Fish Wharf — Since 1794

Encls: House Report 102-899
(2 pages)

TRO/am

BRIEF STATEMENT

(For the Record)

To: Hon. Charles Taylor, Chairman
Appropriations Subcommittee on D.C.
U. S. House of Representatives

Wednesday, June 24, 1998, U.S. Capitol Room H-144 5:20 P. M.
PART IV Testimony from the General Public

From: T. Rodney Oppmann, Esq.
Attorney at Law, on behalf of C. & F. Evans Seafood, Inc., and Stan Evans Seafood, Inc., both T/A Jessie Taylor Seafood; Evans Brothers Seafood, Inc., T/A Custis and Brown Seafood; and, Pruitt's Seafood, Inc., T/A Pruitt Seafood, all of which are lessees of the federal real property at the Municipal Fish Wharf, 1100 Maine Ave., S.W., described in their D. C. Government Lease Ref. No. 914.903 as Lots 846 and 847 in Square 473

The witness wishes to thank the Chairman and the members of this Subcommittee for the opportunity to testify in person today and to submit this statement for the record.

I. PREVIOUS APPEARANCES; FEDERAL OVERSIGHT; DETERIORATION

In his previous appearances before this Subcommittee (1987-1992), the witness has addressed the fact that there is no federal agency which has oversight for the federal real property at either the Municipal Fish Wharf (Lots 846 & 847 in Square 473) or its neighbor, The Washington Marina Company, 1300 Maine Ave., S.W. (Lot 848 in Square473). This lack of federal oversight is the root cause of what can only be described as waste, fraud and abuse from which the Fish Wharf lessees have suffered from local government officials.

It is respectfully suggested that an appropriate federal agency to assume such permanent federal oversight responsibilities would be the U. S. Army Corps of Engineers. The Corps of Engineers has a Real Property Management Branch which now manages federal real property like the Municipal Fish Wharf and The Washington Marina. Also, any changes, upgrades or improvements to this federal real property requires the approval of the Corps of Engineers in any case.

Since the last appearance of the witness before this Subcommittee in 1992, conditions at both the Municipal Fish Wharf and The

Washington Marina Company have deteriorated dramatically. This deterioration is the direct result of non-feasance and malfeasance by the Department of Administrative Services and the Department of Housing and Community Development of the D. C. Government. Their current leases have been allowed to lapse, despite repeated (and costly) efforts by both lessees to enter into a new, long term lease. Both leases are now month-to-month (as are an astounding 70% of the leases of real property managed by the D. C. Government).

The D. C. Government has not responded to the 102nd Congress Report 102-899 (see copy, attached) which requested a metes and bounds survey of the federal real property at the Municipal Fish Wharf. The reason which DHCD has not provided such a survey to Congress is that it will show that DHCD is overcharging the lessees of the Municipal Fish Wharf by almost 30% for the square-footage of land leased.

The District Government has twice breached Lease Ref. No. 914.903 at the Fish Wharf in recent years (i.e., 1988, 1992) in trying to force new tenants onto the premises. In both cases, the D.C. Superior Court held that the District Government breached the lessees' right to exclusive use and quiet enjoyment of this federal real property. Injunctions against the District were issued by both judges (see Superior Court of D.C. Civil Action No. 88-9071 and No. 92-10881). The second of these lawsuits cost the Fish Wharf lessees over $341,000.00. It took them over five (5) years to pay their trial attorneys, Hunton and Williams, and resulted in half of the Fish Wharf lessees either seeking bankruptcy or going out of business.

A 1998 study of the Southwest Washington, D.C. Waterfront, which cost the taxpayers over $70,000.00, failed to include both the lessees of the Municipal Fish Wharf and The Washington Marina Company.

A number of officials at the highest levels of District Government have refused to return phone calls from staff members of the Virginia and Maryland Congressional delegations who have attempted to make inquiries into these matters.

II. INCONSISTENT LEASING POLICY OF D. C. GOVERNMENT

Six (6) of eight (8) D. C. Government leases on the Southwest Waterfront have long term (i.e., 99-year) leases on federal real perperty. These long-term leases resulted from Public Law 86-736.

The lessees of the Municipal Fish Wharf and The Washington Marina Company have the same rights to long term leases under Public Law 86-736, yet their leases are month-to-month. The failure of the D. C. Government to apply Public Law 86-736 — which is a federal law — equally and uniformly is, on its face, discriminatory and illegal.

It is believed that such wasteful and abusive behavior by local officials is tied into irregularities at an adjacent development project which is currently under investigation by the U. S. Department of Justice for failure of its owners to honor Congressional subpoenas.

III. CONCLUSIONS AND REQUEST FOR FEDERAL ASSISTANCE

The above-described actions of District of Columbia Government officials are driving small business out of the District or out of business completely.

The Municipal Fish Wharf was created by an Act of the 62nd Congress, on March 4, 1913. It is a unique and valuable asset - the last remnant of Washington's historic waterfront district. Likewise, The Washington Marina Company is an important part of Washington's Potomac River history and culture. Created by Presidential Order in 1938, its brick building was designed and built by Chas. Chaney, one of the world's leading maritime designers. Both these entities have acted in good faith. The District Government has not responded in kind. We respectfully request the assistance of this Subcommittee to resolve the lease problems described in this testimony so that needed improvements, which these lessees would like to make, can be achieved.

We ask your assistance in creating permanent federal oversight in an agency such as the U. S. Army Corps of Engineers and in helping the small businesses affected obtain long term leases consistent with the long term leases which all other lessees along the Washington Channel have enjoyed since the mid-1960's.

We will be happy to provide additional information to the staff of this Subcommittee or to the staff of any Member of the Subcommittee. Again, we thank you for this opportunity to testify and to submit comments for the record.

Respectfully submitted,

T. Rodney Oppmann
Attorney at Law

Attachment: House Report 102-899

TRO/am

102D CONGRESS
2d Session | HOUSE OF REPRESENTATIVES | REPORT
102-899

MAKING APPROPRIATIONS FOR THE GOVERNMENT OF THE DISTRICT OF COLUMBIA AND OTHER ACTIVITIES CHARGEABLE IN WHOLE OR IN PART AGAINST THE REVENUES OF SAID DISTRICT FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1993, AND FOR OTHER PURPOSES

SEPTEMBER 23, 1992.—Ordered to be printed

Mr. DIXON, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 5517]

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5517) "making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1993, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 2, 3, 6, 8, 9, 12, and 13.

That the House recede from its disagreement to the amendments of the Senate numbered 11, 20, 21, 22, and 25, and agree to the same.

The committee of conference report in disagreement amendments numbered 4, 5, 7, 10, 14, 15, 16, 17, 18, 19, 23, 24, 26, 27, and 28.

JULIAN C. DIXON,
WILLIAM H. NATCHER,
LOUIS STOKES,
MARTIN OLAV SABO,
LES AUCOIN,
BERNARD J. DWYER,
JAMIE L. WHITTEN,
DEAN A. GALLO,
RALPH REGULA,
TOM DELAY,
JOSEPH M. MCDADE,
Managers on the Part of the House.

BROCK ADAMS,
WYCHE FOWLER, Jr.,
J. ROBERT KERREY,

59-373

priations of the House of Representatives and the Senate for an extension of the date set forth in the statute.

MUNICIPAL FISH WHARF

The conferees reiterate their strong interest in preserving the Municipal Fish Wharf as the oldest open-air fresh seafood retail market on the East Coast of the United States. The conferees have received testimony concerning a study undertaken to examine a redevelopment plan for the Wharf. The conferees request a report by January 1, 1993, with respect to any redevelopment plan proposed by the District government. The report should outline the physical features and cost of the proposed development plan, the metes and bounds of the Wharf real property along the Potomac River between 11th and 12th Streets, S.W., as established by the 62nd Congress in 1913, and should also outline the plans and time lines for (1) meeting environmental impact statement requirements, (2) seeking financing of the project, and (3) obtaining waivers necessitated by the involvement of the Army Corps of Engineers, the Coast Guard or other District of Columbia or Federal entities. This report should outline a realistic time line for concluding the project, including any Federal, District of Columbia, Redevelopment Land Agency, or other requirements for public comments or hearings.

TITLE I

FISCAL YEAR 1993 APPROPRIATIONS

FEDERAL FUNDS

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

Amendment No. 1: Deletes language proposed by the Senate that would have delayed until October 1, 1993, the availability of $26,035,000 together with interest of $1,992,000 for the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds. By deleting the proposed language, the full appropriation of $52,070,000 requested in the President's budget will become available in fiscal year 1993 as proposed by the House.

FEDERAL CONTRIBUTION FOR CRIME AND YOUTH INITIATIVES

Amendment No. 2: Restores language proposed by the House and stricken by the Senate that requires the District to submit a detailed plan for approval by the House and Senate Committees on Appropriations prior to the obligation of funds appropriated under this heading and deletes language proposed by the Senate which would have required the Mayor to submit a detailed plan concurrently with making the funds appropriated under this heading available for obligation. The amendment also deletes language proposed by the Senate that would have prohibited the use of funds in this Act to implement or enforce D.C. Act 9-188, the District's Health Care Benefits Expansion Act of 1992, or any system of registration of unmarried cohabiting couples whether they are homosexual, lesbian, or heterosexual.

STATEMENT OF T. RODNEY OPPMANN

Mr. OPPMANN. I just have a few comments that I would like to make, Mr. Chairman, that relate to some of the previous testimony that I gave before this subcommittee in the years 1987 through 1992, regarding the fish wharf problems that we were having at that time.

Some of them have been solved, but I would say the situation overall at the property at the Fish Wharf has deteriorated in my opinion.

The current lease is now month-to-month. The lessees would like to make improvements. They have made some improvements. As a matter of fact, the previous chairman, Mr. Dixon, lives in southwest. He complained about the smell. With 2 years left on their lease, the lessees spent $60,000 to put in a refrigeration unit to abate the smell from their dumpster unit. And they have been trying to make long-term improvements, but on a month-to-month lease it is difficult to do.

One of the problems that exists at the Fish Wharf is they are really not certain where it is. In 1992 the House asked—and I have a copy of the report language—for certain information regarding the Fish Wharf, and that has not been provided to date by the District of Columbia.

This is the report language. By the way, a needs and balance survey, and other information, was due January 1, 1993. In February of this year, the lessees used the Baltimore engineering firm, RTKL, to determine how much the square footage of the Fish Wharf was. They are being short-changed by 29.8 percent on what they are paying every month.

This is indicative of the type of problem they have there. This is Federal property. It is being managed by the District, but I do not think the District is doing a very good job.

Furthermore, since I last testified, the lessees have had to spend over $341,000 to obtain a second injunction against the District for violating its own lease. They tried to put new people onto the property in violation of their lease. We went to court. I did not receive this legal fee, a trial law firm here in town did. But that is how much it cost them.

The District never should have done this. This was the second injunction in the course of their lease, which expired 2 years ago.

Mr. TAYLOR. What was the cost?

Mr. OPPMANN. $341,000.

Another thing that is very disturbing is that the D.C. government is refusing to recognize legally formed corporations, which are lessees at the Fish Wharf. Why they are doing this, I do not know. They pay their taxes. We have copies of checks which they have recorded, and so forth. Why this is happening, I do not know. I have tried to discuss this with the Corporation Counsel. I have not gotten very far.

Lastly, a recent study of the Southwest Waterfront, which cost taxpayers $70,000, omitted the lessees of the Fish Wharf and the lessees of the Washington Marina Corporation, which is the next witness and he will speak to those points.

We are disturbed by the fact that so much Federal money went into this study, and yet the Federal property on the premises was not included, in terms of a chance to participate in this study.

I am almost done, Mr. Chairman. A few more points.

There are six leases on the waterfront. There are six leases with 99-year terms, where the Fish Wharf is there month-to-month. And the next witness, Mr. Stickell, from the Washington Marina Corporation, will talk about his situation. He is also month-to-month.

I do not represent Mr. Stickell, but I have shared information with him.

Several of the individuals at the Fish Wharf are covered by the same law, that is Public Law 86-736, which created the long-term leases elsewhere, everywhere else along the waterfront. We are not sure why the District has this inconsistent long-term lease policy. Some people get long-term leases, others are month-to-month.

I think that that is unfair, and it is something that should be looked into.

The main reason these problems exist in my opinion, Mr. Chairman, is that there is no Federal oversight jurisdiction. No agency of the United States Government has been assigned responsibility for looking at the Fish Wharf. Otherwise, I would not be here taking your valuable time today.

I have had to do this repeatedly because there is no agency that has been willing to take on the Fish Wharf. And the same thing with the Washington Marina Corporation. If that could be worked out so that somebody could be assigned to take over some sort of responsibility, it would be helpful.

In conclusion, I think the actions of the D.C. officials are driving small businesses out of the District, or they are driving them out of business completely. A number of the clients that I represented when I was last here are now bankrupt or out of business, I am sorry to report.

The Fish Wharf is the last remnant of Washington's historic waterfront. It dates back to the days when they came up the river under sail, and then under diesel. Now they are doing it with airplanes. They are bringing some of the stuff in. It is cheaper, it is faster, and so forth.

It should be encouraged and preserved. It is very popular with the public. We serve a lot of people who are on food stamps. We are competitively priced. We have the best seafood prices in town, I think. And I think that the failure of the D.C. Government to grant long-term leases is hurting the District and its populace, in that the long-term improvements cannot be made on a month-to-month lease, and tax revenues that would be generated with more business are denied the D.C. Treasury.

I would be glad to provide any information you or your staff would like in the future.

Mr. TAYLOR. Thank you. We will do that.

WEDNESDAY, JUNE 24, 1998.

MUNICIPAL FISH WHARF

WITNESS

ROBERT L. STICKELL, PRESIDENT, THE WASHINGTON MARINA COMPANY

Mr. TAYLOR. Why don't we have Mr. Stickell come forward now and make his statement together with you.

Mr. Stickell, we are glad to have you here.

STATEMENT OF ROBERT L. STICKELL

Mr. STICKELL. Thank you for your time.

I am Rob Stickell, and I am the president of Washington Marina Company. We are a small, family-owned, third generation boating business. We have leased property from the District since 1951.

In the early 1960's, 6 of the 8 lessees on the southwest Washington waterfront received long-term leases. The Municipal Fish Wharf, our neighbors, and ourselves, received month-to-month leases. In our company's 47-year history we have had two written leases in 5 years.

Obviously, we are not able to make any long-term capital improvements in our facility as well. We met with District officials last summer to discuss the District's responsibility under the terms of its current lease with us, which expired in 1996, the District government has the responsibility for maintenance and repairs of the facilities, the Marina facilities, which were built back in the 1930's.

The District said at that time that they did not have any money to do that, and offered to give us a long-term lease if we would redevelop those properties and facilities ourselves.

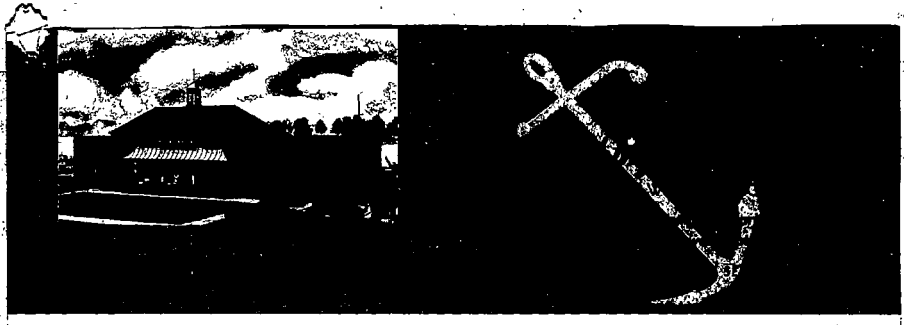
We have since provided them with three proposals to do this at our expense. We have incurred in excess of $86,000 of real costs to come up with the proposal, the architectural, the legal, and the other things necessary to bring this project forward.

We received a letter recently from the director of the District's Department of DHCD, Department of Housing and Community Development, which basically thanked us for submitting a proposal, but said that they were going to take and push this off until some undeterminant date.

So we feel that not only is the city in breach of its lease with us, but we feel that they are acting in bad faith. And we are asking for reparative leasing that other folks were given. We need to make a substantial long-term capital investment in that facility, but we cannot do it without a long-term lease. And I thank you for your time.

PREPARED STATEMENT OF ROBERT L. STICKELL

[The prepared statement referred to follows:]



July 13, 1998

The Honorable Charles Taylor
Chairman
Appropriations Subcommittee on
The District of Columbia
Attn: Mr. Americo Miconi
Washington, D.C. 20515

VIA FAX PH: 202-225-8044
VIA FIRST CLASS U.S. MAIL

Re: The Washington Marina Company
Brief Statement (For the Record)
Hearing of June 24, 1998

Dear Chairman Taylor:

Please find enclosed my Brief Statement (For the Record) which you indicated on June 24, 1998 could be added at a later date.

Once again, I wish to again thank you and the members of your Subcommittee for the opportunity to offer testimony regarding our lease problems with the Government of the District of Columbia.

If you have any questions regarding my Brief statement, or require additional information, please do not hesitate to contact me. I would be happy to work with your staff to provide any additional information.

We look forward to working with you and the members of your Subcommittee to resolve our leasing problems. We believe that the U. S. Army Corps of Engineers can be designated as the federal agency with permanent oversight for both The Washington Marina Company and our next door neighbors, the lessees at the Fish Wharf. This would provide us with some much deserved relief from the month-to-month leases, which we have endured for so long.

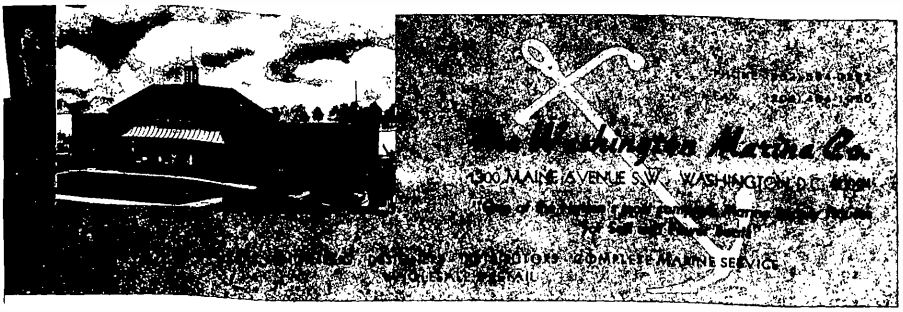
Sincerely,

Robert L. Stickell
President

encl:

cc: Fish Wharf Lessees

RLS/rs



VIA FAX 202-225-8044
VIA FIRST CLASS MAIL

BRIEF STATEMENT FOR THE RECORD TO: **THE HON. CHARLES TAYLOR, CHAIRMAN**, BY ROBERT L. STICKELL, PRESIDENT, THE WASHINGTON MARINA COMPANY, 1300 MAINE AVE., S. W., WASHINGTON, D. C. 20024.

UNITED STATES HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA, Wednesday, June 24, 1998, U. S. Capitol Room H-144, PART IV Testimony from the General Public (Witness 22, 5:25P.M.)

My name is Robert L. Stickell and I am president of The Washington Marina Company at 1300 Maine Ave., SW Washington D.C. 20024. We are a third generation, family-owned small boating business on the Southwest Washington waterfront and we have been the sole lessee at this location since 1951. We lease this Federal real property from the Government of the District of Columbia.

In the early 1960's, six of the eight lessees on the Southwest Washington waterfront were given long-term, ninety-nine year leases. The remaining two lessees, the small business owners at the Fish Wharf and The Washington Marina Company were excluded from these long-term leases and have forced to operate mostly on a month to month basis. We have been granted only two short leases in our Company's forty-seven year history and have been month to month at all other times.

We met with officials at the District's Department of Housing and Community Development (DHCD), which handles our lease, in May of 1997 to discuss our lease renewal and the badly needed repairs to the docks and piers. Under the terms of it's own lease with us, the District Government has the responsibility for maintenance and repairs to the pilings and docks. However, DHCD said they did not have the money to make repairs as required in our lease and instead told us to come up with a proposal to renovate the facility at our expense in exchange for a long term lease. We asked DHCD for ideas regarding renovation and asked them for written assurance of their intent to enter into a long-term lease of at least thirty years. DHCD declined to provide both items.

The Washington Marina Company acted in good faith and put together several proposals, which have been submitted to DHCD for their approval, for repairs and upgrades to our facility. However we recently received a letter from the director of the DHCD stating that DHCD would not take any action to honor is commitment to The Washington Marina Company on a long-term lease. Instead, DHCD plans to put our proposals in the hands of "a special task force" which is studying waterfront development and put our lease renewal off to some undetermined date in the future.

In conclusion we believe the District government has breached its lease with us by failing to provide maintenance and repair of the marina as required by the lease. Furthermore, DHCD is acting in bad faith by failing to honor its commitment to issue a long-term lease in exchange for our redeveloping the facility at no cost to D.C. government. And with no Federal oversight, this situation is likely to continue.

The cost of the feasibility study, legal fees, title insurance/searches and the architectural fees incurred to develop proposals to renovate and repair our facilities exceeds $86,000. Without a commitment from DHCD to issue a long-term lease, we have wasted time and a great deal of money and potential investors will not take either The Washington Marina Company or the District government seriously on this project.

I appreciate your time and the opportunity to speak with you about these problems and look forward to working with Congress to help resolve them.

Respectfully Submitted,

Robert L. Stickell
President

Mr. TAYLOR. Thank you. I can sympathize with what you are saying. We must go into it a little more in detail, and we will. Thank you very much for making your presentation.

WEDNESDAY, JUNE 24, 1998.

THE HISTORICAL SOCIETY OF WASHINGTON, D.C.

WITNESSES

MONICA SCOTT BECKHAM, VICE PRESIDENT, BOARD OF TRUSTEES, THE HISTORICAL SOCIETY OF WASHINGTON, D.C.
KATHY SMITH, PAST PRESIDENT, BOARD OF TRUSTEES

Mr. TAYLOR. Our next witness is Monica Scott Beckham, Vice President of the Board of Trustees of the Historical Society of Washington, D.C.

STATEMENT OF MONICA SCOTT BECKHAM

Ms. BECKHAM. Good afternoon, Mr. Chairman. My name is Monica Scott Beckham, and I am the vice president of the Historical Society of Washington, D.C., member of the Board of Trustees. And accompanying me is Ms. Kathy Smith, past president of our Board.

First, I would like to thank you, and we appreciate the invitation to speak to your subcommittee today on a major goal of the Historical Society. That goal, as you know from the testimony that we have already submitted, is to the creation of a city museum, devoted to the history of the Nation's Capital.

The timing could not be more appropriate. In one and a half years we will mark the 200th anniversary of the city as a Federal capital. We believe the positive story of this great city; a place where local, national, and international history is intertwined, deserves a place in our revitalizing downtown.

We are in fact about the only world capital among the group of eight that does to have such a city museum. Major cities across the Nation have just invested in city museums. The society in these cities recognize that they are not just about history, but about defining the unique identity that makes a city a healthy and interesting place to live and do business.

There is a dynamic link between industry and economic development, and that is the development that the Society wishes to participate in, along with a partnership with the Federal government, and private dollars in the city, to raise money for the city museum.

We are talking about the potential of millions of new private dollars for the District of Columbia. The travel industry worldwide has discovered that what increasingly sophisticated travelers want is to experience unique places. As you know, Washington, D.C., is a very unique city.

The city museum will be a gateway to a Washington that visitors seldom see, and will provide appealing incentives to leave their dollars behind in our local restaurants, shops, and cultural attractions.

We have 22 million visitors a year in this city, and most of them never venture beyond the Mall. Surely everyone will go to see the

museums; the Smithsonian, the Air and Space Museum. However, after two or three visits people want to know where do the people live in Washington. What else is there to see in Washington, D.C. And this city museum will provide that location for them to go, to discover the great history that we have here in this city.

And so, on the second visit, if a person stays another day, it has been determined that if 22 million visitors just stay, and have one more meal, that would mean $100 million injected into the local economy. And studies have shown that each million dollars generates about 39 new jobs.

For example, the Los Angeles Convention and Visitors Bureau, with $9 million, which is comparable to the city here, figures that convincing travelers to stay one more day, visiting their local cultural sites, can mean as much as $3 billion a year. The new city museum will be a destination for all who want to explore the city.

At this time the Society is working vigorously with the D.C. Heritage Tourism Coalition, and we are developing new tours at this moment in this city. In fact, we have provided a tour at the new MCI Center. So when people come down, and they want to have an adventure with basketball, ice hockey, or any other programs that are going on, they can also get a tour of that particular community, and find out about the history around the MCI location.

The Society is also working with the Anthony Bowen Y, which is the oldest black YMCA in the capital. The site that we are interested in is the Carnegie Library, which is a perfect and beautiful Beaux Arts building, located on——

Mr. TAYLOR. Where is—okay.

Ms. BECKHAM. And this is our gateway. As you know, the Convention Center will be developed down here at Mt. Vernon Square. So people will see the City of Washington. And then they can enter into the Convention Center, go into the Convention Center, come out, and still see the City of Washington, D.C.

After careful study, this site is looked at as the perfect site by the Society. Right now this site is occupied by UDC. We have had discussions with their president, as well as the members of their board, and they wholeheartedly support us in this.

We are looking at them as a partner to continue. They use the building right now for architectural studies. We have discussed with them sharing this space for classrooms, for internships, for exhibits. But we also know that this space, which only has 35,000 square feet of usable space, it is small. It is not large in comparison to other sites that other cities use, that are well over 100,000 square feet. However, the Society is working with other community-based organizations to have cultural heritage centers.

So this center will serve for storage space, for much needed exhibit space, as well as a core exhibit that will be housed at this particular site.

Congress was a partner with Carnegie in creating this library, appropriating funds for that purpose exactly 100 years ago in 1898. This library became the meeting place for all people in the city. Of course it was one of the very few places in the city that was never racially segregated. It is the perfect place, both practically and symbolically, to link the past, present, and the future of our renewed city.

We are here to ask Congress 100 years later to become a partner with the city once again in honor of the city's 200th birthday as the seat of the Federal government. The Historical Society has never asked for money from Congress, or any other public source in its 100 year history. Unlike almost all other local history museums in historical societies, we have no city, county, or state support. We believe, however, that given this historic moment in the city's history this project is an appropriate public-private partnership. A congressional appropriation would be a springboard for a major capital campaign for private, corporate, and foundation funds.

The recent feasibility study tells us that we have the capacity to raise $6 million. Revenues from operating the museum would come from museum shop sales, admission fees, the tours, event rentals, and an endowment. Congress' $1 million would pay for the architectural and engineering plans for modifications needed to make the library suitable for museum use, and for the research and development of a powerful core exhibit.

We have also had conversations with the Washington Convention Center Authority. They are interested in using the building in the near term for architectural and engineering offices during the construction of the new Convention Center, perfectly consistent with the creation of the city museum which is timed to open the same time as the Convention Center.

We are here today to ask for your endorsement, your support, and your partnership in the creation of this state-of-the-art museum for the Nation's Capital.

Thank you for your consideration of our request, and if you have any questions I will be glad to answer them.

Mr. TAYLOR. Would you review the money that you are talking about here, what is going to be spent by Congress and other sources. You just mentioned it a few minutes ago.

Ms. SMITH. I think you mentioned $1 million from Congress. We need to raise an additional $6 million to match that for the capital campaign as well as we will be actively seeking $4 million for an endowment.

Mr. TAYLOR. Okay. Well, thank you very much for saying it. I do not know what our ability would be. I would certainly share your history in what you have done so far as an organization. And if that could be converted into a historical site and a tour area, then that certainly makes sense. But I do not know where we are money-wise, but we certainly will give your request full consideration.

Ms. BECKHAM. Well, thank you.

Ms. SMITH. Thank you, Mr. Chairman.

Mr. TAYLOR. Thank you for coming.

PREPARED STATEMENT OF MONICA SCOTT BECKHAM

[The prepared statement referred to follows:]

The HISTORICAL SOCIETY of WASHINGTON, D.C.

Mr. Chairman and Members of the Subcommittee:

My name is Monica Scott Beckham and I am a vice president of the Board of Trustees of The Historical Society of Washington, D.C. This is a century-old private, non-profit institution dedicated to preserving the rich history of the nation's capital-- and working with its varied communities to bring that history alive for residents as well as tourists in the nation's capital.

We appreciate your invitation to testify before this subcommittee on a major goal of the Historical Society--to create a City Museum devoted to the history of the nation's capital. This will not be place full of dusty relics. It will be state-of-the art, technologically innovative history highlighting this city's 200-years as a federal capital and as a hometown. Our Executive Director, Barbara Franco, already has created such a museum for the State of Minnesota that has a nation-wide reputation for its cutting edge technology and programs.

The timing could not be more appropriate. In 1 1/2 years we will mark the 200th anniversary of this city as the federal capital--Congress moved here from Philadelphia in December, 1800. This is also a time of metamorphosis for the nation's capital--about to elect a new city government to greet the millennium. We believe the positive story of this great city--a place where local, national, and international history is intertwined--deserves a place in our revitalizing downtown.

We are in fact, about the only world capital among the Group of Eight that does not have such a city museum. Major cities across the nation--New York, Atlanta, Pittsburgh, St. Louis, Chicago, Cincinnati, to mention a few--have just invested in city museums. These cities recognize that they are not just about history, but about defining the unique identity that makes that city a healthy and interesting place to live and to do business. These cities also see the dynamic link between history and economic development--a worldwide phenomenon that has come to be known as heritage and cultural tourism.

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Established as the Columbia Historical Society in 1894

We are talking about the potential of millions of new, private dollars for the District of Columbia. The travel industry worldwide has discovered that what increasingly sophisticated travelers want is to experience unique places. They are flocking to such historical and cultural attractions by the millions. This city museum will be the gateway to a Washington that visitors seldom see--our unique historic neighborhoods and our revitalized downtown--and will provide appealing incentives to leave their dollars behind in our local restaurants, shops, and cultural attractions. We have 22 million visitors a year in the city--and most of them never venture beyond the Mall. Surely, everyone will go to see the monuments and federal buildings first. But if on a first or second visit to the city, only one half of our 22 million visitors ate just one meal in the city it would mean about $100 million injected into the local economy. Studies have shown that each $1 million generates about 39 new jobs.

Philadelphia has dedicated $12 million of private and public money to a heritage tourism program, currently its chief economic development tool. The Cezanne Show in that city, carefully packaged, sold 36,000 room nights in local hotels and brought $122 million to the city. Williamsburg has bundled its heritage attractions with others nearby and attracted 37,000 new visitors who spent $12.4 million the first year. The Los Angeles Convention and Visitors Bureau, with a $9 billion tourist industry (about the same as Washington, D.C.) figures that convincing travelers to spend one more day there visiting local cultural sites can mean as much as $3 billion more a year.

The new city museum will be a destination for all who want to explore the city--and will encourage them to visit neighborhood heritage centers in the diverse communities of the city. We are already working on such heritage centers in two neighborhoods--the Thurgood Marshall Center in Shaw in the nation's oldest black YMCA building, and the Latin American Youth Center in Mt. Pleasant\Adams Morgan. The museum is high on the agenda of the new D.C. Heritage Tourism Coalition, which is creating new tours that reveal the rich, little known history of our great city--our Civil War and military history--our history as a beautiful planned city of parks and gardens and vistas--our local museums, bookstores, art galleries, grand residential architecture, and cuisine from around the world. They will help give a truer picture of our city,

and bring new revenues, new tax dollars, and new jobs. The D.C. Convention and Visitors Association, the D.C. Committee to Promote Washington, and the D.C. Hotel Association are our partners in promoting the entire city of Washington as a tourist destination. The head of the city's office of housing and community development is funding a model project with community block grant development funds to mark heritage sites in the neighborhoods.

After a careful study of available buildings, our first site for this new city museum in the historic Carnegie Library, perfectly located adjacent to the proposed new convention center at Mt. Vernon Square. Congress was a partner with Carnegie in creating this library, appropriating funds for that purpose exactly 100 years ago in 1898. It is a magnificent Beaux Arts building looking for a new use. The newspapers of the day praised Carnegie's gift "to the people of the District." "A university for the people," is carved at the entrance, and the word "History" is carved near the front door. This library became a meeting place for all people in the city--a crossroads. It was one of the very few places in the city that was never racially segregated. It is the perfect place--both practically and symbolically--to link the past, present, and the future of our renewed city.

We are here to ask Congress, 100 years later, to become a partner with the city once again in honor of the city's 200 birthday as the seat of the federal government. The Historical Society has never asked for money from Congress or any other public source in its 100 year history. Unlike almost all other local historical societies, we have no city, county, or state support. We believe, however, that given this historic moment in the city's history this project is an appropriate public/private partnership. A congressional appropriation would be a springboard for a major multi-million dollar campaign for private, corporate, and foundation funds. A recent feasibility study tells us we have the capacity to raise the $6 million we need for capital expenses. Revenues for operating the museum would come from museum shop sales, admission fees for a destination attraction, event rentals, an endowment, memberships, and private giving. Congress's $1 million would pay for the architectural and engineering plans for modifications needed to make the library suitable for museum use, and for the research and development of a

powerful core exhibit. This core exhibit could be mounted in temporary space downtown pending the opening of the museum.

The University of the District of Columbia currently uses the building. We have discussed with the president of the university and members of the board a possible shared use that would include common classroom spaces, internships, student employment, and collections storage. Changing gallery space might be shared with UDC for exhibits organized in collaboration with university departments.

We have also had conversations with the Washington Convention Center Authority. They are interested in using the building in the near term for architectural and engineering offices during the construction of the Center, perfectly consistent with the creation of a city museum timed to open the same time as the Convention Center.

We are here today to ask for your endorsement, your support, and your partnership in the creation of a state-of-the art museum for the nation's capital.

- It will be a highly visible local/federal, public/private investment in the image and economic well being of our new city for the new millennium.
- It will channel millions of new dollars into the city's businesses, cultural institutions, tax coffers through heritage tourism.
- It will be a symbol for collaboration between the federal government and the local city as we celebrate our 200th birthday as federal capital--and link an understanding of our past, our celebration of the present, and our vision for the future.

Thank you very much for your consideration of our request.

The HISTORICAL SOCIETY of WASHINGTON, D.C.

The Historical Society of Washington, D.C. (HSW) aims to promote understanding of the nation's capital as a city of crossroads where North and South, federal and local, urban and suburban, national and international intersect, and where native and newcomer of all races and persuasions become America. The HSW is devoted to making the history of the Washington metropolitan area and its people accessible and understandable to public audiences in order to achieve a sense of identity, place, and pride in Washington for those who live and work here and for the nation as a whole.

HSW was founded as the Columbia Historical Society in 1894 by a group of prominent citizens who believed that an organization was required "for collecting the scattered and rapidly disappearing records of events and individuals prominent in the history of the city and District." During its first 60 years, the Society organized monthly lectures, collected books, photos, and artifacts, and began publication of *The Records of the Columbia Historical Society* using temporary rented or donated space for its activities. In 1956, Mrs. Christian Heurich, wife of brewer Christian Heurich, donated the Heurich House and a substantial portion of the household furnishings to the Society.

In the mid 1970s, the Historical Society began to change from a small organization of history enthusiasts to an educational institution linking the past, present, and future through collections, exhibits, publications, and educational programs. The Society hired its first paid professional staff and began interpreting the Heurich House as a museum. In 1989, the Society opened the 500-square-foot Eleanor "Cissy" Medill Patterson Gallery for interpretive exhibits and the Philip L. Graham Gallery on the library floor to showcase collections. As part of the shift to a more public focus, the Society changed its name in 1989 to The Historical Society of Washington, D.C. (HSW), and revamped the *Records* from serial volumes to a more popular semi-annual magazine, *Washington History*.

During the 1990s, the HSW has continued its mission to facilitate ongoing public dialogue and better understanding about urban issues through educational programs, publications, research collections, and exhibitions. HSW seeks to make history accessible and understandable so that people of diverse backgrounds and experiences can use the past to understand the present and build a shared vision of the city's future. Interpretive exhibits in the galleries have expanded the Society's role and *Washington History* now serves as the major outlet for new research on the area's diverse communities. With strong board and executive leadership, The Historical Society of Washington is now among the most forward-looking and active historical communities in the metro D.C. area.

A partial list of local organizations with which HSW has worked includes The Shaw Heritage Trust, The Thurgood Marshall Center for Service and Heritage, The Latin American Youth Center, The D.C. Preservation League, The German Heritage Society, The Korea Society, Dupont Circle Citizen's Association, Dumbarton Methodist Church, D.C. Public Schools, Pin Point Theater, Association of Oldest Inhabitants, and The Potomac Heritage Partnership. The Historical Society also is an active partner in the Dupont-Kalorama Museums Consortium, the Consortium of Historic House Museums of Metropolitan Washington, D.C., and is the co-sponsor with the Humanities Council of Washington, D.C., of the D.C. Heritage Tourism Coalition. In addition, the Society co-sponsors the Annual Conference on Washington, D.C. Historical Studies with George Washington University and the District of Columbia Public Library.

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Established as the Columbia Historical Society in 1894

ADDITIONAL INFORMATION

- **Why do we need another museum?** With all of the museums in Washington, there is not one with the sole mission of collecting, preserving, and doing public programming and publications about the history of Washington, D.C. As a result, rich archeological finds from this area are scattered in public warehouses throughout the country, unexamined with no place for public display. Important collections of papers and photographs about our important citizens and historic places get thrown out or lost because no one has the space or funds to collect, store, and interpret them. Our national museums only seldom do exhibits on Washington, and most often they are temporary. There is no one place anyone interested in the rich history and culture of the most powerful city in the world can go to learn about it.

- **Why do we need such a big building?** The Carnegie Library has about 35,000 square feet of usable space. This is actually small. Most city museums range from about 100,000 to 200,000 square feet. We can use this smaller space because we intend to link with community-based heritage centers in the neighborhoods and city-wide activities, making the entire city a museum. We do need space, however, for a major core exhibit that outlines the history of the city, changing exhibits on special topics, a community gallery, for the storage and processing of artifacts, for publications, education programs, exhibit preparation, for a tourist information area, and for administrative offices.

- **Why would people go to a local museum when they can go to the Smithsonian?** There is not doubt that most visitors will go to the Smithsonian museums first. But, a number of these museums are off the Mall, (such as the Anacostia Museum, the National Portrait Gallery, and the National Museum of American Art), and they need the promotion and publicity a city museum could provide as much as other, local, off-the-mall sites. However, millions of people come to the capital for the second, third, and more times. The tourist industry here is more and more hearing the question: Doesn't anyone live here? Where is the city of Washington and how do I find it?

- **Why is the Historical the right institution to do this?** We are a 100-year-old institution, the only such institution whose sole mission is the promotion of the history of Washington, D.C. The D.C. Office of Preservation, the D.C. Public Library, and the D.C. Preservation League, all of whom are involved in various aspects of this mission, support our leadership.

- **Who owns the Carnegie Library now?** The Library sits on federal land. Although there is no deed of record, we believe the building belongs to the government of the District of Columbia, since Carnegie made his gift "to the people" of the District. For the past 25 years the D.C. government has made the building available to the University of the District of Columbia, which now uses it for its architectural program.

- **What will you do if you do not obtain the Carnegie Library?** We will look for another site in central Washington. In the meantime, we will mount our core exhibit in a temporary space, and apply the money for engineering and architectural studies to a new site.

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June 16, 1998

Ms. Barbara Franco
Executive Director
The Historical Society of Washington, DC
1307 New Hampshire Avenue, NW
Washington, DC 20036-1507

Dear Ms. Franco:

It is with pleasure that I submit this letter in support of The Historical Society of Washington, D.C.'s proposed City Museum to be located at the Carnegie Library at Mount Vernon Square.

For over 100 years, the Historical Society has worked to preserve the city's history and heritage. Today, as a vibrant and growing organization with numerous public programs, highly regarded publications, a research library and archives specializing in Washingtoniana, and changing exhibitions, I understand that the Historical Society is ready to launch a campaign for a City Museum. I applaud your decision that the Carnegie Library is the best site for this Museum.

As President of the Hotel Association, I support The Historical Society's efforts to locate the City Museum at the Carnegie Library. With the growing interest in development in downtown Washington, and the revitalization of the Shaw neighborhood and the construction of the new Washington Convention Center on Mount Vernon Square, this is an ideal site. I am pleased that a museum for the City that will attract tourists and residents alike to this neighborhood would be so strategically located.

Heritage tourism is vital to the City's economic well-being, and I am pleased to support both the concept of a City Museum and that it should be located in the Carnegie Library. I look forward to working with you on this exciting project.

Thank you.

Sincerely,

Emily D. Vetter
President

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Federation Member American Hotel & Motel Association

WASHINGTON CONVENTION CENTER AUTHORITY

900 Ninth Street, N.W.
Washington, D.C. 20001
Main: (202) 789-1600
Fax: (202) 789-8365

Lewis H. Dawley, III
General Manager
Direct: (202) 371-3012

June 19, 1998

Ms. Barbara Franco
Executive Director
The Historical Society of Washington, DC
1307 New Hampshire Avenue, NW
Washington, DC 20036

Dear Ms. Franco:

The City Museum proposed by the Historical Society of Washington, DC follows the current tourism industry trend in promoting cultural and heritage tourism. As the seat of our Nation's Capitol and because of our strong local heritage, Washington, DC has a story our tourists and visitors want to hear.

While Washington, DC offers a destination package few cities can match, the competitive nature of our industry draws tourists and visitors to other cities' entertainment concepts. It becomes critical for our industry to provide unique opportunities to discover Washington, DC. A City Museum could provide an exciting opportunity for a new and different cultural experience our visitors would enjoy.

At the front door of the proposed New Washington Convention Center sits the historic Carnegie Library. The building design of the New Center acknowledges the significance of this important building and embraces the Beaux Art architecture. As part of the Memorandum of Agreement, reached in accordance with Section 106 of the National Historic Preservation Act, the Washington Convention Center Authority will invest at least $2 million to refurbish the exterior, landscape and physical plant of the Library. If the Carnegie Library is chosen as the site for the City Museum, it would serve as a complimentary and rewarding front door experience for the convention center attendee.

I strongly support the City Museum, and your efforts to add significantly to our city's tourism industry.

Sincerely,

Lewis H. Dawley, III
General Manager and Chief Executive Officer

Mr. TAYLOR. Are there any other witnesses in the room? If not, this concludes oral presentation of testimony by public witnesses.

PREPARED STATEMENTS

The Committee has received prepared statements from Christine Warnke; Mary Filardo; and George Brown and Linda Bollinger that will be placed in the record at this point.

[The prepared statements referred to follow:]

D.C. COMMISSION FOR WOMEN

TESTIMONY PRESENTED BY

CHRISTINE WARNKE
CHAIRPERSON
DC COMMISSION FOR WOMEN

TO

HOUSE APPROPRIATIONS SUBCOMMITTEE FOR THE DISTRICT OF COLUMBIA

JUNE 24, 1998

MR. CHAIRMAN, I FIRST WANT TO THANK YOU FOR YOUR KIND INVITATION TO PRESENT TESTIMONY ON BEHALF OF THE DC COMMISSION FOR WOMEN. AS WAY OF BACKGROUND, THE DC COMMISSION FOR WOMEN'S ROOTS LIE IN THE REPORT OF THE PRESIDENT'S COMMISSION ON THE STATUS OF WOMEN, WHICH PRESIDENT KENNEDY PRESENTED IN 1961. SIX YEARS LATER, AN EXECUTIVE ORDER CREATED THE DC COMMISSION FOR WOMEN AS AN INDIRECT SERVICE AGENCY AND FUNDED BY PUBLIC DOLLARS. THE COMMISSION'S BASIC MANDATE WAS TO IDENTIFY ISSUES AND PROBLEMS SPECIFICALLY AFFECTING WOMEN IN THE NATION'S CAPITAL AND RECOMMENDING SOLUTIONS TO THE MAYOR. THE DC COUNCIL PASSED DC LAW 2-102 IN 1967. THE LAW LOCATED THE

COMMISSION IN THE EXECUTIVE OFFICE OF THE MAYOR AND GAVE IT PERMANENT STATUS AS PART OF THE DISTRICT GOVERNMENT.

SINCE THEN THE COMMISSION HAS A PROUD HISTORY SERVING THE DISTRICT AS AN ADVOCACY AGENCY AND RESOURCE CENTER TO ADDRESS ISSUES AND TO HELP IN SOLVING PROBLEMS FACING WOMEN TODAY.

OUR RECORD SPEAKS FOR ITSELF. IN THE LAST EIGHT MONTHS, WE HAVE HELPED ORGANIZED TWO HIGHLY SUCCESSFUL SELF-SUFFICIENCY/WELFARE TO WORK TRAINING AND CAREER TRANSITION PROGRAMS WITH MY LAW FIRM, HOGAN & HARTSON. WE HAVE RE-ESTABLISHED AN EXCITING NEW LOCAL LEADERS ROUNDTABLE WHERE WE WILL SERVE AS AN UMBRELLA GROUP FOR THE LOCAL WOMEN AND CHILDREN'S ORGANIZATIONS IN THE DISTRICT OF COLUMBIA TO RAISE THEIR CONCERNS SPECIFICALLY ADDRESSING WOMEN IN CRISIS, ECONOMIC SUSTAINABILITY AND HEALTH. LAST YEAR WE HELD A LEGISLATIVE CONFERENCE FOR WOMEN OF WASHINGTON WHERE A FINAL REPORT WAS SUBMITTED TO THE MAYOR. ADDITIONALLY, THE COMMISSION SERVED AS A CO-SPONSOR FOR THE REPORT ON THE STATUS OF WOMEN IN THE DISTRICT OF COLUMBIA PREPARED BY THE INSTITUTE FOR WOMEN'S POLICY RESEARCH.

TODAY WE ARE ASKING FOR YOUR ASSISTANCE, MR.

CHAIRMAN. THIS IS NOT AN ATTEMPT TO USURP HOME RULE, BUT A REQUEST FOR A MINIMAL AMOUNT OF FUNDING TO KEEP OUR DOORS OPEN. THE DC COMMISSION FOR WOMEN IS IN A DESPERATE ECONOMIC POSITION. SINCE THE LOSS OF OUR FUNDING FOUR YEARS AGO, WE HAVE STRUGGLED TO MAINTAIN THE DUTIES DICTATED BY THE STATUS IN 1978. WE ARE GRATEFUL TO MAYOR MARION BARRY FOR ALL THAT HE HAS DONE IN SUPPORT OF THE COMMISSION BUT HIS HANDS WERE TIED WITH THE BUDGET OFFICE RECOMMENDATION TO DENY ANY FINANCIAL SUPPORT FROM HIS OFFICE. YOU MAY NOT KNOW THAT MAYOR BARRY BROUGHT A PROPOSAL BEFORE DC GOVERNING OFFICIALS JUST RECENTLY ASKING FOR FINANCIAL ASSISTANCE. THIS TOO, UNFORTUNATELY, WAS DENIED.

THE MAYOR'S SUPPORTS MY TESTIMONY FOR REQUEST FOR DIRECT APPROPRIATION OF FUNDS TO JUMP-START OUR OFFICE IN ORDER FOR THE ALL VOLUNTEER COMMISSIONERS TO CARRY OUT ITS SUBSTANTIVE WORK. PART OF OUR INITIATIVES INCLUDE AN AGGRESSIVE CHILDREN'S HEALTH OUTREACH PROGRAM. WE NEED TO ORGANIZE A PRIVATE-PUBLIC PARTNERSHIP TO ASSESS AND IDENTIFY THE NEEDS OF CHILDREN WITH THE GOAL OF IMPROVING THEIR HEALTH STATUS. THE DC COMMISSION FOR WOMEN NEEDS FULL FUNDING. WE CANNOT DO THE JOB THAT IS NECESSARY WITHOUT A FULL-TIME EXECUTIVE DIRECTOR AND A FULLY FUNCTIONAL OFFICE WHOSE DOORS ARE OPEN ALL DAY.

WE NEED YOUR HELP TO EMPOWER THE COMMISSION TO BUILD A BRIDGE BETWEEN WOMEN IN NEED AND THE RESOURCES REQUIRED TO HELP THEM REACH FINANCIAL SELF-SUFFICIENCY.

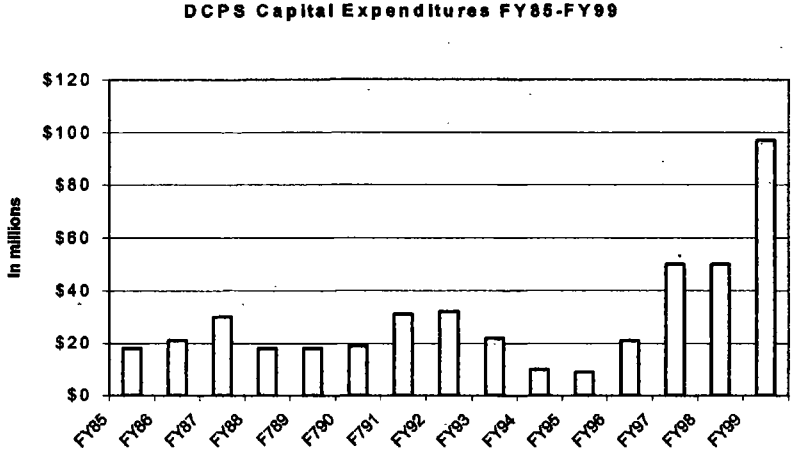
IN CLOSING, MR. CHAIRMAN, THIS COMMISSION WHICH I CHAIR IS A WORKING COMMISSION WITH COMMITTED WOMEN WHO VOLUNTEER THEIR TIME, THEIR PASSION, THEIR TALENT AND THEIR RESOURCES TO HELP WOMEN IN NEED. AS RESIDENTS OF THE NATION'S CAPITAL, WE ARE SERVING AS ROLE MODELS FOR THE GLOBAL WOMEN'S COMMUNITY. PLEASE HELP US CARRY OUT OUR WORK BY HONORING OUR REQUEST FOR DIRECT APPROPRIATION FUNDS FOR FISCAL YEAR 1999.

THANK YOU, MR. CHAIRMAN.

PUBLIC SCHOOL FACILITIES

Testimony before the House District Appropriations Committee
Mary Filardo, Director of the 21st Century School Fund
June 24, 1998

Thank you for inviting me to testify this afternoon. I will limit my remarks to issues associated with the FY1999 capital budget request of DC Public Schools. From FY1985 through FY 1996, the District expended an average of $23.5 million per year on capital construction for the public schools. This represented about 9% of the District's overall capital budget.



Using a conservative 40 years as the useful life of major building components and systems, just to maintain the 1995 inventory of operating schools would have required that the District spend approximately $67 million per year.

The eleven year capital budget shortfall of $465 million plus the compounded deterioration of buildings in poor repair resulted in a 1995 estimate of $600 million to bring operating schools into a state of good repair.

The $50 million expenditure of capital funds for FY97 and the projected $50 million expenditure for FY98 far exceed those of the last ten years. The DCPS is projecting expenditures of $97 million in FY1999.

Attached to this testimony are my comments on the District's Office of Budget and Planning March 1998 submission to the Mayor, Council and Control Board of the FY 1999-2004 Capital Improvement Plan.

I have two major concerns about the District's capital budget on the public schools.

1) The level of detail for DCPS capital projects is totally inadequate. The capital budget should identify projects that have been evaluated and approved through a public process on a priority, school-by-school basis. Before projects are included in the capital plan, specific feasibility and cost studies should be completed. This budget establishes the capital budget as a discretionary fund for facilities managers at DCPS.

2) Capital needs of the school system need to be developed in the context of an educational facilities master plan that is:

   - ❖ grounded in accurate enrollment and demographic data,
   - ❖ based on educational program requirements,
   - ❖ consistent with projected economic development or other District plans,
   - ❖ approved by the Board of Education, or its equivalent, the Council, Mayor and Control Board through an open public process.

To keep my remarks brief, I will not address the management of the capital program, except to say that many of the management problems would be avoided if the capital budget approved by the Council and Congress was required to have sufficient detail and if there were an adequate long range educational facility master plan.

Neither of these require exceptional expertise, and are routinely done in other jurisdictions. However they do require due diligence, openness, and a relinquishing of the crisis management that pervades DCPS.

I urge Congress to insist that the District's capital budget for DCPS meet these standards.

In addition, I urge Congress to work with the District to establish a reliable, predictable funding formula for the modernization of our schools. Whether or not the buildings are used for a system of public schools, charter schools or are use to support children using vouchers, the public will be financing the buildings that house educational programs. Remedies to the facility problems do not need to stall while the larger education debate goes on. Thank you.

Page	Comment
234	a) There should be information on capital expenditures through FY1997. Even if they are not audited, there should be some attempt at a base line. b) There should be a summary of the annual operating budget impact, from school closings and from energy conservation or other improvements. c) Note should clarify where "other" sources of funds are coming from; i.e. sale of Sallie Mae Securities, Connie Lee, and amount estimated from leasing, or sale of schools. d) Should reference Corps of Engineers, since no longer working with GSA. e) Authority cannot delegate its powers to Board of Trustees. f) Should reference settlement of court case and CB agreement to dedicate 27.5% of capital financing to schools.
235	a) "General Improvements" is a repetition of other project descriptions contained in this capital budget, basically representing a capital, maintenance and repair discretionary fund of $64,700,000 for FY1999 without controls. It should not be permitted in a capital budget.
236	a) Roof replacement expenditures through FY 1997 should be noted. b) DC Capital Budget identifies only $8 million for roof replacements in FY1998, yet in the DCPS "Breakout of FY1998 Capital Program by Subproject and by Ward" DCPS estimates expenditures of $34,075,382 for roof replacement. c) What amount has been approved? d) Schools will not be closed for leaks, without Judge's intervention.
237	a) Boiler replacement expenditures through FY1997 should be noted. b) DC Capital Budget only $7 million budgeted for boiler replacement in FY1998, in DCPS "Breakout of FY1998 Capital Program by Subproject and by Ward" DCPS has a total estimate of $18,210,671 for boiler replacements. c) How were boiler projects prioritized? d) What will the operating cost impact be of boiler replacements? Are they more energy efficient?
238	a) DCPS identifies only $588,000 for emergency generator replacement for FY1998. b) DC Budget projects $1 million. c) What is approved? d) How many generator repairs have been done, how many are needed? e) The first sentence in Section D. "Description and Justification" has nothing to do with replacing or installing emergency generators.
239	a) DCPS identifies $13,510,880 for HVAC replacement for FY1998 rather than $5 million in DC Capital Plan. b) How are estimates established? Based on what? c) What will be the operating cost impact of these replacements? Are they more energy efficient?
240	a) DCPS identifies $2,208,288 for replacing underground storage tanks at various school sites in their Breakout of FY1998 Capital Program. b) DC Capital Budget reports only $1 million for replacing underground tanks. c) Neither identifies how many will be replaced and where. d) How is estimate derived?
241	a) DCPS identifies $8,3,75,657 for window replacements for FY1998. b) The DC Capital Budget indicates that $5 million is budgeted for FY1998. c) How much has been approved for window replacements? d) How were estimates developed? e) What will be the operating budget impact of window replacements? f) Will window replacements be at schools with new roof insulation, boiler, HVAC? How does this impact utility expenditures in operating budget?

	g) Section D. needs editing.
242	a) DC Capital budget lists no budget estimate for Structural Repair b) DCPS Breakout for FY1998 estimates expenditures of $281,220 for two projects for structural repair. c) In Section D. project description includes repair and/or upgrading of swing space for schools to be used as emergency staging area for students who have to be relocated from closed schools. d) No estimate is included for swing space improvements in DC Capital Budget or in the Breakout of FY1998 Capital Program by DCPS.
243	a) Sanitary Sewer Improvements should be part of a whole school interior modernization—to tear up antiquated buildings just to replace sewer drains is ridiculous. b) Not a part of DCPS plan anywhere. c) Poorly written project description.
244	a) Potable Water Plumbing Improvements should be part of whole school interior modernization. b) Project description in Section D. has naught to do with Potable Water Plumbing, but appears to be the description for "Energy Improvements."
245	a) Maintenance Improvements are not a part of the DCPS breakout of FY1998 Capital Program. This will be a problem if the deficit for FY 1998 is reduced by using $10 million to cover expenditures in level 2 building maintenance and repair from the capital budget. ***(This cutting of operating budget for level 2 maintenance and repair is why we have roughly $600 million worth of deferred maintenance. This happens all the time—business as usual again. There is weak voice for buildings—strong voice for salaries.)*** b) The description of Scope of Work in Section D. is not for Maintenance improvements, but it describes capital projects—electrical mods, replacement of plumbing systems, roof replacements, provision of energy efficient heating, ventilation systems, boiler chiller replacements, etc. c) Deferred repair and maintenance should be level 2 work—including preventative maintenance such as chemical treatment of boilers, flushing water systems, cleaning roof drains and gutters, repairing fences, sidewalks, etc.
246	a) DCPS Breakout of FY1998 Capital Program identifies $921,900 for asbestos abatement at two schools. b) DCPS estimates seem exceedingly high. c) DC Capital budget estimates $5 million for unspecified asbestos abatement. d) The note in Section D. indicates that GSA did cost studies. Where is the cost study? e) What work is being approved here?
247	a) Electrical modifications should only be done as part of whole school interior modernization—they are disruptive, expensive and a health hazard to do in occupied buildings. b) DCPS has identified one electrical "modications" (must mean modification or modernizations?) at Aiton ES for $131,700 for FY1998. c) Electrical modernizations were a part of the FY1998 $27 million for "General Improvements." d) What has been approved? e) DC Capital Budget shows no funds for FY1998.
248	a) DCPS, while needing to increase its compliance with ADA, has only $358,224 in Breakout of FY1998 Capital Program for two schools. b) DC Capital Budget identifies FY1998 budget estimate of $14,889,000 c) Section D. sites "cost studies of GSA"—again, I do not think they have real cost studies. d) Given the move to accommodate more students requiring special education in local schools, DCPS may need to increase its expenditures.

	e) What is planned? f) DCPS should have whole school modernizations strategically located to accommodate students needing fully accessible facilities. But time is running out for compliance.
249	a) In Equipment Upgrade, improvements to sprinkler systems should be part of full interior modernization so they will be more safely and economically done.
250	a) Modernization identifies the replacement of Kelly Miller JHS. b) No enrollment projections or educational specifications have been developed to determine the scope of this project. c) There has not been a feasibility study comparing the cost of modernizing the existing structure versus demolishing and building a new structure. d) How is it that this project ends up costing $63 million in 6 years? e) What other projects are contemplated, but not referenced in anyway? f) How much is Kelly Miller alone estimated to cost? g) What size school, for what size population is being constructed?
251	a) Interior finish improvements should be part of a whole school interior modernization. To improve finishes, before modernizing electrical systems, replacing plumbing, redesigning interior space to better support programs is waste, waste, waste. b) Basic painting, retiling of floors for examples, should be a part of maintenance improvements.
252	a) The "Emergency Projects" are described in Section D. not as emergencies, but as "Energy Projects" b) The description for Emergency Projects appears to be on page 253 under "New School"
253	a) New School, although identifying an anticipated expenditure over 6 years of $85 million is in no way justified or described. In fact, the description is for emergency projects. b) Is Kelly Miller, which is under "Modernization" on page 250, but in fact describes a project for a new school included in this estimate? c) How are the estimates made? What are they for? How can this be approved?
254	a) DCPS estimates it will spend $617,760 through the Department of Energy Rebuild America Program in FY1998. b) DC Capital Budget includes no estimate for FY1998. c) Energy conservation of a scale that will impact the operating budget in a significant way will be the result of comprehensive modernization and proper preventative maintenance and building management. d) If insulation is added to roofs and old windows are not replaced, or old boilers are replaced so they are sized to heat buildings without roof insulation or new windows, little will be realized through isolated energy conservation projects.

SMALL BUSINESS INCUBATOR PROGRAM

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economic empowerment Through enterprise

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Southeastern University
Western Development Corporation

Linda K. Bolliger
Administrator

■ ■ ■

Projects:

[redacted]
Entrepreneurs Group of Washington
Small Business Incubator
Washington Business Guide

TESTIMONY

for

The Honorable Charles H. Taylor
Chair, Committee on Appropriations
U.S. House of Representatives

District of Columbia Sub-Committee

at

H-144 U.S. Capital
Wednesday, June 24, 1998

by

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Mission
To exchange resources to empower people, especially minorities and women, through sustainable development projects.

Appropriations Testimony

The following testimony is being provided by colleagues involved with the *e3 enterprise exchange, inc.*, which is the 13-year-old District-based 501(c)(3) corporation that *trades as* the *Small Business Incubator* program.

BACKGROUND - *e³ SBI* began as a private initiative which was financially supported by the business community and a number of bankers. Because the District government had legislatively mandated it provide incubation-related services to District residents, the initiative evolved to a public-private partnership.

INDUSTRY - *e³ SBI*, a member of the National Business Incubation Association, follows NBIA's "Best Practices." Business incubators accelerate the successful development of entrepreneurial companies through an array of business support resources and services, developed or orchestrated by incubator management, and offered both in the incubator and through its network of contacts. A business incubator's main goal is to produce successful firms that will leave the program financially viable and freestanding. These incubator "graduates" create jobs, revitalize neighborhoods, commercialize critical new technologies and strengthen local and national economies. Management guidance and consulting suitable for young growing companies is critical to the definition of an incubator. Incubators usually also provide clients access to appropriate rental space and flexible leases, shared basic business services and equipment, technology support services, and assistance in obtaining the financing necessary to company growth.

Appropriations Testimony

Two principles characterize effective business incubation: (1) The incubator aspires to have a positive impact on its community's economic health by maximizing the success of emerging companies. (2) The incubator is itself a dynamic model of a sustainable, efficient business operation.

TESTIMONY - The District of Columbia government could support local business development activity by promoting the following strategies:

1. Create an Inter-departmental approach to working with their private sector partners to create a common result. Thus, Human Services, Employment Services and Public Works, for example, should coordinate their business development activities with the proposed National Capital Revitalization Corporation (NVRC). This would provide a more coordinated effort and remedy the problem the private sector partners have with working with two, three, and often four different department bureaucracies. Inter-departmental agreements would be more time and cost efficient and help produce quicker results.

2. Economic development depends on a synergy between the local government and the business community. Therefore, the District government needs to be able to make multi-year commitments to its partners complete with sources and amounts of funding. This will allow the private sector partners to better leverage their resources and build the capacity to achieve bigger results.

3. To the extent possible, the District government needs to se its resources to help de-fragmentize technical assistance to the small business community.

Hugh, McColl, Jr., of NationsBank chaired the 91st American Assembly last year at Columbia University. The findings were reported in a publication entitled, *Community Capitalism: Rediscovering the Markets of America's Urban Neighborhoods.* The report contains recommendations and action steps that can be taken to seize business opportunities to revitalize urban neighborhoods. Here is a snapshot.

1. "Distressed urban communities can be revitalized by a for-profit, business-driven expansion of investment, job creation and economic opportunities.." They call it "Community Capitalism" and that ..."community capitalism...can be made to work."

2. **"Community Partnerships - A Major Resource** is a section that makes the following point: ...the private sector cannot be alone in community capitalism." "Community capitalism is the key for the 21st century of America.

3. **"Workable Approaches: Growing existing Business and Entrepreneurship"** - "Action must be taken to improve access to equity and early-stage capital." Technical assistance is essential to expanding entrepreneurship." "Rationalize and

> expand public funding strategies for supporting technical assistance. Program fragmentation and duplication are widespread." "THIS IS AN INTERAGENCY GOVERNMENTAL RESPONSIBILITY."
>
> "Expand investment in business incubators. The success rate for businesses supported initially by business incubators is significantly higher than the success rate for those initiated outside of the incubator environment.

Currently, e3/SBI has 13 businesses in incubation with 30-40 new jobs projected.* Presently e3/SBI receives federal funds, private sector funds and has attempted to negotiate the City FY 1998 annual contribution. Said funding combined is earmarked to renovate and build-out the incubator site, which is located in the distressed neighborhood known as Adams Morgan.

Because the City is reinventing the way it will approach economic development, vis a vis, the NCRC, the Department of Housing and Community Development is currently charged with economic development activity. Traditionally, DHCD passes through federal Community Development Block Grant funds to Community Development Corporations, and other community-based organizations that can perform within annual parameters unlike business incubators. Business incubators provide services to start-up

*1994-1998 Snapshot attached

companies. The average stay in a business incubator is 18 months to three years. Thus, the incubator program's partnership with the City is currently in limbo and was not included in the new NCRC legislation.

Given the City does not lend itself to manufacturing, but to the service industry; and given it is an open market for micro-enterprise, the absence of governmental support for business incubation as a major player in business creation/job generation makes it more difficult to attract federal and private sector funding.

The absence of the City's FY 1998 funding of $300,000 has resulted in the incubator program's inability to sign a lease on the target site and begin the light renovation and build-out to meet its target opening date of October 1998. The $300K represented .01 per cent of the City's $32 million dollar CDBG allocation. The absence of any inclusion in the District's budget for FY 1999 suggests business incubation enjoys little priority in the City leadership's future economic development plans. .03 percent is a more realistic number and could be doubled by using it as leverage in 1999.

In closing, we wish to thank the Subcommittee for the opportunity to place on the record the role business incubation can play in creating jobs through enterprise development. On behalf of our stakeholders in the private sector and our Board of Directors, we offer you this testimony.

-end-

e³ Small Business Incubator

A Public-Private Partnership

Partners: District of Columbia Government
Community Development Corporations
Community-based Organizations
Banks, Corporations & Utility Companies
Federal Government

Mission: To coordinate fragmented technical assistance and access to capital under one umbrella, with site and shared administrative/secretarial support, for the purpose of fast-forwarding upstart, emerging and struggling enterprises into the area marketplace.

Goal: To be the premier Small Business Incubator program in the area providing standardized incubation-related services on a multi-site basis.

Objectives: To provide compliance for the City's 1985 legislation: PL 6-71 (Business Facilitation Act) by organizing the private community to aid the City through a public-private partnership construct.

To recruit the highest level of technical assistance from attorneys, accountants, management and marketing specialists, insurance/bonding companies, and capital sources.

Operate incubator sites in depressed neighborhoods in linkages with existing CDCs and CBOs and respond to their market needs.

A:\TALKPTS.PPP

e³/Small Business Incubator
Public/Private Partnership
1994 - 1998 Snapshot

Total City Partnership Funding

1994 - 95	$ 50,000.00
1995 - 96	200,000.00
1997 - 98	232,000.00
	$482,000.00

1997 - 98 -0- → Leveraged: $630,340.00

- $245,000.00 Private
- 39,000.00 Revenue
- 192,000.00 Federal OCS
- 85,341.00. Inkind

Results:

- 36 Total T/A Providers
- 20,000.00 Phone/Postal Inquiries
- 8 Major Corporate Stakeholders
- 32 Aggregrate Program Participants
- 7 Program Graduates

• Laundromat	1FT	1PT
• Ad Specialty Co.	3FT	4PT
• Travel Agency	2FT	1PT
• Insurance Billing	2FT	
• Janitorial Service	2FT	1PT
• Health Mgment.	2FT	1PT
	12	**8**

 # Incubator Staff Jobs

3 FT 2 PT

 # Current Program Population 15

Total # of Jobs Created: 24FT 12 PT

Financing:

3 Bank Deals @	$216,000.00
1 Private Investor	50,000.00
Total	**$266,000.00**

Footnotes

1. Private sector cash contributions
2. Revenues generated by program
3. Federal funds
4. Inkind a combination of volunteers, interns, and % of coach time
5. (10) Program terminations

Capacity

T/TA
- Legal
- Accounting
- Financing
- Management
- Marketing

Space/On-site

Administrative &
- Secretarial Support

Added Value

- Tune-up service for existing busineses seeking profitability.
- Informal Board of Directors to provide exsisting businesses and Incubator graduates with on-going guidance.

CONCLUSION OF HEARINGS

Mr. TAYLOR. That concludes our committee hearings. We will adjourn subject to the call of the chair.

APPENDIX

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2. Report by the D.C. Financial Responsibility and Management Assistance Authority entitled "1999 REPORT TO CONGRESS – MEDICAL MALPRACTICE" 898

3. Violation by Control Board of Congressional Intent: "DOCUMENTS REFLECTING COMMITMENTS AND DIRECTIVES RELATING TO USE OF REVITALIZATION ACT (PL 105-33) BENEFITS TO REDUCE DISTRICT'S ACCUMULATED DEFICIT 967

4. Report by the General Accounting Office on its review of the CONTROL BOARD'S AUDITED FINANCIAL STATEMENTS..... 981

5. Problems With Control Board – Withholding of Documents for Bank Reconciliation: Excerpt from "REPORT ON COMPLIANCE AND ON INTERNAL CONTROL OVER FINANCIAL REPORTING BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS*, September 30, 1997" prepared by KPMG Peat Marwick LLP, independent auditors for the District of Columbia government 1007

District of Columbia Financial Responsibility
and Management Assistance Authority
Washington, D.C.

THE NECESSITY AND COSTS

OF

DISTRICT OF COLUMBIA SERVICES

by

Philip M. Dearborn and Carol S. Meyers

Greater Washington Research Center

January 1997

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ACKNOWLEDGEMENTS

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Ibrahim Mumin provided valuable assistance as a research assistant, and Joan Casey gave us important help in organizing the report and editing it. We especially thank George Peterson, Marcia Howard, and Carol O'Cleireacain for reading and commenting on the draft report. Mary Levy provided valuable insights into the financing of D.C. Public Schools.

This report would not have been possible without the help of government officials in the D.C. government, as well as those in the governments of Maryland, Virginia, Baltimore, Arlington, and Alexandria. Though too numerous to list, the officials in these governments went to great lengths to meet our data needs, and we very much appreciate their help.

The contents of this report, of course, are solely the responsibility of the authors.

PHILIP M. DEARBORN
CAROL S. MEYERS

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EXECUTIVE SUMMARY

The D.C. Financial Responsibility and Management Assistance Authority commissioned this study to ascertain the necessity of District services, and to evaluate the workloads and costs of those services in relation to comparable governments.

A list of more than 200 separate District activities provides a detailed look at how the District spent $3.3 billion of locally raised revenues in 1995. The list also provided the basis for a detailed examination of individual District services to determine their necessity and to compare their expenditures to similar expenditures by other governments. The report contains descriptions of 50 specific services and conclusions about the necessity and costs for each of them.

To determine necessity, services were classified as "essential" when the government could not discontinue the service regardless of budget constraints; "basic" when the service is generally provided by other governments, but could be discontinued; and "discretionary" when the service, or feature of a service, meets unusual needs that either do not exist in or are not considered high enough priority by other governments to provide them. Discretionary services often have vigorous supporters who believe the District must provide the service.

The general conclusions of this study are summarized below:

1. Most District services are essential or basic, but a substantial number have some portion that is discretionary. The expenditures for discretionary services could not be precisely measured, but they probably total less than $100 million.

2. The District's total expenditures for many services exceed those of Maryland and Virginia state and local governments by wide margins after adjusting for differences in total population. Unless the disproportionately high expenditures by the District can be reduced, the District must also have revenues that are similarly high relative to population to balance its future budgets.

3. A principal reason for high service expenditures, especially for state-type services, is a disproportionate workload in the District because of its urban characteristics. Workload as used in this study means persons requiring the service or potentially using the service.

4. District service expenditures are also high because of higher costs measured relative to workload or, in some cases, population. Higher costs may result from excessive employees; higher employee pay and benefits; higher Washington area costs, such as for health care; inefficient organization and management; or unique features such as retirement costs. In some instances, the reasons for higher costs are identified (such as the higher retirement costs), but in most cases a more detailed management and organization analysis of the service will be necessary.

5. Three factors workload, retirement, and debt service account for about $1.03 billion of higher District spending compared to spending in Baltimore and Maryland:

Workload - Fifteen District services have workloads that can be reasonably quantified and compared to similar workloads encountered by Maryland, or the combined Maryland and Baltimore governments in the case of shared responsibilities. These 15 services resulted in 1995 District expenditures of $1,048 million. If the workloads had been comparable, the estimated District expenditures for these services would have been $411 million, or about $637 million less.

Police, Fire, and Teacher Retirement - District expenditures for police, fire, and teacher retirement are unusually high in the District because of generous benefits and because the systems were not funded prior to 1980. As a result, the District spent $291 million in 1995 for retirement for police, fire, and teachers. In Baltimore, the city's retirement costs for these employees was $85 million, or $206 million less.

Debt Service - The District has very high debt service expenditures. Some of the reasons include: the costly 30-year level debt service borrowing from the U.S. Treasury prior to 1984; the need to finance facilities to meet high demands or workloads, such as correctional facilities; financing a $332 million accumulated deficit; limited use of pay-as-you-go financing; and a high city share of Metrorail capital costs. The District's 1995 debt service expenditure was $366 million. The Baltimore debt service, with Maryland's debt service apportioned to the city, was $176 million, or $190 million less.

6. For a few services, the District provides a lower level of service or has a lower cost than neighboring governments. Some District costs are lower because of federal augmentation of costs. The federal augmentation could not be exactly determined, but appears to total over $100 million.

The report recommends improved analysis of District workloads, improved expenditure reporting, and assignment of debt service costs to specific programs. It also recommends additional studies that should be made.

Part 1 OVERVIEW

The D.C. Financial Responsibility and Management Assistance Authority commissioned this study to ascertain the necessity of District service expenditures, and to evaluate the workloads and costs of those services in comparison with those provided by governments in jurisdictions with similar characteristics.

This study consists of: (1) a detailed list of the services provided by the District, (2) a description of the services and an evaluation of their necessity, and (3) a comparison of the District's workloads and costs for the services compared to other governments.

I. COMPARING DISTRICT SERVICES

The District of Columbia has a deep and recurrent structural imbalance in its budget. Stabilizing the finances of the District will require substantial changes in the way the city finances and delivers services. Some of those changes are under way and more are being identified. Even if the current recovery plan is successful, there is a concern that revenues may be inadequate to deliver essential services in the long run.

Addressing the question of revenue adequacy requires an examination of both service expenditures and the revenue system. On the expenditure side, which is the subject of this study, it is required to determine whether the programs and services provided in the District are necessary and whether they are provided efficiently and economically. Necessity and efficiency must be measured against some norm. In this study the norm is services provided in similar urban areas. A parallel comparison of the District's revenue system to some norm in terms of revenue base, tax structure, and effort will be necessary to put this study of service costs in perspective.

List of Services

The detailed list of District services (see Table 1 at the end of Part 1) contains more than 200 separately identified activities. The District's total 1995 spending is divided into specific activities based on the accounting system's responsibility centers and includes expenditures for activities that are not services in the accepted sense, such as facility maintenance, administrative support, and debt service. The purpose of the list is to provide a detailed look at how the District spent $3.3 billion of locally raised revenues in 1995 and to provide a basis for reviewing services.

Necessity of Services

It is commonly perceived that the District spends more per capita than other state and local

governments. One suggested cause for high spending is that the District provides a higher level of services or is more generous in its benefits than other governments. Testing the validity of this reason for high spending requires a determination of the necessity of service to see whether the District goes beyond what governments usually provide.

The services reviewed in this study are looked at from the perspective of people receiving the service, regardless of what government provides or finances the service. For example, does a person in Baltimore or Arlington County receive the same service as a person in the District, and is that service better or worse when measured by such factors as eligibility, benefits, or other objective criteria.

For purposes of classifying services in this study, the level of necessity has been divided into three categories as follows:

Essential Some services are clearly essential, such as police, fire, and those required by federal law. In these instances, the government could not discontinue the service, regardless of budget problems.

Basic For other services, necessity is not so clear-cut and must be decided as a matter of policy. Nevertheless, there are services that are so generally provided by governments that they fall into the classification of basic. In these instances, the District could discontinue a service, such as libraries, city planning, or parks and recreation, but it would mean that persons in the District would not receive services generally provided in other cities and states.

Discretionary Services that the District provides to meet unusual requirements or needs are defined as discretionary. These are services to meet needs that either do not exist or are generally not considered high enough priority by other governments to provide them. There are also District services that are essential or basic, but have additional features that are discretionary. It should be recognized that discretionary is not the same as unnecessary. Many discretionary District services have vigorous supporters.

For this study, the District's services have generally been compared to those in adjoining Maryland and Virginia, as well as the City of Baltimore and Arlington County, to determine whether services are essential, basic, or discretionary. The determinations may not be definitive in terms of all states and local governments, but they should be valid in a regional context.

Most District services are essential or basic, but a number have some discretionary components. The expenditures for discretionary services could not be precisely measured, but they probably total less than $100 million.

The conclusions regarding which services are essential, basic, and discretionary, are summarized in Table 2.

Table 2. **Services Classified by Necessity**

Services	1995 Approp. Cost ($ millions)	Essential	Basic	Some or All Identified as Discretionary
Public Schools	$613.7	X		X
Medicaid	377.9	X		X
Police	366.8	X		
Debt Service	366.4	X		
Adult Corrections	238.8	X		
Fire and EMS	150.4	X	X	
Mass Transit	123.1		X	X
Mental Health	113.7	X		
Courts	87.3	X	X	
AFDC	62.8	X		X
Foster Care	59.5	X		
D.C. General Hospital	56.7			X
Higher Education	53.9		X	
Indigent Representation	37.9		X	X
Streets	37.0	X		
Financial Management	36.5	X		
Juvenile Corrections	35.3	X		
Regulation	34.9		X	
Developmental Disabilities	27.0		X	
Parks and Recreation	25.2		X	
Child Day Care	23.8	X		X
Need Determination	23.3	X		
Alcohol and Drugs	23.0		X	
Solid Waste	21.0	X		
Elderly Services	20.2		X	
Health Clinics	20.2		X	
Public Library	19.8		X	
Hsg. and Community Develop.	15.4		X	X
Settlements and Judgements	14.5	X		X
Training	14.1			X
Homeless	12.7		X	
Parking Enforcement	9.2	X		
Economic Development	7.8		X	
Legislative	7.7	X		
General Relief	7.5		X	
Rehabilitation	6.8		X	

Table 2. Cont.

Services	1995 Approp. Cost ($ millions)	Essential	Basic	Some or All Identified as Discretionary
HIV/AIDS	6.1		X	
Disease Prevention	5.7	X		
Vehicle Registration	5.7	X		
Parole Services	5.4		X	
SSI Supplements	5.2	X	X	
School Health	4.6		X	
Long-Term Care	4.0			X
City Planning	3.2		X	
Pretrial Services	3.2		X	
Child Support	2.9	X		
Elections	2.5	X		
Medical Examiner	1.9	X		
Arts and Humanities	1.7		X	
Health Labs	1.4		X	

Costs of Services

The District's total expenditures for many services exceed those of Maryland and Virginia state and local governments by wide margins after adjusting for differences in total population. This conclusion is based on a comparison of District expenditures for state-type services to Maryland and Virginia, and District expenditures for local-type services generally to Baltimore and Arlington County. It is not surprising that the District's spending to provide services for a concentrated and distressed urban population is greater than similar spending by these states.

Unless the disproportionately high expenditures by the District can be reduced, the District must also have revenues that are similarly high relative to population to balance its future budgets. The examination of whether the District can expect future revenues to be disproportionately high is not part of this study, but such a future seems doubtful. For this reason, it is important to examine the reasons for the high District expenditures and the potential for reducing those expenditures.

A principal reason for high service expenditures, especially for state-type services, is a disproportionate workload in the District because of its urban characteristics. Workload as used in this study means persons requiring the service or potentially using the service. The best example of a disproportionate workload is Medicaid. With virtually identical eligibility

requirements, 26.9 percent of the District population receives Medicaid compared to 9.3 percent of Maryland's population. If the District and Maryland had the same percentage of population receiving Medicaid, District Medicaid spending would have been at least $500 million less than it actually was in 1995. This large proportion of city residents receiving the service is not, however, a unique District characteristic. Baltimore has an almost identical 26.8 percent of its population receiving Medicaid, but Maryland is able to redistribute the high Baltimore workload costs to other areas of the state.

District service expenditures are also high because of higher costs measured relative to workload or, in some cases, population. Higher costs seem to be particularly true in city-type services, such as police, emergency medical services, and public education. Higher costs for delivering a service may result from a variety of causes in addition to better services, including excessive employees; higher employee pay and benefits; higher Washington area costs, such as for health care; inefficient organization and management; or unique features, such as the retirement costs for police, fire, teachers, and judges. In some instances, the reasons for higher costs are identified (such as the higher retirement costs), but in most cases a more detailed management and organization analysis of the service will be necessary.

Table 3 summarizes the services for which expenditures are relatively higher, comparable, or lower, and identifies the apparent causes of the higher expenditures between workload, higher costs, and discretionary services or other reasons.

Table 3. **Services More Expensive than Comparable Governments**

		Causes		
Services	**1995 Apppropriated Expenditures ($ millions)**	**Workload**	**Cost**	**Discretionary or Unclear**
Public Schools	$613.7		X	X
Medicaid	377.9	X	X	X
Police	366.8		X	X
Debt Service	366.4			X
Adult Corrections	238.8	X	X	
Fire and EMS	150.4		X	
Mass Transit	123.1			X
Mental Health	113.7	X	X	
Courts	87.3			X
AFDC	62.8	X	X	X
Foster Care	59.5	X	X	

Table 3. Cont.

Services	1995 Apppropriated Expenditures ($ millions)	Causes: Workload	Causes: Cost	Causes: Discretionary or Unclear
D.C. General Hospital	56.7			X
Indigent Representation	37.9	X	X	X
Juvenile Corrections	35.3	X		
Developmental Disabilities	27.0		X	X
Need Determination	23.3	X		
Alcohol and Drugs	23.0			X
Elderly Services	20.2	X	X	X
Settlements and Judgements	14.5			X
Training	14.1			X
Homeless	12.7			X
Rehabilitation	6.8	X	X	
HIV/AIDS	6.1	X	X	
Parole	5.4	X		
SSI Supplements	5.2	X		
Pretrial Services	3.2		X	
Child Support	2.9	X	X	
Elections	2.5	X		

For a few services, the District's costs are lower than neighboring governments, sometimes because of a lower level of service in the District. The most apparent of these are higher education, which is both more extensive and more costly in Maryland and Virginia, and street services, which are much more extensive in Baltimore. Table 4 shows the District services with lower or comparable costs.

Table 4. **Services with Costs Comparable or Lower** ($ millions)

Higher Education	53.9	Economic Development	7.8
Streets	37.0	Legislative	7.7
Parks and Recreation	25.2	Disease Prevention	5.7
Child Day Care	23.8	Vehicle Registration and Related	5.7
Solid Waste	21.0	School Health	4.6
Health Clinics	20.2	City Planning and Zoning	3.2
Public Library	19.8	Arts and Humanities	1.7
Housing and Community Develop.	15.4	Health Labs	1.4
Parking Enforcement	9.2		

Services for Which Cost Comparisons Could Not be Made:

Financial Management	36.5	Long-Term Care	4.0
Regulations	34.9	Medical Examiner	1.9
General Relief	7.5		

In some cases, the costs are lower because of federal augmentation. As shown by the partial list in Table 5, the value of the federal augmentation appears to be over $100 million.

Table 5. **Services Provided by the Federal Government**

Retirement costs for District employees in the U.S. Civil Service Retirement System (normal cost after employee and employer contributions)	$71 Million
Contract costs for District annuitants in the Federal Employees Health Benefits plan	$26 Million
Life insurance costs for post-1990 District retirees under age 65 who are in the Federal Employees Government Life Insurance plan	
Prosecution of felonies and most misdemeanors	
U.S. Marshals Service	
Smithsonian institution museums, art galleries, and zoo	
National parks	
Streets in national parks (10 percent of total District streets)	

10

MAJOR DETERMINANTS OF HIGH DISTRICT EXPENDITURES

The analyses of District services in this study reveal three major determinants of high District expenditures:

Workload

Fifteen District services have workloads that can be reasonably quantified and compared to similar workloads encountered in Maryland or the Maryland and Baltimore governments combined in the case of shared responsibilities. These fifteen services produced 1995 District expenditures of $1,048 million (see Table 6). If the workloads had been comparable, the estimated District expenditures for these services would have been $411 million, or about $637 million less.

Table 6. **Services for which Higher District Workload Costs Can Be Estimated** ($ Millions)

Services	Actual Cost	Workload Factor	Adjusted Cost
Medicaid	$419.3	3	$139.8
Adult Corrections	238.8	2.5	95.5
Mental Health	113.7	2	56.9
AFDC	62.8	3	20.9
Foster Care	59.5	1.5	39.7
Indigent Representation	37.9	2	19.0
Juvenile Corrections	35.3	4	8.8
Day Care	23.8	2	11.9
Need Determination	23.3	4	5.8
GPA	7.5	2	3.8
Rehabilitation	6.8	2	3.4
HIV/AIDS	6.1	5	1.2
Parole	5.4	3.5	1.5
SSI	5.2	3	1.7
Child Support	2.9	2	1.5
Total	$1,048.3		$411.4

Police, Fire, and Teacher Retirement

District expenditures for police, fire, and teacher retirement are unusually high in the District because of generous benefits and because the systems were not funded prior to 1980. As a result, the District spent $291 million in 1995 for retirement for police, fire, and teachers. In Baltimore, the city's retirement costs for these employees was $85 million, or $206 million less.

Debt Service

The District has very high debt service expenditures. Some of the reasons include: the costly 30-year level debt service for borrowing from the U.S. Treasury prior to 1984; the need to finance facilities to meet high demands or workloads, such as correctional facilities; financing a $332 million accumulated deficit; limited use of pay-as-you-go financing; and a high city share of Metrorail capital costs. The District's 1995 debt service expenditure was $366 million. The Baltimore debt service, with Maryland's debt service apportioned to the city, was $176 million, or $190 million less.

Three factors workload, retirement, and debt service account for about $1.04 billion of higher District spending compared to spending in Baltimore and Maryland.

II. HOW THE STUDY WAS DONE

Study Procedures

A preliminary list of District activities was compiled by examining Fiscal Year 1995 actual expenditures reported by the city accounting system's responsibility centers. Some of the responsibility centers do not reflect meaningful activities, so it was necessary to combine them. In other instances, it would have been desirable to have greater detail than was provided by the responsibility centers, but such information was not available. The sewer and water enterprise fund, lottery fund, hospital fund, and some other self-supporting activities are not listed as city services, except to the extent that the general fund contributes resources to them.

For each activity on the preliminary list, the city's appropriated and total spending in 1995 is reported. Because this study is concerned with local funds spending, only the appropriated amounts supported by local revenues and the unrestricted federal payment were used for comparative purposes. Spending supported by federal grants, reimbursements, and interagency transactions were excluded. Fiscal year 1995 expenditures were used because uncertainties about the 1996 and 1997 budgets made it impossible to get accurate responsibility center data for those years.

Data and service definitions for 1995 were used throughout, unless otherwise noted. In some instances, changes that have been made or are planned for future years in District services, organization, and spending are noted. The recently approved federal changes in the AFDC program are not reflected in the discussion of that service.

Some of the activities included on the list compiled from responsibility centers constitute services in themselves, but in other instances, several activities were combined for analysis purposes to create a single integrated service. This was often necessary to enable the service to be compared to that of other governments that do not show activities in as much detail, or in the same detail, as the District. The effect of these consolidations was to reduce the list of about 200 activities to 50 services that were examined and compared. About 20 activities that involved small dollar amounts or were difficult to compare were not examined and compared.

For each District service examined, a similar service in Maryland, Virginia, the City of Baltimore or Arlington County was sought to aid in making judgments about necessity. National sources about eligibility, benefits, and other features were also consulted. When comparable services were identified in other governments, available workload and relative costs were examined. The school system in Alexandria was used for comparison with the District because of its similar local characteristics.

In making comparisons, it was necessary to adjust for differences in size of jurisdictions. For population adjustments, the following estimates were used:

District of Columbia	570,175
City of Baltimore	691,131
Arlington County	174,611
City of Alexandria	113,522
City of Philadelphia	1,585,000
State of Maryland	5,042,438
Commonwealth of Virginia	6,394,000

While these population estimates were obtained from different sources and are not all for the same date, they represent reasonable estimates of the 1995 relative populations of these jurisdictions. Using different estimates would not have substantially changed the findings of the study because per capita or relative population comparisons were made in general terms.

Individual reports were prepared for each service, describing the service in the District and in other governments. A determination is made about whether the District service is essential, basic, or discretionary. To the extent possible and relevant, eligibility, benefits, workload, total costs, and unit costs are compared to neighboring governments. Conclusions about comparative benefits, workloads, total costs, and unit costs are made when possible. Reasons for differences in these factors are reported, if known.

District officials provided excellent cooperation and help in doing the analyses. In some instances, District officials were asked to review the findings for factual accuracy, and some changes resulted from these reviews. However, the final decisions about the contents of the report were made by the authors.

State and Local Service Comparisons

The District is a unique government that provides all non-federal government services within its jurisdiction. This includes services typically provided by state and local governments. When comparing the District's services to those provided by other governments, it is tempting to divide the city's services between state and local types. However, comparisons based on such division of services encounter problems that limit their usefulness and restrict the purposes for which they are used.

One reason for attempting to separate state and local activities may be to relate the service to the District's financing capacity. State revenue capacity is very different from local revenue capacity in terms of its economic, demographic, and tax structure characteristics. States typically rely on personal and corporate income taxes, general sales taxes, and motor vehicle related taxes. Local revenues are derived primarily from property taxes and limited sales and income taxes.

From their broad-based taxes, states generally finance entitlements and other services with income redistribution features that are oriented to individuals. Cities, in contrast, are generally responsible for financing those services that are collective, and that benefit property and the entire community. Because the District is one government responsible for providing and financing all non-federal government services, the distinction between state and locally delivered services is important.

Some services are more costly when provided in cities because of urban characteristics, such as high poverty rates. These are the services typically financed by state revenue systems. Their costs in the District should be compared to state costs because the costs are incurred in the states. In contrast, services that, typically, are financed locally should be compared to other local governments' costs.

Sorting out District services so that they can be appropriately compared to states and other local governments may be desirable, but there are some problems in doing so. First, there is no national model that provides guidance. Each state makes its own decisions about how services are financed.

Second, financing for many services provided by local governments is shared between state and local governments. The government that delivers the service may not finance it or may finance only a portion of the cost. The leading example of this is public schools which are a local

responsibility in every state except Hawaii, but for which states provide over 50 percent of financing on average. In some states, welfare, Medicaid, and other income redistribution programs are administered by local officials, but most of the cost is state financed. In these cases, care must be taken to avoid double counting the expenditure, first when the state makes payment to the local government, and second, when the local government provides the service.

Third, the same or related services are often financed and provided by both state and local governments. For example, state police usually complement local police activities and often provide specialized services such as crime labs, major crime investigations, and computerized identification files. Similarly, state park systems augment local facilities in most states.

Fourth, whether the service is state or locally financed may be optional for the local governments. This is true particularly in the enforcement of regulatory laws. For example, most cities and large local governments enact and enforce their own building and sanitation regulations, but if they do not, there is generally a state regulation. Some local governments are unhappy with state higher education programs, and they finance and provide for local community colleges to supplement the state programs.

Finally, for some services there is simply no common pattern. Courts may be an example of this. The responsibilities and financing of both criminal and civil adjudication vary widely with felony and major civil courts being state functions in some states, county (but not city) functions in other states, and regional or circuit courts in still other states.

In short, there is no clear definition of what are local services and what are state services, nor is there any clear division as to which government finances those services. Each state makes its own decisions about the appropriate division. The best we can do is to list those services that most often are financed by state governments, those that are most often financed locally, and those that are generally financed by both.

The services falling into each of these categories are shown in Table 7.

Table 7. **Services Predominantly Financed by State and Local Governments**

Service	1995 Appropriated Expenditures ($ millions) State	Local	Both
AFDC	62.8		
SSI Supplements	5.2		
General Relief	7.5		
Need Determination	23.3		
Foster Care	59.5		
Development Disabilities	27.0		
Child Day Care			23.8
Elderly Services		20.2	
Homeless		12.7	
Rehabilitation	6.8		
Child Support	2.9		
Disease Prevention			5.7
Medical Examiner		1.9	
School Health		4.6	
Health Labs	1.4		
Medicaid	377.9		
D.C. General Hospital			56.7
Health Clinics		20.2	
Long-term Care	4.0		
HIV/AIDS			6.1
Alcohol and Drugs		23.0	
Mental Health	113.7		
Public Schools			613.7
Higher Education	53.9		
Training			14.1
Police		366.8	
Adult Corrections			238.8
Juvenile Corrections			35.3
Parole	5.4		
Mass Transit		123.1	
Streets			37.0
Parking Enforcement		9.2	
Vehicle Registration and Related	5.7		
Fire and EMS		150.4	
Courts			87.3

Table 7. Cont.

Service	1995 Appropriated Expenditures ($ millions) State	Local	Both
Pretrial Services		3.2	
Indigent Representation		37.9	
Parks and Recreation			25.2
Public Library		19.8	
Arts and Humanities			1.7
Regulations		34.9	
Housing and Community Develop.		15.4	
Economic Development			7.8
Settlements and Judgements			14.5
Solid Waste		21.0	
City Planning		3.2	
Legislative			7.7
Elections		2.5	
Financial Management			36.5
Debt Service			366.4
Totals	**757.0**	**870.0**	**1,578.3**

III. NEXT STEPS

Future Improvements Needed

This report is based on the best information that was readily available. In many instances, comparisons could not be made, or could have been improved if better information was available. Because of the importance of the type of analysis contained in this report to future decisions about the District's budget and overall financial planning, some of the improvements that would be helpful are described below.

Workload Analysis

It is difficult to judge whether the District's service costs are economical and efficient without determining the demands for service on the District relative to other comparable governments. Such comparisons are difficult because the services being compared must be

generally the same. For example, it would not be reasonable to compare total Medicaid costs if the District's enrollees contain more high-cost elderly recipients than the government being compared. Similarly, if eligibility standards were more lenient in the District than in the other government, it would bias the comparison. Thus, precise information is needed to compare workloads. In some instances, the District has good workload data but other governments report their information differently. In other cases, good information is not available regarding District services.

Sometimes it is more appropriate to examine the underlying characteristics of the population that relate to demands for services. By using such measures of demand, District policy influences on demand are removed. For example, more children in poverty as a percentage of population should result in greater potential demand for AFDC entitlement payments regardless of District policies. Much of the data that would make such comparisons meaningful are not available on a uniform and current basis, and in some instances where data are available, the direct relationship to the service demand is not always clear. For example, we would like to use more of the 1990 Census data characteristics of population in our workload analyses, but we believe much of the data are too out-of-date to be relevant.

For each service examined in this study, exactly comparable workload information was sought from the government being compared or from other outside sources. However, uncertainties about comparability often resulted in only general statements about how workloads compare.

Comparing workloads in the District to those in other governments is a critical factor in evaluating the costs of District services, and priority should be given to developing better workload comparisons.

Expenditure Reporting

During the course of this study, it was apparent that the classification and reporting of District expenditures are not designed to support a budget process that is needed for effective planning, decisions, and control. The District needs to determine at the time it makes its budget what services it intends to provide and the total level of funding for those services, regardless of the organizational units making the expenditures.

For example, part of the cost of foster care services is clearly identified in a Department of Human Services responsibility center. Very substantial additional foster care costs are incurred by the Superior Court's social services division and judicial staff. The courts do not report these costs separately, so it is not possible to judge accurately the total cost of foster care services in the District.

In another example, Medicaid expenditures for patients treated at St. Elizabeths Hospital and city health clinics are not classified as Medicaid expenditures. Only because the District claims federal reimbursement for these patients is it possible to estimate the amount of District

funds spent on these patients and thus be able to estimate total District Medicaid costs. The District accounting system should provide accurate total costs of Medicaid, regardless of where the services are provided.

Current technology makes it possible to accumulate information in a variety of ways that satisfy both the needs for accountability and for service information necessary for budget and planning decisions. In the design of the District's new financial management system, there should be a clear directive to address the needs of analysis such as that conducted in this study.

The design of a new financial management system should provide for the accumulation of data in ways that reflect meaningful information about expenditures for services. This data should address budgeting needs as well as the need for financial accountability. Persons concerned with the appropriate definition of services should be actively involved in the design of a new system to be sure all needs are met.

Assignment of Debt Service Costs to Service Programs

Evaluating the necessity for debt service expenditures is hindered by the lack of information about the purposes for which the debt was issued. While the District is conforming to accepted government accounting practices by using a single classification for all general obligation debt service, it would be helpful to a better understanding of District expenditures if information is also recorded about the uses of the capital funds for which the debt service is paid.

The District should provide a basis for reporting future debt service costs by specific programs, as well as by a single category. To the extent feasible, existing debt service also should be allocated to programs for information purposes.

SUBJECTS NEEDING ADDITIONAL STUDY

Time and resource constraints in this study made it impossible to explore all of the factors that are important to understanding District services and comparing their costs. For example, most information had to be obtained from published sources, with only a small amount feasible from personal interviews or customized surveys. Several subjects that need additional research are discussed below.

Dynamic Analysis of Services

This study examined the cost of District services in 1995 and was not able to determine the rate of growth of expenditures over time, or even if expenditures in that year were typical. To determine varying growth rates and the causes of variances would require examining several years of District expenditures. Such an examination would be important because there is a likelihood that District revenues will grow slowly in the future and that special efforts will be necessary to control those services with fast-growing expenditures.

The rates of growth in District expenditures for specific services and their causes need to be determined.

Pay Differences

Higher pay scales and benefit levels are often suggested as a reason for higher District spending compared to other governments. A comparison of 7 of 81 benchmark jobs in governments in the Washington-Baltimore area revealed a mixed pattern for hiring-level salaries, with 5 higher than Baltimore, but with 5 lower than Arlington County. This comparison does not take into account differences in tenure and experience costs related to actual workforce characteristics or how pay scales are structured, or other features such as health insurance, retirement benefits, annual leave, and sick leave.

The effect of pay differences on District costs could not be determined, but should be the subject of a more detailed study.

General Administration Costs

Most administrative and support costs are included as an integral part of the service provided. In some instances, administrative and support costs cut across several different services and could not be easily compared to those incurred in other governments. There are also definitional problems in evaluating administrative costs because they often include a mixture of items, such as rents, utilities, and other costs that are not purely administrative. A study of administrative costs would require extensive research, but would be desirable, especially in those instances where they appear to be high.

The District's administrative and support expenditures should be analyzed more thoroughly than was possible in this study.

Indigent Representation

Large differences in indigent representation costs between the District and Maryland and Baltimore could not be explained. Abused children and their families, and criminal defendants apparently have greater access to these services in the District.

The reasons for higher indigent representation costs in the District should be determined.

Juvenile Corrections

One apparent reason for high costs for juvenile corrections is the greater rate of commitment to expensive private facilities. The experience of District courts in juvenile commitments compared to courts in other urban areas should be studied to see if this is true.

The use of private facilities for juvenile commitments compared to other jurisdictions should be studied.

Medicaid

The higher District costs per Medicaid enrollee are only partly explained by higher hospital costs.

A careful analysis of all costs should be made to determine other reasons.

Table 1. EXPENDITURES ON DISTRICT SERVICES
FY 1995 ACTUAL ($ Thousands)

SUMMARY

SERVICES:	LOCAL	TOTAL
Social Services and Income Support	254,714	403,068
Health	623,077	1,136,387
Education and Training	682,632	813,374
Police	366,847	373,120
Corrections	279,512	282,697
Transportation	175,532	200,370
Fire Protection and Emergency Medical Services	150,404	151,054
Judicial and Legal	128,416	131,511
Recreation and Cultural	46,632	52,724
Regulation	34,918	51,454
Housing and Community Development	15,422	121,691
Economic Development	7,839	10,252
Other Services	42,001	48,135
Undistributed Employee Compensation	38,276	38,287
General Government	122,785	168,955
Debt Service	366,436	366,436
TOTAL, SERVICE EXPENDITURES	**3,335,442**	**4,349,515**

Table 1. cont.
FY 1995 Actual ($ Thousands)

SERVICES:	LOCAL	TOTAL
SOCIAL SERVICES AND INCOME SUPPORT		
CASH PAYMENTS		
Aid to Families with Dependent Children	62,849	128,140
General public assistance	7,546	10,043
Supplemental Security Income	5,179	5,179
Emergency assistance	2,681	4,636
Energy assistance	376	*376*
Need determination for income support	23,332	41,821
TOTAL, CASH PAYMENTS	*101,963*	*190,195*
OTHER ASSISTANCE		
Foster care and child welfare	59,489	78,745
Developmental disabilities services	26,966	26,966
Child day care	23,762	29,794
Elderly services	20,179	28,167
Homeless services	12,731	12,848
Rehabilitation	6,756	18,994
Child support enforcement	2,868	15,487
Refugee resettlement		1,873
Administration and support	371	1,365
TOTAL, OTHER ASSISTANCE	*152,751*	*212,873*
TOTAL SOCIAL SERVICES AND INCOME SUPPORT	**254,714**	**403,068**
HEALTH		
COMMUNITY HEALTH SERVICES		
Disease prevention and control	5,667	11,126
School health program	4,563	4,623
Medical Examiner	1,929	2,034
Health labs	1,411	1,477
Administration and support	807	1,135
TOTAL, COMMUNITY-BASED HEALTH	*14,377*	*20,395*

Table 1. cont.
FY 1995 Actual ($ Thousands)

SERVICES:	LOCAL	TOTAL
HEALTH Cont'd		
PERSONAL HEALTH CARE		
Medicaid:		
Hospital - inpatient and outpatient services	154,062	291,700
Nursing and residential treatment facilities	72,941	145,882
Physician and other vendor payments	50,343	100,008
Insurance premiums	49,992	97,943
Intermediate care facilities/mentally retarded	32,281	65,875
Day treatment	12,602	25,204
Administrative support	5,641	15,840
Total, Medicaid	377,862	742,453
Other Health:		
Payment to D.C. General Hospital	56,735	56,735
Alcohol and drug abuse treatment	23,043	27,806
Public health clinics - medical and dental	10,983	12,339
Home care	5,188	8,921
HIV/AIDS programs	6,130	25,007
Maternal/child health	4,083	15,234
Long-term care of elderly and handicapped	3,964	24,549
Medical services for detained youth, retarded	2,208	2,218
Medical Charities	1,716	1,716
Nutritional programs	460	10,011
Administration and support	2,643	5,595
Total, Other Health	117,154	190,132
Mental Health:		
Saint Elizabeths and other adult	48,853	72,171
Children outpatient and residential	21,177	23,355
Outpatient clinics	18,032	34,768
Forensic and legal	11,687	16,338
Emergency mobile response	3,375	6,500
Other treatment	2,856	9,808
Administration and support	7,705	20,467
Total, Mental Health	113,684	183,407
TOTAL, PERSONAL HEALTH CARE	*608,700*	*1,115,992*
TOTAL HEALTH SERVICES	**623,077**	**1,136,387**

Table 1. cont.
FY 1995 Actual ($ Thousands)

SERVICES:	LOCAL	TOTAL
EDUCATION AND TRAINING		
PUBLIC SCHOOLS		
General educational services	254,134	
Special education	55,837	
Vocational and career education	12,183	
Language minority education	8,728	
Other educational services	10,633	
Total, educational services	341,515	
Physical facilities	85,089	
Instructional support	6,932	
Transportation	17,124	
Food services	10,860	
Management	24,725	
Other support	7,119	
Total, support services	151,849	
Teacher retirement	87,109	88,100
Total, K-12	580,473	
Early childhood and Headstart	27,250	
Total, all students	607,723	
Adult education	5,957	
TOTAL, PUBLIC SCHOOLS	*613,680*	*681,412*
HIGHER EDUCATION		
UDC	49,966	83,095
Law School	3,928	5,546
Defaulted student loan collection	919	1,766
TOTAL, HIGHER EDUCATION	*54,813*	*90,407*
TRAINING		
Summer Youth	6,413	8,531
Other youth training	1,769	1,994
Other DOES training	2,603	16,938
Management and support	3,354	14,092
TOTAL, TRAINING	*14,139*	*41,555*
TOTAL, EDUCATION	**682,632**	**813,374**

Table 1. cont.
FY 1995 ($ Thousands)

SERVICES:	LOCAL	TOTAL
POLICE		
Patrol and investigation	159,414	161,170
Special operations	10,322	12,341
Personnel and training	9,698	9,743
Communications	7,915	7,928
Medical	3,059	3,280
Retirement contributions for police officers	143,443	143,443
Administration, planning, and other	32,996	35,216
TOTAL, POLICE	**366,847**	**373,120**
CORRECTIONS		
ADULT CORRECTIONS		
Adult detention	29,297	29,297
Adult corrections:		
Prison	136,421	135,530
Halfway houses	10,104	10,104
Medical services	23,737	23,704
Adult corrections administration and operations	10,004	10,433
Other corrections services	9,731	12,005
Facility maintenance	19,539	19,752
TOTAL, ADULT CORRECTIONS	*238,832*	*240,826*
JUVENILE CORRECTIONS		
Juvenile community-based supervision	11,273	12,161
Juvenile institutions	22,086	22,198
Administration and support	1,943	1,943
TOTAL, JUVENILE CORRECTIONS	*35,302*	*36,302*
PAROLE	5,378	5,569
TOTAL, CORRECTIONS	**279,512**	**282,697**

Table 1. cont.
FY 1995 Actual ($ Thousands)

SERVICES:	LOCAL	TOTAL
TRANSPORTATION		
MASS TRANSIT		
Rail transit subsidy	93,124	93,124
Bus transit subsidy	30,023	30,023
Mass transit subsidy oversight	473	595
TOTAL, MASS TRANSIT	*123,620*	*123,742*
STREETS AND HIGHWAYS		
Street services, lighting, signals and signs	13,086	15,654
Street cleaning	8,036	9,502
Street and bridge maintenance	2,480	5,077
Street trees and landscaping	2,003	2,862
Transportation construction engineering	1,809	6,369
Snow removal	1,245	1,162
Administration and support	8,348	20,640
TOTAL, STREETS AND HIGHWAYS	*37,007*	*61,266*
PARKING ENFORCEMENT	*9,238*	*9,238*
DRIVERS' LICENSES AND VEHICLE REGIS.	*5,667*	*6,124*
TOTAL, TRANSPORTATION	**175,532**	**200,370**
FIRE AND EMERGENCY MEDICAL		
Fire suppression	56,840	56,840
Ambulance	15,756	15,756
Fire prevention	2,367	2,367
Retirement contributions for firefighters	61,475	61,475
Administration and support	13,965	14,615
TOTAL, FIRE AND EMERGENCY MEDICAL	**150,404**	**151,054**

Table 1. cont.
FY 1995 Actual ($ Thousands)

SERVICES:	LOCAL	TOTAL
JUDICIAL AND LEGAL		
COURT		
Court of Appeals	5,929	5,929
Superior Court:		
Social Services Division	17,504	18,041
Judicial Staff	12,703	12,703
Management and general operations	12,429	12,854
Family Division	4,841	5,211
Criminal Division	4,786	4,786
Data Processing	4,094	4,094
Civil Division	3,415	3,415
Probate Division	2,965	2,965
Hearing Commisioners' staff	2,024	2,024
Mediation	705	705
Clerk of the Court	597	597
Unallocated nonpersonal services	2,027	2,199
Total, Superior Court	68,090	69,594
Court system management:		
Executive Office and court operations	5,180	5,180
Court reporters	2,826	2,826
Total, Court system management	8,006	8,006
Judges' retirement	5,100	5,100
Judicial nomination and review	142	142
TOTAL, COURTS	87,267	88,771
LEGAL		
Pretrial drug testing and release determination	3,200	4,791
Indigent representation:		
Public Defender	7,638	7,638
Criminal Justice Act fees (Superior Court)	25,271	25,271
Child Abuse and Neglect fees (Superior Court)	4,777	4,777
Guardianship and adult protection	263	263
Subtotal, indigent representation	37,949	37,949
TOTAL, LEGAL	*41,149*	*42,740*
TOTAL, JUDICIAL AND LEGAL	**128,416**	**131,511**

Table 1. cont.
FY 1995 Actual ($ Thousands)

SERVICES:	LOCAL	TOTAL
RECREATION AND CULTURAL SERVICES		
PARKS AND RECREATION		
Recreation centers and playgrounds	8,308	8,604
Special programs	4,442	8,152
Mayor's Youth Initiative	2,836	2,922
Roving Leaders	1,095	1,095
Management and support (Dept. of Recreation)	8,543	8,673
TOTAL, RECREATION	*25,224*	*29,446*
CULTURAL		
Library	19,755	21,045
Arts and humanities	1,653	2,233
TOTAL, CULTURAL	*21,408*	*23,278*
TOTAL, RECREATION AND CULTURAL	**46,632**	**52,724**
REGULATION		
Inspections and enforcement	12,781	18,032
Utility regulation	7,856	7,894
Licenses and permits (incl. education licensing)	5,555	10,235
Wage and occupational safety enforcement	1,417	2,593
Taxicab regulation	1,174	1,501
Human rights	730	826
Regulation of financial institutions	518	518
Management and support (DCRA and part DOES)	4,887	9,854
TOTAL, REGULATION	**34,918**	**51,454**

Table 1. EXPENDITURES ON DISTRICT SERVICES Cont.
FY 1995 ($ Thousands)

SERVICES:	LOCAL	TOTAL
HOUSING AND COMMUNITY DEVELOPMENT		
Public housing (including Fund 104)	0	105,525
Rent subsidies	10,365	10,365
Housing rehabilitation	64	3,029
Homeownership assistance	2,344	3,465
Unidentified responsibility centers		3,537
Management and support (DHCD only)	2,649	6,982
TOTAL, HOUSING & COMMUNITY DEVELOPMENT	**15,422**	**121,691**
ECONOMIC DEVELOPMENT		
Promotion	5,538	5,698
Labor market information		581
Minority business opportunity	529	530
Contract appeals	147	147
Administration and support	1,625	3,296
TOTAL, ECONOMIC DEVELOPMENT	**7,839**	**10,252**
OTHER SERVICES		
OTHER PUBLIC SAFETY		
National Guard	1,032	1,032
Disaster planning	1,396	2,341
TOTAL, OTHER PUBLIC SAFETY	*2,428*	*3,373*
SETTLEMENTS AND JUDGMENTS	*14,469*	*14,469*
SOLID WASTE COLLECTION & DISPOSAL	*20,969*	*25,922*
CITY PLANNING	*3,196*	*3,432*

Table 1. cont.
FY 1995 ($ Thousands)

SERVICES:	LOCAL	TOTAL
OTHER SERVICES Cont'd.		
ADVOCACY		
Latino affairs	822	822
Women's interests	117	117
TOTAL, ADVOCACY	*939*	*939*
TOTAL, OTHER SERVICES	**42,001**	**48,135**
UNALLOCATED EMPLOYEE COMPENSATION		
Unemployment compensation	7,455	7,455
Disability compensation	28,045	28,056
Optical and dental benefits	2,776	2,776
TOTAL, UNALLOC. EMPLOYEE COMPENS.	**38,276**	**38,287**
GENERAL GOVERNMENT		
LEADERSHIP	*43,353*	*48,904*
FINANCE	*36,485*	*44,990*
ADMINISTRATION	*42,947*	*75,061*
TOTAL, GENERAL GOVERNMENT	**122,785**	**168,955**
DETAILS OF GENERAL GOVERNMENT:		
LEADERSHIP		
Council	7,693	7,697
Auditor	992	992
Advisory Neighborhood Commissions	562	562
Office of the Mayor	1,190	1,751
Office of the Executive Secretary	1,682	2,053
Inspector General	1,063	1,114
Corporation Counsel	13,631	15,692

Table 1. cont.
FY 1995 Actual ($ Thousands)

SERVICES:	LOCAL	TOTAL
GENERAL GOVERNMENT LEADERSHIP Cont'd.		
Office of Communications	85	319
Intergovernmental Relations	659	937
Office of Personnel (part)	9,593	11,572
Office of Personnel - Labor Relations	628	640
Public Employee Relations Board	457	457
Office of Employee Appeals	1,617	1,617
Board of Elections and Ethics	2,546	2,546
Office of Campaign Finance	955	955
TOTAL, LEADERSHIP	*43,353*	*48,904*
FINANCE		
Central financial direction	120	310
Tax collection and enforcement	20,839	20,934
Property assessment appeals	185	185
Cash and debt management	1,623	2,417
Accounting and control	3,492	5,053
Budget	857	2,399
Payroll	1,899	2,486
Financial information systems	6,268	6,601
Grants management	1,202	4,605
TOTAL, FINANCE	*36,485*	*44,990*
ADMINISTRATION		
Department of Human Services administration	11,432	30,872
Operating and maintaining vehicles and facilities	9,072	18,517
Rent for multiple-agency buildings	931	931
Facility energy	7,710	8,200
Facility maintenance and operation	5,409	4,906
City Administrator	3,196	3,955
Procurement	2,010	2,107
Administration and support (DAS)	1,166	1,496
Real property management	803	2,831
Telecommunications	688	716
Contract dispute resolution	530	530
Management information systems	577	577
Printing	185	2,501
Building construction engineering	0	2,250
TOTAL, ADMINISTRATION	*42,947*	*75,061*

Table 1. cont.
FY 1995 ($ Thousands)

SERVICES:	LOCAL	TOTAL
DEBT SERVICE		
Debt service on capital borrowing	309,403	309,403
Debt service on deficit financing	36,695	36,695
Certificates of participation	7,926	7,926
Interest on short-term borrowing	12,412	12,412
TOTAL, DEBT SERVICE	**366,436**	**366,436**

Part 2 ANALYSIS OF SERVICES

I. SUMMARY OF SPECIFIC SERVICE CONCLUSIONS

Service	1995 Local Funds (in millions)	Conclusions
AFDC	$62.8	AFDC is an essential service provided by all states. The District's eligibility requirements and benefits are slightly more generous than Maryland's and Virginia's. The District's caseload is about three times that of Maryland relative to population. Because of a relatively higher caseload and, to a lesser extent, higher payment levels, the District's total AFDC expenditures are much higher than Maryland's relative to population. The proposed reduction in District benefits will reduce the difference only slightly. The District's administrative costs for AFDC are substantially higher than Maryland's and Virginia's for reasons that could not be identified.
SSI Supplements	$5.2	The SSI supplement paid to individuals in community residential care is a basic service. The District's supplements are comparable to those in Maryland and Virginia. The District's SSI supplement to individuals who live independently or who are placed in Medicaid-eligible long-term care facilities is mandated by the federal government. The District spends three times as much as Maryland relative to population, mostly because of a higher workload.
General Relief	$7.5	The District's general public assistance is basic and is comparable in terms of eligibility and benefits to the Virginia program in Arlington, but more generous than in Maryland. A detailed cost comparison is not possible.

Need Determination	**$23.3**	The District's determination of eligibility for income and medical support programs is an essential service and is the same as Maryland's. The District also provides training and job placement for AFDC-JOBS recipients, a basic service similar to Maryland's, but with relatively fewer participants. The District has almost four times Maryland's relative workload for determining and recertifying eligibility and for enrolling recipients in the JOBS program. The District's local expenditures for determining eligibility and operating the JOBS programs are three and one-half times Maryland's relative to population. While its workload is four times Maryland's, the District spends relatively less on its training program for welfare recipients.
FosterCare	**$59.5**	The District's foster care and other child welfare services are essential, and the eligibility requirements and benefits are comparable to those services provided in other jurisdictions. The workload of foster care and related services is at least one and one-half times that of Maryland's relative to population. The District's expenditures are relatively higher than Maryland's because of its higher workload and higher unit costs. The reasons for higher unit costs could not be determined.
Developmental Disabilities All Local Costs	**$27.0** **[$74.9]**	The District's residential and care services for the developmentally disabled are basic. Maryland's eligibility requirements are similar and it provides slightly more types of services than the District. The overall Maryland workload is comparable to the District's. The District spends about two and one-half times as much per case as Maryland relative to population. The difference is attributable to more expensive forms of service.
Child Day Care	**$23.8**	The District's day care related to AFDC families is an essential service and is provided by all states. District day care that is not AFDC-related is discretionary. Eligibility for AFDC-related day care are more generous than in Baltimore or Arlington County. Income eligibility for non-AFDC care is also higher than in Baltimore.

The daily District day care benefits for children over two are comparable to those in Baltimore, but District payments for infants are substantially lower. The District provides more low-income day care slots than the city and state provide in Baltimore, and the District provides for more children in pre-school programs. Overall, 10.5 percent of those under 18 population are in pre-school programs in the District compared to 5.9 percent in Baltimore and 1.5 percent for the State of Maryland.

Non-school day care expenditures in the District are comparable to the combined state and local expenditures in Baltimore. The costs per child are slightly lower in the District due to much lower infant care benefits. When school care expenditures are included, the District's expenditures are almost twice the amount spent in Baltimore.

Elderly Services **$20.2**

The District's protection for the elderly and promotion of elderly independence are basic and comparable to services in other governments. Eligibility requirements are the same as in Baltimore and Arlington County. Benefits for protective services are greater than in Arlington, but homemaker benefits are lower.

The District's workload for protective services and fully subsidized homemaker/chore services is lower than Arlington's, but in terms of usage is much higher for partially subsidized services. Both total expenditures and unit costs for protective service appear higher than in Baltimore and Arlington.

Homeless Services **$12.7**

The District's services to the homeless are basic and are provided on a basis comparable to those in Baltimore and Arlington. No conclusions are possible regarding comparative workloads.

The District's expenditures for services to the homeless are considerably more than Baltimore and Maryland's relative to population. However, some services in Maryland may be provided through other programs.

Rehabilitation **$6.8**

The District's rehabilitation and independent living services are basic and are supported by substantial federal grants. Eligibility for these services is the same as in Maryland and Virginia.

The number of persons receiving rehabilitation services in the District is almost double the number in Maryland relative to the

		adult population. The District's expenditures are substantially greater than Maryland's because of a greater workload and because of high per recipient costs.
Child Support	**$2.9**	The District's enforcement of child support laws is required by federal law and is an essential service. Maryland provides slightly more extensive services. The District has a workload higher than Maryland, relative to population. The District's expenditures are high relative to Maryland because of workload and because of higher per unit costs. No reason for the higher unit costs could be determined.
Disease Prevention	**$5.7**	The District's disease prevention and control services are essential and are comparable to those provided by other governments. It is not possible to make a meaningful comparison of workloads or expenditures.
Medical Examiner	**$1.9**	The District's medical examiner services are essential and are comparable to the services provided by other governments. It is not possible to compare workloads or expenditures.
School Health	**$4.6**	The District's school health services are basic and are comparable to those provided by other governments. The District's expenditures for these services are comparable to Baltimore's.
Health Labs	**$1.4**	The District's health laboratory services are basic and comparable to those of other governments. The District's expenditures for these services are comparable to Maryland's.
Medicaid, Appr. All Local Costs	**$377.9 [$419.3]**	Medicaid is an essential service provided by all states. There are no significant differences in the District's eligibility requirements from those in Maryland and Virginia. Coverage for an undetermined number of recipients in the District, as well as in Maryland and Virginia, is discretionary and not required by federal law. The benefits provided by the District are almost exactly the same as those provided in Maryland and very close to those in Virginia. Some benefits in the District, as well as in Maryland and Virginia, are discretionary and not required by federal law. The District's caseload is about three times as high as Maryland's relative to population.

The District's total Medicaid expenditures far exceed those in Maryland relative to population. The District's higher expenditures are attributable to the higher relative caseload and to a higher cost per recipient. The reason why there are higher costs per recipient cannot be determined, but some part of them is attributable to higher hospital costs.

D.C. General **$56.7** The operation of an acute care hospital is a discretionary service, although it may be an essential state service when operated as part of a state medical school.

The provision of some form of financial assistance for hospitalization of uninsured and indigent residents is generally provided by states. In Maryland, this assistance is provided through the rate structure for private providers. In Virginia, assistance is provided directly, but the eligibility for assistance is limited and the expenditures are relatively low compared to the District's expenditures for operating a hospital.

Health Clinics **$20.2** The District's provision of primary medical and dental care for indigents at health clinics and through home care is basic, and the services are comparable to those provided by other governments. The District's expenditures are comparable to those provided in Baltimore by the city and by Maryland.

Long-Term Care **$4.0** Most District long-term care costs for elderly and handicapped are incurred as part of Medicaid. With the closing of D.C. Village, all future costs are expected to be through that program.

HIV/AIDS **$6.1** The District's AIDS program is basic and, in addition, leverages substantial federal funds. The workload in the District is about five times higher than in Maryland relative to population and is also higher than Baltimore's relative to population.

The District's expenditures are substantially higher than Maryland's because of differences in workload and of higher per recipient costs. The reason for higher recipient costs could not be determined.

Alcohol and Drugs **$23.0** The District's programs to prevent and treat drug and alcohol abuse are basic and are comparable to those provided by Baltimore and Maryland. Comparable workloads are not available. District expenditures appear to exceed those incurred in Baltimore by the

city and by Maryland. The reasons for higher expenditures could not be determined.

Mental Health **$113.7** The mental health services received by District residents are essential and are similar to those received by Maryland and Virginia residents, but in Maryland, acute care mental health services are provided primarily by private providers.

The District's workload is at least double that of Maryland relative to population.

After adjusting for differences in delivery of services and accounting, the District spends about double the amount spent by Maryland relative to population. These higher expenditures are attributable to higher workloads and to the high facilities support costs, principally related to maintaining buildings and grounds at St. Elizabeths.

Public Schools **$613.7** The District provides essential educational services and special education services required by federal law. The District also provides a more extensive range of other discretionary educational services than Baltimore, especially for kindergarten, pre-kindergarten, adult education, and specialized programs. The City of Alexandria provides discretionary services that are similar to the District's, except for pre-kindergarten.

The District has a somewhat smaller student workload than Baltimore relative to population, but a much higher relative workload compared to Alexandria.

The District's public education expenditures are substantially higher than Baltimore's because of discretionary spending on pre-school education, food services, and specialized education services, and because of mandatory high spending on teacher retirement. The District also spends more on basic educational programs, physical facilities, and management for reasons that could not be determined. The District's relative expenditures are lower than Alexandria's.

Higher Ed **$53.9** The District's operation of a land grant university is a basic service provided by every state. The District provides substantially fewer services than Maryland and Virginia.

		District higher education enrollments relative to population are substantially lower than those in Maryland and Virginia. With fewer services and lower enrollments, District expenditures are lower relative to population than in Maryland and Virginia.
Training	**$14.1**	The District's locally funded training services are mostly discretionary. Although Maryland's federally funded programs are comparable, it provides little nonfederal funding.
		Comparable workload information is not available. The District's expenditures from its local funds are many times higher than Maryland's.
Police	**$366.8**	The District's police services are essential and are comparable to those provided by other cities. No comparable overall workload comparisons can be made, but the District's arrests relative to population are lower than Baltimore's.
		The District spends far more on police services than Baltimore and Philadelphia, not adjusting for population differences. Retirement accounted for a significant portion of the higher costs, but even exclusive of those costs, the District spends much more than both cities relative to population. Workload factors do not appear to account for the higher expenditures.
Adult Corrections	**$238.8**	The District's detention, imprisonment, and community corrections for adults are essential services and are comparable to those provided by other state and local governments.
		The District's correctional workload relative to population is more than two and one-half times as large as Maryland's. Its workload is also higher in terms of length of prisoner stay and inmates requiring higher levels of security.
		The District's expenditures are higher than Maryland's because of differences in workload and because of higher costs per inmate. The reasons for higher inmate costs could not be identified.
Juvenile Corrections	**$35.3**	The District's supervision and treatment of adjudicated, detained, and wayward youths through both day and residential treatment are essential services. Maryland and Virginia provide comparable or increased services for youths.

The District's workload, as measured by committed youths, is four times higher than in Maryland and almost ten times higher than in Virginia relative to population. Other measures of workload, such as detainees and youths needing supervision, are not available.

The District's expenditures for juvenile corrections are almost three times higher than Maryland's. Workload differences are a key cause of higher expenditures. It could not be determined whether higher District costs of individual services also contribute.

Parole Services **$5.4** The District's determination of parole eligibility and supervision of parolees is a basic service and is comparable to Maryland's. Because of its urban characteristics, the District's workload is over three and one-half times Maryland's and seven and one-half times Virginia's. No expenditure comparison was possible.

Mass Transit **$123.1** The District's provision of subsidized bus and rail service is basic, but the level of service and the fare structure are discretionary. Rail services can be changed only by joint action of participating governments.

Workload information specifically attributable to the District is not available. The District has very high mass transit expenditures, especially for bus services, relative to comparable spending in Maryland.

Streets **$37.0** The District provides a range of street, highway, and bridge services that are essential and that are provided by other state and local governments. Comparative workload information is not available.

The District expenditures for street services are less than in Baltimore and Arlington relative to population. Except for a small reduction in workload because of the federal provision of some services, the reason District expenditures are lower could not be determined.

Parking **$9.2** The District's management of parking and enforcement of parking is essential and is revenue producing. The District's spending on parking enforcement is comparable to Baltimore's.

Vehicle Registration	**$5.7**	The District's registration of motor vehicles, issuance of driver's licenses, and related activities are essential services provided by all states. The District's expenditures for these services are lower than Maryland's relative to population, apparently because the state must maintain regional offices to service a large geographical area.
Fire and EMS	**$150.4**	The District's fire services are an essential city service, and emergency medical services are a basic service provided by most city governments. The fire and emergency medical service workloads in the District are comparable or lower than those in Baltimore relative to population, but are higher than Arlington's. The District's expenditures for these services far exceed those in Baltimore and Arlington County. The principal cause is the District's high retirement costs, but the city also has high EMS and administrative costs compared to the other governments.
Courts	**$87.3**	The District provides the essential judicial and related services that are provided by state and local courts in other states. In addition, the court provides a variety of other services through its Social Services Division. The extent to which these services are provided by courts or other government agencies in other states could not be determined. No conclusion regarding comparative workloads can be made without further analysis. The District's expenditures for courts are substantially higher than Maryland's relative to population, but the lack of ability to compare services and workloads makes it impossible to determine the cause of the difference.
Pretrial Services	**$3.2**	The District's determination of eligibility for pretrial release and monitoring of conditions of release is a basic service and is the same as that of Maryland. The workload in the District is slightly higher than in Baltimore, and the expenditures are slightly higher relative to population.
Indigent Representation	**$37.9**	The District's legal representation for indigents facing incarceration and for children being abused or neglected is basic and is comparable to those provided by Maryland. The District provides more generous benefits in terms of hourly legal service rates and total expenditures per case.

Comparable workload data are not available. The District's expenditures are almost nine times higher than Maryland's relative to population. In addition to high hourly costs and per-case maximums, the causes are a greater percentage of low-income population, less efficient discovery procedures, easier access to the service, and more attorneys per case.

Parks and Recreation — **$25.2** The District's park maintenance and recreation programs are basic. They are less extensive and diverse than the combined state and local services in Maryland and Virginia. Because of the diversity of services, no workload information is available on a comparable basis.

The District spends relatively less on parks and recreation than do governments in neighboring states. In part, this may be because of extensive federal government spending on park and recreation activities in the District.

Public Library — **$19.8** The District's library services are basic and are comparable to those in Baltimore and Arlington County. The District has a low workload judged by national circulation averages and by Arlington's circulation, but has a higher workload than Baltimore.

The District spends more in total than Baltimore despite a smaller population, but spends less relative to circulation. Arlington spends more than the District relative to population, but less relative to circulation.

Arts and Humanities — **$1.7** The District's support for arts and cultural activities is basic and is similar to services provided by neighboring governments. The District's spending on arts and humanities is substantially lower than other governments on a relative basis.

Regulation — **$34.9** The District's regulatory activities are basic and, except for banks, race tracks, and Bay pollution, are the same as those provided by Maryland and Baltimore. No comparable workload data is available. Because of the diversity of regulatory services and their providers, expenditure comparisons were not feasible, except that the expenditures for regulating utilities and taxis are high in the District relative to Maryland.

Housing and Community Development	**$15.4**	The District's housing services are comparable to Maryland's but with a greater emphasis on rent subsidies. The District's community development program is weaker and less varied than Baltimore's. Some housing and community services are basic, but most are discretionary. No comparable workload data are available. District expenditures are comparable to nonfederal expenditures in Baltimore.
Economic Development	**$7.8**	The District's economic development activities are basic services and are comparable to those in Baltimore and Maryland. The District spends relatively less than the city and state combined in Baltimore.
Settlements	**$14.5**	The District's disposal of claims is an essential service, but it is not comparable to Baltimore and Maryland because the District does not have tort claim limits. Payments by the District in excess of a limit are discretionary. No comparable workload data are available. The District's settlement and judgment expenditures are almost four times Baltimore's and 18 times Maryland's after adjusting for population. The lack of tort claim limits probably accounts for most of the difference.
Solid Waste	**$21.0**	The District's collection and disposal of residential solid waste and street waste cans is an essential central city service. The District also provides a recycling program that is increasingly considered a basic service, but is, nevertheless, discretionary. Comparative workload information is not available. The District's solid waste expenditures are comparable to, or lower than, those of Baltimore, Arlington, and Fairfax County.
City Planning	**$3.2**	City planning is a basic city service, and is similar to the services provided in other local governments. The District's spending on city planning is comparable to that of Baltimore and Arlington County.
Legislative	**$7.7**	The District's legislative services are essential and are similar to Maryland's, except that the District does less fiscal and audit analysis. Comparable workload data are not available. The

		District's legislative expenditures are comparable to the local and pro-rata state expenditures in Baltimore.
Elections	**$2.5**	The District's provision of election services is essential. The District spends relatively more than Baltimore and Arlington on elections, but a higher percentage of its population is registered.
Financial Management	**$36.5**	The District's financial management services are essential and similar to those typically provided by other governments. Comparable workloads are not available for most activities. The District's expenditures appear to be higher than the combined state and local services in Baltimore, but a comparison is difficult because of the complex interrelationship between city and state responsibilities.
Debt Service	**$366.4**	The District's debt service expenditures are very high relative to Baltimore and Maryland combined. A variety of possible causes would require substantial additional analysis to determine the exact reasons.

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Table 8. **Services not Analyzed**

Emergency Assistance	$2.7	Discontinued
Energy Assistance	.4	Discontinued
Social Services Administration	.4	
Health Administration	3.4	
Medical Charities	1.7	Discontinued
Nutritional Programs	.5	
Medical Services, youth	2.2	
Defaulted Student Loans	.9	
Transit Oversight	.5	
Leadership, except Council and Elections	33.1	
General Administration	42.9	
National Guard	1.0	
Disaster Planning	1.4	
Latino Affairs	.8	
Women's Interests	.1	Discontinued
Unemploy Compensation	7.5	
Disability Compensation	28.0	
Optical and Dental	2.8	Discontinued

II. INDIVIDUAL REPORTS

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AID TO FAMILIES WITH DEPENDENT CHILDREN

SERVICES

Aid to Families with Dependent Children is a joint federal-state program which provides cash payments for food, shelter, and other basic needs of dependent children who have been deprived of parental support because one parent is absent from the home continuously, or is incapacitated, deceased, or unemployed. An unemployed parent component (AFDC-UP) is available to needy two-parent families with a recent work history.

All states operate AFDC and AFDC-UP. They set their own benefit levels and income eligibility limits within federal guidelines. Based on per capita income, the federal government pays part of the benefits, ranging from 50 percent to 80 percent. The federal share for the District and Maryland is 50 percent; for Virginia, it is 51.37 percent.

Conclusion

AFDC and AFDC-UP are essential services.

ELIGIBILITY/BENEFITS

Income and asset limits apply in determining AFDC eligibility. Given the way a family's benefits are calculated, the state's payment levels effectively determine the income limits for eligibility. For a one-parent family of three, current payment levels are:

District–$415 monthly, as of June 1, 1996, for a one-parent family of three (down from $420). A proposal is pending to reduce this amount to $398 starting October 1. Because of federal law requiring maintenance of effort, the benefits cannot go below $379. The current benefit is 38.8 percent of the 1996 poverty threshold; the proposed decrease will lower this to 36.8 percent.

Baltimore–$383 monthly, 35.4 percent of the poverty threshold.

Arlington County–$354 monthly, 32.7 percent of the poverty threshold. Until the FY 1997 budget, Arlington County provided a 10 percent local AFDC supplement.

The states must disregard certain items when they measure income:

- Certain unearned income, such as the first $50 in child support payments and educational loans and grants;
- Portions of earned income, such as certain self-employment costs and the initial $30 of monthly

earnings plus one-third of the remaining earnings for 4 consecutive months and $30 for the next 5-12 months consecutive months. *To reduce the average payment the District will ask for federal approval to expand this disregard on a demonstration basis and without time limit to $100 plus 50 cents of each dollar of earned income not disregarded.*

- Work expenses of $90 a month and child care costs up to $175 a month ($200 for a child under 2).

If the monthly income net of the disregards exceeds the AFDC payment level, the family is not eligible for AFDC. AFDC benefits are limited to the difference between a lower net monthly income and the payment level. *Since only about 2 percent of the District's AFDC caseloads have any earned income, most cases receive benefits equal to the payment level.*

AFDC recipients also may not have assets worth more than $1,000, excluding the home, a car (valued at not more than $1,500), and basic items essential to day-to-day living. *The District is also seeking federal approval to expand this threshold to $4,550 on a demonstration basis.*

Other **District** AFDC eligibility requirements include:

- Benefits end on a child's 18th birthday unless the child will graduate before the 19th birthday.
- Childless women in their third trimester of pregnancy are eligible for assistance.
- Two-parent families are eligible if they are needy because of the unemployment of one parent as long as the principal wage earner has a history of work.

The District will seek approval to for these requirements:

- Teen parents receiving benefits must live at home or in another approved arrangement, and must attend school or forgo $50 a month.
- Children conceived while the mother is on AFDC do not receive assistance.

Maryland has similar limitations, and started denying assistance to children conceived while the mother is on AFDC on April 1, 1996.

Virginia has similar limitations, but does not give AFDC to childless pregnant women or assistance for children conceived while the mother is on AFDC.

It is becoming increasingly difficult to compare District eligibility and benefits since both Maryland and Virginia are experimenting with different program designs.

Conclusion

Because of higher payment levels which act as income limits, the District's AFDC eligibility requirements and benefits are slightly more generous than Maryland's and Virginia's.

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WORKLOAD

District–73,021 average annual recipients in 1995, or about 12.8 percent of the estimated population.

Maryland–224,938 average recipients, or about 4.5 percent of population.

Baltimore–106,129 average recipients, or 15.4 percent of population.

Arlington–3,399 average cases, or 2.0 percent of population.

Baltimore's greater workload is probably attributable to differences in the incidence of poverty, average case size, and a greater participation by the city in training and employment programs.

The far greater difference in relative workloads between the District and Maryland underscores the difference in their populations. The District's AFDC workload reflects the poverty concentration typical of a city, while the much lower state workload reflects a workload spread out over a generally wealthier population mix of urban, suburban and rural residents.

Conclusion

While the District's AFDC workload is not as high as Baltimore's relative to population, it is three times as high as Maryland's, also adjusted for population.

COSTS

District–$62.8 million benefit payments in local funds for 1995.
Maryland–$157.1 million in state funds for 1995.

Adjusting for population differences, the District's AFDC benefit payments were over three and one-half times Maryland's. Workload differences account for most, but not all, of the cost differences. The District has higher benefit levels as well as higher per unit (or per recipient) costs–$862, compared to $698 in Maryland, $712 in Baltimore, and $748 in Arlington County. (Costs per case were not readily available for Virginia.)

The District also has considerably higher administrative costs than Maryland or Virginia. In 1993, the latest year for which there are comparable data, administrative expenditures reported to HHS were:

District–$27.9 million gross (federal and local) funds or $1,125 per case.
Maryland–$895 per case.
Virginia–$607 per case (excluding costs to administer the local supplement)

In FY 1995, the District spent about 42 percent of the Income Maintenance Administration's

administrative budget on AFDC. This amounted to about $14.5 million in gross (federal and local) funds. Without the same economies of scale, the District would be expected to have higher per case overhead. It is unlikely, however, that the costs for rent, utilities, information systems, financial control, investigations, and compliance that could be reasonably associated with AFDC would account for the $13 million difference between the IMA costs and the reported costs. It appears that other central DHS costs are being inexplicably allocated to AFDC administration.

Conclusion

We conclude that, as could be expected from primarily the relative workloads and, to a lesser extent, the higher AFDC payment levels, the District's AFDC benefit costs are three and one-half times Maryland's relative to population. As the District's payment level decreases, the relative difference will decline slightly. The District's administrative costs are substantially higher than Maryland's and Virginia's and cannot be fully explained by the District's strictly urban characteristics.

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GENERAL RELIEF

The District makes payments for Supplemental Security Income and General Public Assistance. Three other general welfare programs have been terminated in the last 18 months: assistance for emergencies, utility costs, and burials.

SUPPLEMENTAL SECURITY INCOME

Service

Supplemental Security Income (SSI) is a federal program that provides monthly cash assistance to low-income elderly, blind, and disabled individuals. The disabled are those who are unable to engage in any substantial gainful employment because of a mental or physical impairment expected to result in death or that has lasted, or is expected to last, for 12 months. Federal maximum monthly payments are currently $470 per individual and $705 per couple.

The District supplements SSI for individuals and couples living independently or in residential care facilities.

Eligibility/Benefits

Eligibility standards for the basic federal SSI are uniform nationwide. States, however, can decide which participants will receive the supplements.

District–The supplement applies to all persons who receive the basic federal SSI. Elderly SSI beneficiaries must be 65 and older. A child under age 18 who has an impairment of comparable severity is considered disabled by the District.

If a parent or child is eligible under both AFDC and SSI, the parent must choose the best-suited program. Generally, the District encourages individuals to apply for SSI. Once SSI payments start, an individual is removed from AFDC. Persons disabled because of drug addition or alcoholism must accept treatment to be eligible.

Under the federal SSI and the District supplement:

Maximum annual incomes: those on Social Security only–$5,592 (individual) and $8,268 (couple); those with wage income only–$11,724 (individual) and $17,076 (couple).

Value of assets must not exceed $2,000 for an individual and $3,000 for a couple.

Exclusions: *from countable monthly income*–$20 of income from any source, the first $65 of earned income, and ½ of remaining earnings (in-kind assistance is counted as income); *from assets*–the home, reasonable amounts of household goods, personal effects, a car, and burial space.

The District is required to pay supplements for those living independently–$4.70 per individual; $9.40 per couple (required federal minimum). Before May 1, 1995, the District supplements were $15

and $30, respectively.

Payments to those in residential care facilities are offset by the individual's countable income, including federal SSI:

- 667 persons in smaller facilities (under 50 beds)–$617.20 monthly maximum plus a $55 personal needs allowance
- 33 persons in larger facilities–$727.20 maximum plus the $55 allowance.
- 963 persons in Medicaid-eligible, long-term care facilities: $40 monthly personal-needs allowance

The CRF rates are set by District law.

Maryland–Eligibility requirements are the same, except that the state is not bound by a maintenance-of-effort requirement to offer benefits to couples. The state pays supplements only for those in protected living and supplements are offset by countable income:

- five levels of certified care homes (1-3 beds): $434 monthly maximum to $1,034 plus an $82 personal needs allowance
- licensed domiciliary care facilities–$552 monthly maximum plus an $82 personal needs allowance

Virginia pays supplements only for those in protected living, and the rates are based on the facility's allowable costs:

- $775 monthly maximum in Northern Virginia plus a $40 personal needs allowance
- the state pays 80 percent of the costs and the local governments, 20 percent.

Unlike the District, Maryland and Virginia are not bound by a maintenance-of-effort requirement to pay, and do not pay, a special needs allowance to persons in Medicaid-eligible facilities.

Workload

District–20,380 recipients (3.6 percent of 1995 estimated population); 3,520 elderly, 16,680 disabled, and 180 blind; 14 percent children.

Maryland–1.6 percent of state population, with similar client mix.

Baltimore–4.8 percent of city population, with similar client mix.

The District's relative workload for SSI is more than twice that of Maryland.

Costs

District–$5.2 million in local funds in FY 1995, in addition to Medicaid match for some CRF residents ($4.4 million went for the $40 special allowance for those in Medicaid-eligible facilities and to individuals in CRFs)

Maryland–$15.3 million in non-Medicaid funds.

It is not clear that comparing expenditures per SSI recipient provides useful information.

Conclusion

The District's SSI supplement to individuals who live independently or who are placed in Medicaid-eligible long-term care facilities is an essential service, because it is mandated by the federal government. The SSI supplement paid to individuals in community residential care is a basic service; the District's supplements are not significantly different from the mid-range of supplements in Maryland but are lower than supplements in Nothern Virginia. Compared to population, the District spends three times as much as Maryland on SSI supplements mostly because its workload is more than twice as high.

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GENERAL PUBLIC ASSISTANCE

Service

General Public Assistance (GPA) for children (GC) and for adults is essentially interim assistance until an individual is approved for SSI or SSDI (Social Security Disability Income). The recipient must have a physical or mental disability as defined by SSI criteria. GPA benefits are provided until final determination of disability. Both programs are funded entirely with local funds, with federal reimbursement if the recipients are subsequently determined to be eligible for federal SSI or SSDI.

Eligibility/Benefits

District–

Children–An unattached child living with non-relatives is eligible for GC if the income available to the child is below AFDC maximums. Benefits are the same as AFDC payments for a child living with his or her family.

Adults–To receive GPA, income must be below AFDC payment levels of $262 for an individual and $326 for a couple ($265 for an individual and $300 for a couple until June 1, 1996). Assets must be under $300 for an individual and $500 for a couple (excluding a house and a car valued at $1,500).

Maryland–Disabled adults applying for (or appealing) SSI or SSDI; pregnant women during the first two trimesters (they then qualify for AFDC). There is no general relief for unattached children. Income ceiling is essentially the payment level; asset limit is $1,500.

Payments in FY 1995–

- $157 monthly loans for those with short-term (3 to 12 months) disabilities (discontinued as of July 1, 1995).
- $157 monthly grants (less any income) to those permanently and totally disabled who were applying for SSI or SSDI ($100 monthly after July 1, 1995)
- $209 per month for pregnant women.

Virginia has a program similar to the District's for unattached children. The state also provides relief for adults with short-term disability. Income ceiling is essentially the payment level; asset limit is $1,000.

- Maximum monthly benefits per adult or child–$220 for one person; $294 for two.
- 34.5 percent of the recipients are 50 years of age or older.

Workload

District–702 children and 2,893 adults in FY 1995 (0.6 percent of the 1995 population)

The Income Maintenance Administration estimates that:

- 37 percent of GPA clients receive aid for less than one year, and 27 percent for more than one

year;
- 97 percent of the recipients are single individuals;
- 56.6 percent of the recipients are between the ages of 31 and 49;

Maryland–20,931 adult grants and loans, and 583 pregnant women (0.43 percent of population).

Costs

District–$7.5 million in local funds in FY 1995: $2.1 million on the children's program and $5.4 million on the adult program; average grant, $395.

Maryland–average grant, $135 (1995 was a transition year for the state programs, so a total cost comparison is not meaningful.

Virginia–individual program costs were not readily available.

Conclusion

General public assistance is a basic service. In terms of eligibility and benefits, the District's general public assistance is comparable to or slightly higher than the Virginia program in Arlington County. The District's eligibility and benefits are significantly higher than Maryland's for children and adults. The District has no benefits for pregnant women. While the District's SSI workload is twice Maryland's relative to population, it is less than Baltimore's. A cost comparison is not meaningful because the Maryland program was in transition in 1995.

EMERGENCY ASSISTANCE

District–Emergency Assistance to Families with Children provided limited grants to families experiencing crises in paying rent and utilities. The federal government paid half of the program costs. In FY 1995, the District spent $2.7 million in local funds and served 9,570 clients. **The service was discontinued as of May 1, 1996.**

Maryland–provides grants for families with minor children experiencing crises such as eviction, disaster, and breakdown of essential appliances. The annual grant limits are $130 for utilities and $250 for all other necessities. In 1995, the average grant was $193. **Baltimore** supplements the state emergency assistance by an insignificant amount.

Arlington County–provides grants to needy people for emergency shelter, clothing, and food utility, medical, and transportation needs through a network of nonprofit organizations.

Conclusion

While emergency assistance is a basic service, the District no longer provides it.

BURIAL ASSISTANCE

The **District** paid a maximum of $450 for funeral expenses of AFDC, SSI, and GPA recipients,

children receiving foster care, and Medicaid recipients. **The service was eliminated as of June 1, 1996.**

Arlington County provides up to $800 in burial costs. **Maryland** provides a maximum of $650 and spent an average of $645 per burial in FY 1995.

Conclusion

While burial assistance is a basic service, the District no longer provides it.

ENERGY ASSISTANCE

The **District's** supplement to the federal program assisting low-income households in paying home energy bills ended in 1995. Neither **Maryland** or **Virginia** has substituted state funds for decreases in federal aid for this program.

Conclusion

Energy assistance is not a basic service in that neither Maryland or Virginia spends local funds on it.

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NEED DETERMINATION FOR INCOME SUPPORT

SERVICES

The District determines the financial need and eligibility for persons requesting or receiving AFDC, federally funded Food Stamps and refugee assistance, and Medicaid. As part of the need-determination process, the District also assesses the employability of AFDC recipients and offers those recipients education, training, and job placement.

As required by federal law, eligibility determination involves:

- Verification of application information through data exchange with other agencies;
- Periodic redetermination of eligibility;
- Management of data base and records; and
- Investigation of fraud and abuse.

Federal law requires the states to assess the education, child care, and other support needs of program participants and develop an employability plan. Under this AFDC-JOBS program (known as "A Real Chance" or "ARC" in the District) states must require at least 20 percent of AFDC recipients (except for the elderly, disabled, and parents with children under 3) to participate in the program in FY 1995.

States must offer basic and remedial education, job skills training and readiness activities, job development and job placement, and support services such as child care and transportation reimbursement. Moreover, the states must offer two of the following activities:

- Group and individual job search;
- On-the-job training;
- Work supplementation program; and
- Community work experience.

Maryland, following the same federal mandates, provides the same eligibility determination and JOBS services as the District. Both jurisdictions assign case managers to JOBS participants and allow postsecondary education to meet the training requirement. In recent years, Maryland has allocated more resources to the JOBS program, and in 1995 appears to have surpassed the District in trying to meet the federally required 20 percent JOBS participation rate. While the District placed relatively more of its AFDC recipients (1,100) in employment in FY 1995 compared to Maryland (3,428), only 3,790 parents and children received training compared to the 36,608 trainees reported by Maryland.

Conclusion

The determination of eligibility for income and medical support programs is an essential service, and the District's program was the same as Maryland's in 1995. Providing training and job placement for AFDC recipients is a basic service, and the

District offers a program similar to Maryland's, but with relatively fewer training participants.

WORKLOAD

District–26,819 average monthly AFDC caseload
Maryland–61,248 average monthly AFDC caseload

Conclusion

Relative to population, the District has almost four times Maryland's workload for determining and recertifying AFDC and Medicaid eligibility, and for determining and enrolling recipients in the JOBS program.

COSTS

Income Maintenance Administration:
District–$23.3 million
Maryland–$60.5 million

As would be expected from its relatively higher workload, the District spends three and one-half as much as Maryland on its Income Maintenance Administration relative to population size.1 The District's 1995 per case costs were less than Maryland's–$869 compared to $987. Part of this difference stems from Maryland's more aggressive JOBS program, which cost the state an average of $132 per total AFDC case, compared to the District's $81.

Conclusion

The District's local costs of determining AFDC, Medicaid, and Food Stamp eligibility and operating the AFDC-JOBS programs are three and one-half times Maryland's relative to population. While its workload is four times Maryland's, the District spends relatively less on its training program for welfare recipients.

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[1]See the report on Aid to Families With Dependent Children for a discussion of additional costs associated with central DHS overhead that are reported to the federal government as part of AFDC administrative costs.

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FOSTER CARE AND CHILD WELFARE

SERVICES

The District

- Responds to reports of child abuse and neglect;
- Provides appropriate services such as shelter, medical care, specialized education, and counseling and other protective services to enable the children to either remain safely with their families, be reunited with their families after temporary placement, or be removed from their families and placed in foster care
- Places children in traditional family foster homes, specialized therapeutic group foster homes, institutional placement, and subsidized and unsubsidized adoption.

Foster care service is provided by:

- A receiver appointed by the court as a result of the LeShawn case;
- DHS manages payments to foster care providers, adoptive parents, and other vendors; and
- Family Division of the D.C. Superior Court pays for indigent counsel, coordinates with the Executive Branch, and adjudicates abuse and neglect filings. The Social Services Division provides counseling for abused children and their families.

Maryland and Virginia have similar programs for abused, neglected and dependent children, Maryland finances the program in Baltimore; Arlington County funds most of its services..

Conclusion

Foster care and other child welfare services are essential, and the District's program offers the same array of services available in adjoining jurisdictions.

ELIGIBILITY

Services in the District as in adjoining jurisdictions are provided primarily to low-income families. Protective services and services required to reunite families or to prevent out-of-home placements of children may be provided to any individuals who need them.

Conclusion

The District's eligibility for foster care and child welfare services is comparable to eligibility standards elsewhere.

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WORKLOAD

District-4.6 percent of the 1990 population were children living in poverty.
Maryland-2.9 percent were children living in poverty.

Caseload data are not available from the court receiver. However, the courts reported 390 cases of abuse under their supervision in 1995. Some 5,319 child abuse and neglect cases were pending, including 1,512 new filings.

Conclusion

Relative to total population, the potential workload or demand for foster care and other child welfare services is at least one and one-half times as high in the District as in Maryland.

COSTS

District-$59.5 million in local funds on the administration of and services (many foster care placements are outside of the District, requiring payments for board and care, transportation, and education):

- $30.5 million was for the board and care of foster care children;
- $7.1 million for their education;
- $1.1 million for medical costs for both foster care and adoption subsidy;
- $5.3 million for transportation and legal and other fees; and
- $15.5 million for social workers and administration and support services.

$2,136 per child living in poverty

Maryland-$98.4 million; $709 per child living in poverty.

Without further program and caseload information, the causes of the District's apparently high costs per child living in poverty cannot be determined. Possible explanations are the greater reliance on (more expensive) out-of-state placements and lack of payment schedules for foster family homes, group homes, and special-needs children placed for adoption.

Conclusion

Compared to Maryland, the District spends more for foster care and child welfare relative to population because of its higher relative workload and apparently higher unit costs.

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DEVELOPMENTAL DISABILITIES SERVICES

SERVICES

The District provides residential services and care to individuals who are developmentally disabled. A developmental disability is a severe chronic disability which results in substantial functional limitations in major life activities and which is likely to continue indefinitely. Some examples of developmental disabilities are mental retardation, cerebral palsy, multiple sclerosis, autism, deafness, and head injury.

By law, the District provides the care with the least restrictive and most normal living conditions possible, including:

- Individual habilitation plans;
- Day treatment;
- Foster care and respite care; and
- More intensive, 24-hour treatment in intermediate care facilities for the mentally retarded. (ICF/MRs). Consistent with the Pratt Decree, the District has closed Forest Haven and now uses mainly ICF/MRs.

Medicaid reimburses about 38 percent of total costs. The District also provides supported employment services to the same clients (see the Rehabilitation Services report).

Maryland offers essentially the same array of services but still operates several large institutions for about 6 percent of its habilitation clients. Maryland offers in-home services and a 2-week summer program, neither of which is provided by the District..

Conclusions

Residential and care services for the developmentally disabled are basic. The District service level is slightly less than in Maryland.

ELIGIBILITY

District-Subject to the appropriations limit, all mentally retarded persons and developmentally disabled persons are eligible for habilitation and services suited to their needs, regardless of age, degree of retardation, or handicapping condition.

The individual must have been documented to be mentally retarded prior to age 18, and the developmentally disabled, prior to age 22. A pending regulation will require the client, parent, spouse, or adult child to pay some or all of the cost of the services based on financial means.

Maryland has similar eligibility standards, but rather than capping entitlements, limits the number of slots that are Medicaid eligible. Providers can bill the client for a contribution based on a sliding scale.

Conclusion

The District and Maryland have similar eligibility requirements for services to the developmentally disabled.

WORKLOAD

District–

- 1,850 cases in FY 1995 (0.3 percent of the 1990 adult population)
- 1,132 residential placements: 734 in intermediate care facilities, 175 in group homes for the mentally retarded and developmentally disabled, 97 in supervised apartments, 95 in specialized home care, and 31 in out of state homes.
- Remainder is mainly day treatment and use of transportation.

The Pratt Consent Decree mandates case manager ratios of 1:60 and annual assessment and habilitation plan development for every customer. D.C. Law 2-137, as amended by D.C. Law 11-52, modifies the annual assessment requirement and allows reevaluations based on customer need. The case manager/customer ratio was 1:93 in FY 1995 but with recent hirings is now 1:68.

Conclusion

While it has the same overall workload as Maryland, the District uses relatively more expensive forms of service such as ICF/MRs rather than less costly day treatment and in-home and family support services.

COSTS

District–$72.6 million in local funds ($40,486 per service case, $59,368 per residential case):

- **$27.0 million in administration and services;**
- $45.6 million for the local Medicaid match charged to the Medicaid control center ($32.3 million for intermediate care facilities, $12.6 million for day treatment programs);
- Remainder for transportation, medical treatment, etc.

Residential services account for 53 percent of nonMedicaid service payments to vendors--$11.3 million, including $2.8 million for out-of-state residential placements and $2.6 million for supervised apartments.

Maryland– $267.0 million in nonfederal funds ($18,461 per case; $35,970 per residential case).

Some factors that may account for these differences are Maryland's heavier reliance on less expensive in-home and family support programs and the state's lower operating costs of community facilities located throughout the state. The District's costs should reflect the savings from closing Forest Haven, while Maryland still operates expensive residential centers.

A more thorough analysis of provider rates, wage differences, and workloads is necessary before the cost differentials can be satisfactorily explained.

Conclusion

The District spends about two and one-half times Maryland's expenditures relative to population. Most of this difference is attributable to more expensive forms of service and consequently higher per case costs. Compared to Maryland's per case costs, the District's range from one and one-half to over two times higher.

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CHILD DAY CARE

SERVICES

States are required to provide day care for AFDC recipients (1) if needed to accept employment or remain employed or (2) if the recipient is enrolled in a state-approved education or training activity. Every state provides day care and receives federal assistance based on its Medicaid matching formula.

The **District** provides:

- Year-round full-day care for children under 13 in low-income families designed to enable parents to participate in training programs, seek work, or work. Operated by DHS, these programs can be classified as:
  - *AFDC-related programs*--including transitional day care for families that lose eligibility because of increased income and day care for employed families that without day care would risk becoming AFDC recipients; and
  - *Programs for families with slightly higher incomes*--this local program supplements the day care offered under the federal Child Care and Development Block Grant program.
- Pre-kindergarten program and locally supplemented Head Start programs in various settings, including an extended day or "wraparound" program (see report on Public Schools).
- Partial-day summer programs and preschool cooperative play (Department of Recreation and Parks).
- Training of child development workers (DHS)

The City of Baltimore and Arlington County also provide full-day care under the AFDC-related programs and programs serving higher-income families. In the District, day care programs for the higher-income families account for 75 percent of the total nonschool day care services provided, but only 20 to 25 percent in Baltimore and Arlington County. Both Baltimore and Arlington provide pre-kindergarten programs and Head Start. As the discussion on costs shows, those programs also are operated on a smaller scale than the District's.

Conclusion

Day care for AFDC families is an essential service mandated by the federal government and provided by all states. At the low levels provided in Baltimore and Arlington County, day-care for higher-income families and pre-kindergarten is a basic service. District services beyond those levels are discretionary.

ELIGIBILITY

AFDC-Related. Free child day care is guaranteed for all AFDC recipients meeting employment-related requirements, and for 12 months for families that lose AFDC eligibility because of increased income (contributions based on a sliding scale are required). As a result of differences in AFDC payment levels, which are effectively the maximum income for eligibility, families in the District may receive more day care assistance from the AFDC-related funding streams than families in Maryland or Virginia.

Monthly payment level for a one-parent family of three:

–District-$420
–Baltimore-$389
–Arlington County-$354

Day care provided to employed families at risk of otherwise becoming AFDC recipients has the same income maximums but the funding is capped and family contributions are required.

The Supplement to the federal Child Care and Development Block Grant program is for families not qualifying for AFDC who are either (1) employed, (2) receive vocational rehabilitation services or treatment for physical or mental problems, or (3) have children with special needs. Families contribute according to a sliding scale, unless the children need protective services or the foster parents are employed or in training. Maximum income for a one-parent family of three:

District–$21,921
Maryland–$18,409

Pre-kindergarten and cooperative play programs. In the District and Baltimore, all children may participate in both programs, regardless of income. Arlington's limited pre-kindergarten programs are restricted to lower-income families.

Head Start programs operated by the Public Schools. Maximum District family incomes were $12,500 in FY 1995 for a one-parent family of three. The program is also offered in Baltimore and Arlington County.

Conclusion

Eligibility standards for AFDC-related day care services are more generous in the District than in Baltimore or Arlington County because of the higher AFDC payment/income levels in the District. Non-AFDC day care programs are also more generous in the District because they are available to families with higher incomes than in Baltimore.

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BENEFITS

District-Reimbursement rates for vendors in the DHS programs vary according to the age of child, time in care, type of care, and administering agency.

Full-time day care at a center:
- $21.10 for an infant (under 2)
- $18.55 for pre-school (2 to 5)
- $14.85 for a school-age child (5 to 12)
  - -Providers who have contracts are paid at their non-DHS rates for similar services up to the DHS rates
  - -Providers who charge by voucher remove the parent portion of the DHS fee

Maryland reimbursement rates for full-time centers in Baltimore:
- $30.80 for an infant
- $16.18 for other children

Conclusion

The per day dollar value of District day care benefits for children over 2 is about the same as the benefit value in Baltimore but substantially lower for infants.

WORKLOAD

The main clients for subsidized day care programs are children in low-income families. Though now seven years old, 1990 census data on age distribution and the number of children living in poverty with one parent are the only comparable measures of this demand. For programs with capped funding, the number of children served is not an independent or exogenous workload measure but a measure of the response to demand for services.

District:
- 24,063 children living in poverty with one parent, or 4.0 percent of the 1990 population
- 12,201 children served by locally funded day care programs, or 10.5 percent of the 1990 population under 18:
  - –6,526 in DHS programs
  - –5,675 in pre-kindergarten and Head Start

Maryland
- Children in poverty comprised 2.0 percent of the 1990 population
- 17,124 children served by state-funded day care programs or 1.4 percent of the population under 18.

Baltimore:

- 49,511 children in poverty, or 6.7 percent of the 1990 population

- 10,686 children served by state and locally funded day care programs (excluding children with non-subsidized care), or 5.9 percent of the population under 18:
  - -5,573 in nonschool programs (including 217 in city operated centers)
  - -5,113 in the Schools' pre-kindergarten

Arlington County:

- 1,223 children in poverty, or 0.7 percent of the 1990 population

- 505 children in nonschool programs

Conclusion

In terms of potential demand for day care for low-income families the District has double Maryland's workload relative to population but only 60 percent of Baltimore's. The District has responded to the demand by providing more low-income day care slots than provided in Baltimore by the state and city governments. The District also has more children in the Schools' prekindergarten and Head Start. Including the school programs, the District provides some kind of subsidized day care for much more of its population under 18--10.5 percent of that population compared with 5.9 percent in Baltimore and only 1.5 percent in Maryland.

COSTS

Spending on Day Care in Neighboring Jurisdictions ($ Millions):

Services	D.C.	Baltimore	Maryland	Arlington Co.
NonSchool Programs:				
Administration	1.4	1.4	10.4	.4
AFDC-related subsidies	4.4	18.2	24.2	1.3
Non-AFDC subsidies	18.2*	3.8	7.9	.4
Total NonSchool	24.0	23.6	42.5	2.1
School Programs	27.9	5.4		.9
Total, Day Care	51.9	29.0	42.5	3.0
Subsidies Per Child Served ($'s only):				
Nonschool programs	3,441	3,935	2,485	4,176
School programs	5,191	955		

*Includes .2 for Dept. of Parks and Recreation

Conclusion

Nonschool day care expenditures in the District equal state and local expenditure in Baltimore's but District expenditures for prekindergarten and other pre-school programs are four and one-half times Baltimore's school day care spending. Including the Schools' programs, total District expenditures for day care are almost twice the amount spent on subsidized care in Baltimore. More District children receive subsidized nonschool day care at lower unit costs in part due to the District's much lower infant care reimbursement rates.

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SERVICES FOR THE ELDERLY

SERVICES

The District provides the following services to persons age 60 and over to protect them and to promote the maximum level of independence:

DHS Family Services Administration:

- Investigates, intervenes, and initiates appropriate protective services in situations of reported abuse, neglect (including self-neglect), and/or exploitation of mentally or physically impaired adults;
- Investigates, counsels, and provides linkages to medical, financial, social, and in-home support;
- Provides legal services for petitioning the court and establishing guardianship;
- Provides fully subsidized homemaker and chore services to low-income, frail elderly and disabled adults, and families with children in order to prevent premature or unnecessary institutionalization (most of the clients are elderly):
  Basic services–grocery shopping, meal preparation, assisting with bathing and personal hygiene, light housekeeping, and laundry.
  Supporting services–determining eligibility, developing service plans, reviewing and monitoring cases, and providing respite care to relieve family and other caregivers.

Office on Aging:

The District also offers partially subsidized services to the elderly who have somewhat higher incomes and who share in the costs based on a sliding scale. *This is a discretionary program, operated by the Office on Aging, that was established under the federal Older Americans Act and requires the participating states to match at least 15 percent of the federal grant.* A limited number of services is Medicaid-eligible.

This program:

- Provides information and referral, counseling, and case management;
- Trains volunteer advocates to link the clients to appropriate programs;
- Assists those recently discharged from hospitals to obtain needed services;
- Arranges personal care and homemaker services; meal delivery and congregate meals; geriatric day care; transportation for personal business, grocery shopping, and medical appointments; legal assistance and a long-term care ombudsman; and
- Assists with part-time employment.

Similar services are provided in **Baltimore** and **Arlington County** by the state and local governments. Arlington also has a program to provide companions for the frail elderly and disabled.

Conclusion

District services to provide protection for the elderly and to promote independence are basic. They are comparable to the services in adjacent local jurisdictions.

ELIGIBILITY/BENEFITS

District–

Protective services–any physically or mentally impaired adult aged 18 and over who is a resident, without regard to income (the participants are mainly elderly). District social workers intervene in emergencies on a 24-hour basis, including weekends.

Fully subsidized homemaker and chore services–frail elderly and disabled persons with monthly income under $883 (individual) and under $1,155 (couple). Confirmation of medical disability or frailty and a determination that services are needed to maintain the client at home are required. Maximum service is 6 hours per week, provided by trained and supervised workers paid according to federal guidelines (some lower cost traditional chore aides are used but are being phased out).

Partially subsidized services–those 60 years old and over, without regard to income, but with a client contribution according to a sliding scale. This effectively results in serving clients with monthly incomes above $883 but below about $3,000. Those with higher incomes receive no effective benefit and tend to rely on the private sector to meet their needs.

Baltimore–

Protective services–any physically or mentally impaired adult aged 18 and over who is a resident, without regard to income (participants are mainly elderly).

Fully subsidized homemaker and chore services–monthly income limit is $1,300 (individual) and $1,800 (couple). Confirmation of medical disability or frailty, and a determination that services are needed to maintain the client at home are required. Service is 12 or more hours per week.

Partially subsidized services–persons with slightly higher incomes.

Arlington County–

Protective services–any physically or mentally impaired adult aged 18 and over who is a resident, without regard to income (participants are mainly elderly). On evenings and weekends, the police have responsibility for this service.

Fully subsidized homemaker and chore services–monthly income limit is $1,054 (individual) and $1,352 (couple). Confirmation of medical disability or frailty, and a determination that services are needed to maintain the client at home are required. Service is 12 or more hours per week, provided by lower cost, lower skilled individual vendors.

Partially subsidized services–persons with slightly higher incomes; clients with monthly incomes above $3,800 pay full costs.

Conclusion

District eligibility requirements for protective services are the same as in Baltimore and Arlington. Because of evening and weekend service, the District's maximum income levels for subsidized homemaker and other social services are lower. District adult protective service benefits appear to be greater than those in Arlington County, but Arlington's homemaker benefits are more generous. Further analysis is needed to determine whether the benefits from other services to the elderly are different in the District than elsewhere.

WORKLOAD

District–

Adult protective cases in 1995: 1,151 intake and 284 continuing services (1.9 percent of estimated 1995 population over age 65); 164 intake cases per social worker.

Fully subsidized homemaker/chore services in 1995: 2,073 adults (2.2 percent of 1990 population over 60; virtually none of the elderly are institutionalized) and 56 families with children.

Partially subsidized services in 1995: 35,146 elderly (46 percent of estimated 1995 population over 65)–nearly 10,000 participated in meal programs (3,997 in-home; 6,602 congregate); 10,159 in counseling; 8,069 in transportation; and 4,968 in personal care.

Arlington County–

Adult protective cases in 1995: 450 intake and 184 continuing services (3.2 percent of estimated 1995 population over age 65); 113 intake cases per social worker (Baltimore had 94).

Fully subsidized homemaker/chore services in 1995: adults comprising 2.8 percent of the 1990 population over 60 (10 percent of elderly are institutionalized).

Partially subsidized services in 1995: a service pattern similar to the District's served 19 percent of the estimated elderly population.

Because of the way services are organized in Maryland and its local governments, no further comparison of workloads is possible.

Conclusion

The District's workload as a percentage of population is smaller than Arlington's for adult protective services and fully subsidized homemaker/chore services. For the partially subsidized services to the elderly, the District's workload in terms of service usage is far greater than Arlington County's

Costs

District–

$20.2 million of local funds:

- –$1.1 million on adult protective services
- –$5.6 million on fully subsidized homemaker/chore services
- –$13.4 million on partially subsidized services; $383 per person
- –$247 per intake case for adult protective services
- –$14.98 to $17.55 hourly for fully subsidized homemaker contracts
- –$12.66 to $12.93 hourly for chore contracts
- –$5.47 hourly for traditional chore aides

43 percent of services to elderly are financed with federal funds; 29 percent for Office on Aging and 33 percent for Family Services Administration

Arlington County–

$409 per intake case for adult protective services (a relatively lower workload and higher pay for experienced social workers)

$280 per person for partially subsidized services

Baltimore–

$4.3 million in state and local funds in 1995 on a combination of fully and partially subsidized services (Baltimore Commission on Aging); 58 percent of Commission spending supported by federal grants

$360 per intake case for adult protective services

Maryland–$23.2 million in state funds (excluding payments to local governments) on protective and other services; 64 percent of state spending supported by federal grants

Differences in state and local service organization make meaningful total cost comparisons between Baltimore and Maryland and the District impossible.

Conclusion

Organizational differences in services to the elderly prevent meaningful total expenditure comparisons, and the comparison of per unit costs presents a mixed picture. The costs of the District's adult protective services, at intake, are substantially lower than Arlington County's and Baltimore's because of more cases per social worker and lower District salaries for experienced social workers. The per unit costs of the District's fully subsidized homemaker/chore programs are higher than Arlington's because of the reliance on more skilled labor. The per unit costs of the partially subsidized services to the elderly per person served are higher in the District than in Arlington County.

The District relies much more on local funds for its nonprotective services to the less-poor elderly population than Baltimore and Maryland.

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SERVICES FOR THE HOMELESS

SERVICES

The District–through the D.C. Initiative–provides emergency and transitional shelter and a continuum of services to homeless single adults and families, including:

- Outreach services;
- Individual plans and case management
- Coordination of providers;
- Assistance in finding permanent housing, training, and employment;
- Development and operation of housing for persons with AIDS and substance abuse problems; and
- Operation of shelters and support services for battered women.

Based on a memorandum of understanding with HUD and the D.C. Community Partnership for the Prevention of Homelessness, during FY 1995 the District changed the nature of its services from an emergency shelter program, characterized as a response to crisis, to the service continuum approach. The District also gradually shifted remaining local funds and program control to the D.C. Community Partnership, completing the transfer May 1, 1995. According to the memorandum of understanding, the new program, the D.C. Initiative, was to receive $7 million in federal grants and $14.8 million in District funds in FY 1995.

Maryland provides what appears to be the same service continuum through its local governments. The state also provides an eviction prevention and housing counseling, and a women's services program.

Arlington County services are for the most part funded locally and involve emergency and transitional housing and a variety of support services, including women's services.

Conclusion

Services to the homeless that are configured in a continuum of care are basic. The District's services are comparable to those provided in Baltimore and Arlington.

WORKLOAD

Comparable workloads that are free of policy influence are not available. To our knowledge there is no reliable estimate of the number of homeless. Using the number and type of beds provided is problematical; the District's count and mix of beds not only changed substantially during FY 1995 with the shift in program focus and unit counts can measure program output. Nevertheless, the number and type of beds still suggest the relative magnitude of workload facing the District.

Before the D.C. Initiative began, the District provided mostly emergency shelter:

- 1,169 12-hour beds for single adults;
- 764 24-hour beds with case management for singles, families, and youth; and
- 125 transitional beds and 94 units of single-room permanent housing with some services.

By the end of FY 1995, there were:

- 2,683 emergency beds
- 358 transitional beds; and
- 1,349 permanent housing with services.

Comparable Maryland and Virginia data are not readily available.

Conclusion

No conclusions were reached regarding the District's workload as compared to other jurisdictions.

COSTS

District–$12.7 million in local funds in FY 1995, all but $6.9 million on the emergency shelter program before transition to the Community Partnership.

Maryland–$6.6 million in state funds in FY 1995, $4.7 million mainly on homeless services and an additional $1.9 million for services to women who have been victims of violence.

Baltimore–spent very little of its own funds on shelter and transitional housing services.

Arlington County--$1.1 million.

Conclusion

The District spends considerably more than Maryland on providing services to the homeless. This comparison is made, however, without taking into account the other services provided to the homeless from other programs. Those can include health care, training, and housing subsidies after the transition to permanent housing.

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REHABILITATION

SERVICES

The **District** provides:
- Vocational rehabilitation for disabled persons and
- Supported employment and independent living services to persons with severe disabilities.

Specific services include:
- Medical and vocational evaluation of the disability;
- Establishing a vocational goal;
- Developing a plan of services and providing the vocational rehabilitation services to achieve that goal;
- Developing the job;
- Placing the individual;
- Providing transportation when necessary;
- Helping maintain the job through coaching, followup, and further training; and
- Encouraging the purchase of workshop products.

Federal funding under the Rehabilitation Act of 1973 predominates:
- Vocational rehabilitation–79.7 percent
- Supported employment–100 percent
- Independent living–90 percent.

Another rehabilitation program, authorized under the Randolph-Sheppard Act, provides training, licensure and placement of the legally blind as operators of gift stores, snack shops, and cafeterias located on federal, District, and private properties. The local share of this program's costs are only 10 percent. Vendors share in the administrative costs.

The District also determines the extent of disability for claims made to the Social Security Administration for benefits under SSI and SSDI. Once approved for those benefits, a client is Medicaid or Medicare eligible. Less severely disabled individuals who are declared ineligible are referred to vocational rehabilitation. The eligibility determination program is 100 percent federally funded.

Maryland and **Virginia** also offer all of these services.

Conclusion

Vocational rehabilitation and independent living services are basic services and are supported by substantial federal grants.

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ELIGIBILITY

All disabled persons, regardless of age or income are entitled to an assessment to determine eligibility for vocational rehabilitation. Once eligible, a person shares the services costs based on a sliding fee scale. The disabilities must be such that:

- The impairment constitutes or results in a substantial impediment to employment; and
- Vocational rehabilitation is required to enter or retain gainful employment.

Those disabilities can involve all bodily systems and include, but are not limited to, legally blind, visually impaired, deaf, hard of hearing, mental retardation, persistent mental illness, and alcohol and drug abuse.

The supported employment services are reserved for the most severely disabled who are unable to work or work unassisted and who require long-term support from another agency or entity to maintain employment. Independent living services are also for the most severely disabled.

The programs follow federal law and uniform nationwide regulations. Eligibility is the same in the District, Maryland, and Virginia.

Conclusion

Eligibility for rehabilitation services is the same in the District, Maryland and Virginia.

WORKLOAD

District–7,006 persons, or 1.4 percent of the 1990 population over 18, received vocational rehabilitation services in 1995 (not including blind vendors or persons in independent living). Some 3,923 persons, 56 percent of the rehabilitation workload, were severely handicapped.

Maryland–2,605 clients were served by the state rehabilitation center, and 27,027 by regional rehabilitation offices, or 0.8 percent of the 1990 population over 18. The severely handicapped served by the state totaled 17,434, or 65 percent of the total served in the regional offices.

Baltimore–8,750 persons, or 1.6 percent of the 1990 population over 18.

Conclusion

Relative to adult population, the District's vocational rehabilitation workload is almost twice that of Maryland.

COSTS

District-$6.8 million in local funds in 1995 on administrative and operating costs of its vocational rehabilitation, employment services, independent living, and blind vendor programs; $964 per person served.

Maryland-$11.9 million; $439 per person served.

Part of the higher District cost per client stems from the federal government requirement that the District at least match vocational rehabilitation spending from local funds for the second preceding year (in FY 1995, the District could not spend less than it did in FY 1993 without losing federal grant revenue). Without this maintenance-of-effort requirement, the District's cost share would be 21.3 percent, instead of about 30 to 40 percent.

While other factors causing costs differences between the District and Maryland are beyond the scope of this study, those factors probably include the higher incidence of poverty in the District and .

Conclusion

The District's costs are substantially higher than Maryland's because of the greater workload relative to population and higher per unit costs. The federal maintenance-of-effort mandate helps keep the per unit costs high.

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CHILD SUPPORT ENFORCEMENT

SERVICES

The District locates absent parents, establishes paternity and a support obligation, enforces the support obligation, and periodically reviews the individual awards. Child support court orders are issued and enforced for those families receiving AFDC and those not receiving such assistance.

Child support programs are required in every state that has an AFDC program or receives federal foster care maintenance payments (Title IV-D, Social Security Act). The federal government reimburses 66 percent of the costs of the program and pays an incentive based on total collections and cost-effectiveness of the program. The remainder of a given collection is divided between the state and the federal government in accordance with the AFDC matching rate. Collections directly offset AFDC benefit costs (except the first $50 of current monthly support goes directly to the family) and are disregarded as income for AFDC purposes.

In the District, responsibility for Title IV-D enforcement resides with the DHS Bureau of Paternity and Child Support. That office pays the Paternity and Child Support Branch of the D.C. Superior Court's Family Division for selected services and the Office Corporation Counsel to represent DHS clients before the Court. The Metropolitan Police Department issues bench warrants for absent parents.

DHS–

- Conducts the initial interview of the custodial IV-D parent;
- Locates the absent parent and the assets;
- Establishes paternity;
- Prepares the petition for a court order;
- Certifies tax refund and unemployment benefit interceptions;
- Conducts periodic case reviews and proposes adjustments to court orders; and
- Manages the accounts.

Superior Court–

- For other than IV-D cases, decides which parent will have custody of the children
- Decides the amount of the child support obligation of the noncustodial parent, and how the support obligation will be enforced;
- Issues support orders, and collects child support including wage withholding for all cases not involving income subsidies. (In 1995, the court collected $51.4 million in court-order payments for AFDC and non-AFDC cases.)
- Disburses support payments to custodial parents or to DHS for offsetting AFDC and foster care benefit costs.

Maryland and Virginia operate similar child support enforcement programs, but in some cases, they use an administrative rather than a judicial system for establishing custody and support. While both the District and Maryland conduct unannounced roundups of parents whose support payments are in arrears, the District does not have a criminal nonsupport statute. Therefore, when a noncustodial parent is brought before the District court on a one-year bench warrant, child support can be collected only if the court requires the bond to cover it.

Conclusion

Child support enforcement is a basic service, and the District offers slightly less service than Maryland.

ELIGIBILITY

In the District as elsewhere, any parent who needs help in locating an absent parent or enforcing a support obligation may apply for such services. Parents receiving AFDC benefits, the federally assisted foster care, or the Medicaid program automatically receive services. The District charges non-AFDC parents a $5 fee, while Maryland charges $20.

WORKLOAD

The D.C. Superior Court reports during 1995–

- 5,950 pending paternity cases;
- 6,224 child support cases, including 3,634 new child support filings; and
- 4,291 interstate reciprocal support cases.

No comparable workload data were readily available for Maryland.

Relative to estimated population, the District had twice the workload as the State of Maryland. In FY 1995, there were 80,252 support cases outstanding in the District of which 45 percent were AFDC cases. Maryland had only 368,770 of which 51 percent were AFDC cases.

Conclusion

The District faces a higher relative workload than Maryland in enforcing child support.

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Costs

District–$2.9 million in local funds spent by DHS on child support enforcement. Per case costs, $36 in FY 1995. Court expenditure data for non-AFDC enforcement were not available.

Maryland–$8.6 million in nonfederal funds spent by executive agencies, including state-funded departments in local governments. Per case costs, $23 in FY 1995. Court expenditure data for child support enforcement were not available.

A rough cost comparison is still possible because both jurisdictions split responsibilities between the court and executive branches more or less in the same way. Much of the difference in executive enforcement costs can be attributed to the District's higher relative workload. If the District had Maryland's relative workload and costs it would spend $1.9 million. It is not clear what causes the unit cost differences, but possible reasons include the economies of scale Maryland enjoys plus the difficulty of locating absent parents and enforcing collection in the middle of a multistate region.

Conclusion

Compared to Maryland, the District has relatively high executive branch costs for enforcing child support in part because of relative high workload. We cannot explain the high per unit costs without further analysis and detailed cost and process information particularly from the judicial branch.

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COMMUNITY-BASED HEALTH SERVICES

Disease Prevention and Control

The **District** administers or provides services for: immunization; detection and control of tuberculosis, venereal diseases, and other contagious diseases; cancer detection and registry; preventive health activities; and animal control. Other state and local governments typically provide protection to residents against preventable disease and premature loss of life, although sometimes in organizational structures different than the District's.

While individuals receive services under this program, the service is generally seen as a benefit for the entire community and no eligibility requirements for participation are usually imposed.

No meaningful workload comparisons were available.

The District identified $5.7 million as expenditures for this service in 1995, but many activities conducted in city clinics and other facilities also contribute to this service. It also does not include AIDS prevention activities that are classified as part of the overall AIDS program. The State of Maryland provides several services that are similar to the District's through its Community Health Surveillance programs that cost $19.0 million in 1995. The City of Baltimore is responsible for animal control expenditures that cost $1.3 million in 1995.

Conclusion

The District's Disease Prevention and Control services are essential and are comparable to other governments. Detailed comparisons of workloads or expenditures were not possible.

Medical Examiner

The medical examiner investigates and prepares reports on violent or suspicious deaths and those unattended by a physician, conducts autopsies when necessary, determines cause and manner of deaths, and completes death certificates when required to do so. This is a government service that is universally provided by either state or local governments.

The State of Maryland Medical Examiner provides services throughout the state, and performed 8,018 investigations and 3,048 autopsies in 1995. No comparable workload data were available for the District.

The District medical examiner expenditures were $1.9 million in 1995. In Maryland, the medical examiner expenditures were $4.5 million in 1995. Because a comparison of workloads is not available no determination of comparability of expenditures can be made.

Conclusion

Medical examiner services are essential and are provided by other governments. Workloads and expenditures could not be compared.

SCHOOL HEALTH SERVICES

School health provides health assessment to school children and services to those lacking primary medical care providers. It assists schools in providing immunization and screens children for hearing and vision problems.

School health service expenditures were $4.6 million in the District and $7.7 million in Baltimore in 1995. Baltimore schools have an enrollment of 114,500 or about 45 percent more than District schools. Thus, the District spent slightly less than Baltimore considering differences in enrollments.

Conclusion

School health services are basic and the District's expenditures are comparable to Baltimore's.

HEALTH LABORATORIES

Laboratories assist physicians and health officials in the prevention, diagnosis, and control of human disease by performing a variety of tests. No workload information is available for the District's laboratories, but over 3 million tests were performed by the State of Maryland laboratories. The District's expenditure for laboratories was $1.4 million in 1995 compared to $16.1 million in Maryland.

Conclusion

Health laboratory services are basic and the District's expenditure is comparable to Maryland's.

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MEDICAID

SERVICES

Medicaid is a joint federal-state program that pays for medical and long-term care for certain poor, elderly, blind, and disabled persons. Every state provides Medicaid services. In the District, Maryland, and Virginia, the federal government pays half the cost of the services. (The federal share is based on state per capita income, and can be as high as 80 percent.)

Conclusion

Medicaid is an essential service provided by all states.

ELIGIBILITY

Mandatory–Federal law requires that states provide benefits for all residents who receive Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), and some children and pregnant women who meet poverty criteria.

Discretionary–States may extend eligibility to:

Some other children, pregnant women, aged, blind, and disabled residents, even if they have slightly higher incomes than the mandatory eligible participants; and

The "medically needy" whose incomes are too high to automatically qualify them, but who meet eligibility requirements when they incur Medicaid eligible costs high enough to offset their excess income. *This group is the most costly of discretionary eligible recipients.* (Thirty-seven states provide services to the medically needy.)

The District, Virginia, and Maryland, provide services to all mandatory and discretionary eligible residents. However, because the eligibility requirements for AFDC are not required to be uniform for all states, there is indirect state discretion as to who qualifies for Medicaid under mandatory AFDC eligibility. In the District, a one-parent family of three with gross monthly income as high as $1,317 in January 1994 could be eligible for AFDC and, therefore, Medicaid. The Maryland ceiling on gross income is $938, and Virginia's is $727.

As a result of differing AFDC standards, families with the same income and other requirements may be eligible for Medicaid in the District, but not in Maryland and Virginia. *Because only about 2 percent of the District's AFDC recipients have any earned income, the effect of this difference, if any, is negligible.*

Conclusion

There are no significant differences between the District's eligibility requirements and those in Maryland and Virginia. However, coverage for an undetermined number of

recipients in the District, as well as in Maryland and Virginia, is not required by federal law. The cost of the discretionary recipients could not be determined.

BENEFITS

Basic benefits are mandated by federal law. These include costly services such as hospital care; physician, laboratory, and X-ray services; and skilled nursing home and home health care services for adults.

States also may provide up to 31 optional services, such as prescription drugs, dentures, eyeglasses, occupational therapy, and private duty nurses. *The District provides 23 optional services, Maryland provides 22, and Virginia provides 21–making little difference in the services available to Medicaid recipients in the three jurisdictions.*

Small deductibles, coinsurance, or copayments may be imposed on some recipients for some services. These may reduce utilization and costs of benefits. Medicare recipients with incomes below the poverty line must be assisted in making their coinsurance and deductible payments. *The District and Maryland do not impose these fees.*

Conclusion

The services provided by the District are almost exactly the same as in Maryland and very close to those in Virginia. All three jurisdictions provide discretionary services. We were not able to determine the District cost for those services.

WORKLOAD

During 1995, the District had 158,224 average annual Medicaid recipients, about 26.9 percent of the estimated population.

Comparable workload information was found for:
Maryland–465,951 average recipients, about 9.3 percent of population.
Baltimore–187,346 recipients, about 26.8 percent of population, almost identical to the District.

These workload numbers highlight a significant difference between the District and state Medicaid burdens. While Maryland has to service a high workload in Baltimore, that burden can be offset by very low workloads in other parts of the state, such as Howard County with only 3.4 percent of its population as recipients.

Conclusion

The District's workload based on average recipients relative to population is about three times that of Maryland.

Costs

District–$838.7 million estimated total in 1995, of which approximately $419.3 million was from local appropriated funds, including amounts paid to outside vendors and services provided through District facilities that were not specifically identified as Medicaid expenditures. Excluding District expenditures for patients treated at St. Elizabeths and city health clinics for which the District claims federal reimbursement, the District spent $377.9 million in local funds.

Maryland–$2,063.8 million for 1995.

Taking into account population differences, the District spent about three and one-half times more than Maryland on Medicaid. Workload differences account for most, but not all of the difference.

Total Maryland Medicaid expenditures in Baltimore City were estimated at $839.0 million. There were 29,121 more average recipients in Baltimore than in the District, making the average state cost per recipient in Baltimore only $4,479 compared to $5,301 in the District.

For AFDC recipients, the average DC costs are substantially higher at $2,183 (100,509 recipients) compared to $1,688 (135,506 recipients)for Baltimore. For non-AFDC recipients, the reverse is true, $10,731 for the District (57,715 recipients) and $11,775 for Baltimore (51,839 recipients). The overall average for all recipients is higher in the District.

The District's AFDC-related costs may be higher because those recipients receive mainly medical care, while non-AFDC recipients receive more nursing home care. This means the costs per AFDC-related recipient will be more directly affected by the higher medical care costs in the Washington area than in Baltimore. For example, the 1993 hospital wage index used to calculate a hospital's base payment amount for Medicare reimbursement was 1.08 in the District, while in Baltimore it was 1.00 (in rural Maryland it was 0.86), or about 8 percent less. Assuming this explains part of the cost difference, there would still remain about an average $350 per recipient difference for AFDC related recipients.

Conclusion

District Medicaid expenditures far exceed those in Maryland relative to population. This reflects both a higher relative workload and a higher average cost per recipient. We are unable to find sufficient comparable cost information to explain fully why AFDC related costs per recipient are higher in the District, but some part of the higher costs is attributable to generally higher hospital costs.

D.C. GENERAL HOSPITAL

SERVICES

D.C. General Hospital (DCGH) is a general acute care hospital with 325 operating beds (licensed for 410 beds). It provides inpatient, outpatient, emergency, diagnostic, preventive, and rehabilitative services. Over half its services are provided to uninsured residents and visitors, undocumented aliens, and incarcerated or other residents of city institutions. About 43 percent of admissions had Medicaid or Medicare coverage in 1994, but usage by patients with these coverages is declining. In 1995, DCGH had an occupancy rate of 65 percent, down from 77 percent in 1994.

No facility comparable to DCGH is operated by state or local governments in either Maryland or Virginia, although Virginia has 4 hospitals operated by special districts. Nationally, 9 states, including Maryland, do not have any acute care hospitals operated by local governments. There are 262 cities in other states that operate city acute care hospitals, but only 21 have expenditures exceeding $10 million annually.

At the state level, three acute care hospitals in Virginia and one in Maryland are operated as a part of state university medical schools and typically provide some hospital services to indigent patients. The extent of this care and costs cannot be determined because the operation of the facilities is treated as an integral part of the education program and only incidentally as assistance to indigent patients.

In Virginia, free hospital care is provided for those who are not eligible for Medicaid and whose income is below 200 percent of the poverty level and whose assets do not exceed the SSI limits. This service is provided only until the amount budgeted by the state is used up, in Fairfax County, about a half year. When these funds are exhausted, the private hospitals assume financial responsibility through an Indigent Health Care Trust Fund. In Maryland, care for those unable to pay is provided by private hospitals through rates established by the Maryland Health Services Cost Review Commission.

Conclusion

Operating an acute care hospital is not an essential or basic city or state service and is a state service only as ancillary to the operation of medical schools. However, the provision of some form of financial assistance for hospitalization of uninsured and indigent residents is generally provided either directly or through rate structures for private providers.

ELIGIBILITY

DCGH accepts all patients needing medical help, regardless of income, whether residents or non-residents, insured or uninsured. It also accepts patients transferred from other hospitals in the city and from public and private health clinics. Virginia, while its appropriated allocations permit, provides care for those with incomes below 200 percent of the poverty level, and with assets below the SSI maximum. Eligibility is not applicable in Maryland, because there is no comparable state program.

Conclusion

The District's open eligibility policy for hospital care far exceeds Virginia's very limited eligibility for such care.

WORKLOAD

DCGH had 11,915 inpatient admissions and 157,394 emergency room and outpatient visits in 1995. An undetermined number of these patients had Medicaid, Medicare, or other means of payment and were not users of a District provided service, at least from the perspective of the city paying the full cost of the service from local funds. From another workload perspective, the District had an estimated 98,000 uninsured residents in 1994, all of whom were potential users of DCGH services for free or reduced rates. Fairfax County reports that it had 1,348 recipients of inpatient aid under the Virginia plan in 1995.

COSTS

The District subsidy for DCGH from local funds was $56.7 million in 1996. In addition, the city made Medicaid matching payments of $11.2 million from city funds and made $5.6 million of intra-District payments for prisoners and other city wards. These payments are reflected as costs of Medicaid, Corrections, and other programs. They are not considered a city subsidy because they would be made to private hospitals if DCGH did not exist.

The State of Virginia appropriated a total of $25.8 million for its state programs, with local governments providing additional matching amounts to a maximum of 25 percent of the costs. The State of Maryland and its local governments do not budget any funds for provision of hospital care for uninsured indigents. No estimates of cost are available for patients treated at hospitals associated with state medical schools.

Conclusion

The District spends much more on hospital care for the needy than Virginia and Maryland.

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PERSONAL HEALTH CARE SERVICES

PUBLIC HEALTH CLINICS, MATERNAL AND CHILD HEALTH, AND HOME CARE

The **District** provides primary medical and dental health care to uninsured indigent residents and visitors through public clinics and home visits, and on an outpatient basis at D.C. General Hospital. Some care is provided to insured and self-pay patients on a reimbursable basis. The clinics also provide some preventive and educational services. Similar services, including dental treatment, are provided in both **Baltimore and Arlington County**. For example, Arlington's service goal is "to prevent complications from chronic disease and long-term effects of acute disease by providing increased access to health care for medically indigent Arlington residents."

Because of the diverse nature of the services provided, it is difficult to identify a single workload measure. However, the services are primarily directed to low-income uninsured residents which are estimated to be 98,000 in the District by the Mayor's Task Force on Health Care Reform. No comparable estimates are available for Baltimore or Arlington.

The District's 1995 expenditure for these programs was $20.2 million. Expenditure comparisons with Baltimore are difficult because the services are provided by both the city and the state, and the descriptions of the services are not the same as in the District. Using what appear to be comparable services, Baltimore City spent $9.7 million and the State of Maryland spent $36.5 million in 1995. Assuming that a substantial portion of state expenditures were attributable to the large low-income population in Baltimore, the expenditures in the District and Baltimore seem comparable.

Conclusion

The clinical and home health services in the District are basic and expenditures are comparable to those in Baltimore.

LONG-TERM CARE FOR ELDERLY AND HANDICAPPED

The **District** provides nursing home care for indigent elderly and handicapped residents and also provides home care in the resident's own home. When this care is provided by outside vendors the costs are reflected in the Medicaid program. When the services are provided by D.C. Village and J.B. Johnson Nursing homes, both operated by the District Government, the costs are shown as city expenditures attributable to those facilities and not to Medicaid.

In the future, the District plans to close D.C. Village and treat J.B. Johnson as an outside vendor. Consequently most expenditures for this care will then be reflected as expenditures in the Medicaid program. For purposes of this analysis, the service and costs are included in the Medicaid discussion, although there may be a small amount of non-Medicaid city funding for the services.

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HIV/AIDS

The AIDS program provides scientific and public health leadership to combat the spread of HIV, and to provide consultation, referral, and limited medical care services. The services generally consist of testing and counseling, community education and outreach, and medical case management. Both Arlington County and the State of Maryland have programs with activities similar to the District's. The services financed by the local and state governments are supplemented by federal funds.

Workload statistics for 1995 in Maryland show 13,082 cumulative reported AIDS cases in the state, of which 6,731 were in Baltimore City. The District reported 9,264 cumulative AIDS cases in 1995. The AIDS cases in D.C. are the equivalent of 1.60 percent of its population in contrast to .3 percent for Maryland and 1.0 percent in Baltimore. The Maryland rate of new cases was 59 per 100,000 in 1995, while the Baltimore rate was 84 per 100,000.

The District expenditures for this program were $6.1 million in 1995, with much of it being required to provide matching for the $15.5 million in federal aid received. The State of Maryland spent $4.4 million in 1995 and received $10.4 million in federal aid. Local funding ($1 million +) for AIDS in clinical services was identified in the Baltimore city budget, but the exact amount could not be determined separate from other spending. Arlington spent $.5 million and received a $.1 million federal grant.

Conclusion

The District's AIDS program is basic and leverages substantial federal funding. The relative workload in the District is about five times higher than in Maryland and also relatively higher than in Baltimore. Therefore, the relative expenditures compared to Maryland should be five times as high. On a per recipient cost basis, however, the District spends more than Maryland.

ALCOHOL AND DRUG ABUSE

Addiction treatment programs include prevention activities, primary and emergency care, outpatient care, detoxification and 28 day residential treatment, and aftercare. The State of Maryland, jointly with the City of Baltimore provides similar services.

Because a variety of different services are provided to different types of patients, it is not possible to get comparable workload statistics.

The District spent $23.0 million of local funds on its program in 1995. The comparable spending in Baltimore, including state and federal funds was less than $16.5 million. Because an undetermined amount of the Baltimore spending was from federal funds, the net amount of state and local expenditures could not be determined.

Conclusion

The treatment of drug and alcohol abuse is a basic government service. Because comparable workload data is not available, it is difficult to judge comparative expenditures, but it appears that the District's expenditures exceed comparable expenditures in Baltimore by the city and the State of Maryland.

MENTAL HEALTH

SERVICES

The **District** provides treatment for mental health problems for insured and uninsured residents through a public system of acute hospital care, long-term institutional care and community based care.

All of the acute care and most of the long-term care is provided by St. Elizabeths Hospital. However, as a result of the *Dixon* court order, adult patients are also housed in community-based residential facilities. Forensic services are provided for mental health evaluations and treatment of persons referred by the criminal justice system.

Maryland provides long-term care for adults through 6 regional hospitals and for children and adolescents at 3 regional hospitals.

Most acute care, except for a small amount at two state centers, is provided at independent non-governmental general hospitals which recover their costs through reimbursement rates for Medicaid, Medicare, and other insurers. One state hospital provides forensic services. Community mental health services are financed by the state through grants to local providers and through state operation of a mental health center in Baltimore.

Conclusion

The District mental health services are essential and similar to those provided by Maryland. In Maryland, however, most acute care services are provided privately and not directly by the government.

WORKLOAD

District-

800 inpatient cases (about 140 acute care and about 250 forensic). About 20 percent of inpatient admissions are reported to be non-residents.
6,500 additional outpatients treated through various community-based programs. These patients received 283,762 services in 1995.
7.2 patients per 10,000 population were in long-term care in 1995.
498 per 1,000 population were outpatients

Maryland

1,741 average reported inpatients in 1995 (71 acute care and 188 forensic).

3.0 patients per 10,000 population were in long-term care in 1995.
282 per 1,000 population were outpatients.

Comparing workloads is difficult because of differences in the way services are provided and because workload information separating insured patients from uninsured patients is not available. For example, although the District has 25 times as many acute care inpatients as Maryland relative to population, this difference results from Maryland's use of private hospitals for acute care. In the District a substantial portion of acute care patients are probably also eligible for Medicare, Medicaid, or other insurance coverage and not as burdensome as other patients.

The workload may also be influenced by differences in laws. The District has almost 10 times as many forensic patients relative to population as Maryland, even after adjusting out those patients related to federal actions and subject to federal cost reimbursement. One reported cause of the high number of forensic patients is District laws that made it relatively easy to use insanity as a plea in criminal cases. In both long-term inpatient and outpatient workloads, the District far exceeds Maryland.

Taken together, all of the workload numbers confirm a much higher intensity of workload in a central city setting compared to a state. This pattern is substantiated in national literature that finds a high correlation of mental health needs to SSI recipients. Both the District and Baltimore have SSI rates about two and one-half times greater than Maryland. Therefore, if mental health statistics for Baltimore were available separately from Maryland, they would likely show a disproportionate number of state cases originating in the city.

Conclusion

The District's mental health workload is at least double the comparable workload of Maryland.

COSTS

District-over $200 million in 1995; only $113.7 million was from appropriated funds (about $200 per capita) and the balance was from the federal share of Medicaid, Medicare, and other private payers.

Maryland-$334.5 million from general funds (about $67 per capita), including local community-based services.

In addition to the difference in workloads, there are some other less obvious reasons for the large difference in per capita costs:

(1) The District provides acute hospital care, which added $10 million to expenditures. Maryland leaves all but a small portion of this care to the private sector to provide, so there is no equivalent expenditure.

(2) The District reports its share of Medicaid expenditures for mental health services as mental health expenditures. Maryland reports the corresponding expenditures as Medicaid expenditures. This adds about $34.3 million to District spending for which there was not a corresponding Maryland expenditure.

(3) A disproportionately large portion of District mental health spending goes for St. Elizabeths facilities and grounds, and for support services to other human services programs. The facilities support services cost $26.4 million in 1995, or about 23 percent of appropriated expenditures. We were not able to identify the comparable spending in Maryland, but we believe it would be substantially less.

We were not able to adjust exactly for the acute care and Medicaid accounting contributions to high per capita spending, but a reasonable adjustment would probably reduce the $200 per capita to $124, or a little less than double the Maryland per capita spending.

Conclusion

After adjusting for comparability, the District spends about double the per capita amount spent in Maryland. We attribute the higher expenditures to the relatively higher workload in the District caused by its urban characteristics and by a high forensic population. In addition, there are high facilities support costs, principally maintaining St. Elizabeths.

DISTRICT OF COLUMBIA PUBLIC SCHOOLS

SERVICES

The District provides:
Full-day educational instruction for all students from pre-kindergarten through grade 12;
Special educational and attendant services for learning disabled, emotionally disturbed, physically disabled, language and speech impaired, and mentally retarded students aged 3 to 21;
Full-day early childhood and Head Start programs for pre-kindergarten children;
Adult education services to achieve basic education, G.E.D., and high school diplomas;
Ancillary services, including school lunches and breakfasts, career and vocational programs, transportation for special education students, athletics, and a variety of relatively small specialized programs for students with specific interests or problems.

Baltimore provides:
Similar basic K-12 educational programs;
School food services, career and vocational services, and student athletics;
Half-day kindergarten and pre-kindergarten;
Special education programs, including transportation, as required by federal law;
Adult education.

Alexandria provides:
Similar basic K-12 educational programs
Special education programs, including transportation, as required by federal law;
Adult education;
Supplemental education programs.

Baltimore and Alexandria are urban school systems that have student enrollments with similar economic and demographic diversity to the District's. Baltimore provides fewer specialized programs than the District, such as minority language education. Alexandria's supplemental programs appear comparable to the District's, but Alexandria has no pre-school program for most children.

Conclusion

District educational services are essential. Special education services are required by federal law. The District also provides a range of discretionary services, that are more extensive than those provided by Baltimore, especially for kindergarten, pre-kindergarten, and specialized educational programs. Alexandria provides discretionary services that are similar to those in the District, except for pre-kindergarten.

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WORKLOAD

District-
78,591 in 1995 (including 5,375 aged 3 and 4 in pre-kindergarten).
K-12 enrollment 73,216, about 12.8 percent of population.
About 7,500 special education students, about 10 percent of students

Baltimore-114,530 in 1995 (including 5,113 aged 3 and 4 in pre-kindergarten).
K-12 enrollment 109,425, about 15.6 percent of population.

Alexandria-10,043 in 1995, about 8.7 percent of population.
About 1,612 special education students, about 16 percent of students.

Conclusion

The District has a somewhat smaller relative workload as measured by students than Baltimore, but a much higher relative workload than Alexandria.

COSTS

District-
$613.7 million from local appropriated funds in 1995 ($7,733 per student)
$58.8 million for special education
$24.7 million for management ($338 per pupil)
$1,190 per pupil for teacher retirement
$148 per pupil for food services

Baltimore-
$611.6 million including state payments in 1995 ($5,340 per student).
$117.8 million for special education
$17.8 million for management ($163 per pupil)
$494 per pupil for teacher retirement
$14 per pupil for food services

Alexandria-$81.9 million in 1995 ($8,164 per student).

While each of these cities has different socio-economic characteristics, there is no evidence that these differences are the principal causes of differences in relative expenditures.
There are several apparent reasons, however, for Baltimore's lower relative expenditures, including: half-day pre-school and kindergarten, lower physical facilities costs, lower retirement costs, limited supplemental food services, and fewer specialized educational programs. For example, the District spends over four times as much as Baltimore on pre-kindergarten; retirement cost for teachers is more

than double on a per pupil basis; physical facility costs are almost $500 per pupil higher in the District than in Baltimore; and food costs per pupil in the District are more than 10 times higher than in Baltimore. District expenditures for special education, however, are substantially lower than Baltimore's. Some of this difference may have been caused by a higher workload.

Alexandria's spending equaled or exceeded the District's in most areas, except physical facilities, food services, retirement, and pre-kindergarten. In some cases, such as general education services and minority language education, Alexandria's spent much more. These two services alone totaled almost $800 per pupil of higher spending in Alexandria.

Management costs in the District appear to exceed those in Baltimore, both in total and as a cost per pupil. Some of this difference may be attributable to differences in costs that are identified as management. Nevertheless, the District's management costs seem high relative to Baltimore's. While Alexandria's management costs appear relatively higher than the District's on a per pupil basis, this difference probably reflects the relatively small student enrollment that the costs must be spread over.

Conclusion

The District's public education expenditures are higher than Baltimore's because of discretionary spending on pre-school education, food services, and specialized education services, and because of mandatory spending on teacher retirement. The District also spends more on general education, physical facilities, and management. We were unable to determine the exact causes of the higher spending. The District spends less per pupil than Alexandria, but Alexandria's expenditures may be affected by a relative enrollment workload only about two-thirds as high as the District.

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HIGHER EDUCATION

SERVICES

The University of the District of Columbia (UDC) is a federally recognized land-grant institution of higher education comprised of two colleges, a law school, and a continuing education program. All states have land-grant universities. UDC also conducts research and provides extension services. The District subsidizes UDC so that it can provide reduced tuition for residents. All higher education services financed by the city are provided through UDC.

Maryland higher education facilities include a land grant university, 12 other four-year state operated colleges and universities, a state-operated community college in Baltimore, assistance to 17 local community colleges, financial aid to 15 independent colleges and universities, and scholarships to Maryland residents.

Virginia operates two land grant universities, 15 other colleges and universities, and 23 community colleges.

Both state systems provide education to state residents at reduced cost, and their degree and other programs are very diverse. Some higher education services are financed by local governments in Maryland and Virginia.

ELIGIBILITY

There are no substantial differences in eligibility between the District, Maryland, and Virginia. All residents who graduate from high school may enter some type of higher education facility at reduced tuition. Non-residents are admitted at full tuition when capacity exists.

WORKLOAD

District–UDC total enrollment of 10,599 (1.8 percent of population); full-time equivalent 6,476 (1.1 percent).

Maryland–combined total of 158,977 full time equivalent students (about 3.2 percent of population).

Virginia–total enrollment of 293,359 (4.5 percent of population).

No information is available on the numbers of students who are residents of the three jurisdictions, but the proportion of residents is undoubtedly lower in Virginia and Maryland than at UDC.

A better measure of workload may be to compare enrollments to school-age population:

District–full time-equivalent enrollment is 8.1 percent of school-age population.
Maryland–full-time equivalent enrollment is 19.8 percent of school-age population.

Workloads are clearly higher in Maryland and Virginia, probably because of greater numbers of non-resident students and greater diversity in educational programs.

Costs

District–$53.9 million from general fund in 1995; $8,323 per full-time equivalent student; $5,085 per total student; $93 per capita.

Maryland–$789.0 million from general fund in 1995; $4,963 per full-time equivalent student; $159 per capita.

Virginia–$981.1 million from general funds in 1995; $3,344.0 per total student; $153 per capita.

These per student comparisons are misleading because they do not adjust for the larger numbers of non-resident students who pay higher tuition in Maryland and Virginia. This reduces the apparent cost to the government on a per student basis. The lower District per capita cost is attributable to workloads, as measured by enrollments, that are less than half those in adjoining states.

Conclusion

The operation of a land grant university by the District of Columbia is a basic state service. Maryland and Virginia provide a wide diversity of higher education services that substantially exceed those available to District residents. District higher education workloads, as measured by relative enrollments, are substantially lower than those in adjoining states. As a consequence, the higher education costs are also relatively lower in the District when measured on a per capita basis.

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TRAINING

SERVICES

The District provides job training for both youths and adults. Most of the training funds spent by the District come from federal grants. The main grant, the Job Training Partnership Act (JTPA), requires no local match and provides funds to establish training programs to prepare economically disadvantaged adults and youth for entry into the labor force and to address the retraining needs for adults who are unemployed as a result of dislocation. Adult programs include literacy training and academic remediation to enable participants to pass the General Equivalency Diploma or just enter the labor force. In addition, adult programs provide occupational skills training in the areas of hospitality, building services, secretarial and general clerical work as well as in telecommunications, allied health services and office automation. On-the-job training and pre-apprenticeship programs, benefiting more youths than adults, are also provided.

The District supplements federal funds with local funds. The largest locally funded program is the summer youth employment program. The District also offers training for youth in school, out of school, and with potential for leadership, and training and retraining for adults.

Maryland also offers the programs financed by JTPA but spends a relatively small amount of its own funds for other programs such as training for older workers and training allowance payments to JTPA participation in classroom training. Apparently Maryland does not offer a summer youth employment program.

Conclusion

Most locally funded training services are discretionary. While the District's federal grant-funded training services are comparable to Maryland's, its locally funded services are more extensive.

WORKLOAD

(Program Year 1994)
District:
-JPTA adult and youth participants–1,091
-JPTA dislocated worker participants–1,282

Maryland:
-JPTA adult and youth participants–16,675
-JPTA Dislocated worker participants–6,595

Conclusion
No comparable workload measures were available for the locally funded training programs.

Costs

District–$14.1 million
–Summer youth employment–$6.4 million
–Other youth training–$1.8 million
–Adult training–$2.6 million
–Related management and support, skills testing, and job development–$3.4 million

Maryland–$2.6 million

While 61 percent of the District's total FY 1995 training expenditures were financed from the federal grants, 97 percent of Maryland's were so financed.

Conclusion
In FY 1995 the District's training and associated costs in local funds were over 48 times Maryland's costs relative to population because Maryland relies almost exclusively on federal grants.

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POLICE

SERVICES

The **District** protects persons and property in the city through police enforcement of criminal and traffic laws. The police act to: prevent violations; investigate and apprehend those who break laws; and generally maintain order. In addition, they direct traffic and control crowds; work with communities to relieve problems; provide special services for protecting government officials, foreign embassies, and international dignitaries.

The District is assisted by a variety of federal government law enforcement agencies. The District also has some administrative duties that it performs to assist the federal agencies.

Baltimore provides comparable services (as do all cities). While ceremonial and protective duties are less in Baltimore, it receives less assistance from federal law enforcement agencies in support of its police services.

Conclusion

Police services are essential and are provided by all cities.

WORKLOAD

There are no accepted ways of measuring police workload because of the varied duties and responsibilities. Workloads for regulating traffic and crowd control have little relationship to workloads involved in investigating homicides. However, it is possible to measure arrests.

District-49,586 arrests in 1994; 10,781 for serious crimes.
Baltimore-73,123 arrests in 1994; 21,867 for serious crimes.

Because Baltimore is larger both geographically and in population, the larger number of arrests is expected. Size alone does not fully account for the difference. It is likely that the District's lower arrests may result from arrests made by federal police forces.

Conclusion

We are not able to evaluate the District's workload for police services, but its activities, as judged only by arrests, is relatively lower than Baltimore's.

COSTS

District-$366.8 million in 1995 ($223.4 million after retirement costs of $142.4 million).

Baltimore-$194.4 million in 1995 ($171.5 million after retirement costs of $22.9 million).
Philadelphia-$344.2 million in 1995 ($308 million after retirement costs of $36.2 million).

It appear that District spending was higher than Baltimore's in all categories, except perhaps general administration and support, as shown below:

($ Thousands) Police Activities	District	Baltimore
Patrol	131,482	100,616
Criminal Investigations	24,480	13,140
Traffic and Special Operations	10,322	8,473
Youth Services	3,437	2,724
Personnel and Training	10,628	3,504
Communications	7,916	7,663
Medical	3,058	961
Administration and Support	32,081	34,378
Total	223,404	171,459

This comparison with Baltimore suggests that the higher spending is not attributable to any one cause, such as the federal presence that directly affects traffic and crowd control activities. Philadelphia, with two and one-half times the population, spent less in total than the District. Exclusive of retirement costs, Philadelphia's spending was only about a third higher than the District's.

Conclusion

The District spends far more on police services than Baltimore and Philadelphia. While retirement costs account for a significant portion of the differences, other costs are still much higher on a relative basis for reasons we were not able to determine. We do not find evidence that workload factors account for the higher expenditures.

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ADULT CORRECTIONS

SERVICES

The District provides the following services:

- Confines in jail adults awaiting indictment, trial, and sentencing.
- Confines in prison sentenced adult offenders.
- Assesses incoming detainees and prisoners.
- Feeds, clothes, and transports inmates.
- Tests for substance abuse.
- Provides health care and treats substance abuse.
- Provides safety and security.
- Operates work details.
- Provides rehabilitation and teaches work skills.

In September 1995, the District had jurisdiction over approximately 10,500 offenders, including about 1,300 pretrial detainees. An additional 780 offenders are assigned to community release programs.

The District operates a detention facility, a treatment center, seven prisons (one prison was closed in FY 1996), seven community corrections centers (halfway houses), and an electronic monitoring program. The District court operates an urban boot camp that is grant-funded.

The District also pays the federal Bureau of Prisons and out-of-state private vendors for housing approximately 480 DC prisoners.

Maryland and its subdivisions perform essentially the same services. The state Department of Education spends about $10 million on inmate education programs, and the state operates a boot camp for young adults. Maryland also operates the jail in Baltimore.[2] Compared to the District, Maryland relies more on regional pre-release facilities rather than community halfway houses

Virginia has essentially the same services, but also operates a boot camp and has several work crew units

Conclusion

Detention, imprisonment, and provision of community corrections for adults are essential services and are similar to those services provided by Maryland and Virginia.

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[2] In most states, jails are operated by county governments or other local jurisdictions.

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WORKLOAD

Prisons
District–9,220 sentenced adult inmates (1.9 percent of the 1990 adult population) in October 1995.

Maryland–23,996 sentenced inmates (0.7 percent of the adult population).

Virginia–23,919 inmates sentenced for more than two years (0.4 percent of the adult population).

The 1995 survey results reported in the 1996 American Correctional Association Directory indicated that 48 percent of the District's prison population were in maximum and close security, compared to only 14 percent in Maryland and 31 percent in Virginia.

Detention
Relative to total population, the District (0.27 percent) has more detainees than Maryland (0.09 percent). By another workload measure, length of stay, the District's burden current 48-day length of stay is more than twice the national average of 22 days and twice that of Maryland.

Pre-Release and Halfway Houses
The District and Maryland both have about 8.5 percent of total prisoners in pre-release centers or halfway houses. The 1995 survey results reported in the 1996 American Correctional Association Directory use a different classification and showed that 71 percent of the District's total prison population was in prison, compared to 81 percent in Maryland and 84 percent in Virginia.

Conclusion

The District's correctional workload as a percentage of adult population is more than two and one-half times the size of Maryland's. The District's workload in terms of length of prisoner stay and security level is greater than Maryland's.

COSTS

District
Prisons–$238.8 million in FY 1995 (prisons and detention); $22,674 per inmate in 1994.
Detention–$19,258 per inmate in 1995.
Maryland
Prisons–approximately $450 million; $18,257 per inmate in 1994.
Detention (Baltimore)–$13,870 per inmate in 1995.
Virginia–approximately $450 million; $17,013 per inmate in 1994 (prisons).
Arlington County–$23,756 per inmate in 1994 (detention).

Although the District population is only one-eighth the size of Maryland's and one-ninth of Virginia's, District relative correctional costs are much higher because of the much higher workload and because the District spends more per inmate. As an urban area, the District has a higher incidence of crime and a higher population of prisoners than Maryland and Virginia with their mix of urban, suburban, and rural characteristics. This comparison may understate the difference because the District includes both detention and prison costs while Maryland includes only prison costs (except for Baltimore) and Virginia includes only prison costs.[3]

The District's spent $23.7 million on medical care and $21.3 million on plant operations and management. This is about 60 percent of Maryland's expenditures on those items. On an inmate basis, however, these costs were 30 to 35 percent higher in the District. Food costs per inmate were the same in both jurisdictions.

National Council Review

A review of the relative costs of the District's correctional system by the National Council on Crime and Delinquency concluded that while the per inmate costs were not out of line with other systems, the services were inadequate. The study points specifically to the poor condition of the correctional facilities, overcrowding and the need for 2,000 additional beds, and inadequate institutional staff. While service levels are inadequate, the Council concluded that the District's costs are kept high because of inefficient and inadequate facilities. Further, there are 11 outstanding court orders governing space, staffing levels, rehabilitation, and medical services, as well as cumbersome personnel and procurement policies and procedures that result in high costs. By contrast, Maryland has only one outstanding consolidated court order, and the state is nearly in compliance.

Conclusion

The District's adult correctional costs are higher than Maryland's because they include detention costs, do not benefit from economies of scale, and reflect a much higher workload and a variety of factors relating primarily to the relative inefficiency of the District system.

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[3] Per inmate costs in the six states that combine local detention and state prison functions were generally equal to or higher than the District's (Alaska, Connecticut, Delaware, Hawaii, Rhode Island, and Vermont).National Council on Crime and Delinquency, District of Columbia, *Department of Corrections Study: Final Report*, January 30, 1996, p. 167.

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JUVENILE CORRECTIONS

SERVICES

The **District**, if mandated by the courts, must care for, treat, and confine, up to age 21, juveniles who are:

- Committed to its custody as delinquents;
- Detained pending trial; and
- Not convicted of a law violation but may be truants, runaways or beyond parental control.

District services can include:

- Behavior management or modification;
- Drug treatment;
- Family counseling; and
- Educational support.

Services are rendered in day treatment programs. Residential care is provided in three types of settings:

- 18 community-based group homes for short-term, out-of-home placement;
- 3 staff-secure residential care programs with a higher staff-to-resident ratio for youths more difficult to supervise.
- 3 institutional care facilities, including one out of state, for youth who have been detained or adjudicated for serious or violent offenses.[4]

The Youth Services Administration in the Department of Human Services operates most of the District's juvenile corrections programs. The Social Services Division in the D.C. Court System, in addition to probationary services, investigates complaints dealing with delinquent youths; tests and treats for drug use; and provides counseling, education and job training, and intensive supervision of non-violent felony offenders. Probationary and related services are executive functions in Maryland and Virginia.

Maryland provides the same services, but its more extensive system includes separate diagnostic and reception, detention, and long-term commitment centers that offer separate treatment programs for the different populations. Maryland operates or pays for 3 institutional care facilities, 9 community-based centers, 6 detention centers, 1 boot camp, and 80 group homes.

Virginia–provides the same services, and also includes separate diagnostic and reception, detention, and long-term commitment centers that offer separate treatment programs The state operates 7

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[4]To a large extent, the District's services to detained, adjudicated, or delinquent youth are dictated by the Jerry M. consent decree (1096), which requires that the District achieve industry standards and place youth in the least restrictive setting.

residential facilities, 4 community based centers, and a boot camp. The state also gives money to localities to construct and operate detention centers, group homes, and other facilities; to establish offices on youths; and to operate delinquency prevention programs.

Arlington County--with state and local funds, runs 8 residential facilities and maintains an in-home service program for youth who are at risk for more serious court placements.

Conclusion

The supervision and treatment of adjudicated, detained, and wayward youth are essential services and are provided in Maryland and Virginia.

WORKLOAD

District--

- an estimated 880 committed youth in FY 1995 (a duplicated count);
- 2,600 detained or alleged delinquents; and
- 300 youth in need of supervision.
- 465 youths under the Jerry M. consent decree and 269 under high-intensity treatment; and 673 juvenile social investigations (Court Social Services Division).

While representing only part of the workload, the committed population data are the only readily available statistics that can be compared by jurisdiction. According to the American Correctional Association 's 1996 Directory, in 1995:

- The D.C. Youth Services Administration supervised 693 committed juveniles in residential facilities (0.87 percent of the 1990 population age 5 to 18).
- Maryland supervised 1,734 committed juveniles in residential facilities (0.22 percent of the population age 5 to 18).
- Virginia's relative workload was even lower, 0.09 percent of the 1990 youth population.

No other comparison of workloads is possible, however, because of definitional differences.

Conclusion

The District's juvenile corrections workload as measured by committed population is four times that of Maryland and almost ten times as high as Virginia. Because key comparable data about detainees and persons in need of supervision are not readily available, we do not know if this difference represents the entire workload.

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Costs

District–

- $35.3 million in local funds in FY 1995 (not including expenditures by the DC Court System which are not separately reported).
- $51,726 known per unit costs for all services (including day programs) for committed juveniles in 1995.

Maryland–

- $105.9 million in FY 1995.
- $61,096 per unit costs for committed juveniles in 1995.

The District costs were about 34 percent of Maryland's but its population is only about 12 percent of Maryland's. The higher costs reflect a relative workload that is four times greater than Maryland's. Because the District supervises more detained youth awaiting final case disposition and relies more on out-of-state placements because of limited institutional facilities, the District's unit costs would be expected to be higher.

Possible explanations for the lower District per unit costs might be found in differences in mixes and intensity of institutionalized and day treatments, staff/youth ratios, and maintenance and repair costs. Further, the Maryland costs include the juvenile probation program which is operated in the District by the D.C. Superior Court. Though a relatively small cost, the District 's administrative expenditures were only 26 percent of Maryland's, even though the D.C. committed youth population was 34 percent as high as the state's.

Conclusion

- **The District's costs for providing juvenile corrections services are relatively higher than Maryland's because of a much greater workload. Without a further examination of cost and workload differences between the District and Maryland, our evaluation of per unit costs is inconclusive.**

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PAROLE SERVICES

SERVICES

The **District** (1) determines eligibility for parole from correctional institutions, (2) verifies parole release plans, (3) supervises and monitors persons on parole, and (4) requests warrants to arrest parole violators. The quasi-judicial Parole Board develops the District's parole policies.

Parole services include:
- Reviewing information on prisoners who are eligible to be considered for parole;
- Preparing responses to writs of habeas corpus related to parole denials;
- Collecting information from victims to use in making parole decisions;
- Conducting release and revocation hearings; and
- By interstate compact, supervising parolees from other states who are residing in the District.

Maryland provides the same services.

Conclusion

Determining parole eligibility and supervising parolees are basic services, and the District's services are comparable to Maryland's.

WORKLOAD

Active parole population, December 31, 1995:
District–6,696
Maryland–15,748
Virginia–10,188.

Conclusion

Because of its urban characteristics, the District's parole services workload relative to total population is over three and one-half times Maryland's and almost seven and one-half times Virginia's.

COSTS

District–$5.4 million

In **Maryland,** the same staff investigates and supervises parolees and probationers, and parole costs are not separately reported.

Conclusion

While Maryland's costs of parole services cannot be isolated, the District's costs must be higher relative to population because of its higher relative workload.

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TRANSPORTATION

MASS TRANSIT

SERVICE

The District provides bus and rail transit services through participation in the Washington Metropolitan Area Transit Authority, an agency created by interstate compact between the District, Maryland and Virginia.

The District's share of the cost is determined by a formula that takes into account measures of the regional services provided in the city, the federal contribution, and the fares that are attributable to services used in the city. The District can control its costs by changing bus services or by changing the bus and rail fares charged in the city. Changes in rail service can be made only by all participating governments.

All major suburban jurisdictions provide rail services similar to those in the District, and all the governments provide subsidized bus service. Suburban bus services are not all provided through the Authority, and they are generally not as extensive as those in the District. Fares for bus and rail services vary by jurisdiction and are generally higher in the suburbs.

Baltimore has bus, rail, and light rail services provided by the state. These services are generally comparable to those in the District.

Conclusion

The provision of bus and rail services is basic, but the level of bus service and the fare structure for bus and rail services are discretionary. Rail services can only be changed by joint action of participating governments.

WORKLOAD

Workload information attributable specifically to the District is not available because of the regional nature of the bus and rail systems.

COSTS

District-$123.1 million from appropriated funds in 1995: $93.1 million or $163 per capita for bus service; $30.0 million or $53 per capita for rail transit.

Arlington-$79 per capita for bus service: $55 per capita for rail service.

Maryland-$55 per capita for bus and rail services (Washington suburbs, Baltimore region, other parts of the state).

These expenditures do not include capital costs that are included in general debt service. The District's expenditures are high when compared to those in adjoining suburbs because of the extensive bus route system. The District's total mass transit expenditures also are high when compared to Maryland's adjusted for population.

The District's high cost of bus services on both an absolute and relative basis to rail service is significant because the city has direct control over bus service levels and fares. Whereas, without regional agreement, any substantial rail cost reduction will probably have to come mostly from fare increases and not service reductions.

Conclusion

The District has very high mass transit expenditures, especially for bus services.

STREET, HIGHWAY, AND BRIDGE SERVICES

SERVICES

The District maintains road and bridge surfaces and structures, sidewalks, and gutters in a safe condition;
Maintains street trees and landscaping adjacent to streets;
Cleans streets;
Provides street and traffic lighting, signs, markings and signals;
Removes snow and ice from roads; and
Provides traffic and other engineering support.

Together, these are basic transportation services universally provided by local or state governments.

Some or all of these services are typically financed from highway user taxes and fees. In the District, these services were financed from the general appropriated funds in 1995, but some of these costs in future years will be paid from a highway trust fund. Maryland provides full funding for Baltimore's transportation costs, including all of the above services, from half of state collected highway related taxes. Arlington County provides these services from a combination of local and state revenues.

Conclusion

The provision of a range of street, highway, and bridge services is an essential government service.

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WORKLOAD

District-street services are provided to an estimated 1,040 miles of roadway and 237 bridges (about 60 percent of the workload reported by Baltimore).

Qualitative workloads are difficult to compare. We also were not able to determine the exact extent to which the District's workload is reduced by federal street services through the U.S. Park Service and other federal agencies, but available information suggests it is probably less than 10 percent.

COSTS

	(in 000s)		
	District	**Baltimore**	**Arlington**
Street Markings and Signs	$3,962	$4,048	$ 771
Traffic Signals	$2,418	$4,518	$1,494
Street Lights	$6,706	$15,588	$1,867
Street Cleaning	$8,036	$17,110	$ 435
Street and Bridge Maint.	$2,480	$21,780	$3,698
Street Trees & Landscaping	$2,003	$2,929	$1,439
Engineering	$1,809	$3,241	$ 655
Snow Removal	$1,245	$1,374	$ 470
Administration and Support	$8,348	$9,728	$ 658
Total	$37,007	$80,316	$11,487

Baltimore outspent the District in every category of street services and in lighting, cleaning, and maintenance, by more than double. Arlington County total spending on street services exceeds the District relative to population.

Conclusion

The District spends proportionately less on street services than Baltimore and Arlington County. Except for the somewhat reduced workload caused by federal provision of services, we are unable to determine why District expenditures are less.

PARKING ENFORCEMENT

SERVICES

The District regulates and manages parking, enforces parking regulations, and adjudicates infractions. The cost was $9.2 million in 1995. These services generate offsetting revenues.

Parking enforcement services are provided also by Baltimore ($13.1 million in 1995), Arlington County, and most urban local governments.

Conclusion

Parking enforcement is a necessary service and is revenue generating. The District's expenditure is generally comparable to the amount spent by Baltimore.

DRIVER'S LICENSES, MOTOR VEHICLE REGISTRATIONS, AND RELATED SERVICES

SERVICES

The District tests and licenses drivers, oversees vehicle testing and emission inspections, registers and titles vehicles, and maintains a variety of records. All states provide similar services.

The District has a slightly higher workload than Maryland, as measured by driver's licenses issued and motor vehicles registered relative to population. However, the District's $5.7 million expenditure for these services is less than the state pro-rata $15.1 million expenditure for providing those services in Baltimore. The apparent much higher expenditures for these services in Maryland is apparently caused by the need to maintain a large number of regional offices because of the state's geographic area.

Conclusion

The issuance of Driver's licenses, registering of motor vehicles, and related activities is an essential state service. The District's expenditures for these services are relatively lower than the comparable expenditures in Maryland.

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FIRE AND EMERGENCY MEDICAL SERVICES

SERVICES

The **District's** fire services consist of: preventing fires, and when fires do occur, rescuing people involved, protecting adjacent properties, and extinguishing the fire. Fire services also respond and provide assistance and protection in a variety of non-fire emergencies, such as chemical spills, tornadoes, and floods.

Emergency medical services (EMS) consist of: pre-hospital patient care by trained providers and transportation to appropriate medical facilities.

Baltimore and **Arlington County** provide the same services with only slight differences. The District and Baltimore provide marine protection, but Arlington County does not. The District provides some additional federal government protective services, such as when the President leaves by helicopter, Baltimore and Arlington do not generally have to provide these services.

Fire and emergency medical services are provided by local governments across the country, although a few governments provide emergency medical services through private firms that charge a fee.

Conclusion

Fire services are an essential city service. Emergency medical services are a basic service provided by most city governments.

WORKLOAD

District-
41,462 fire and general emergency services in 1995 (about 73 per 1,000 population). 103,599 EMS services (182 per 1,000 population).

Baltimore-
63,709 fire and general emergency services (91 per 1,000 population).
149,044 EMS services (213 per 1,000 population).

Arlington County-
6,789 fire and general emergency services (39 per 1,000 population).
7,514 EMS services (43 per 1,000 population).

Measuring workload by gross services and in relation to total population may not fully reflect other factors. These include a high tourist population and special federal government requirements in the

District. However, Baltimore includes substantial industrial, chemical, and other difficult commercial exposures, as well as an active port facility. Overall, while there are differences, the District and Baltimore workloads relative to population should not be greatly different.

Conclusion

The fire and emergency medical service workloads in the District are no heavier, and may be less on a relative basis, than those in Baltimore. The District's workload is substantially higher than Arlington County's.

COSTS

District-$150.4 million for fire and EMS in 1995 ($88.9 million after retirement costs of $61.5 million, or about 41 percent of the total).

Baltimore-$94.3 million for fire and EMS ($85.9 million after retirement costs of $8.3 million, or 9 percent of the total).

The District's non-retirement expenditures of $88.9 million exceeded Baltimore's $85.9 despite Baltimore's larger population and greater workload. District suppression and prevention costs closely paralleled Baltimore's in proportion to population. However, the District's EMS and administrative expenditures were at least double those of Baltimore on a comparable population basis. We were unable to determine why these expenditures were higher. Arlington County's expenditures were substantially less than the District in all categories of service both relative to population and relative to workload.

Conclusion

The District expenditures for fire and emergency medical services far exceed those in Baltimore and Arlington County. The principal reason is the District's high retirement costs, but the city also has very high EMS and administrative costs on both an absolute and relative basis.

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COURTS

SERVICES

The District provides the following services:

The D.C. Court of Appeals reviews appeals of Superior Court judgments as well as decisions and orders of D.C. government administrative agencies (final appeal judgments are reviewable by the U.S. Supreme Court). That court also oversees the practice of law.

The D.C. Superior Court (the District's court of general jurisdiction):

- Adjudicates all local legal matters. Local litigation includes criminal, civil, juvenile, domestic relations, probate, civil and criminal tax suits brought by or against the District, landlord and tenant, and traffic cases.

- Operates probation for adults and juveniles. The court's Social Services Division conducts case management, operates electronic home monitoring, and provides comprehensive drug treatment and tracking for offenders.

- Counsels batterers and victims of domestic violence and child abuse, determines and enforces child support (see Child Support report), and places abused and neglected children (see Foster Care and Child Welfare report).

- Manages and pays fees to private attorneys who represent indigents in criminal cases, and matters related to child abuse and neglect, guardianship, and adult protection services.

- Trains volunteers and conducts a civil conciliation and mediation program to help relieve the court workload.

- Operates several grant-funded programs: (1) intense supervision for offenders ages 14-26, which consists of a boot camp and intensive probation, or supervised jobs or training; (2) a multiservice community center providing counseling, drug testing, employment services, and intensive and electronic monitoring of probationers; and (3) testing, tracking, treatment, and graduated sanctions for adult drug offenders under court supervision.

Maryland operates a system of state and local courts, and appears to provide the same kind of services. The Maryland orphans', district, and circuit courts taken together are comparable to the D.C. Superior Court. To a limited extent, the circuit courts monitor adult probationers and test and treat for drug abuse. They also conduct voluntary pretrial settlement programs. Maryland executive agencies perform the bulk of probationary services. It is not possible, however, to determine if

through both branches of government Maryland's probationary, mediation, and family services are as extensive and intensive as the District's.

Several organizational differences between the District and Maryland make comparisons difficult without a detailed cost allocation. For example:

- Land instruments are recorded by the Recorder of Deeds in the District's executive branch and by the circuit court clerks in Maryland.

- The District and Maryland both use the judicial approach to child support enforcement, but DHS has fewer responsibilities than some Maryland local administrative agencies.

- Juvenile probation is handled by the court in the District, but largely by the executive branch in Maryland (the costs in Maryland also are combined with other costs of supervising and housing juvenile offenders).

Conclusion

The District provides the same kinds of judicial and related services as Maryland. Those kinds of services are essential. Further study is required to determine whether the scope and number of the District's judicial and related services go beyond a basic level.

WORKLOAD

District–New case filings constitute a workload measure that is fairly free of institutional influences, such as backlogs and scheduling. The following new filings were recorded in calendar year 1995:

- 99,411 civil cases;
- 39,651 criminal cases (including felony pre-indictments, misdemeanors, and traffic violations);
- 20,482 adults and juveniles under court supervision;
- 18,348 Family Division cases (including abuse and neglect, juvenile, paternity and child support, and divorce, custody, and intra-family cases);
- 3,025 Probate Division cases; and
- 429 tax cases.

There also were:

- 1,832 cases filed with the Appeals Court;
- 7,142 cases referred to court-based alternative dispute resolution (4,760 civil cases, 1,827 small claims cases, and 555 family mediation cases)
- 3,200 adult offenders reporting monthly for drug testing.

Maryland–For 1995, combined filings from the circuit and district courts were 330,751 civil filings and 317,446 criminal filings.

Comparing the District's workload with Maryland's produces some anomalous results. In 1995, the District, with less than one-eighth the estimated population of Maryland, had almost one-third of the state's combined civil filings. That the District has a large number of civil filings relative to population is not surprising given its urban characteristics and the amount of commercial activity. However, the District's criminal filings were only one-eighth of Maryland's, an unexpected result given the greater incidence of crime in urban areas. Definitional obstacles prevented other workload comparisons.

Conclusion

No conclusion regarding the workload facing the District court is possible without further analysis.

Costs

District–$87.3 million in local funds in FY 1995, excluding fees paid for indigent representation, but including the contribution for judges' retirement.

Maryland–$153.8 million in nonfederal funds on courts and related administrative and support agencies; $216.4 million state and local nonfederal costs combined. The costs would be slightly higher if the orphans' courts and law-practice oversight costs were included.

To put the District and Maryland court costs on a comparable basis, we removed the Social Services Division and judges' retirement from District totals. Relative to estimated population, District adjusted court costs were then $113 and Maryland's, $43.

Several factors might explain this large a difference. As an urban area, the District would be expected to have a much higher criminal and civil court caseload compared to population. The workload measures above do not substantiate this conclusion. In addition, although electronic recording and processing have transformed many court functions, judicial services everywhere remain labor intensive. Therefore, the higher District compensation level greatly increases the cost differential. District general trial court judges, for example, earn 43 percent more than their Maryland counterparts. On the other hand, the District's unified court system should offer some efficiencies in overhead not possible in the layered Maryland system.

Conclusion

District court expenditures are substantially higher relative to its population than Maryland's. The differences are probably largely attributable to the District's urban characteristics and higher judicial compensation, but a more conclusive finding would require more analysis.

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PRETRIAL SERVICES

SERVICES

The **District** assists federal and local trial and appellate courts by (1) providing background information on persons charged with felonies to determine eligibility and conditions for pretrial release and (2) monitoring compliance with court-ordered conditions of pre-trial release. Thus the District:

- Interviews detainees;
- Verifies information provided in the interviews;
- Checks criminal histories;
- Tests for drug use (including parents charged with child abuse);
- Identifies cases eligible for pretrial detention;
- Makes conditional release recommendations;
- Supervises released persons; and
- Reports on compliance and violations of release conditions to the court.

Release conditions include:

- Regular drug testing;
- Enrollment in a drug treatment program;
- Curfew restrictions;
- Release to a custody organization; or
- Other regular contact.

In FY 1995, the District Pretrial Services Agency also maintained a criminal justice information system which collects, stores, and disseminates criminal history information and management information.

The Maryland Department of Public Safety and Correctional Services provides the same services for the City of Baltimore. The Division of Pretrial Detention and Services operates the pretrial program, while the Office of the Secretary Data Services Program maintains the criminal justice information system for the entire state.

Conclusion

Pretrial services and criminal justice information systems are basic services, and the District's services are comparable to those provided in Baltimore.

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Workload

District–26,495 pretrial interviews
Baltimore–29,741 pretrial interviews

Conclusion

In terms of incoming arrestees, the District's pretrial program has a slightly higher workload than Baltimore's relative to population. No comparable workload measures were available for the information systems.

Costs

District–$3.2 million
Baltimore–$2.6 million

Baltimore costs do not include the share of administrative costs in the Maryland Division of Pretrial Detention and Services or the costs of maintaining a criminal justice information system. Removing an estimated $0.4 to $0.5 million for those costs from the District's Pretrial Services Agency total makes the District spending equal to the Pretrial Release Services Program in Baltimore.

Conclusion

The District's costs of pretrial services appear to be slightly higher than Baltimore's relative to population.

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INDIGENT REPRESENTATION

SERVICES

The **District** provides for legal representation for any eligible indigent taken into custody under any proceedings in accordance with District laws involving possible incarceration. As required by the D.C. Criminal Justice Act (CJA), representation is provided in:

- Adult criminal matters, including custody interrogations, preliminary hearings and arraignments;
- Appeals;
- Juvenile cases;
- Post conviction proceedings and other collateral matters;
- Probation and parole revocations; and
- Mental health and mental retardation matters.

The District also provides for legal representation of children, parents, and families in child abuse and neglect proceedings (Counsel for Child Abuse and Neglect or "CCAN"). Representation is also provided for abused adults on an interim basis, and when necessary, on a permanent basis through court-appointed guardians in a separate program.

The D.C. Superior Court appoints and manages the attorneys and manages program fees. The Office of Public Defender interviews defendants for eligibility for CJA legal counsel, but the Court allocates cases between that office and the Bar. The more serious matters stay with the Public Defender. Appointed attorneys continue to handle a case from point of entry to final disposition.

Maryland provides indigent representation for the same matters. Legal defense assistance is provided primarily by staff attorneys in the state Office of the Public Defender, but also by private attorneys who are paid on a fee basis. While the Public Defender represents defendant parents in child abuse and neglect cases, the Maryland Department of Human Resources contracts with provider groups and individual private attorneys to represent the children.

Conclusion

The District's indigent representation services are basic and are comparable in kind to those provided in Maryland.

ELIGIBILITY/BENEFITS

District

- Defendant with no dependents, $803 gross monthly income (with medical expense allowance)
- Defendant with two dependents, $1,316 gross monthly income (with allowances for certain expenses)
- Felony case maximum, $2,450 (unless court grants exception)

- Misdemeanor case maximum, $1,300 (unless court grants exception)
- Child abuse and neglect case maximum, $1,100

Maryland
- Defendant with no dependents, $613 monthly income after taxes
- Defendant with two dependents, $790 monthly income after taxes
- Felony case maximum, $1,000
- Misdemeanor case maximum, $500
- Child abuse and neglect case maximum, $500

Conclusion

The District provides more generous benefits, both in terms of hourly legal services rates and total expenditures allowed per case.

WORKLOAD

Virtually all criminal and child abuse and neglect cases in the District courts involve indigent representation. In Maryland, 80 to 90 percent of those cases involve state-paid attorneys.

District
- 7,569 felony indictment dispositions (calendar 1995)
- 1,632 child abuse and neglect case dispositions
- 350 CCAN private attorneys

Conclusion

Comparable workload data are not available, but relative to population, the District's workload is at least double Maryland's because of the greater incidence of crime and poverty in the District..

COSTS

District–$38 million:
- Public Defender–$7.6 million
- Criminal Justice Act–$25.3 million
- Child Abuse and Neglect–$4.8 million
- Guardianship and adult protection–$0.3 million

Additional costs incurred by the court's Social Services Division for counseling abused children and their families are not measured and therefore are not included.

Maryland–$41.0 million

- Public Defender–$35.8 million
- Representation of children and guardianship–$5.2 million

In FY 1995, the District spent almost nine times as much as Maryland on indigent legal representation relative to population. While all of the factors causing this difference could not be identified, some facts are known:

- The District pays CJA and CCAN attorneys $50 per hour, but Maryland pays private defense attorneys $30 per hour for out-of-court work and $35 per hour for in-court work

- Apparently the District spends more on representing children in abuse and neglect cases relative to population. Those costs comprise most of the $4.8 million spent on CCAN in FY 1995. Maryland spent about $5.0 million on representing children, but its population was 8.8 times greater than the District's.

  Maryland, however, pays individual attorneys representing children in abuse cases $75 per hour on the average. Depending on the prevailing market, the rate varies among the local governments from $40 per hour for out-of-court work to $100 per hour. Most legal assistance for children in abuse cases is provided via contracts with legal firms with an annual $350 per child maximum.

- Maryland prosecutors prepare a complete open file discovery. This means that at the outset of the case, the Maryland staff and appointed attorneys have most of the information needed to defend their clients and do not have to spend considerable time on discovery.

  Recently, the U.S. Attorney's Office in the District liberalized the discovery process for misdemeanor cases and started providing more information except where the safety of witnesses might be affected. The more labor-intensive felony-case discovery process remains unchanged.

- The District would be expected to incur relatively higher costs than Maryland because of the greater concentration of poverty in the District.

Conclusion

The District's costs of providing indigent legal representation are almost nine times Maryland's relative to population. The reasons for the difference may be that in the District hourly costs and per-case maximums are higher, a greater percentage of the population is low-income, and felony case discovery is not as efficient in the District. Easier access, more attorneys per case, and better continuity of assistance throughout the case may also help explain the disparity.

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PARKS AND RECREATION

SERVICES

The **District** protects and maintains parks and other open spaces and provides programs and facilities for leisure, fitness, and cultural activities. Its services include operating recreation centers, playgrounds, swimming pools, a residential camp, and four gardens.

Baltimore and Arlington County generally provide similar services. In addition the states of **Maryland and Virginia** have a variety of park and conservation programs that supplement the services provided by local governments. The state services are diverse and include maintaining state forests and parks, protecting wildlife, land and water conservation, policing waterways, and protecting Chesapeake Bay.

Conclusion

The District's park and recreational services are basic and are less extensive and diverse than the combined state and local services available to people in Maryland and Virginia.

WORKLOAD

The District operated 45 swimming pools in 1995, about 86 other leisure and educational facilities, and maintained 400 park areas. The U.S. Park Service and other federal agencies provide many services that would otherwise be required of the District, but it is not possible to quantify the amount of those services. Because of the diversity of services provided comparable workload data from other state and local governments is not available.

COSTS

District	$25.2 million
Baltimore	$34.2 million
State of Maryland	$96.7 million
Arlington County	$17.7 million
State of Virginia	$50.5 million

Both Baltimore and Arlington spend more on parks and recreation relative to population than does the District, and when state spending is allocated to these local governments, over 50 percent more is spent in Baltimore and more than double the amount in Arlington.

Conclusion

The District spends relatively less on parks and recreation than do governments in neighboring states. In part, this may be because of extensive federal government spending on park and recreation activities in the District.

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PUBLIC LIBRARY

SERVICES

The **District's** libraries provide free access to and professional assistance in the use of books and other informational material through a main library, 26 branches and 2 bookmobiles. Special services are provided to the deaf, homebound, blind, and others with special needs. Informational services are provided to businesses and visitors as well as residents.

The **City of Baltimore** library system provides similar services, and in addition, the Baltimore library is designated as the state library resource center. **Arlington County** provides library services similar to the District's.

Conclusion

The District's library services are basic and are comparable to those in Baltimore and Arlington.

WORKLOADS

The only comparable measure of workload available is circulation for 1995 as follows:

	Total	Per Capita
District	2,185,000	3.83
Baltimore	1,501,385	2.17
Arlington	1,969,482	11.28

The national average per capita circulation is 6.4. Other measures of workload, such as business inquiries for information are not available, but might show a greater utilization in the District and Baltimore than Arlington.

Conclusion

The District has a low workload when judged by the national circulation average and by Arlington's circulation, but nevertheless, has greater circulation workload than Baltimore.

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Costs

The total 1995 expenditures for each government's library system, including Baltimore's state supported expenditures were:

	Total	Per capita	Per item
District	$19.8 million	$34.56	$9.04
Baltimore	$19.0 million	$27.44	$12.63
Arlington	$7.8 million	$44.43	$3.94

The District's spending relative to population is substantially higher than Baltimore's, but relative to circulation is less. Arlington has much higher spending relative to its population, but is substantially lower relative to circulation. A problem with these circulation comparisons is that circulation of books is only a part of library services and may not be in proportion to other services provided.

Conclusion

The District spends more in absolute terms than Baltimore despite a smaller population, but its expenditures measured by circulation are less. Arlington County spends more relative to population, but because of very high circulation spends less relative to circulation.

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ARTS AND HUMANITIES

SERVICES

The **District** Commission on Arts and Humanities stimulates participation, understanding and enjoyment of the arts through grants to individuals and organizations that provide arts education to youths. It also supports accessibility to arts and provides operating assistance.

Similar services are provided by the **City of Baltimore**, through its Mayor's Advisory Commission on Art and Culture; **Arlington County**, through its Cultural Affair's Division; the **State of Maryland**, through its Maryland State Arts Council; and the **State of Virginia**, Commission for the Arts.

Conclusion

Providing support for arts and cultural activities is a basic District service that is similar to that provided by neighboring governments.

WORKLOAD

The **District** made 352 grants in 1995 involving 107,081 people. No comparable workload information is available for other governments.

COSTS

District	$1.7 million
Baltimore	$5.3 million
Arlington County	$1.1 million
Maryland	$8.0 million
Virginia	$2.2 million

The District spends substantially less than Baltimore or Arlington on support for arts. Including a pro-rata state allocation Baltimore spends about three times as much and Arlington twice as much relative to population.

Conclusion

The District spending on arts services is substantially lower than other comparable governments' spending.

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REGULATION

SERVICES

The **District** regulates a wide range of businesses, professions, and activities in order to protect the health, safety, and appearance of the community and to enforce wage and employment laws. District regulatory activities include:

- Processing building, electrical, plumbing, elevator and related permits;
- Reviewing construction plans and inspecting buildings for code compliance;
- Inspecting and licensing food establishments, waste disposal sites, and health care facilities;
- Ensuring compliance with standards of air quality, occupational safety and health, industrial hygiene, and noise control;
- Determining wage rates and enforcing wage laws;
- Regulating the sale, storage, and distribution of retail alcoholic beverages and issuing liquor licenses;
- Licensing and regulating business professions and trades;
- Regulating District-chartered commercial banks, and securities dealers
- Historic preservation;
- Enforcement of human rights laws;
- Taxi regulation; and
- Utility regulation.

Baltimore and **Maryland** also provide those services. Maryland also administers the Maryland Deposit Insurance Fund Corporation and has a much broader mandate than the District to regulate financial businesses, such as safe deposit companies and providers of retail credit. Maryland also regulates the racetrack in Baltimore and devotes additional resources to controlling water pollution to protect the Chesapeake Bay.

Like Maryland, the District regulates the insurance industry, but District expenditures are charged against a trust (agency) fund, not the appropriations.

District regulatory activities not shown above are classified under other services. Those activities are fire inspection, motor vehicle regulation, parking regulation, animal control, zoning, day care, antitrust. and the practice of law.

Conclusion

Except for the regulation of banks, the racetrack, and Bay pollution, the District provides the same regulatory services as provided by the state and local governments for Baltimore. Regulation is a basic service.

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WORKLOAD

Conclusion

No comparable workload data were available.

COSTS

District–$34.9 million
- –Licenses, permits, inspections, and environmental regulation–$16.0 million
- –Utility regulation–$7.8 million
- –Health facility regulation–$1.9 million
- –Environmental regulation–$1.4 million
- –Wage and occupational safety enforcement–$1.2 million
- –Taxi regulation–$1.2 million
- –Liquor control–$0.9 million
- –Human rights enforcement–$.7 million
- –Financial institutions–$.5 million
- –Historic preservation–$.4 million
- –Management and support (DCRA and DOES, part)–$4.9 million

Baltimore–$5.5 million
- –Construction and building inspection, and environmental regulation–$4.0 million
- –Liquor control–$1.1 million
- –Wage Commission–$.2 million
- –Historic preservation–$.2 million

Maryland–$95.3 million
- –Licenses, permits, inspections, and environmental regulation–$65.0 million
- –Utility regulation–$10.6 million
- –Health facility regulation–$10.3 million
- –Wage and occupational safety enforcement–$6.3 million
- –Human rights enforcement–$2.0 million
- –Financial institutions–$2.8 million
- –Management and support–$18.1 million

Maryland's costs exclude regulation of insurance, racing, agriculture, and plant industries.

Because of differences in budget classification and cost splitting between Maryland and Baltimore, direct cost comparisons between the District and Baltimore and Maryland are not possible for most regulatory services. A few services can be isolated, however.

District costs appear to be comparatively high in utility regulation. In FY 1995, utility regulation cost $7.7 million in the District, of which $5.3 million was for the Public Service Commission (excluding the costs of regulating securities dealers). The Maryland Public Service Commission spent $8.2 million. Not only did Maryland have more than just one electric company and one gas company to regulate and probably more telecommunications providers to oversee, but it spent $0.9 million regulating common carriers. While Maryland enjoys some economies of scale, there should be a greater cost difference between the District and Maryland PSC. The District's People's Counsel cost the same as its Maryland counterpart.

Regulation of taxis in the District costs more than the regulation of all common carriers in Maryland–$1.2 million compared with $.9 million.

Liquor control costs are slightly lower in the District than in Baltimore–$0.9 million compared with $1.1 million.

Conclusion

While the District's regulatory costs are one-third of the combined costs of Maryland and Baltimore, no conclusion is possible about most of the service costs without more details. The cost of regulating utilities and taxis in the District is high compared to Maryland.

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HOUSING AND COMMUNITY DEVELOPMENT

SERVICES

The District (1) purchases and rehabilitates housing units for sale to first-time low and moderate-income home buyers, (2) makes interest-free or low-interest loans to low and moderate-income District residents to purchase, repair, and renovate homes, and (3) subsidizes rent for lower income residents.

District public housing, operated by a receiver, is financed by federal grants and tenant rent, not local funds. Residential mortgage and rehabilitation loans are provided on a self-supporting basis and do not use local funds.

Maryland focuses on developing housing and subsidizing rents and home purchases. Residential mortgage insurance is provided through a self-supporting fund. Baltimore spends local funds mainly on various projects to promote neighborhood revitalization. The city also counsels home buyers and owners, weatherizes eligible homes, develops transitional and single-family housing sites, and assists minority businesses.

Conclusion

The District's housing services are comparable to Maryland's, but with a greater emphasis on rent subsidies. The District does not seem to have as strong and varied a community development program as Baltimore. Although some housing and community services may be basic, most appear discretionary.

WORKLOAD

Conclusion

No comparable workload data from other governments are available.

COSTS

District–$15.4 million:

- **–$10.4 million rent subsidies**
- **–$.1 housing rehabilitation**
- **–$2.3 million housing assistance**
- **–$2.6 million management and support**

Baltimore–$16.5 million total nonfederal
–$10.7 million local funds ($2.3 million administration)
–$5.8 million state funds

Maryland–$18.8 million

Conclusion

District spending on housing and community development, including administration, is comparable to nonfederal spending in Baltimore.

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ECONOMIC DEVELOPMENT

SERVICES

The **District** promotes economic development to generate jobs, attract new businesses, encourage the expansion and retention of existing facilities, and encourage tourism and other visitors to the city. It performs these activities by marketing and business development, financing incentives, tourism promotion.

Both the **City of Baltimore and State of Maryland** engage in similar activities.

Conclusion

The District's economic development activities are basic services and are comparable to those in Baltimore and Maryland.

WORKLOAD

No relevant workload information is available.

COSTS

District	$7.8 million
Maryland	$35.4 million
Baltimore	$6.6 million
Baltimore, plus state allotted	$11.5 million

In addition to the District's general fund spending, the city also provides funding from special taxes on hotels to promote tourism.

Conclusion

The District spends relatively less than the combined economic development efforts provided by the city and state combined in Baltimore.

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SETTLEMENTS AND JUDGMENTS

SERVICES

The **District** makes payments to settle claims and lawsuits and pay judgments in all types of tort cases entered against the District Government. Except for health care and life insurance benefits for employees, the District does not insure losses arising out of the ownership of property or other causes. The District does not restrict payments on claims.

Both **Baltimore** and **Maryland** make payments to settle claims and lawsuits, but have laws that restrict the amounts that can be paid. In Baltimore, the tort claims limit is $200,000 for an individual and $500,000 for a group. For automobile accident damages caused by the negligence of police officer responding to a crime emergency, the limit is $20,000 for an individual and $40,000 for a group. In FY 1995, Maryland's tort claims limits were $50,000 per case or $75,000 where there was a death. A person had 180 days to file a claim. Currently, the Maryland tort claims limit is $100,000 and the filing time is one year.

Conclusion

The District's disposal of claims is an essential service, but it is not comparable to Baltimore and Maryland because the District does not have tort claim limits. Payments by the District in excess of a limit are discretionary.

WORKLOAD

In FY 1995, the District settled 728 claims and lawsuits, and 64 judgments.

Conclusion

Although no comparable workload data are available, the lack of claim limits probably has resulted in a much greater number of claims and suits in the District relative to population.

COSTS

District–$14.5 million
Baltimore–$4.6 million
Maryland–$7.1 million

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Conclusion

The District's settlement and judgment costs are almost four times Baltimore's and 18 times Maryland's after adjusting for population. The lack of tort claim limits probably accounts for most of the difference.

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SOLID WASTE COLLECTION AND DISPOSAL

SERVICES

The District collects and disposes of household waste from all residential buildings with three or fewer dwelling units (not residential yard waste or leaves, but restoration of these services is requested in the 1997 budget).
Provides street waste receptacles and collects trash from them.
Conducts a recycling program.

Most central cities provide for collection and disposal of residential solid waste. Suburban and rural governments do not always provide this service. In recent years there has been widespread implementation of recycling programs. The large low-income populations in central cities make private collection service for a fee not generally feasible because the trash ends up in streets, alleys, and vacant lots where it still must be collected by the city government.

Baltimore provides similar but slightly more extensive services than the District (e.g., twice weekly collections and bulk trash). The city runs a recycling program.

Arlington County provides similar services, but charges residents a fee for collections. The county operates a recycling program.

Conclusion

The collection and disposal of residential solid waste and street waste cans are essential services for a central city. The recycling program is increasingly considered a basic service, but is, nevertheless, discretionary.

WORKLOAD

District-100,000 residential units (estimate), collecting 146,000 tons of waste in 1995. **Baltimore**-about 250,000 residential units (estimate); does not estimate tonnage collected.

Considering that Baltimore's population is only a little over 20 percent more than the District's, these workload numbers are not realistic. No comparable workload information is available for Arlington County.

Conclusion

We were not able to identify comparable workload information for Baltimore or Arlington.

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COSTS

District-$21.0 million in 1995: $37 per capita and $213 per residential unit.
Baltimore-$51 per capita.
Arlington County-$47 per capita; $128 fee per residential unit, designed to recover 50 percent of collection costs and 100 percent of disposal costs.
Fairfax County-fee of $270 per residential unit for solid waste collection.

Conclusion

The District's residential waste collection costs are comparable to or lower than Baltimore, Arlington County, and Fairfax County.

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CITY PLANNING

SERVICES

The **District** formulates and updates plans for physical development, reviews proposals for subdivision of land, reviews and makes recommendations on development proposals, and makes recommendations to the Zoning Commission. In performing these services, it conducts studies of neighborhoods and small areas, as well as studies of the entire city. Recommendations are made for changes in the zoning ordinance to conform to adopted plans.

The **City of Baltimore and Arlington County** provide similar services.

Conclusion

City planning is a basic service, and is similar to the services provided in other local governments.

WORKLOAD

The District's reported workload for 1995:

Board of Zoning Adjustment cases	170
Development reviews	55
Zoning cases	30
Studies	1

No comparable information from other governments is available.

COSTS

District	$3.2 million
Baltimore	$3.7 million
Arlington County	$ .6 million

Conclusion

The District's spending on city planning is comparable to that of Baltimore and Arlington County.

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LEGISLATIVE SERVICES

SERVICES

The **District** Council formulates and enacts the public policy of the city government by:

- Passing legislation;
- Passing annual appropriation requests for the operating and capital budgets;
- Providing revenue for the District by passing legislation;
- Approving the issuance of debt;
- Approving comprehensive land use plans; and
- Overseeing the operations of the District government and the needs for legislation by conducting inquiries and investigations.

As part of its services, the Council:

- Initiates legislation and holds legislative hearings;
- Confirms designated appointments by the Mayor;
- Reviews and approves regulations, large contracts, and real property sales proposed by the Mayor;
- Conducts legal and substantive research;
- Drafts, reviews, and processes legislation, amendments, and committee reports;
- Analyzes the fiscal impact of proposed legislation and proposed operating, capital, and revenue budgets;
- Maintains legislative documents and records;
- Prepares and updates the annotated District code; and
- Responds to constituents' requests for information and assistance with service delivery.

The **Maryland** General Assembly and its two supporting agencies responsible for legislative reference and fiscal review also provide the same kind of services.

Compared to the District Council, where substantive committees research and draft most legislation and conduct fiscal analysis, the Maryland legislature centralizes those activities.

With over ten percent of the legislature's total budget allocated to the Fiscal Services Unit, Maryland places much greater emphasis on the legislative conduct of government fiscal studies, budget and revenue analysis, and the fiscal impact of legislation. Unlike the D.C. Council, the Maryland legislature also performs biennial fiscal/compliance audits of all executive and judicial agencies as well as some financial audits. The other audit duties in Maryland's legislative support are similar to those of the D.C. Auditor or are not done by the District at all because they involve auditing the reports of local governments. In all, 27 percent of the total authorized Maryland legislative positions are devoted to fiscal and audit analysis. At most, five of the 147 positions at the District Council plus

fractions of the time of eleven committee clerks and a few legislative assistants are involved in this work.

Conclusion

The District's legislative services are essential and are similar in kind to Maryland's. The District devotes far fewer resources to fiscal and audit analysis.

WORKLOAD

Conclusion

No comparable workload data are available.

COSTS

District–$7.7 million and 147 positions
Baltimore–$3.1 million and 68 positions
Maryland–$38.5 million and 657 positions

Relative to population, the District spends almost twice as much as Maryland on its legislature and support services and has twice as many legislative positions. The District Council, however, performs as both a state legislature and a local council. Whereas state legislatures and some of their staff are not full time, several local councils in this area and Baltimore are. In addition, state and local legislative levels deal with different matters. Therefore, the District Council cannot be compared to just a state or local legislature but must be compared to a composite.

To show roughly the total legislative costs for Baltimore, we therefore added pro rata shares of the General Assembly's costs and positions to the Baltimore Council costs. The resulting totals, $8.3 million and 158 positions, are comparable to the District's $7.7 million and 147 positions. On a per capita basis, the legislative branch cost $13.49 in the District and $12.07 in Baltimore. Staff per 1,000 population were .26 and .23, respectively. While these rough calculations ignore inter alia Maryland's scale economies and audit duties as well as the economies resulting from the District's unified government, they suggest that the cost of the District's legislative function is not out of line.

Conclusion

The District's legislative costs are roughly comparable to the local and pro rata state costs of legislative services in Baltimore.

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ELECTIONS

SERVICES

The **District's** Board of Elections and Ethics registers voters, maintains a list of registered voters, conducts elections, and maintains the integrity of the electoral process.

Similar election services are provided by all governments.

Conclusion

The provision of election services is essential.

WORKLOAD

One measure of workload is the number of registered voters:

	Registered	Percent of Pop.
District	330,000	57.9%
Baltimore	324,580	47.0%
Arlington	95,354	54.6%

COSTS

	Costs (in 000s)	Per registered
District	$2,547	$7.72
Baltimore (includes state allotted)	$2,206	$6.80
Arlington (includes state allotted)	$ 446	$4.67

The District spends more than Baltimore and Arlington both relative to population and relative to registered voters. However, the District has achieved a higher percentage of its residents registered and this may account for a portion of the higher costs.

Conclusion

The District spends relatively more than Baltimore and Arlington on elections, but it has registered a higher percent of its population.

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FINANCIAL MANAGEMENT

SERVICES

The **District's** financial management services include:

Levying and collecting real property taxes, sales taxes, personal and corporate income taxes and a variety of other taxes and revenues typically collected by both state and local governments.
Accounting and payroll
Managing debt
Managing cash and banking
Budgeting
Providing and supporting automated systems to integrate various financial activities
Overall direction and support of fiscal policies

Both the **City of Baltimore and State of Maryland** provide similar services, except that all major taxes, including property tax assessments, are administered by the state government.

Conclusion

The District's financial management services are essential and similar to those typically provided by other state and local governments.

WORKLOAD

The District had 168,623 parcels subject to assessment in 1995
Maryland had 1,854,941 parcels subject to assessment in 1995
There are no other available comparable workloads.

COSTS

The District spent $36.5 million on financial management in 1995 of which $21.0 million was on tax and revenue administration and $15.5 million was on accounting and other financial services. Because Baltimore and Maryland provide financial management services and some overlap, exact comparisons are difficult. One approach is to combine their expenditures ($204.0 million) and compare to the District. On this basis, the District spends slightly more than Baltimore with the state's per capita costs pro-rated to Baltimore.

Another approach is to compare the District's tax and revenue administration costs to those of the state which are roughly comparable, and compare the remaining city type costs to Baltimore's. On

this basis, the District spends about 20 percent more on tax and revenue administration relative to population than does Maryland. The District also spends a little more than Baltimore on the remaining financial services.

Conclusion

The District's financial management services appear to be more expensive than comparable services in Baltimore and Maryland, but this comparison is made difficult by the interrelationship between city and state costs in Maryland.

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DEBT SERVICE

SERVICE

The **District's** expenditures for principal and interest (debt service) result from debt incurred in prior years for a variety of capital projects necessary to the provision of District services. Debt service provides no direct service to persons and should be incorporated in the costs of each service for which the debt is issued. For example, the cost of mass transit in the District, for which the city has borrowed over $600 million through 1995, should include the payment of interest and the repayment of principal. However, this is not feasible because the District does not attribute its debt service costs to specific projects or services. The only separate identification of District debt service is that issued for sewer and water improvements, lease-purchases, and deficit financing.

This lack of identification of debt service to individual programs is not unusual and is acceptable government accounting practice. Baltimore and the State of Maryland incur debt service costs. Neither government separately reports debt service expenditures by project or service.

WORKLOAD

There is no way to relate debt service to workloads when the debt service cannot be related to specific programs.

COSTS

Debt service expenditures in 1995 were as follows:

	(in millions)	Per capita
District	$366.4	$643
Maryland	$480.4	
Baltimore	$110.7	
Baltimore with state pro-rated	$176.5	$255

The District's debt service is extremely high compared to Maryland and Baltimore. Some of the apparent causes are:

The higher rates of interest paid by the District because of the city's comparatively low credit rating and its use of taxable U.S. Treasury loans.

The structure of the city's debt that relied heavily on level debt service with 30 year repayment prior to recent refinancings. This extended the life of the debt and reduced principal repayments.
Excessive workloads, such as those found for many other city services. However, because those workloads generally relate to social and health services that are not capital intensive, this does not appear to be a key factor.

The use of bonds to finance projects and heavy equipment purchases that are typically financed on a pay-as-you-go basis by other governments.

The financing of the 1990 deficit by bonds accounts for $36.7 million of the debt service costs.

Conclusion

The District's debt service expenditures are very high. A variety of possible causes can be identified, but additional analysis would be required to determine the amounts attributable to these causes.

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DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY



1999 REPORT TO CONGRESS
MEDICAL MALPRACTICE

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1999 REPORT TO CONGRESS ON MEDICAL MALPRACTICE

INTRODUCTION

In the House Report to the 1999 D.C. Appropriations Act, H.R. 4380 (H.Rep. 105-670, 105th Cong., 2d Sess, at 8-9 (1998)) the Authority was directed to revisit the issue of medical malpractice. (This Report is hereafter referred to as the "House Report", and the relevant section is attached as Exhibit A hereto.) The Authority was required to "study and evaluate the medical malpractice laws in Maryland and Virginia and to submit to [the D.C. Appropriations] Committee no later than February 1, 1999, recommendations for making the District's medical malpractice rules consistent with its neighboring jurisdictions."

The House Report specifically required the Authority's study to include, but not be limited to, an analysis of the "feasibility" of amending the D.C. Code to include provisions similar to the following:

(1) a limit of $250,000 on the amount that may be awarded for non-economic damages arising out of a single incident of medical malpractice;

(2) a prohibition against any claimant receiving duplicate compensation for the same injury from more than one source;

(3) abolishing joint and severable liability and ensuring that no single defendant shall be liable for more than his/her or its equitable share of total damages awarded to a plaintiff;

(4) provisions that will discourage the filing of frivolous medical malpractice claims, such as certification of the medical merit of the claim by qualified disinterested persons, and requiring that a plaintiff pay the defendants' costs when a claim has been found to be frivolous;

(5) provisions that will encourage parties to settle claims by shifting the costs of litigation if an offer of settlement is rejected and the ultimate award is less than the amount of the offer; and

(6) a statute of repose that will ban medical malpractice suits that are not filed within the applicable statute of limitations, the time to run from the date the injury

occurred or the date the injury was discovered or should have been discovered by the plaintiff or by the parent or guardian of a minor or incompetent plaintiff.

Most of these issues were discussed in the Authority's comprehensive 1998 Report on Medical Malpractice, also done pursuant to Congressional directive. At that time the Authority made a comprehensive review of medical malpractice in the District of Columbia. The Authority conducted a substantial fact-finding process, heard the testimony of dozens of witnesses, and received thousands of pages of written submissions. The result was a study of medical malpractice proposals and Report to Congress dated March 18, 1998 (hereafter referred to as the "1998 Report" and attached as Exhibit B hereto), which reached the following conclusions:

a) There was not a demonstrated need for a $250,000 cap on "non-economic" damage recovery in medical malpractice actions. This was the principal proposal for change presented to the Authority. The empirical data presented to the Authority showed that the existence of a similar cap in Maryland had not reduced medical malpractice premiums in Baltimore, the city most similar to the District in demographics, below those in the District for equivalent categories. There was doubt whether the imposition of such a cap in the District would reduce premiums in the District significantly below those paid by Baltimore health care providers. The comparison of malpractice insurance premiums in a jurisdiction without a cap (the District) with those in a demographically similar urban area in a state with a cap (Baltimore) suggested that the cap is neither necessary nor efficacious in reducing them. Moreover, if a cap is justifiable, the evidence did not show that this dollar figure is correct.

b) To address the so-called "collateral source" rule, which bars evidence that the plaintiff has already been reimbursed for some of the elements of damage recovery sought in the lawsuit, the Authority, after hearing the testimony and reviewing all data collected, did not believe that a change in the rule was justified to avoid double recovery or unjust enrichment of a successful plaintiff. Proposals for either a mandatory offset of such reimbursed sums against the plaintiff's recovery or their admissibility in evidence to reduce the recovery rest on such an assumption. But, when a plaintiff has either a statutory or contractual obligation to repay such "collateral source" reimbursements to the "collateral source," as is the case with both governmental and private insurance payments, there is no double recovery or unjust enrichment.

c) The Authority did not conclude there was justification for modification of the so-called "discovery" rule on the issue of the statute of limitations in a medical malpractice action. This rule permits recovery if suit is brought within a specified time after the plaintiff knew or reasonably should have known of an injury resulting from malpractice. Proponents of an absolute bar to recovery after a specified period of time — regardless of whether the plaintiff knew or reasonably should have known of the malpractice-caused injury — have

not made out their case for departing from a well-settled rule in the District of Columbia.

d) Various proposals for discouraging frivolous claims and promoting settlement seem to be largely redundant of procedures already in effect in the District of Columbia. To the extent that they are redundant, they are unnecessary. (Exhibit B, at 3-4.)

The Authority has also taken note of the statement in the House Report that the District of Columbia's medical malpractice liability law is severely impacting the practice of medicine in the District, with many physicians closing their practices inside the City, and that these doctors are not being replaced. (See Exhibit A.) By contrast, our 1998 Report concluded:

". . . figures show a decline in the number of physicians practicing in the District between 1992 and 1996 of slightly less than 5% (4,168 to 3,968). That decline, however, is less than the approximately 8% loss of population in the District during the same period. (Bureau of Economic Analysis, U.S. Department of Commerce - Preliminary Data, 1997) Thus, the number of practicing physicians in relation to the population actually rose during the period in question. Moreover, except for anecdotal assertions, it could not be determined whether physicians left the city primarily because of the cost of medical malpractice insurance or primarily because of concerns shared with other citizens, such as the condition of the public schools and public safety, or primarily for other professional reasons, such as the high percentage of persons in the District without medical insurance." See Exhibit A, Appendix A, at 5-6.

Pursuant to the latest Congressional directive, the Authority has now sought the views of everyone who made submissions or testified on the issue in 1998. (A list of those persons and organizations is attached as Exhibit C hereto.) A number of additional submissions were received. (Exhibit D hereto.)

The Authority has considered everything submitted to it and has taken a fresh look at every issue presented. It has made a serious reexamination of the findings and conclusions it reached last year, in the light of the latest Congressional directive and the new material submitted to it. In Section I below, we have complied with the direction to make new recommendations to Congress in pursuit of the goal of consistency and uniformity between the District's medical malpractice rules and those of neighboring jurisdictions. In Section II below, we discuss each of the issues identified by the House Report, and others as well.

I. Recommendations for Making the District's Medical Malpractice Rules Consistent with its Neighboring Jurisdictions.

A. If Congress wished to make the District's medical malpractice rules consistent with neighboring jurisdictions, pursuant to its plenary legislative power over

the District of Columbia, it could enact either the statutory and common law of Virginia or the statutory and common law of Maryland. The Virginia and Maryland statutes are set forth as Exhibits E and F hereto. They are compared to each other in an Attachment to the submission of Public Citizen to the Authority dated December 16, 1998. (Exhibit G hereto.) Applicable case law under each of these statutes is set forth in Exhibit H for Virginia and Exhibit I for Maryland.

B. However, if Congress wished to achieve consistency or uniformity in medical malpractice rules among all three jurisdictions - the District, Virginia and Maryland - it could not do so by following the course set forth in paragraph IA above. The reason is simple: the Virginia and Maryland medical malpractice laws are not consistent with each other. Thus, there is no way to achieve uniformity or consistency among the three jurisdictions by requiring the District to follow the law of one or the other of its neighboring jurisdictions. Nor could such consistency or uniformity be achieved by requiring the District to follow the law of both its neighboring jurisdictions, because they are not consistent or uniform with each other. Specifically:

1. The cap in Virginia is limited to medical malpractice. Va. Code Ann. §8.01 - 581.15 (1998). In Maryland, the cap applies to all personal injury and wrongful death actions, not merely to medical malpractice. Md. Courts and Judicial Procedure Code Ann. §11-108 (1997).

2. The caps are different. Virginia limits all medical malpractice awards to $1,000,000. Maryland limits "non-economic" damages to $500,000 (with an annual increase built in beginning in October, 1995), but does not cap economic damages. (Id.)

3. Virginia's cap applies to punitive damages. Maryland's does not. (Id.)

4. The dates at which the cap limitations apply are different in the two jurisdictions. In Virginia, the limitations apply to acts of malpractice occurring on or after October 1, 1983. In Maryland, different limitations apply at different times, for actions arising on or after July 1, 1986, October 1, 1994, October 1, 1995, and each succeeding year beginning on October 1. (Id.)

5. Maryland requires a plaintiff, in order to proceed with a medical malpractice action, to file a certificate of an expert attesting to departure from the standard of care and proximate causation of the injury. Md. Courts and Judicial Proceeding Code Ann. §3-2A-04 (1997). Virginia has no such requirement, although a party may request a review of a claim by a medical malpractice review panel. Va. Code Ann. §8.01-581.2 (1998).

6. Furthermore, there are differences between District law and the laws of Maryland and Virginia that would require changing the law of one or both of these neighboring jurisdictions to create conformity with District law. For

example, both the federal and local courts in the District have cost-shifting statutes where the plaintiff goes to trial and is awarded less than a previously rejected settlement offer. Rule 68 of the Federal Rules of Civil Procedure; Civil Rule 68 of the District of Columbia Superior Court. Neither Virginia nor Maryland has such a rule.

C. Thus, it is evident that the only way for Congress to achieve true consistency or uniformity in medical malpractice rules among the District, Maryland, and Virginia would be to enact a federal medical malpractice statute of general applicability, dealing with and resolving each of the issues identified in the House Report and others as well.[1] Such a nationwide statute, as Congress well knows, has long been proposed for products liability, but it has not yet passed despite years of effort. Such legislation raises formidable legal and political issues. It would be a significant intrusion into the regulation of two professions - law and medicine - which has been traditionally left to the states and local jurisdictions. It would also potentially involve regulation of the insurance industry, another area historically left to the states and local governments. In other words, it would represent a large expansion of federal power at the expense of state and local autonomy. As we said in our 1998 Report:

> "There is no general federal law of medical malpractice. Everywhere in the country, medical malpractice is a matter of local law. Even under the Federal Tort Claims Act, 28 U.S.C. §§ 2761 et seq., the liability of the United States for medical malpractice by its agents is governed by the law of the state in which the conduct occurred. 28 U.S.C. § 2674. Congress has not imposed limitations on the medical malpractice liability of the United States in the Federal Tort Claims Act, as it could have done without impinging on concerns about local self-government. If Congress has not done so there, why should it impose such limitations on the law of the District of Columbia?"

> "The Authority concludes that local officials of the District of Columbia are in the best position to weigh the competing interests in the regulation of medical malpractice. There is no other branch of District tort law that has been "federalized" by Congress. Why start here?"

Thus, although enactment of such a statute would be capable of achieving the goal of consistency set forth in the House Report, we are reluctant to recommend it in the

[1] A federal statute creating uniform medical malpractice rules but applicable only to the District, Maryland, and Virginia would raise serious issues of due process and equal protection for litigants in those jurisdictions. We know of no precedent for legislation geographically limited, in that fashion, which would presumably have to be passed under the Commerce Power as well as the Congressional power to legislate for the District of Columbia. We suppose that it could be done by interstate compact, with Congressional approval, but that would require the consent of each of the three jurisdictions.

absence of a consensus for such action.[3] Certainly an extensive fact-finding and deliberative process by Congress should precede such a drastic step. We recommend that such a process be undertaken before enactment of such a statute.

D. If Congress were to decide that the goal of consistency with one or the other of the District's neighboring jurisdictions is sufficiently important to override the goal of consistency among all three, we would have no hesitation in recommending that the District follow Maryland rather than Virginia law. We discussed the difference between Maryland and Virginia medical malpractice insurance practices at some length in our 1998 Report, reflecting significant differences in urbanization, demographic characteristics and health problems in the two jurisdictions. Maryland - at least in its urbanized areas - more closely resembles the District than does Virginia. Exhibit A at 6-7.

Even then, however, we concluded that the Maryland medical malpractice limitations had been ineffective in containing medical malpractice insurance costs. Indeed, many malpractice insurance costs were lower in the District than those in Baltimore and were roughly equal to those in Maryland counties adjoining the District. Id. at 7, 9-10. Moreover, the Maryland cap on non-economic damages does not adequately reflect inflationary forces. We concluded last year that, if a cap were to be enacted on non-economic damages, a $750,000 cap would be more appropriate, to take account of inflation. That would be substantially higher than the Maryland cap. Thus, although the Maryland model is preferable to the Virginia one, we do not recommend its wholesale adoption for the District at this time, any more than we recommend wholesale adoption of the widely varying Virginia rules.

E. Accordingly, rather than mechanically and reflexively imposing the medical malpractice law of either Maryland or Virginia on the District, in pursuit of the elusive goal of consistency and uniformity, we recommend that Congress treat the medical malpractice issue as national instead of local in scope - assuming that Congress wishes to enter this thicket at all. We have previously furnished Congress with all the thousands of pages of submissions and testimony we have received on the issue, and we are furnishing with this Report all the additional submissions we have received. We stand ready to assist a Congressional inquiry on the subject in any way we can, with the knowledge and experience we have gained in our two years of study of medical malpractice. Since many of the proposals for medical malpractice changes go back a generation, a fresh look is in order in the light of current circumstances.

F. Alternatively, if Congress does not wish to enter the thicket of fashioning nationwide rules for medical malpractice, we recommend that the pursuit of consistency and uniformity with the medical malpractice rules of neighboring jurisdictions be the responsibility of the Council of the District of Columbia and other local officials. That

[3] See Exhibit B, Appendix B, at 2, n. 2, where we concluded last year that no nationwide consensus for limitations on medical malpractice actions has yet emerged.

was our conclusion last year, and remains our recommendation now. See Exhibit B, at 4, id., Appendix B, at 1-2.

If medical malpractice rules in the District are driving physicians into adjoining jurisdictions, economic self-interest and the health-care interests of its population should induce the law-making authorities of the District of Columbia to remove or reduce the disparities between District law and that of surrounding jurisdictions, as they have recently done in the area of workmen's compensation. Although such a method of achieving consistency and uniformity in the region may be slower than some might desire, it has the virtue of assuring that all local interests are heard and taken account of. That is an advantage in dealing with an area of regulation traditionally left by Congress to the states and local governments. Due concern for the values of our federal system counsels in favor of this approach.[3]

II. Discussion of the Issues Identified by the House Report.

As indicated, our 1998 Report dealt in detail with most of the issues identified in the House Report. Nevertheless, in compliance with the latest Congressional directive, we have revisited them and examined additional materials to reassess our conclusions. The House Committee asked us to consider the "feasibility" of amending the D.C. Code to include numerous proposed provisions. In carrying out that mandate, we have utilized and applied the term "feasibility" in its several meanings.[4]

We make it clear at the outset of our discussion that each of the suggested provisions in the House Report is "feasible" in the first sense, i.e., it is "capable of being done." Either Congress or the Council of the District of Columbia is empowered to enact any or all of these provisions as amendments to the D.C. Code.

The question of "feasibility" in the sense of "suitability" is a more complex question, however. We have addressed the suitability of each of the proposed provisions in the light of our 1998 Report, to determine whether it is desirable as a matter of public policy. That discussion follows.

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[3] In this connection, we note the submission of the Corporation Counsel of the District of Columbia urging that, if limitations are to be imposed, the place to start is with the liability of the District government for medical malpractice. We recommend that submission to the Council of the District of Columbia for its study. (See Letter of January 11, 1999, from John M. Ferren to Daniel A. Rezneck, and supporting materials.)

[4] The term "feasibility" is defined as "capable of being done." Random House Dictionary of the English Language, 2d ed., unabridged) Another meaning is "suitability." (Id.)

A. A provision to place a limit of $250,000 on the amount that may be awarded for non-economic damages arising out of a single incident of medical malpractice.

We update and affirm our discussion of a year ago on the inadvisability of a $250,000 cap on non-economic damages, as follows:

This cap provision was enacted almost 25 years ago in the California Act ("MICRA"), and has been followed in a number of other states, although the cap amounts vary. As indicated, Maryland has a cap for "non-economic" loss ($350,000 in causes of action arising between July 1, 1986, and October 1, 1994; for causes of action arising thereafter, the cap is higher, up to approximately $550,000 depending on when the cause of action arose.)(Md. Courts and Judicial Procedure Code Ann. Sec. 11-108). As also noted, Virginia has a $1 million cap for all damages, economic, "non-economic," compensatory and punitive. (Va. Code Ann. Sec. 8.01-581.15)[5] Some states allow an adjustment for inflation in the cap; the proposal does not. California has not adjusted its $250,000 figure upward since enactment in 1975.

The Authority is unable to recommend this proposal for enactment at this time. There is not enough empirical data as to the need for, or effectiveness of, such a cap.

The existence of the Maryland cap has not reduced Baltimore medical malpractice premiums below those in the District for equivalent categories. There is doubt whether the imposition of such a cap here would reduce premiums here significantly below those paid by Baltimore practitioners.

The point is to compare malpractice premiums in the District, where there is no cap on recovery, with those in a demographically similar urban area in a state with a cap, like Baltimore. There does not appear to be a significant difference in premiums, suggesting that the cap is neither necessary nor efficacious to reduce them.

Moreover, damages caps are by nature regressive. The more meritorious is the claim for recovery of "non-economic" loss and the greater is such loss, the less the successful plaintiff can recover in relation to total loss. Caps are also undiscriminating, sweeping across all cases without regard to circumstances.

Even if a cap were to be enacted here, the $250,000 figure does not seem appropriate. What may have been deemed fair to both plaintiffs and defendants in California in 1975 — $250,000 — does not take account of inflation since then. To keep up with inflation since that time, the cap would now have to be higher here — perhaps $750,000. Yet neither proponents nor opponents of change favor that solution. Proponents consider it too high, and opponents object to any cap. This points up the

[5] The Supreme Court of Virginia recently upheld the Virginia cap against constitutional attack. Pulliam v. Coastal Emergency Services of Richmond, 1999 Va. LEXIS 3 (January 8, 1999).

additional difficulty of arriving at an acceptable cap. If inflation is to be taken into account, a cap also should contain a factor allowing for future inflation at least in accord with the Consumer Price index; the cap should not have to be legislatively amended every few years.

It should also be pointed out that the existence of a cap is a deterrent to settlement, which is a prime goal of the legal system. It diminishes the incentive of the defendant (and the insurer) to settle by removing the element of uncertainty as to the maximum possible verdict. As every trial lawyer knows, that element of risk is a great spur to settlement. Although the existence of a cap may enable the defendant (and the insurer) to calculate the potential liability with greater precision, that very enhanced certainty encourages a roll of the dice through trial of the case. If the worst case scenario is a tolerable risk, the defendant's position can only improve through continued litigation. Thus, imposition of a cap may produce an example of the "law of unintended consequences" — in this instance, discouraging settlement.

In written submissions solicited by the Authority in fulfilling its current Congressional mandate, proponents and opponents of this provision submitted substantially the same materials as last year. No new data has been presented which would impel the Authority to modify its earlier findings and conclusions with respect to this issue.

B. A prohibition against any claimant receiving duplicate compensation for the same injury from more than one source.

This is the so-called "collateral source" issue. It has been urged that evidence of such payments should be admissible and that there should be provision for a mandatory offset of "collateral source" payments against the plaintiff's recovery.

The problem is that modification of the "collateral source" rule seems to be aimed at a largely non-existent problem of "double recovery", "duplicate compensation", or unjust enrichment of the plaintiff. It is the understanding of Authority staff that virtually all "collateral source" payments received in the District must be repaid to the source of the payments, if the plaintiff recovers from a third party, e.g., a health care provider. Thus, if a plaintiff suffering loss from medical malpractice has received payments from the federal or District governments under the Medicare or Medicaid programs, the applicable statutes require repayment of these sums if the plaintiff recovers in a malpractice action. (42 U.S.C. § 1395y(b) and 42 C.F.R. 411.26 for Medicare; 42 U.S.C. § 1396 (a)(25) and 42 C.F.R. 433.139 (b)(1) for Medicaid). Thus, the plaintiff is not the recipient of a "double recovery" and is not unjustly enriched.

Likewise, private health insurers, which pay benefits to their insureds, are also ordinarily entitled by contract to recover their payments if the insured recovers from a third party in a malpractice action. (See Exhibit B, Appendix F, Blue Cross Blue Shield Service Benefit Plan, at 12) ("All recoveries from a third-party (whether by lawsuit,

settlement, or otherwise) must be used to reimburse the Plan for benefits paid.") In the case of a private health insurance contract, the insured pays premiums to the insurer for health coverage, so that an offset or reduction of payment by the tortfeasor in the malpractice action because of the receipt of health insurance benefits would have the effect of depriving the plaintiff of the benefit of the bargain with the health insurer.

In the absence of a showing of a substantial problem of "double recovery" or unjust enrichment flowing from the "collateral source" rule, the Authority is unable to recommend its modification at this time. If such a modification were undertaken, it would in fairness have to relieve the successful claimant of the obligation to repay the "collateral source" payments to the "collateral source." This works a reallocation of the loss from the defendant found liable to the government or private payor of the "collateral source" payment. The logic of, or need for, such a reallocation has not yet been proven as a compelling need.

The most recent submissions to the Authority on this issue provide no new data leading the Authority to modify its earlier findings and conclusions with respect to this issue.

In addition, the Authority notes the contention that:

> "abolition of the collateral source rule would have an adverse impact on the District of Columbia's budget. Each year hundreds of thousands of dollars, if not millions, are returned to the District...by malpractice plaintiffs to reimburse payments that Medicaid and Medicare have made to provide health care to victims of medical neglect. The plaintiff does not receive these monies - the government does."[6]

C. Abolishing joint and severable liability and ensuring that no single defendant shall be liable for more than his/her or its equitable share of total damages awarded to a plaintiff.

In our 1998 Report, we took note of the fact that the then-pending House bill had a provision for altering the liability, at least for "non-economic" damages, of a defendant in a multi-defendant case from the traditional rule of joint and several liability to liability according to fault; defendants would pay in direct proportion to their degree of responsibility for actual damages. We concluded:

> "It is hard to object in principle to the concept of liability according to fault, although we also see no reason for limiting it to liability for 'non-economic' damages. If the traditional rule is to be departed from, it might as well be with respect to all damages." (Exhibit B, Appendix B, at 14.)

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[6] Letter of Trial Lawyers Association of Metropolitan Washington, D.C., to Daniel A. Rezneck, dated January 15, 1999, at 6.

We further stated, however:

"... this is a complicated matter, involving issues of contribution and indemnity among joint defendants. This kind of modification might give rise both to substantial additional litigation and unanticipated consequences. It also could be a disincentive to settlement, since the prospect of joint and several liability under present law is an encouragement to defendants to settle to avoid the risks. Knowledge that a defendant, even if found liable, could be held for less than all the plaintiff's damage, would give an incentive to go to trial, like the potential effect of a cap ...." (Id.)

The written submissions solicited by the Authority in fulfilling its current Congressional mandate provide no new justification requiring the Authority to modify its earlier findings and conclusions with respect to this issue.

It is noteworthy, moreover, that "neither Maryland or Virginia have undertaken to abolish the doctrine of joint and several liability as it applies to medical malpractice cases."[7] In fulfilling the Congressional mandate of studying the feasibility of adopting Maryland and Virginia's rules with respect to medical malpractice, the Authority concludes that such a provision would be premature in the District of Columbia in the absence of any change in the neighboring jurisdictions. This is an instance in which the present law among the three jurisdictions is consistent and uniform. Adoption of this proposal would result in inconsistency and disuniformity among the District, Maryland and Virginia, contrary to the expressed purpose in the House Report.

4. Provisions that will discourage the filing of frivolous medical malpractice claims, such as certification of the medical merit of the claim by qualified disinterested persons, and requiring that a plaintiff pay the defendant's costs when a claim has been found to be frivolous.

When the Authority reviewed this issue in its 1998 Report, it stated:

"... the Authority is not persuaded that there is a great deal of frivolous medical malpractice litigation in the District. If it could be demonstrated that there were, provisions to discourage frivolous claims would be in order."

"There are already ample procedures designed to do that. For example, the proposal for attorney certification of a good faith belief that malpractice has been committed does not appear to add much, if anything, to the certification already required in Rule 11 of the Federal Rules of Civil Procedure and Rule 11 of the

[7] Letter of Trial Lawyers Association of Metropolitan Washington, D.C., to Daniel A. Rezneck, dated January 15, 1999, at 7.

Superior Court Rules.[8] It is unobjectionable but redundant. Other devices for weeding out frivolous claims prior to trial already exist, such as the motion for summary judgment and the requirement that the plaintiff in most malpractice cases must support the claim by expert testimony."

"Likewise, promotion of mediation and other forms of alternative dispute resolution ("ADR") is desirable, but already exists in our local court system. No case can ordinarily go to trial in the Superior Court without going through a form of ADR. ADR is also available and strongly encouraged by the judges of the U.S. District Court."

"... other jurisdictions, e.g., Maryland, impose more stringent procedural conditions, such as a certification of claims by a medical expert before they can be brought to court. The Authority does not support burdening access to the courts, especially since the claim is almost certain to be dismissed if the plaintiff cannot support it by expert testimony." (Exhibit B, Appendix B, at 10-11.)

As previously noted, Virginia does not have the Maryland requirement of certification of claims by a medical expert. There is thus no consistency or uniformity in the present practice in the neighboring jurisdictions to which the District law might be conformed. All three jurisdictions, including the District, already provide for imposition of sanctions, including payment of defendant's costs, for bringing a frivolous case. See Md. Rule 1-341; Va. Code Ann. §8.01-271.1; D.C. Sup. Ct. Civ. Rule 11(c)(2).[9]

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[8] Rule 11 of the Federal Rules of Civil Procedure and D.C. Superior Court Civil Procedure Rule 11 both provide:

"(b) **Representations to Court.** By presenting to the court (whether by signing, filing, submitting, or later advocating) a pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, –

(1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;
(2) the claims, defenses, and other legal contentions therein are warranted by existing law or by a non-frivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
(3) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery...."

[9] The Superior Court recognized in Apperson v. Greater Southeast Community Hospital, 118 WLR, 1341, 1344 (Super. Ct. 1990), a medical malpractice case, that, since the issue of whether a duty has been breached generally requires expert testimony, an attorney bringing a malpractice case should first consult with an expert before filing suit. The failure to do so leaves the attorney subject to Rule 11 sanctions. ("Having an expert review the facts and give his opinion on the merits... is hardly an unreasonable burden for plaintiffs to shoulder before filing suit for hundreds of thousands of dollars....").

5. Provisions that will encourage parties to settle claims by shifting the costs of litigation if an offer of settlement is rejected and the ultimate award is less than the amount of the offer.

This provision is already applicable in the District of Columbia. Rule 68 of the Federal Rules of Civil Procedure so provides in actions in the U.S. District Court and Superior Court Civil Rule 68 does the same in the Superior Court. (See Exhibits J and K)

6. Enact a statute of repose that will ban medical malpractice suits that are not filed within the applicable statute of limitations, the time to run from the date the injury occurred or the date the injury was discovered or should have been discovered by the plaintiff or by the parent or guardian of a minor or incompetent plaintiff.

There is already a statute - D.C. Code §12-301 - that imposes a three year statute of limitations on medical malpractice suits in the District. In applying the statute of limitations, the District follows the so-called "discovery" rule. See Bussineau v. President and Directors of Georgetown College, 518 A.2d 423 (D.C. 1986). It suspends the running of the statute of limitations until the patient knows or reasonably should have known that the injury was caused by malpractice; the patient then has three years to sue. "The discovery rule was developed to redress the situation in which the fact of injury was not readily apparent and indeed might not become apparent for several years after the incident causing injury had occurred." Farris v. Compton, 652 A.2d 49, 55 (D.C. 1994). That rule has been applied with care and reasonableness in the District of Columbia; it does not give plaintiffs carte blanche to sue many years after the event, where they were on notice of the alleged wrong. Hendel v. World Plan Executive Council, D.C. App. No. 96-CV-105, December 30, 1997, 126 Wash. Law Rep. 3251.

The classic example of the applicability of, and need for, the "discovery" rule is the "sponge in the stomach" case, where the malpractice may not be known for some period of time, even years. Plaintiffs ought not to be barred from recovery in a case where they could not reasonably be expected to know that they were injured as a result of malpractice. There can be no serious objection to shortening the time a plaintiff has to sue after discovery, e.g., to one or two rather than three years, if the discovery occurs many years after the injury.

But that is a far cry from extinguishing a claim which the plaintiff could not reasonably have known that he or she had. In the absence of any showing that the present "discovery" rule significantly burdens the defense of medical malpractice cases or makes it more likely that plaintiffs with non-meritorious claims will recover, the Authority is unable to support a change in the statute of limitations provision of the D.C. Code.

The problem with the proposed provision is that it would make the statute run from the time the "injury" was or should have been discovered - regardless of whether the plaintiff had reason to believe the "injury" was caused by malpractice. This is bad public policy - indeed, it is bad for the very health care providers it purports to protect. It puts

pressure on the injured plaintiff to bring a malpractice action even before having evidence of malpractice, in order to avoid the possible loss of the claim due to the statute of limitations. It leads to the filing of suits sooner rather than later, and to the filing of suits that might never be brought at all, because the plaintiff does not have evidence of malpractice, only of injury. The District of Columbia Court of Appeals recognized this point in Ehrenhaft v. Price, 483 A.2d 1192, 1203 (D.C. 1984), when it wrote that departure from the "discovery" rule "would likely serve to encourage litigation in the first instance, rather than as a last resort."

Thus, it is the Authority's conclusion that the law of statute of limitations in medical malpractice, carefully worked out by the District's courts over many years, should be left undisturbed. The answer to any problems under the statute of limitations does not lie in legislation but in fine-tuning by the courts in ruling on the facts of particular cases. The federal and local courts here have repeatedly shown themselves ready, willing and able to do such fine tuning.

DISTRICT OF COLUMBIA APPROPRIATIONS, 1999

D.C. MEDICAL MALPRACTICE REFORM

Medical malpractice liability in the District of Columbia is inconsistent with similar provisions in the 50 states, including the District's neighbors, Virginia and Maryland. The District of Columbia's medical malpractice liability laws are severely impacting the practice of medicine in the District, with many physicians closing their practices inside the City, and those doctors are not being replaced. But, despite support for malpractice reform by Mayor Marion Barry and key members of the City Council, the City Council has repeatedly failed to act. The Committee believes that in this and many other cases the District's laws may actually weaken economic performance by driving businesses, including medical practices, from the District. Accordingly, the Committee directs the Financial Responsibility and Management Assistance Authority to study and evaluate the medical malpractice laws in place in Maryland and Virginia and to submit to this Committee no later than February 1, 1999 recommendations for making the District's medical malpractice rules consistent with its neighboring jurisdictions.

Specifically, the report is to include, but not be limited to, an analysis of the feasibility of amending the D.C. Code to include provisions similar to the following:

(1) a limit of $250,000 on the amount that may be awarded for non-economic damages arising out of a single incident of medical malpractice;

(2) a prohibition against any claimant receiving duplicate compensation for the same injury from more than one source;

(3) abolishing joint and severable liability and ensuring that no single defendant shall be liable for more than his/her or its equitable share of total damages awarded to a plaintiff;

(4) provisions that will discourage the filing of frivolous medical malpractice claims, such as certification of the medical merit of the claim by qualified disinterested persons, and requiring that a plaintiff pay the defendant's costs when a claim has been found to be frivolous;

(5) provisions that will encourage parties to settle claims by shifting the costs of litigation if an offer of settlement is rejected and the ultimate award is less than the amount of the offer; and

(6) a statute of repose that will ban medical malpractice suits that are not filed within the applicable statute of limitations, the time to run from the date the injury occurred or the date the injury was discovered or should have been discovered by the plaintiff or by the parent or guardian of a minor or incompetent plaintiff.

DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY



REPORT ON MEDICAL MALPRACTICE LIABILITY

Andrew F. Brimmer
Chairman

Stephen Harlan
Vice Chairman

Joyce Ladner
Member

Constance Newman
Member

Edward Singletary
Member

March 18, 1998

District of Columbia Financial Responsibility
and Management Assistance Authority
Washington, D.C.

March 18, 1998

The Honorable Albert Gore
President of the Senate
S-212 The Capitol
Washington, D. C. 20510

Dear Mr.President:

Title II of the 1998 D.C. Appropriations Bill in the House of Representatives (H.R. 2607) was entitled "District of Columbia Medical Liability Reform." (Appendix A.)[1] It made a number of proposals for changes in the present system for administering medical malpractice liability in the District of Columbia.

It provided:

1. The right to bring a medical malpractice action would be limited to two years after discovery of the alleged injury caused by malpractice, with an absolute limitation on the right to sue of five years after the injury, regardless of whether the injury had been or could have reasonably been discovered during the five-year period.

2. Imposition of a $250,000 cap on the total amount of recovery of "non-economic" damages in a medical malpractice action, e.g., damages for pain and suffering, emotional distress, loss of consortium, and other non-pecuniary losses.

3. Imposition of liability for "non-economic" damages on a defendant in a multi-defendant case in direct proportion to that defendant's fault or responsibility for actual damages, rather than imposition of joint and several liability on each defendant for all losses.

4. Restriction of punitive damages as follows:

A. Requiring a showing of justification for punitive damages by clear and convincing evidence rather than the usual preponderance standard in a civil action;

[1] The Authority's detailed Discussion of its findings and conclusions is attached hereto as Appendix B.

B. Limiting the amount of punitive damages to three times the amount of damages for economic loss, or $250,000, whichever is greater;

C. Prohibiting the award of punitive damages against manufacturers or sellers of certain drugs or medical devices, primarily those which had passed FDA approval.

5. In any action in which damages awarded for future economic and "non-economic" loss exceed $50,000, authorizing the person held liable to make payments periodically, based on when the damages are found likely to occur, rather than a single lump sum payment at the termination of the litigation.

6. Permitting the defendant to introduce evidence of so-called "collateral source" payments, i.e., from health insurance and other sources, so as to argue for their exclusion from a damages judgment.

7. Miscellaneous other procedural provisions, e.g., preemption of any inconsistent District of Columbia law, except those that make it harder for a claimant to recover.

The legislation enacted by Congress did not contain any provisions on medical malpractice liability. Instead, it was provided that the District of Columbia Financial Responsibility and Management Assistance Authority the ("Authority") Authority should make a study of medical malpractice and, in consultation with the District government, make recommendations to Congress. The Senate Appropriations Committee stated:

> Medical Malpractice Reform — The Committee notes with concern that the District of Columbia is one of the few jurisdictions in the country that has failed to enact medical malpractice reform. The continued increase in medical litigation in the district (sic) drives up the cost and reduces the availability of health care for all District residents and others who receive health care resources. The Committee directs the Authority, in consultation with the District government, to evaluate the issue of medical malpractice reform and report to Congress by March 1, 1998, recommendations on medical malpractice reform for the District. (Cong. Rec., November 13, 1997, S. 12659.)

Pursuant to this directive, the Authority has conducted a substantial fact-finding process, sought the views of officials of the District government, and deliberated on the matter. Submissions were sought and received from numerous interested organizations

and individuals on both sides of the issue. (A list of those persons and organizations is attached hereto as Appendix C.)[2]

In addition, the Authority held a five-hour public hearing on February 18, 1998, at which the views of several dozen groups and citizens were received. (The transcript of the hearing is included in the record transmitted with this Report.)

The Authority has made the following conclusions and observations.

1. Proponents of changes in the present system for dealing with medical malpractice liability have the burden of persuasion. In other words, they must prove their case and the need for change. And, merely labeling proposed changes as "reform" does not end the inquiry. It only begins it. The Authority has tried to rely only on hard data and systematic analysis, rather than anecdotal material from either health care providers or patients, as a basis for evaluating fundamental changes in the established system of administering civil justice. It is also important to note that any recommendation made by the Authority must be specific to the District of Columbia, rather than based on undifferentiated national data.

2. Tested by these standards, the Authority has concluded that the proponents of changes in the medical malpractice system in the District of Columbia have not met their burden with respect to most of the proposals.

3. Specifically:

a) There is not a demonstrated need for a $250,000 cap on "non-economic" damage recovery in medical malpractice actions. This is the principal proposal for change presented to the Authority. Moreover, if a cap is justifiable, the evidence does not show that this dollar figure is correct.

b) To address the so-called "collateral source" rule, which bars evidence that the plaintiff has already been reimbursed for some of the elements of damage recovery sought in the lawsuit, the Authority, after hearing the testimony and reviewing all data collected, does not believe that a change in the rule is justified to avoid double recovery or unjust enrichment of a successful plaintiff. Proposals for either a mandatory offset of such reimbursed sums against the plaintiff's recovery or their admissibility in evidence to reduce the recovery rest on such an assumption. But, when a plaintiff has either a statutory or contractual obligation to repay such "collateral source" reimbursements to the "collateral source," as is often the case, there is no double recovery or unjust enrichment.

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[2] A set of the submissions accompanies this Report. After the hearing, the Authority addressed questionnaires to proponents and opponents to follow up on points made at the hearing. Copies of the questionnaires and the responses are included with the submissions.

c) The Authority does not conclude there is justification for modification of the so-called "discovery" rule on the issue of the statute of limitations in a medical malpractice action. This rule permits recovery if suit is brought within a specified time after the plaintiff knew or reasonably should have known of an injury resulting from malpractice. Proponents of an absolute bar to recovery after a specified period of time — regardless of whether the plaintiff knew or reasonably should have known of the malpractice-caused injury — have not made out their case for departing from a well-settled rule in the District of Columbia.

d) The proposal to authorize a person held liable for malpractice to make future payments for future-accruing damages, rather than an immediate total lump sum payment, at least where the total anticipated future loss exceeds a certain sum, e.g., $50,000, has some appeal. Any such change, however, would need to contain assurance that the funds would be there to meet the future payments. Moreover, the Authority does not see justification for a defendant found liable (or his or her insurer), rather than the successful plaintiff, having the use of the money until the future payments are made, so provision would also have to be made for interest accruing to the benefit of the plaintiff.

e) Various proposals for discouraging frivolous claims and promoting settlement seem to be largely redundant of procedures already in effect in the District of Columbia. To the extent that they are redundant, they are unnecessary.

f) Other proposals, e.g., limitation of punitive damages through various means, federal preemption of certain provisions of District law, appear to be "overkill" and are not supported by any of the submissions or showings made to the Authority.

4. Without regard to the merits of any of these various proposals, the Authority is convinced that decisions on the issue of medical malpractice liability should be left to local government officials, not federal, as is the case everywhere else in the United States. The Council of the District of Columbia ("Council") is the principal legislative body in the District. The Authority also has power in its enabling legislation to propose legislative changes to the Council and, under some circumstances and if deemed appropriate, to enact and implement them itself after consultation with the Congressional oversight committees on the District of Columbia. The Council is closer to the people of the District than Congress, and in a better position to determine the need for, and impact of, these changes.

5. The Authority received testimony at its February 18, 1998, hearing that the District of Columbia Board of Medicine, which enforces standards of medical practice, is underfunded and understaffed. The Authority will direct that the Chief Management Officer review, and recommends to the Council of the District that it review, the operation and funding of the District of Columbia Board of Medicine within the Office of

Professional Licensing Administration at the Department of Consumer and Regulatory Affairs, to determine how to make it a more effective overseer of physician competency and protector of the health of District citizens.

Sincerely,

Andrew F. Brimmer*
Chairman

* All Members of the Authority concur, except Stephen D. Harlan, Vice-Chairman, who is recused from consideration of this matter.

APPENDIX A

"(1) DEPOSIT INTO ESCROW ACCOUNT.—In the case of a fiscal year which is a control year, the Secretary of the Treasury shall deposit any Federal contribution to the District of Columbia for the year authorized under section 11601(c)(2) of the Balanced Budget Act of 1997 into an escrow account held by the Authority, which shall allocate the funds to the Mayor at such intervals and in accordance with such terms and conditions as it considers appropriate to implement the financial plan for the year. In establishing such terms and conditions, the Authority shall give priority to using the Federal contribution for cash flow management and the payment of outstanding bills owed by the District government.

"(2) EXCEPTION FOR AMOUNTS WITHHELD FOR ADVANCES.—Paragraph (1) shall not apply with respect to any portion of the Federal contribution which is withheld by the Secretary of the Treasury in accordance with section 405(b)(2) of title VI of the District of Columbia Revenue Act of 1939 to reimburse the Secretary for advances made under title VI of such Act.

"(b) EXPENDITURE OF FUNDS FROM ACCOUNT IN ACCORDANCE WITH AUTHORITY INSTRUCTIONS.—Any funds allocated by the Authority to the Mayor from the escrow account described in paragraph (1) may be expended by the Mayor only in accordance with the terms and conditions established by the Authority at the time the funds are allocated.".

(2) CLERICAL AMENDMENT.—The table of contents for such Act is amended by inserting after the item relating to section 204 the following new item:

"Sec. 205. Deposit of annual Federal contribution with Authority.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the enactment of the Balanced Budget Act of 1997.

(b) DISHONORED CHECK COLLECTION.—The Act entitled "An Act to authorize the Commissioners of the District of Columbia to prescribe penalties for the handling and collection of dishonored checks", approved September 28, 1965 (D.C. Code, sec. 1-357) is amended—

(1) in subsection (a) by inserting after the third sentence the following: "The Mayor may enter into a contract to collect the amount of the original obligation."; and

(2) by adding at the end the following new subsections:

"(c) In a case in which the amount of a dishonored or unpaid check is collected as a result of a contract, the Mayor shall collect any costs or expenses incurred to collect such amount from such person who gives or causes to be given, in payment of any obligation or liability due the government of the District of Columbia, a check which is subsequently dishonored or not duly paid. In a case in which the amount of a dishonored or unpaid check is collected as a result of an action at law or in equity, such costs and expenses shall include litigation expenses and attorney's fees.

"(d) An action at law or in equity for the recovery of any amount owed to the District as a result of subsection (c), including any litigation expenses or attorney's fees may be initiated—

"(1) by the Corporation Counsel of the District of Columbia; or

"(2) in a case in which the Corporation Counsel does not exercise his or her authority, by the person who provides collection services as a result of a contract with the Mayor.

"(e) Nothing in this section may be construed to eliminate the Mayor's exclusive authority with respect to any obligations and liabilities of the District of Columbia.".

(c) REQUIRING DISTRICT GOVERNMENT OFFICIALS TO PROVIDE INFORMATION UPON REQUEST TO CONGRESSIONAL COMMITTEES.—Notwithstanding any provision of law or any other rule or regulation, during fiscal year 1998 and each succeeding fiscal year, at the request of the Committee on Appropriations of the House of Representatives, the Committee on Appropriations of the Senate, the Committee on Government Reform and Oversight of the House of Representatives, or the Committee on Governmental Affairs of the Senate, any officer or employee of the District of Columbia government (including any officer or employee of the District of Columbia Financial Responsibility and Management Assistance Authority) shall provide the Committee with such information and materials as the Committee may require, within such deadline as the Committee may require.

(d) PROHIBITING CERTAIN HELICOPTER FLIGHTS OVER DISTRICT.—None of the funds made available in this Act or in any other Act may be used by the District of Columbia to grant a permit or license to any person for purposes of any business in which the person provides tours of any portion of the District of Columbia by helicopter.

(e) CONFORMING REFERENCES TO INTERNAL REVENUE CODE OF 1986.—Section 4(28A) of the District of Columbia Income and Franchise Act of 1947 (D.C. Code, sec. 47-1801.4(28A)) is amended to read as follows:

"(28A) The term 'Internal Revenue Code of 1986' means the Internal Revenue Code of 1986 (100 Stat. 2085; 26 U.S.C. 1 et seq.), as amended through August 20, 1996. The provisions of the Internal Revenue Code of 1986 shall be effective on the same dates that they are effective for Federal tax purposes.".

(f) STANDARD FOR REVIEW OF RECOMMENDATIONS OF BUSINESS REGULATORY REFORM COMMISSION IN REVIEW OF REGULATIONS BY AUTHORITY.—Section 11701(a)(1) of the Balanced Budget Act of 1997 is amended by striking the second sentence and inserting the following: "In carrying out such review, the Authority shall include an explicit reference to each recommendation made by the Business Regulatory Reform Commission pursuant to the Business Regulatory Reform Commission Act of 1996 (D.C. Code, sec. 2-4101 et seq.), together with specific findings and conclusions with respect to each such recommendation.".

(g) TECHNICAL CORRECTIONS RELATING TO BALANCED BUDGET ACT OF 1997.—(1) Effective as if included in the enactment of the Balanced Budget Act of 1997, section 451(c) of the District of Columbia Home Rule Act (D.C. Code, sec. 47-304.1(c)), as amended by section 11202(d) of the Balanced Budget Act of 1997, is amended to read as follows:

"(c) Subsection (a) shall not apply to amounts appropriated or otherwise made available to the Council, the District of Columbia Financial Responsibility and Management Assistance Authority established under section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, or the District of Columbia Water and Sewer Authority established pursuant to the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996.".

(2) Section 11201(c)(2)(A)(ii) of the Balanced Budget Act of 1997 is amended—

(A) in the heading, by striking "DEPARTMENT OF PARKS AND RECREATION" and inserting "PARKS AUTHORITY"; and

(B) by striking "Department of Parks and Recreation" and inserting "Parks Authority".

(h) REPEAL OF PRIOR NOTICE REQUIREMENT FOR FEDERAL ACTIVITIES AFFECTING REAL PROPERTY IN DISTRICT OF COLUMBIA.—Effective October 1, 1997, the Balanced Budget Act of 1997 (Public Law 105-33) is amended by striking section 11713.

This title may be cited as the "District of Columbia Appropriations Act, 1998".

TITLE II—DISTRICT OF COLUMBIA MEDICAL LIABILITY REFORM

Subtitle A—Standards for Health Care Liability Actions and Claims in the District of Columbia

SEC. 201. SHORT TITLE.

This title may be cited as the "District of Columbia Medical Liability Reform Act of 1997".

SEC. 202. STATUTE OF LIMITATIONS.

A District of Columbia health care liability action may not be brought after the expiration of the 2-year period that begins on the date on which the alleged injury that is the subject of the action was discovered or should reasonably have been discovered, but in no case after the expiration of the 5-year period that begins on the date the alleged injury occurred.

SEC. 203. TREATMENT OF NONECONOMIC DAMAGES.

(a) LIMITATION ON NONECONOMIC DAMAGES.—The total amount of noneconomic damages that may be awarded to a claimant for losses resulting from the injury which is the subject of a District of Columbia health care liability action may not exceed $250,000, regardless of the number of parties against whom the action is brought or the number of actions brought with respect to the injury.

(b) JOINT AND SEVERAL LIABILITY.—In any District of Columbia health care liability action, a defendant shall be liable only for the amount of noneconomic damages attributable to such defendant in direct proportion to such defendant's share of fault or responsibility for the claimant's actual damages, as determined by the trier of fact. In all such cases, the liability of a defendant for noneconomic damages shall be several and not joint.

SEC. 204. CRITERIA FOR AWARDING OF PUNITIVE DAMAGES; LIMITATION ON AMOUNT AWARDED.

(a) IN GENERAL.—Punitive damages may, to the extent permitted by applicable District of Columbia law, be awarded in any District of Columbia health care liability action if the claimant establishes by clear and convincing evidence that the harm suffered was the result of—

(1) conduct specifically intended to cause harm, or

(2) conduct manifesting a conscious, flagrant indifference to the rights or safety of others.

(b) PROPORTIONAL AWARDS.—The amount of punitive damages that may be awarded in any District of Columbia health care liability action may not exceed 3 times the amount of damages awarded to the claimant for economic loss, or $250,000, whichever is greater. This subsection shall be applied by the court and shall not be disclosed to the jury.

(c) APPLICABILITY.—This subsection shall apply to any District of Columbia health care liability action brought on any theory under which punitive damages are sought. This subsection does not create a cause of action for punitive damages. This subsection does not preempt or supersede any law to the extent that such law would further limit the award of punitive damages.

(d) BIFURCATION.—At the request of any party, the trier of fact shall consider in a separate proceeding whether punitive damages are to be awarded and the amount of such award. If a separate proceeding is requested, evidence relevant only to the claim of punitive damages, as determined by applicable District of Columbia law, shall be inadmissible in any proceeding to determine whether actual damages are to be awarded

SEC. 203. TREATMENT OF PUNITIVE DAMAGES IN ACTIONS RELATING TO DRUGS OR MEDICAL DEVICES.

(a) PROHIBITING AWARD OF PUNITIVE DAMAGES WITH RESPECT TO CERTAIN APPROVED DRUGS AND DEVICES.—

(1) IN GENERAL.—In any District of Columbia health care liability action, punitive damages may not be awarded against a manufacturer or product seller of a drug or medical device which caused the claimant's harm if—

(A) such drug or device was subject to premarket approval by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm, or the adequacy of the packaging or labeling of such drug or device which caused the harm, and such drug, device, packaging, or labeling was approved by the Food and Drug Administration; or

(B) the drug is generally recognized as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations.

(2) EXCEPTION.—Paragraph (1) shall not apply in any case in which the defendant, before or after premarket approval of a drug or device—

(A) intentionally and wrongfully withheld from or misrepresented to the Food and Drug Administration information concerning such drug or device required to be submitted under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or section 351 of the Public Health Service Act (42 U.S.C. 262) that is material and relevant to the harm suffered by the claimant; or

(C) made an illegal payment to an official or employee of the Food and Drug Administration for the purpose of securing or maintaining approval of such drug or device.

(b) SPECIAL RULE REGARDING CLAIMS RELATING TO PACKAGING.—In a District of Columbia health care liability action relating to the adequacy of the packaging or labeling of a drug which is required to have tamper-resistant packaging under regulations of the Secretary of Health and Human Services (including labeling regulations related to such packaging), the manufacturer or product seller of the drug shall not be held liable for punitive damages unless such packaging or labeling is found by the court by clear and convincing evidence to be substantially out of compliance with such regulations.

(c) DEFINITIONS.—In this section, the following definitions apply:

(1) DRUG.—The term "drug" has the meaning given such term in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)).

(2) MEDICAL DEVICE.—The term "medical device" has the meaning given such term in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

(3) PRODUCT SELLER.—

(A) IN GENERAL.—Subject to subparagraph (B), the term "product seller" means a person who, in the course of a business conducted for that purpose—

(i) sells, distributes, rents, leases, prepares, blends, packages, labels, or is otherwise involved in placing, a product in the stream of commerce, or

(ii) installs, repairs, or maintains the harm-causing aspect of a product.

(B) EXCLUSION.—Such term does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who—

(I) acts in only a financial capacity with respect to the sale of a product; or

(II) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor.

SEC. 204. PERIODIC PAYMENTS FOR FUTURE LOSSES.

(a) IN GENERAL.—In any District of Columbia health care liability action in which the damages awarded for future economic and noneconomic loss exceeds $50,000, a person shall not be required to pay such damages in a single, lump-sum payment, but shall be permitted to make such payments periodically based on when the damages are found likely to occur, as such payments are determined by the court.

(b) PENALTY OF JUDGMENT.—The judgment of the court awarding periodic payments under this section may not, in the absence of fraud, be reopened at any time to contest, amend, or modify the schedule or amount of the payments.

(c) LUMP-SUM SETTLEMENTS.—This section may not be construed to preclude a settlement providing for a single, lump-sum payment.

SEC. 205. TREATMENT OF COLLATERAL SOURCE PAYMENTS.

(a) INTRODUCTION INTO EVIDENCE.—In any District of Columbia health care liability action, any defendant may introduce evidence of collateral source payments. If any defendant elects to introduce such evidence, the claimant may introduce evidence of any amount paid or contributed or reasonably likely to be paid or contributed in the future by or on behalf of the claimant to secure the right to such collateral source payments.

(b) NO SUBROGATION.—No provider of collateral source payments may recover any amount against the claimant or receive any lien or credit against the claimant's recovery or be equitably or legally subrogated the right of the claimant in a District of Columbia health care liability action.

(c) APPLICATION TO SETTLEMENTS.—This section shall apply to an action that is settled as well as an action that is resolved by a jury verdict.

(d) COLLATERAL SOURCE PAYMENTS DEFINED.—In this section, the term "collateral source payments" means any amount paid or reasonably likely to be paid in the future to or on behalf of a claimant, or any service, product, or other benefit provided or reasonably likely to be provided in the future to or on behalf of a claimant, as a result of an injury or wrongful death, pursuant to—

(1) any State or Federal health, sickness, income-disability, accident or workers' compensation Act;

(2) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(3) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; and

(4) any other publicly or privately funded program.

SEC. 206. APPLICATION OF STANDARDS TO CLAIMS RESOLVED THROUGH ALTERNATIVE DISPUTE RESOLUTION.

(a) IN GENERAL.—Any alternative dispute resolution system used to resolve a District of Columbia health care liability action or claim shall contain provisions relating to statute of limitations, non-economic damages, joint and several liability, punitive damages, collateral source rule, and periodic payments which are identical to the provisions relating to such matters in this title.

(b) ALTERNATIVE DISPUTE RESOLUTION SYSTEM DEFINED.—In this title, the term "alternative dispute resolution system" means a system that provides for the resolution of District of Columbia health care liability claims in a manner other than through District of Columbia health care liability actions.

Subtitle B—General Provisions

SEC. 211. GENERAL DEFINITIONS.

(a) DISTRICT OF COLUMBIA HEALTH CARE LIABILITY ACTION.—

(1) IN GENERAL.—In this title, the term "District of Columbia health care liability action" means a civil action brought against a health care provider, an entity which is obligated to provide or pay for health benefits under any health benefit plan (including any person or entity acting under a contract or arrangement to provide or administer any health benefit), or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, in which the claimant alleges a claim (including third party claims, cross claims, counter claims, or distribution claims) based upon the provision of (or the failure to provide or pay for) health care services or the use of a medical product within the District of Columbia, regardless of the theory of liability on which the claim is based or the number of plaintiffs, defendants, or causes of action.

(2) HEALTH BENEFIT PLAN.—The term "health benefit plan" means—

(A) a hospital or medical expense incurred policy or certificate,

(B) a hospital or medical service plan contract,

(C) a health maintenance subscriber contract, or

(D) a Medicare+Choice plan (as described in section 1859(b)(1) of the Social Security Act),

that provides benefits with respect to health care services.

(3) HEALTH CARE PROVIDER.—The term "health care provider" means any person that is engaged in the delivery of health care services in the District of Columbia and that is required by the laws or regulations of the District of Columbia to be licensed or certified to engage in the delivery of such services in the District of Columbia, and includes an employee of the government of the District of Columbia (including an independent agency of the District of Columbia).

(b) DISTRICT OF COLUMBIA HEALTH CARE LIABILITY CLAIM.—The term "District of Columbia health care liability claim" means a claim in which the claimant alleges that injury was caused by the provision of (or the failure to provide) health care services within the District of Columbia.

(c) OTHER DEFINITIONS.—As used in this title:

(1) ACTUAL DAMAGES.—The term "actual damages" means damages awarded to pay for economic loss.

(2) CLAIMANT.—The term "claimant" means any person who brings a District of Columbia health care liability action and any person on whose behalf such an action is brought. If such action is brought through or on behalf of an estate, the term includes the claimant's decedent. If such action is brought through or on behalf of a minor or incompetent, the term includes the claimant's legal guardian.

(3) CLEAR AND CONVINCING EVIDENCE.—The term "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established. Such measure or degree of proof is more than that required under preponderance of the evidence but less than that required for proof beyond a reasonable doubt.

(4) ECONOMIC LOSS.—The term "economic loss" means any pecuniary loss resulting

from injury (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities), to the extent recovery for such loss is allowed under applicable District of Columbia law.

(5) HARM.—The term "harm" means any legally cognizable wrong or injury for which punitive damages may be imposed.

(6) HEALTH CARE SERVICE.—The term "health care service" means any service for which payment may be made under a health benefit plan including services related to the delivery or administration of such service.

(7) NONECONOMIC DAMAGES.—The term "noneconomic damages" means damages paid to an individual for pain and suffering, inconvenience, emotional distress, mental anguish, loss of consortium, injury to reputation, humiliation, and other nonpecuniary losses.

(8) PERSON.—The term "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including any governmental entity.

(9) PUNITIVE DAMAGES.—The term "punitive damages" means damages awarded against any person not to compensate for actual injury suffered, but to punish or deter such person or others from engaging in similar behavior in the future.

SEC. 111. NONAPPLICATION TO CERTAIN ACTIONS; PREEMPTION.

(a) APPLICABILITY.—This title shall not apply to—

(1) an action for damages arising from a vaccine-related injury or death to the extent that title XXI of the Public Health Service Act applies to the action, or

(2) an action under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).

(b) PREEMPTION.—This title shall preempt any District of Columbia law to the extent such law is inconsistent with the limitations contained in this title. This title shall not preempt any District of Columbia law that provides for defenses or places limitations on a person's liability in addition to those contained in this title or otherwise imposes greater restrictions than those provided in this title.

(c) EFFECT ON SOVEREIGN IMMUNITY AND CHOICE OF LAW OR VENUE.—Nothing in this title may be construed to—

(1) waive or affect any defense of sovereign immunity asserted by the District of Columbia under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976;

(4) preempt any choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

SEC. 112. RULES OF CONSTRUCTION REGARDING JURISDICTION OF FEDERAL COURTS.

(a) AMOUNT IN CONTROVERSY.—In an action to which this title applies and which is brought under section 1332 of title 28, United States Code, the amount of noneconomic damages or punitive damages, and attorneys' fees or costs, shall not be included in determining whether the matter in controversy exceeds the sum or value of $50,000.

(b) FEDERAL COURT JURISDICTION NOT ESTABLISHED ON FEDERAL QUESTION GROUNDS.—Nothing in this title shall be construed to establish any jurisdiction in the district courts of the United States over District of Columbia health care liability actions on the basis of section 1331 or 1337 of title 28, United States Code.

Subtitle C—Effective Date

SEC. 121. EFFECTIVE DATE.

This title shall apply to any District of Columbia health care liability action and to any District of Columbia health care liability claim subject to an alternative dispute resolution system, that is initiated on or after the date of the enactment of this title, except that any such action or claim arising from an injury occurring prior to such date shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

TITLE III—DISTRICT OF COLUMBIA EDUCATION REFORM ACT OF 1997

Subtitle A—Amendments to District of Columbia School Reform Act of 1995

SEC. 201. SHORT TITLE.

This title may be cited as the "District of Columbia Education Reform Amendments Act of 1997".

SEC. 202. GENERAL EFFECTIVE DATE.

Section 2002 of the District of Columbia School Reform Act of 1995 (Public Law 104-134; 110 Stat. 1321-115; D.C. Code §31-2851) is amended by striking "shall be effective" and all that follows through the period at the end and inserting "shall take effect on the date of the enactment of this Act.".

SEC. 203. TIMETABLE FOR APPROVAL OF PUBLIC CHARTER SCHOOL PETITIONS.

Section 2302(1)(C)(A) of the District of Columbia School Reform Act of 1995 (Public Law 104-134; 110 Stat. 2008-506; D.C. Code §31-2853.13(1)(2)(A)) is amended to read as follows:

"(A) IN GENERAL.—

"(i) ANNUAL LIMIT.—Subject to subparagraph (B) and clause (ii), during calendar year 1997, and during each subsequent calendar year, each eligible chartering authority shall not approve more than 10 petitions to establish a public charter school under this subtitle.

"(ii) TIMETABLE.—Any petition approved under clause (i) shall be approved during an application approval period that terminates on April 1 of each year. Such an approval period may commence before or after January 1 of the calendar year in which it terminates, except that any petition approved, at any time during such an approval period shall count, for purposes of clause (i), against the total number of petitions approved during the calendar year in which the approval period terminates.".

SEC. 204. INCREASE IN PERMITTED NUMBER OF TRUSTEES OF PUBLIC CHARTER SCHOOL.

Section 2303(a) of the District of Columbia School Reform Act of 1995 (Public Law 104-134; 110 Stat. 1321-125; D.C. Code §31-2853.15(a)) is amended by striking "7," and inserting "15,".

SEC. 205. LEASE TERMS FOR PERSONS OPERATING CHARTER SCHOOLS.

(a) LEASING FORMER OR UNUSED PUBLIC SCHOOL PROPERTIES.—

(1) IN GENERAL.—Section 2303(b)(1)(A) of the District of Columbia School Reform Act of 1995 (Public Law 104-134; 110 Stat. 2008-502; D.C. Code §31-2853.19(b)(1)(A)) is amended to read as follows:

"(A) IN GENERAL.—Notwithstanding any other provision of law relating to the disposition of a facility or property described in subparagraph (C), the Mayor and the District of Columbia Government—

"(i) subject to clause (ii), shall give preference to an eligible applicant whose petition to establish a public charter school has been conditionally approved under section 2303(d)(2), or a Board of Trustees, with respect to the purchase of a facility or property described in subparagraph (C), if doing so will not result in a significant loss of revenue that might be obtained from other dispositions or uses of the facility or property; and

"(ii) shall lease a facility or property described in subparagraph (C), at an annual rate of $1, to an eligible applicant whose petition to establish a public charter school has been conditionally approved under section 2303(d)(2), or a Board of Trustees, if—

"(I) the eligible applicant or Board of Trustees requests a lease pursuant to this paragraph for the purpose of operating the facility or property as a public charter school under this subtitle; and

"(II) the facility or property is not yet otherwise disposed of (by sale, lease, or otherwise).".

(2) TERMINATION OF LEASE.—Section 2303(b)(1) of the District of Columbia School Reform Act of 1995 (Public Law 104-134; 110 Stat. 2008-505; D.C. Code §31-2853.19(b)(1)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by inserting after subparagraph (A) the following:

"(B) TERMINATION OF LEASE.—Any lease entered into pursuant to this paragraph with respect to a public charter school shall be deemed to terminate—

"(i) upon the denial of an application to renew the charter granted to the school under section 2212, or, in a case where judicial review of the revocation is sought under section 2213(c)(6), upon the entry of an order, not subject to further review, upholding a decision to deny such an application, whichever occurs later; or

"(ii) upon the revocation of the charter granted to the school under section 2212, or, in a case where judicial review of the revocation is sought under section 2213(c)(6), upon the entry of an order, not subject to further review, upholding the revocation, whichever occurs later; or

"(iii) in the case of a lease to an eligible applicant whose petition to establish a public charter school has been conditionally approved under section 2303(d)(2), upon the termination of such conditional approval by reason of the applicant's failure timely to submit the identification and information described in section 2303(b)(2)(D).".

(3) CONFORMING AMENDMENT.—Section 2303(f) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (Public Law 104-8; 110 Stat. 2008-508; D.C. Code §47-392.2(f)) is amended by striking "section 2303(b)(1)(B) of the District of Columbia School Reform Act of 1995" and inserting "section 2303(b)(1)(C) of the District of Columbia School Reform Act of 1995, other than a facility or real property that is subject to a lease under section 2303(b)(1)(A)(ii) of such Act.".

(b) CONVERSIONS OF PUBLIC SCHOOLS.—Section 2303(b) of the District of Columbia School Reform Act of 1995 (Public Law 104-134; 110 Stat. 2008-505; D.C. Code §31-2853.19(b)) is amended by adding at the end the following:

"(3) SPECIAL RULE FOR PERSONS CONVERTING PUBLIC SCHOOL INTO CHARTER SCHOOL.—

"(A) IN GENERAL.—Notwithstanding any other provision of law relating to the disposition of a facility or property described in this paragraph, the Mayor and the District of Columbia Government shall lease a facility or property, at an annual rate of $1, to an eligible applicant whose petition to establish a public charter school has been conditionally approved under section 2303(d)(2), or a Board of Trustees, if—

"(i) the facility or property is under the jurisdiction of the Board of Education;

APPENDIX B

District of Columbia Financial Responsibility and Management Assistance Authority Washington, D.C.

DISCUSSION

A. Changes in the Medical Malpractice System Should be Left to Local Government Officials in the First Instance

The first major recommendation of the Authority in this Report is: the subject of medical malpractice liability, and whether to impose limitations on it, should be left to the local authorities, in the first instance to the Council of the District of Columbia.

This is a matter vitally touching on the health and well-being of the citizens of the District. There is no general federal law of medical malpractice. Everywhere in the country, medical malpractice is a matter of local law. Even under the Federal Tort Claims Act, 28 U.S.C. §§ 2761 et seq., the liability of the United States for medical malpractice by its agents is governed by the law of the state in which the conduct occurred. 28 U.S.C. § 2674. Congress has not imposed limitations on the medical malpractice liability of the United States in the Federal Tort Claims Act, as it could have done without impinging on concerns about local self-government. If Congress has not done so there, why should it impose such limitations on the law of the District of Columbia?[1]

The Authority concludes that local officials of the District of Columbia are in the best position to weigh the competing interests in the regulation of medical malpractice. There is no other branch of District tort law that has been "federalized" by Congress.

[1] In this connection, we note the submission of the Corporation Counsel of the District of Columbia urging that, if limitations are to be imposed, the place to start is with the liability of the District government for medical malpractice. We commend that submission to the Council of the District of Columbia for its study. (See Letter of February 24, 1998, from John M. Ferren to Daniel A. Rezneck, and supporting materials)

Likewise, consideration should be given to protections for the District's Public Benefit Corporation ("PBC") now operating the D.C. General Hospital and nine community health clinics formerly operated by the Commission on Public Health. In the past, medical malpractice actions against these institutions were defended by the Office of the Corporation Counsel, with the City bearing the costs, and employees of the hospital and clinics, including physicians and nurses, have been covered by the D.C. Employee Non-Liability Act, D.C. Code §1-1211 et. seq. After a transition period ending in December 1998, the PBC will be responsible for the payment of settlements and judgments from its funds. (See Letter of February 26, 1998, from Timothy Jefferson, General Counsel of the PBC, to Daniel A. Rezneck, and accompanying materials. See also Tr. of Hearing of Feb. 18, 1998 at 17-18 (Statement of John Ray.))

We also urge the Council to consider adding to the budget of the District of Columbia Medical Board, which disciplines doctors who fail to adhere to professional standards. (See Tr. of Feb. 18, 1998, hearing at 47-52.)

Why start here? (See letter of February 25, 1998, from Senator Max Cleland to Dr. Andrew F. Brimmer – "it is my belief that this is a matter for local decision-making, based on local factors;" to the same effect, see letter of February 27th, 1998, from Senator Ernest F. Hollings to Dr. Brimmer.)

The Council of the District of Columbia is the appropriate body to consider these questions first. The Authority may also have a role to play under Section 207 of its governing statute, Public Law 104-8, as amended, which empowers it to make recommendations to the President, Congress, and the District government on a wide variety of matters. If medical malpractice liability is deemed to have an important impact on the economic vitality of the District, on the delivery of health care to the residents of the District, on the migration of people into or out of the District, or on the financial soundness of the District government, the Authority may wish to make recommendations to the Council under Section 207. Under appropriate circumstances, if the Council does not act, the Authority can enact and implement its own recommendations after consultation with the oversight committees of Congress.

B. Analysis of the Problem

Proponents and opponents were sharply divided on their definition and evaluation of the problems created by medical malpractice litigation. Below is a summary of the opposing views. Following is the Authority's perspective based on the information received.

1. Proponents of Medical Malpractice Limitations

Proponents of changes in the present system argue that there is a medical malpractice crisis in the District of Columbia and that limitations are necessary to reduce medical malpractice insurance costs for District physicians, thus bringing the District into line with other jurisdictions, notably Maryland and Virginia.[2]

As stated on the record before the Authority, the Coalition for Medical Liability Reform, a group consisting of the Medical Society of the District of Columbia, the D.C. Hospital Association, the D.C. Association of Health Maintenance Organizations, and the National Capital Reciprocal Insurance Company ("NCRIC"), the principal health

[2] The submissions made to the Authority vary somewhat in their calculation of the numbers of jurisdictions which have imposed such limitations; some limitations are applicable specifically to medical malpractice actions and others derive from laws dealing with tort actions generally. It was concluded that about half the states have adopted some or all of the limitations, and about half have not. The statement in the legislative history that the District "is one of the few jurisdictions in the country that has failed to enact medical malpractice reform" is an over-statement; with respect to the more significant proposals for change, the national picture presents less of a consensus than this statement would suggest. Compare American Tort Reform Association submission with Association of Trial Lawyers of American submission; see also Tr. of Feb. 18, 1998, hearing at 20-21, 25; letter of February 26, 1998, from Frank Clemente to Daniel A. Rezneck at 3.

insurance company in the District, contend that the District is one of the few jurisdictions in the country without medical malpractice limitations, resulting in:

1. Higher health costs for District consumers, providers and tax payers;
2. An exodus of health care providers from the District; and
3. A reduction in the availability of health services in the District.

(Letter of January 15, 1998, from the Coalition to Daniel A. Rezneck at 2-7)

The Coalition states that, on the average, D.C. malpractice insurance premiums are more than twice those in Virginia and 60% higher than Maryland. (Letter of January 15, 1998, from the Coalition to Daniel A. Rezneck at 2) The disparity is said to be particularly great in certain specialties, such as:

A. Obstetrics-gynecology ("ob-gyn"), where premiums are 25% higher in the District than Maryland and 90% higher than in Virginia;

B. Internal medicine, where premiums are stated to be twice as high in the District as in adjoining jurisdictions;

C. General orthopedic surgery premiums, asserted to be substantially higher in the District. (A chart presented to the Authority by the Coalition, showing premium rates, is Appendix D.)

The Coalition asserts that jury awards and settlements in the District are higher than in adjoining jurisdictions, and that there is a great deal of expensive "defensive" practice of medicine by practitioners in the District because of fears of liability. (Letter of January 15, 1998, from the Coalition to Daniel A. Rezneck at 2) Additional information was presented during the Authority's hearing by the president of the D.C. Medical Society that there are many frivolous medical malpractice lawsuits in the District. (Tr. of February 18, 1998, hearing at 9)

In addition, the Coalition submission shows that a high percentage of District residents lack medical insurance. In 1990-1992, the figure was 23% for District residents, compared with a national average of 15.8%, 12.7% in Maryland and 17% in Virginia. It is asserted that people without insurance are paying more for health care in the District because medical costs here are higher due to the lack of limitations on malpractice liability. (Letter of January 15, 1998, from the Coalition to Daniel A. Rezneck at 2)

This also is said to result in higher costs for the District government on the Medicaid program and increased costs to the District's public hospital. (Letter of January 15, 1998, from the Coalition to Daniel A. Rezneck at 3)

There has also been a decline in the number of physicians practicing in Washington between 1992 and 1996 from 4,168 to 3,968, according to Coalition statistics. The decline is especially sharp in the number of ob-gyn practitioners, and in the number of physicians practicing in the poorer areas of the city east of the Anacostia River, including a 50% drop in the number of ob-gyns in these areas. (Letter of February 25, 1998, from John Ray to Daniel A. Rezneck at 3 and Attachment C.)

The Coalition points to medical malpractice statutes in other jurisdictions, notably California, where legislation passed in 1975 has led to a 50% decrease in malpractice premiums. Premiums in California are asserted to be 1/3-1/2 below the malpractice rates in states which have not adopted limitations on medical malpractice liability. (Letter of January 15, 1998, from the Coalition to Daniel A. Rezneck at 5)

A submission by the American Medical Association asserts that, relatively speaking, malpractice plaintiffs fare worse than their lawyers, in that plaintiffs in medical malpractice cases on a national basis receive only about 43% of the recoveries, while over 50% goes for lawyers' fees and legal expenses. (Letter of January 16, 1998, from the American Medical Association to Daniel A. Rezneck at 2)

2. The Opponents of Medical Malpractice Changes

The Association of Trial Lawyers of America ("ATLA") and other groups question the validity of the proponents' arguments. They say:

A. Medical malpractice liability is not a significant factor in rising health care costs, since such litigation accounts for less than 1% of total health costs on a national basis. (Submission by ATLA on January 15, 1998, entitled "Straight Talk on Medical Malpractice," at 4-5)

B. Experience in states with medical malpractice limitations does not support the claim that they reduce health costs. In 1975, Indiana imposed a cap of $500,000 (now $750,000) for "non-economic" damages and economic damages such as medical expenses. However, between 1980 and 1990, Indiana's health care spending increased 139.4%, higher than the national average of 138%. The District of Columbia has not imposed such limitations, yet the per capita increase in health care spending in the District between 1980 and 1990 was 108.4%, below the national average. (Id.)

C. The real culprit for high costs/medical malpractice premiums is the practice of "self-referral", whereby doctors refer patients to each other, and each conducts the same or more tests on the patient, driving up the overall costs. (Id. at 7)

D. The other major culprit of high costs/premiums is said to be the actual occurrence of negligent medical care, which is thought to be under-reported — it is claimed

that medical malpractice kills about 80,000 people annually, but only about 10% of medical malpractice incidents result in a claim. (Id. at 8)

E. Malpractice claims seldom result in jury trials. Injured patients reach negotiated settlements in 50% of cases, and no compensation is received in 40% of cases. Of the 10% that go to trial, research purportedly shows that awards are not unjustified or out of control. (Id. at 13-14)

F. The pressure for medical malpractice insurance limitations stems largely from high-risk specialties such as obstetrics and neurosurgery. It is asserted that the insurance industry has created too many risk categories, in some states as many as 12 to 19 different specialties, destroying the cardinal principle of insurance to spread the risk. The solution is to reduce risk categories to three or four categories. (Id. at 17-18)

G. The medical/insurance industries should consider the claims experience of the individual doctor in issuing malpractice insurance, as is done with auto insurance. Bad doctors are not charged higher rates, and good doctors receive no insurance break because of their competence. Since a few doctors are responsible for a large share of malpractice claims paid, insurers could deter malpractice by charging higher premiums to those most responsible for losses. (Id. at 17)

H. The remedy for malpractice is stricter enforcement of professional discipline against errant practitioners, but the enforcement board in the District is starved for funds. (Letter of January 15, 1998, from Frank Clemente to Daniel A. Rezneck, attachment entitled "Myths and Realities: The D.C. Medical Malpractice System", at 14-15)

3. The Authority's Perspective

The Authority accepts what appears to be a consensus and largely undisputed view: both medical malpractice insurance and health services are expensive in the District of Columbia. The problem is in causally relating these facts to the absence of the proposed limitations on medical malpractice liability and in concluding that the imposition of such limitations will lead to the desired decline or leveling off of health care and medical malpractice insurance costs in the District. A number of the propositions, and much of the statistical material that has been submitted to the Authority, on close examination, proves to be "soft" rather than hard data, is incomplete in vital respects, and in some instances looks in the opposite direction.

For example, the Coalition's figures show a decline in the number of physicians practicing in the District between 1992 and 1996 of slightly less than 5% (4,168 to 3,968). That decline, however, is less than the approximately 8% loss of population in the District during the same period. (Bureau of Economic Analysis, U.S. Department of Commerce - Preliminary Data, 1997) Thus, the number of practicing physicians in

relation to the population actually rose during the period in question.[3] Moreover, except for anecdotal assertions, it could not be determined whether physicians left the city primarily because of the cost of medical malpractice insurance or primarily because of concerns shared with other citizens, such as the condition of the public schools and public safety, or primarily for other professional reasons, such as the high percentage of persons in the District without medical insurance.[4]

The same problem of demonstrating causality exists with respect to the relationship of medical malpractice liability costs and health costs in the District. The Coalition acknowledges that the rates of occurrence in the District are higher than adjoining jurisdictions in infant mortality, cancer, hypertension, strokes and communicable diseases. (Letter of January 15, 1998, from the Coalition to Daniel A. Rezneck at 4) The president of the D.C. Medical Society testified at the Authority's hearing that "nearly 50 percent of the District's patient population is uninsured or a Medicaid recipient. The increased health problems associated with taking care of this group make them a risky population to serve." (Tr. of Feb. 18, 1998, hearing at 8.)

The prevalence of these conditions in the District seems at least as likely a cause of the decline in the absolute (though not relative) number of physicians in the District and of higher medical costs in the District as medical malpractice insurance costs. During the Authority's evaluation, no differentiation of these factors or disaggregation of overall figures to isolate what is fairly attributable to particular factors were provided. There are methods of economic and statistical analysis that could possibly do so, but we have not been furnished with any such studies or analyses.

The comparison of medical malpractice insurance costs in the District with those in Maryland and Virginia, on a statewide basis, is misplaced. In effect, it is comparing apples to oranges, because the District is not a state. It is entirely urban, in contrast to its neighbors. Congress has recognized in the recent National Capital Revitalization and Self-Government Improvement Act of 1997, Pub. L. 105-33, that the District should not be treated as a state for the purpose of financing many of its functions because of the differing needs and characteristics of the population of the city.

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[3] Other data show an increase in the District between 1986 and 1996 of 27.5% in the number of physicians for 100,000 persons. (Statistical Abstract of the United States, (1996 ed.) and Physical Characteristics and Distribution in the U.S., (1997-1998 ed.); see also Tr. of Feb. 18, 1998, hearing at 38)

[4] The data on the appropriately 13% decline of ob-gyn practitioners, including a drop in the number of such practitioners in the poorer wards of the City, are at first glance the most troubling for any medical specialty. However, population changes in the District in recent years—an influx of single persons, "empty nesters," and double income couples without children (so-called "DINCs"), and an exodus of families with young children—suggest that market forces may be at work in the departure of ob-gyn practitioners for the suburbs. (Study by G. Grier for the D.C. Tax Revision Commission, cited in the Washington Post, Feb. 26, 1998, entitled "D.C. Losing Longtime Residents to Suburbs, Study Finds."; See also, Tr. of Feb. 18, 1998, hearing at 44 (decline in number of births in District by almost one-third between 1991 and 1996)).

The same is true in assessing an issue such as the costs of insurance and medical care. The relevant comparison is between the District and other cities sharing its demographic characteristics and health problems, not with states of differing population character. Thus, the proponents of limitations note that obstetricians pay $29,596 in Virginia and $45,114 in Maryland for malpractice insurance, while their counterparts in D.C. pay $70,809. But these figures for Maryland and Virginia reflect the average figures for the state. Despite Maryland's lower rates on a statewide basis, figures show that Baltimore obstetricians have higher premiums than those in the District.[5] Baltimore is similar to the District in its population makeup. Since Maryland has a cap on "non-economic" loss recovery, one might expect that such a cap would lead to lower premiums in Baltimore. But it has not. This raises doubt as to the effectiveness of such a cap in lowering insurance rates and, more fundamentally, as to the relationship between malpractice insurance costs and medical costs.

Likewise, although both Maryland and Virginia have a form of medical malpractice liability cap, Maryland's premium rates are significantly higher than Virginia's, reflecting the fact that Maryland is significantly more urbanized than Virginia. (Statistical Abstract of the United States, (1996 ed.)) The degree of urbanization, not the presence or absence of caps, seems to be the most significant indicator of malpractice rates, reinforcing the Authority's conclusion that a comparison between the District on the one hand and Maryland and Virginia on the other is not the most fruitful line of inquiry.[6]

Although it was asserted by proponents of limitations that "The lack of tort reform has resulted in many frivolous lawsuits" in the District (Tr. of Feb. 18, 1998, hearing at 9), the Authority has not been furnished with statistics that bear this out. One study in the Superior Court in 1996-1997 showed 8 verdicts for plaintiffs in medical malpractice cases, three in excess of $1 million, and the others ranging from $325-$476,000. (Letter of January 15, 1998, from Trial Lawyers of Metropolitan Washington, D.C., to Daniel A. Rezneck at 9-10 and attachment.) But, even for that year, no information on the universe

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[5] A chart submitted showing 1997 premium rates for various specialists in the District and Baltimore is attached as Appendix E. (See Tr. of Feb. 18, 1998, hearing at 37; see also, id. at 41; letter of February 26, 1998, from Frank Clemente to Daniel A. Rezneck at 3, 7, (malpractice premium rates for counties adjoining the District are 91% of Baltimore premiums, which are approximately equal to those in the District).) Another submission asserts that the incidence of medical malpractice payments in the District is substantially below the national average. (Letter of February 26, 1998, from Frank Clemente to Daniel A. Rezneck at 6-7)

[6] Even comparison with Maryland on a county breakdown may be more illuminating. The figures furnished show that in 1997, the cost of a $1 million policy for an obstetrician-gynecologist in Montgomery County, Maryland, was $70,617, almost identical to the $70,809 cost in the District; the same policy cost $77,619 in Baltimore City. (Letter of January 15, 1998, from Trial Lawyers of Metropolitan Washington, D.C., to Daniel A. Rezneck at 5-6)

For general surgery, the $1 million policy in 1997 cost $34,403 in the District and $34,530 in Baltimore. (Id. at 5-6)

of medical malpractice claims or lawsuits, the number of settlements, the number of cases which went to trial, the number of defendants' verdicts, or any other information was provided which would enable the Authority to evaluate the claim of large amounts of frivolous litigation.

Figures furnished by NICRIC indicated that there were defense verdicts in between 69% and 73% of its cases in the District for a recent period, compared with an average success rate for its defendants nationally of 81%. (Letter of February 25, 1998, from John Ray to Daniel A. Rezneck at 3) These figures do not prove the case one way or the other as to whether more "frivolous" suits are brought in the District than elsewhere.

The Authority does not suggest that the proposition is unsupportable — although it is counter-intuitive because it assumes the willingness of plaintiffs' lawyers to take on frivolous cases even though their fees are contingent on recovery. But it has not been adequately supported, only asserted. Until the existence of the disease of frivolous litigation is demonstrated, it is premature to impose drastic remedies to alleviate it.

Thus, on analysis, the phenomenon of high malpractice insurance costs and high medical costs — while real — does not in and of itself establish the cause of, or the cure for, the phenomenon. As members of Congress know perhaps better than anyone else, there is not necessarily a legislative cure for every ill, especially when complex market and other forces are at work, as they are undoubtedly are in this field. As Congress discovered when it was propelled into health care in a major way several years ago, the area is extraordinarily difficult. The well known "law of unintended consequences" is a reminder of the perils of seeking legislative panaceas.

C. The Specific Proposals

The proposals by the Coalition, which includes the principal medical and insurance groups in the District, are the ones most strenuously pressed upon the Authority. Specifically, the Coalition urges:

1. A $250,000 cap on "non-economic" damages;

2. Provisions intended to discourage frivolous claims and promote settlement e.g., requiring an attorney certification in medical malpractice claims of a good faith belief that malpractice has been committed and promoting mediation and other forms of alternative dispute resolution;

3. Authorizing periodic payments for future damages;

4. Modifying the statute of limitations provisions in some respects;

5. Allowing admission of evidence of collateral source payments.[7]

Each of these will be dealt with in turn, and consideration of some of the provisions in the House legislation and in other submissions which go beyond the Coalition's proposals will follow.

1. The $250,000 cap on "non-economic" damages.

This is the first and probably the most important proposal of the Coalition.[8]

This cap provision was enacted almost 25 years ago in the California Act ("MICRA"), and has been followed in a number of other states, although the cap amounts vary. Maryland has a $350,000 cap for "non-economic" loss (in causes of action arising between July 1, 1986, and October 1, 1994; for causes of action arising thereafter, the cap is higher, up to approximately $550,000 depending on when the cause of action arose.)(Md. Cts. and Jud. Proc. Code Ann. Sec. 11-108). Virginia has a $1 million cap for all damages, economic, "non-economic," and punitive. (Va. Code Ann. Sec. 8.01-581.15) Some states allow an adjustment for inflation in the cap; the Coalition proposal does not. California has not adjusted its $250,000 figure upward since enactment in 1975.

For the reasons previously stated and set forth in more detail here, the Authority is unable to recommend this proposal for enactment at this time. There is not enough empirical data as to the need for, or effectiveness of, such a cap. As indicated, further evidence on this subject is welcome, perhaps in the form of more rigorous economic and statistical analysis than has thus far been furnished. At this point, on the record before the Authority, the Scottish verdict of "not proven" is the only one that can be rendered.[9]

The existence of the Maryland cap has not reduced Baltimore medical malpractice premiums below those in the District for equivalent categories. There is doubt whether the imposition of such a cap here would reduce premiums here significantly below those paid by Baltimore practitioners.

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[7] The Coalition proposals are less stringent than those proposed in the House bill, see pp.1-2, supra, and those enacted in California; the latter put limits on attorney contingent fees, permit binding arbitration by contract and impose a tight statute of limitations of one year from discovery of the malpractice and three years from the injury.

[8] The AMA says that this is the most important single limitation needed to deal with what it sees as the malpractice crisis. (Letter of January 16, 1998, from the American Medical Association to Daniel A. Rezneck at 4)

[9] In Scottish criminal procedure, a court or jury may find an accused guilty, or not guilty, or the case not proven. An inadequacy of evidence, for example, may justify the verdict of "not proven." Walker, The Oxford Companion to Law at 891-92 (Oxford 1980).

Proponents argue that Baltimore is not an appropriate comparison with the District because "the District of Columbia does not compete with Baltimore with respect to the location of individual health care providers." (Letter of February 25, 1998, from John Ray to Daniel A. Rezneck at 4.) But the point is to compare malpractice premiums in the District, where there is no cap on recovery, with those in a demographically similar urban area in a state with a cap. There does not appear to be a significant difference in premiums, suggesting that the cap is neither necessary nor efficacious to reduce them.

Moreover, damages caps are by nature regressive. The more meritorious the claim for recovery of "non-economic" loss and the greater such loss, the less the successful plaintiff can recover in relation to total loss. They are also undiscriminating, sweeping across all cases without regard to circumstances.

Even if a cap were to be enacted here, the $250,000 figure does not seem appropriate. What may have been deemed fair to both plaintiffs and defendants in California in 1975 — $250,000 — does not take account of inflation since then. To keep up with inflation since that time, the cap would now have to be higher here — perhaps $750,000. (Letter of February 25, 1998, from Jack H. Olender to Daniel A. Rezneck, Tab 1; Letter of February 26, 1998, from Frank Clemente to Daniel A. Rezneck at 4.) Yet neither proponents nor opponents of change favor that solution. Proponents consider it too high, and opponents object to any cap. (See Letter of February 25, 1998, from John Ray to Daniel A. Rezneck at 7; Tr. of Feb. 18, 1998, hearing at 65-66; letter of February 25, 1998, from Jack H. Olender to Daniel A. Rezneck at 5) This points up the difficulty at arriving at an acceptable cap. If inflation is to be taken into account, a cap also should contain a factor allowing for future inflation at least in accord with the Consumer Price index; the cap should not have to be legislatively amended every few years.

It should also be pointed out that the existence of a cap is a deterrent to settlement, which is a prime goal of the legal system. It diminishes the incentive of the defendant (and the insurer) to settle by removing the element of uncertainty as to the maximum possible verdict. As every trial lawyer knows, that element of risk is a great spur to settlement. Although the existence of a cap may enable the defendant (and the insurer) to calculate the potential liability with greater precision, that very enhanced certainty encourages a roll of the dice through trial of the case. If the worst case scenario is a tolerable risk, the defendant's position can only improve through continued litigation. Thus, imposition of a cap may produce an example of the "law of unintended consequences" — in this case discouraging settlement — which was mentioned in the preceding section of this Report.

2. Proposals to discourage frivolous claims and promote settlement.

As indicated, the Authority is not persuaded that there is a great deal of frivolous medical malpractice litigation in the District.

There are already ample procedures designed to weed out frivolous cases. For example, the proposal for attorney certification of a good faith belief that malpractice has been committed does not appear to add much, if anything, to the certification already required in Rule 11 of the Federal Rules of Civil Procedure and Rule 11 of the Superior Court Rules.[10] It is unobjectionable but redundant. Other devices for weeding out frivolous claims prior to trial already exist, such as the motion for summary judgment and the requirement that the plaintiff in most malpractice cases must support the claim by expert testimony.

Likewise, promotion of mediation and other forms of alternative dispute resolution ("ADR") is desirable, but already exists in our local court system. No case can ordinarily go to trial in the Superior Court without going through a form of ADR. ADR is also available and strongly encouraged by the judges of the U.S. District Court.

Although the Coalition does not advance them, other jurisdictions, e.g., Maryland, impose more stringent procedural conditions, such as a certification of claims by a medical expert before they can be brought to court. The Authority does not support burdening access to the courts, especially since the claim is almost certain to be dismissed if the plaintiff cannot support it by expert testimony.

3. Authorizing periodic payments for future damages.

The Coalition proposes that, if the portion of the judgment based on anticipated future loss exceeds $50,000, the defendant be permitted to make periodic future payments rather than pay immediately a total lump sum.

There are two issues raised by this proposal:

(A) One is the question whether the defendant (or the insurer) will still be around and solvent to make the future payments. Some provision, through the posting of

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[10] Rule 11 of the Federal Rules of Civil Procedure and D.C. Superior Court Civil Procedure Rule 11 both provide:

> "(b) **Representations to Court.** By presenting to the court (whether by signing, filing, submitting, or later advocating) a pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, --
>
> (1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;
> (2) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
> (3) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery...."

a bond or otherwise, would have to be made under this proposal to assure that the plaintiff could recover on the judgment when the time for future payments arrived;

(B) Unless modified, such a provision presumably would give the defendant (or the insurer), rather than the plaintiff, the use of the money until the future payments came due. It is not clear why this should be so. Ordinarily, the winner of a judgment is entitled to collect it and obtain the use of the full monetary amount. Giving the losing defendant continued use diminishes the deterrent value of the lawsuit and is arguably a form of unjust enrichment. Such a proposal, therefore, should require the defendant to escrow the money in favor of the plaintiff during the period before it is due, with the plaintiff to receive a pro rata part of the interest on the escrow as the future payments are made. Or the defendant should be required to purchase an annuity contract in favor of the plaintiff.

Furthermore, since in almost all cases, it is not the doctor but the insurer which is paying the judgment, concerns over the impact on the solvency of doctors of a complete lump sum payment are not very likely to be great. Nor do the interests of the insurer in delaying payment seem compelling enough to push the Authority to support this proposal, at least not without the appropriate changes suggested.

4. Modification of the statute of limitations

By imposing an absolute bar to suit -- 5 years after the injury -- regardless of whether the plaintiff knew or reasonably could have known of the malpractice-caused injury -- this proposal pro tanto does away with the "discovery" rule in malpractice actions in the District of Columbia. That rule is well established in the District, see Bussineau v. President and Directors of Georgetown College, 518A.2d 423 (D.C. 1986). It suspends the running of the statute of limitations until the patient knows or reasonably should have known that the injury was caused by malpractice; the patient then has three years to sue. D.C. Code § 12-301. "The discovery rule was developed to redress the situation in which the fact of injury was not readily apparent and indeed might not become apparent for several years after the incident causing injury had occurred." Farris v. Compton, 652 A.2d 49, 55 (D.C. 1994). That rule has been applied with care and reasonableness in the District of Columbia; it does not give plaintiffs carte blanche to sue many years after the event, where they were on notice of the alleged wrong. Hendel v. World Plan Executive Council, D.C. App. No. 96-CV-105, December 30, 1997, 126 Wash. Law Rep. 3251.

The classic example of the applicability of, and need for, the "discovery" rule is the "sponge in the stomach" case, where the malpractice may not be known for some period of time, even years. Plaintiffs ought not be barred from recovery in a case where they could not reasonably be expected to know that they were injured as a result of malpractice. There can be no serious objection to shortening the time a plaintiff has to

sue after discovery, e.g., to one or two rather than three years, if the discovery occurs many years after the injury.

But that is a far cry from extinguishing a claim which the plaintiff could not reasonably have known that he or she had. In the absence of any showing that the present "discovery" rule significantly burdens the defense of medical malpractice cases or makes it more likely that plaintiffs with non-meritorious claims will recover, the Authority is unable to support a change in the statute of limitations provision of the D.C. Code.

5. "Collateral Source" Payments

The Coalition proposal with respect to the "collateral source" doctrine would make evidence of such payments admissible and provide for a mandatory offset of "collateral source" payments against the plaintiff's recovery. [11] (Letter of January 15, 1998, from the Coalition to Daniel A. Rezneck at 6; letter of February 25, 1998, from John Ray to Daniel A. Rezneck at 9)

The problem is that modification of the "collateral source" rule seems to be aimed at a largely nonexistent problem of "double recovery" or unjust enrichment of the plaintiff. It is the understanding of Authority staff that virtually all "collateral source" payments received in the District must be repaid to the source of the payments, if the plaintiff recovers from a third party, e.g., a health care provider. Thus, if a plaintiff suffering loss from medical malpractice has received payments from the federal or District governments under the Medicare or Medicaid programs, the applicable statutes require repayment of these sums if the plaintiff recovers in a malpractice action. (42 U.S.C. § 1395y(b) and 42 C.F.R. 411.26 for Medicare; 42 U.S.C. § 1396 (a)(25) and 42 C.F.R. 433.139 (b)(1) for Medicaid) Thus, the plaintiff is not the recipient of a "double recovery" and is not unjustly enriched.

Likewise, private health insurers, which pay benefits to their insureds, are also ordinarily entitled by contract to recover their payments if the insured recovers from a third party in a malpractice action. (See Appendix F, Blue Cross Blue Shield Service Benefit Plan at 12) ("All recoveries from a third-party (whether by lawsuit, settlement, or otherwise) must be used to reimburse the Plan for benefits paid.") In the case of a private health insurance contract, the insured pays premiums to the insurer for health coverage, so that an offset or reduction of payment by the tortfeasor in the malpractice action because of the receipt of health insurance benefits would have the effect of depriving the plaintiff of the benefit of the bargain with the health insurer.

In the absence of a showing of a substantial problem of "double recovery" or unjust enrichment flowing from the "collateral source" rule, the Authority is unable to

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[11] The AMA submits that the modification of the "collateral source" rule by an offset would be the second most important limitation, next to the imposition of a $250,000 cap on "non-economic" damages. (Letter of January 16, 1998, from the American Medical Association to Daniel A. Rezneck at 2, 4)

recommend its modification. If such a modification were undertaken, it would in fairness have to relieve the successful claimant of the obligation to repay the "collateral source" payments to the "collateral source," as the House bill would have provided. This works a reallocation of the loss from the defendant found liable to the government or private payor of the "collateral source" payment. The logic of, or need for, such a reallocation has not been proven as a compelling need.

Other proposals, not contained in the Coalition package, may be dealt with more briefly:

(1) The House bill had a provision for altering the liability, at least for "non-economic" damages, of a defendant in a multi-defendant case from the traditional rule of joint and several liability to liability according to fault; defendants would pay in direct proportion to their degree of responsibility for actual damages. It is hard to object in principle to the concept of liability according to fault, although we also see no reason for limiting it to liability for "non-economic" damages. If the traditional rule is to be departed from, it might as well be with respect to all damages.

However, this is a complicated matter, involving issues of contribution and indemnity among joint defendants. This kind of modification might give rise both to substantial additional litigation and unanticipated consequences. It also could be a disincentive to settlement, since the prospect of joint and several liability under present law is an encouragement to defendants to settle to avoid the risks. Knowledge that a defendant, even if found liable, could be held for less than all the plaintiff's damage, would give an incentive to go to trial, like the potential effect of a cap, as discussed at page 10, supra.

(2) The House bill would have limited the availability of punitive damages in several respects, by raising the standard of proof and imposition of a cap. Since the law of punitive damages is in flux and is receiving increasing attention from the U.S. Supreme Court, see, e.g., BMW of North America v. Gore, 517 U.S. 559 (1996), it is preferable to await the development of that course of decisions before deciding that drastic changes in the law are necessary, especially when the proposal is for an across-the-board limitation on the amount of such damages. As the Supreme Court cases demonstrate, a variety of factors may appropriately enter into the determination of punitive changes, of which the relationship to actual damages is only one.

(3) The provision of the House bill prohibiting the award of punitive damages against manufacturers or sellers of certain drugs or medical devices is particularly unwise. This is not a matter of medical malpractice liability but of product liability. It is out of place in a medical malpractice bill supposedly tailored to the District of Columbia. It deals in a piecemeal way in a single jurisdiction with a problem of national scope, involving drugs and devices sold throughout the country. It is much more appropriately the subject of a national products liability bill, which Congress has so far been unable to pass. There is no justification for singling out the District of Columbia as a laboratory for

experimentation in a matter so substantially affecting the public health and safety of the nation and the national stream of commerce.

(4) Finally, the provision in the House bill for federal preemption of any inconsistent District of Columbia law relating to medical malpractice except those that make it harder for a claimant to recover is bad law and bad public policy. If there is to be preemption of local law, it is normally complete — and not so openly result-oriented. This provision is one-sided and makes a serious inroad into the District's powers, confided to it by Congress, to enact and enforce its own laws. In principle and practice, a preemption provision like this cuts too deeply into self-government here.

APPENDIX C

LIST OF PERSONS AND ORGANIZATIONS
SUBMITTING MATERIALS ON MEDICAL MALPRACTICE LIMITATIONS

Proponents

Coalition for Medical Liability Reform

American Medical Association

American Tort Reform Association

District of Columbia Dental Society

District of Columbia Defense Lawyers' Association

Medical Society of the District of Columbia

National Capital Reciprocal Ins. Co.

Capital Community Health

D.C. Hospital Association

American College of Obstetricians and Gynecologists - D.C. Section

Gary D. Dennis

R. Ray Pate, Jr.

Robert A. Malson

John Ray

C.J. Brown, Jr.

Sherman Joyce

Marty Hadley

Stephen J. Trachtenberg

H. Patrick Swygert

Leo J. O'Donovan, S.J.

LIST OF PERSONS AND ORGANIZATIONS
SUBMITTING MATERIALS ON MEDICAL MALPRACTICE LIMITATIONS

Opponents

American Trial Lawyers Association

Trial Lawyers Association of Metropolitan Washington, D.C.

Public Citizen's Congress Watch

Stein, Mitchell & Mezines

Jack Olender

Washington Bar Association

National Bar Association

Injury to Persons and Property Section, The District of Columbia Bar

National Citizens' Coalition on Nursing Home Reform

Hotel and Restaurant Employees, Local 25, AFL-CIO

Sandra Robinson

Barry Nace

Keith Watters

Wilhelmina Rolark

Stephen Weissman

Rick Powell (for John Boardman)

Dr. Sidney Wolfe

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Ronald Smith and Artemus Smith

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Howard Croft

Dorothy Dickerson

List of Persons and Organizations
Submitting Materials on Medical Malpractice Limitations

Governmental / Public Institutions

U.S. Senator Sam Brownback (R-Kan.)

U.S. Senator Max Cleland (D-Ga.)

U.S. Senator Ernest F. Hollings (D-SC)

Paul Strauss (Shadow Senator, D.C.)

John M. Ferren, Corporation Counsel of the District of Columbia

Charlotte Brookins-Hudson, General Counsel, Council of the District of Columbia

Timothy Jefferson, General Counsel Public Benefit Corporation

Attachment A

APPENDIX D

1998 NCRIC/CML Mature Rates for 1Million/3Million Limits

Specialty	DC	MD	VA
IM	11,051	6,639	5,314
Dermatology	7,183	3,922	4,347
Ophthalmology	12,156	10,869	7,727
Urology	23,207	16,903	9,957
ENT	32,047	16,903	12,341
General Surgery	36,467	26,562	19,263
Anesthesia	16,576	16,903	11,011
Plastic Surgery	41,992	16,903	19,263
Orthopedic Surgery	50,280	26,562	24,890
Ob/Gyn	75,143	60,368	29,596
Neurosurgery	75,696	39,241	40,290

1/6/98

APPENDIX E

*1997 Malpractice Insurance Premiums**
Washington, D.C. and Baltimore, MD

Specialty**	Washington, D.C.	Baltimore, MD	Balt. as % of DC
Anesthesiology	$20,850	$22,224	107%
Cardiology	$12,510	$12,838	103%
Dermatology	$7,819	$8,109	104%
Gastroenterology	$12,510	$12,838	103%
General/Family Practice	$12,510	$12,838	103%
General Surgery	$34,403	$34,530	100%
Internal Medicine	$12,510	$12,838	103%
Neurology	$10,425	$12,838	123%
Neurosurgery	$71,411	$50,687	71%
Obstetrics/Gynecology	$70,890	$77,619	109%
Opthamology	$11,468	$12,838	112%
Orthopedic Surgery	$47,434	$34,530	73%
Otorhinolaryngology	$30,233	$19,603	65%
Pathology	$7,819	$12,838	164%
Plastic Surgery	$39,615	$22,224	56%
Psychiatry	$6,776	$5,069	75%
Pulmonary Disease	$12,510	$12,838	103%
Thoracic Surgery	$47,434	$50,687	107%
Urological Surgery	$21,893	$19,603	90%
Average			98.5%

# of Classifications Where Baltimore Premium is >100% of D.C.	13
# of Classifications Where Baltimore Premium is <100% of D.C.	6

** Rates for standard $1 million/$3 million mature claims made policy. Source: National Capital Reciprocal Insurance Company (D.C.); Medical Mutual Group (Baltimore).*

*** Specialty categories are derived from Zuckerman, Norton, and Wadler: "A State-Based Survey of Malpractice Premiums: Implications for Medicare Physician Payment Policy" Urban Institute Working Paper 6090-02, March 1993. Three of the twenty-two categories (Gynecology, Nephrology, and Radiology) are not listed here because of discrepancies between DC and MD classifications. We also used the companies' "Neurology (No Surgery)" classification, rather than the Urban Institute's "Neurology (Minor Surgery)," for both DC and MD because of an anomaly in the DC classifications for Neurology.*

APPENDIX F

Blue Cross® and Blue Shield® Service Benefit Plan 199

A Managed Fee-for-Service Plan with a Preferred Provider Organization and a Point-of-Service Product
Administered by the Blue Cross and Blue Shield Association



Who may enroll in this Plan: All Federal employees and annuitants who are eligible to enroll in the FEHBP.

Enrollment code for this Plan:

101 High Option Self Only
102 High Option Self and Family
104 Standard Option Self Only
105 Standard Option Self and Family

Visit this Plan's WEB page at http://www.fepblue.org

Authorized for distribution by the:

United States
Office of
Personnel
Management

FEHB
Federal Employees
Health Benefits Program

RI 71-5

General Limitations *continued*

Other Government agencies

The Plan will not provide benefits for services and supplies paid for directly or indirectly by any other local, State, or Federal Government agency.

Liability insurance and third party actions

This subrogation and right of recovery provision applies when you or your dependent are sick or injured as a result of the act or omission of another person or party. The Plan has the right to recover payments the Plan has made to you or your dependent from a third party or third party's insurer because of illness or injury caused by a third party. In addition to its right of recovery, the Plan is subrogated to you and your dependent's present and future claims against a third party. Third party means another person or organization.

If you or your covered dependent suffer an injury or illness through the act or omission of another you and your dependent agree: 1) to reimburse the Plan for benefits paid by the Plan in an amount not to exceed the amount of the recovery; and 2) that the Plan be subrogated to your (or your dependent's) rights to the extent of the benefits paid, including the right to bring suit. All recoveries from a third party (whether by lawsuit, settlement, or otherwise) must be used to reimburse the Plan for benefits paid. The Plan's share of the recovery will not be reduced because you or your dependent do not receive the full amount of damages claimed, unless the Plan agrees in writing to reduction.

When you or your dependent make a claim against a third party or the third party's insurer as a result of an injury or illness for which that third party is legally responsible, the Plan shall have a lien on the proceeds of that claim in order to reimburse itself to the full amount of benefits it is called upon to pay. The Plan's lien will apply to any and all recoveries for such claim whether by court order or out-of-court settlement.

If you or your dependent are injured because of a third party's action or omission: 1) the Plan will pay benefits for that injury subject to the conditions that you and your dependent a) do not take any action that would prejudice the Plan's ability to recover benefits, and b) will cooperate in doing what is reasonably necessary to assist the Plan in any recovery; 2) the Plan's right of reimbursement extends only to the amount of Plan benefits paid or to be paid because of the injury; and 3) the Plan may insist upon an assignment of the proceeds of the claim or right of action against the third party and may withhold payment of benefits otherwise due until the assignment is provided.

You are required to notify the Plan promptly of any third party claim that you may have for damages for which the Plan has paid or may pay benefits. In addition, you are required to notify the Plan of any recovery, whether in or out of court, that you or your dependent obtain and to reimburse the Plan to the extent of benefits paid by the Plan. Any reduction of the Plan's claim for payment of attorney's fees or costs associated with the claim is subject to prior approval by the Plan.

Overpayments

The Carrier will make reasonably diligent efforts to recover benefit payments made erroneously but in good faith and may apply subsequent benefits otherwise payable to offset any overpayments.

Vested rights

An enrollee does not have a vested right to receive the benefits in this brochure in 1999 or later years, and does not have a right to benefits available prior to 1998 unless those benefits are contained in this brochure.

Limit on your costs if you're age 65 or older and don't have Medicare

The information in the following paragraphs applies to you when 1) you are not covered by either Medicare Part A (hospital insurance) or Part B (medical insurance), or both, 2) you are enrolled in this Plan as an annuitant or as a former spouse or family member covered by the family enrollment of an annuitant or former spouse, and 3) you are not employed in a position which confers FEHB coverage.

Inpatient hospital care

If you are not covered by Medicare Part A, are age 65 or older or become age 65 while receiving inpatient hospital services, and you receive care in a Medicare participating hospital, the law (5 U.S.C. 8904(b)) requires the Plan to base its payment on an amount equivalent to the amount Medicare would have allowed if you had Medicare Part A. This amount is called the equivalent Medicare amount. After the Plan pays, the law prohibits the hospital from charging you for covered services after you have paid any deductibles, coinsurance, or copayments you owe under the Plan. Any coinsurance you owe will be based on the equivalent Medicare amount, not the actual charge. You and the Plan, together, are not legally obligated to pay the hospital more than the equivalent Medicare amount.

The Carrier's explanation of benefits (EOB) will tell you how much the hospital can charge you in addition to what the Plan paid. If you are billed more than the hospital is allowed to charge, ask the hospital to reduce the bill. If you have already paid more than you have to pay, ask for a refund. If you cannot get a reduction or refund, or are not sure how much you owe, call your Local Plan (see your phone book for the number) for assistance

LIST OF PERSONS AND ORGANIZATIONS INVITED TO SUBMIT ADDITIONAL MATERIALS ON MEDICAL MALPRACTICE LIMITATIONS

Proponents

Coalition for Medical Liability Reform

American Medical Association

American Tort Reform Association

District of Columbia Dental Society

District of Columbia Defense Lawyers' Association

Medical Society of the District of Columbia

National Capital Reciprocal Insurance Co. (NCRIC)

Capital Community Health

D.C. Hospital Association

American College of Obstetricians and Gynecologists - D.C. Section

Gary D. Dennis

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Public Citizen's Congress Watch

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National Bar Association

Injury to Persons and Property Section, The District of Columbia Bar

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Timothy Jefferson, General Counsel Public Benefit Corporation

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SUBMITTING ADDITIONAL MATERIALS ON MEDICAL MALPRACTICE LIMITATIONS

Proponents

American Medical Association

American Tort Reform Association

Children's National Medical Center

District of Columbia Building Industry Association

District of Columbia Chamber of Commerce

District of Columbia Hospital Association

Georgetown University Medical Center

Medical Society of the District of Columbia

National Capital Reciprocal Insurance Company (NCRIC)

Office of the Corporation Counsel

The Kaempfer Company

LIST OF PERSONS AND ORGANIZATIONS
SUBMITTING MATERIALS ON MEDICAL MALPRACTICE LIMITATIONS

Opponents

Association of Trial Lawyers of America

District of Columbia Bar - Injury to Persons and Property Section

Public Citzen's Congress Watch

The Washington Bar Association

Trial Lawyer's Association of Metropolitan Washington, D.C.

4TH DOCUMENT of Level 1 printed in FULL format.

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*** THIS SECTION IS CURRENT THROUGH THE 1998 SUPPLEMENT ***
*** (1998 SPECIAL SESSION I) ***

TITLE 8.01. CIVIL REMEDIES AND PROCEDURE
CHAPTER 21.1. MEDICAL MALPRACTICE
ARTICLE 2. MISCELLANEOUS PROVISIONS

Va. Code Ann. § 8.01-581.15 (1998)

§ 8.01-581.15. Limitation on recovery in certain medical malpractice actions

In any verdict returned against a health care provider in an action for malpractice where the act or acts of malpractice occurred on or after October 1, 1983, which is tried by a jury or in any judgment entered against a health care provider in such an action which is tried without a jury, the total amount recoverable for any injury to, or death of, a patient shall not exceed one million dollars.

In interpreting this section, the definitions found in § 8.01-581.1 shall be applicable.

HISTORY: Code 1950, §§ 8-654.8; 1976, c. 611; 1977, c. 617; 1983, c. 496.

NOTES:
LAW REVIEW. --For discussion of the constitutional implications of the recovery limit in this section, see 11 U. Rich. L. Rev. 51 (1976). For survey of Virginia insurance law for the year 1975-1976, see 62 Va. L. Rev. 1446 (1976). For survey of Virginia tort law for the year 1975-1976, see 62 Va. L. Rev. 1489 (1976). For article on the limitation on recovery in medical negligence cases in Virginia, see 16 U. Rich. L. Rev. 799 (1982). For comment, "The Constitutional Attack on Virginia's Medical Malpractice Cap: Equal Protection and the Right to Jury Trial," see 22 U. Rich. L. Rev. 95 (1987). For comment on Virginia's Birth-Related Neurological Injury Compensation Act, 22 U. Rich. L. Rev. 431 (1988). For note, "Will Tort Reform Combat the Medical Malpractice Insurance Availability and Affordability Problems That Virginia's Physicians Are Facing," see 44 Wash. & Lee L. Rev. 1463 (1988). For survey on medical malpractice in Virginia for 1989, see 23 U. Rich. L. Rev. 731 (1989). For comment, "Interpretations of Virginia's Medical Malpractice Act: Boyd v. Bulala," see 12 Geo. Mason L. Rev. 361 (1990).

I. Decisions Under Current Law.
A. General Consideration.

I. DECISIONS UNDER CURRENT LAW.

A. GENERAL CONSIDERATION.

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*** THIS SECTION IS CURRENT THROUGH THE 1998 SUPPLEMENT
*** (1998 REGULAR SESSION) ***

COURTS AND JUDICIAL PROCEEDINGS
TITLE 11. JUDGMENTS
SUBTITLE 1. JUDGMENTS -- MISCELLANEOUS

Md. COURTS AND JUDICIAL PROCEEDINGS Code Ann. § 11-108 (1998)

§ 11-108. Personal injury action -- Limitation on noneconomic damages

(a) Definitions. -- In this section:

(1) "Noneconomic damages" means:

(i) In an action for personal injury, pain, suffering, inconvenience, physical impairment, disfigurement, loss of consortium, or other nonpecuniary injury; and

(ii) In an action for wrongful death, mental anguish, emotional pain and suffering, loss of society, companionship, comfort, protection, care, marital care, parental care, filial care, attention, advice, counsel, training, guidance, or education, or other noneconomic damages authorized under Title 3, Subtitle 9 of this article; and

(2) "Noneconomic damages" does not include punitive damages.

(3) "Primary claimant" means a person described under § 3-904 (d) of this article.

(4) "Secondary claimant" means a person described under § 3-904 (e) of this article.

(b) Limitation on amount of damages established. --

(1) In any action for damages for personal injury in which the cause of action arises on or after July 1, 1986, an award for noneconomic damages may not exceed $350,000.

(2) (i) Except as provided in paragraph (3) (ii) of this subsection, in any action for damages for personal injury or wrongful death in which the cause of action arises on or after October 1, 1994, an award for noneconomic damages may not exceed $500,000.

(ii) The limitation on noneconomic damages provided under subparagraph (i) of this paragraph shall increase by $15,000 on October 1 of each year beginning on October 1, 1995. The increased amount shall apply to causes of

action arising between October 1 of that year and September 30 of the following year, inclusive.
§

(3) (i) The limitation established under paragraph (2) of this subsection shall apply in a personal injury action to each direct victim of tortious conduct and all persons who claim injury by or through that victim.

(ii) In a wrongful death action in which there are two or more claimants or beneficiaries, an award for noneconomic damages may not exceed 150% of the limitation established under paragraph (2) of this subsection, regardless of the number of claimants or beneficiaries who share in the award.

(c) Award under § 3-2A-06 included. -- An award by the Health Claims Arbitration Panel in accordance with § 3-2A-06 of this article shall be considered an award for purposes of this section.

(d) Jury trials. --

(1) In a jury trial, the jury may not be informed of the limitation established under subsection (b) of this section.

(2) (i) If the jury awards an amount for noneconomic damages that exceeds the limitation established under subsection (b) of this section, the court shall reduce the amount to conform to the limitation.

(ii) In a wrongful death action in which there are two or more claimants or beneficiaries, if the jury awards an amount for noneconomic damages that exceeds the limitation established under subsection (b) (3) (ii) of this section, the court shall:

1. If the amount of noneconomic damages for the primary claimants equals or exceeds the limitation under subsection (b) (3) (ii) of this section:

A. Reduce each individual award of a primary claimant proportionately to the total award of all of the primary claimants so that the total award to all claimants or beneficiaries conforms to the limitation; and

B. Reduce each award, if any, to a secondary claimant to zero dollars; or

2. If the amount of noneconomic damages for the primary claimants does not exceed the limitation under subsection (b) (3) (ii) of this section or if there is no award to a primary claimant:

A. Enter an award to the primary claimant, if any, as directed by the verdict; and

B. Reduce each individual award of a secondary claimant proportionately to the total award of all of the secondary claimants so that the total award to all claimants or beneficiaries conforms to the limitation.

HISTORY: 1986, ch. 639; 1989, ch. 5, § 1; ch. 629; 1994, ch. 477; 1997, ch. 318.

NOTES:

Attachment B

COMPARISON OF HOUSE APPROPRIATIONS COMMITTEE REPORT'S MEDICAL MALPRACTICE PROPOSALS WITH MARYLAND AND VIRGINIA LAW		
Proposed Malpractice Provisions	**Maryland**	**Virginia**
Cap non-economic damages at **$250,000** for a single incident of medical malpractice.	Non-economic damages in personal injury or wrongful death actions are limited to no more than **$500,000** (plus annual increase of $15,000 beginning in October, 1995). Md. Courts and Judicial Proceeding Code Ann. §11-108 (1997).	There is no statutory limit for non-economic damages. Total medical malpractice awards shall not exceed **$1,000,000**. Va. Code Ann. § 8.01-581.15 (1998).
Bar plaintiff from receiving duplicate compensation for the same injury from other (collateral) sources.	**No equivalent provision in Maryland law.**	**No equivalent provision in Virginia law.**
Abolish joint and several liability; each defendant's liability would be limited to their share of total damages.	**No equivalent provision in Maryland law.** Joint and several liability is permitted. Md. Courts and Judicial Proceedings Code Ann. § 3-1401 (1997).	**No equivalent provision in Virginia law.** Joint and several liability is permitted. Va. Code Ann. § 8.01-443 (1998).
Require plaintiffs to pay defendants' costs if their medical malpractice claim is found to be frivolous.	**No equivalent provision in Maryland law** (in addition to court's ability to impose sanctions against *either* party.)	**No equivalent provision in Virginia law** (in addition to court's ability to impose sanctions against *either* party.)
Require plaintiffs to file a certification of medical merit of their case by a disinterested third party.	Medical malpractice claims must be dismissed unless the claimant has filed a "certificate of a qualified expert . . . attesting to departure from standards of care [that is] the proximate cause of the alleged injury . . ." Md. Courts and Judicial Proceeding Code Annotated §3-2A-04 (1997).	**No equivalent provision in Virginia law.** A plaintiff or defendant may, but is not required to, "request a review by a medical malpractice review panel." Va. Code Ann. § 8.01-581.2 (1998).
Shift the costs of litigation to the plaintiff if a plaintiff is awarded less than a settlement offer previously rejected.	**No equivalent provision in Maryland law.**	**No equivalent provision in Virginia law.**
Adopt a statute of repose to ban malpractice lawsuits that are not filed within the applicable statute of limitations, exclusive of when plaintiff discovered they had a cause of action.	**No equivalent provision in Maryland law.**	**No equivalent provision in Virginia law.**

SECTION NOT VIOLATIVE OF PROHIBITION AGAINST SPECIAL LEGISLATION. --This section applies to all persons belonging to the class in question without distinction and, therefore, is not special in effect; accordingly, this section does not §violate the prohibition against special legislation. Etheridge v. Medical Center Hosps., 237 Va. 87, 376 S.E.2d 525 (1989).

THIS SECTION DOES NOT DENY THE RIGHT OF TRIAL BY JURY nor violate the separation of powers, anti-discrimination, and special legislation clauses of the Virginia Constitution. , 877 F.2d 1191 (4th Cir. 1989).

This section does not violate the right of trial by jury under the Seventh Amendment. , 877 F.2d 1191 (4th Cir. 1989).

SECTION NOT VIOLATIVE OF EQUAL PROTECTION OR DUE PROCESS. --Since the medical malpractice cap is clearly a rational means to achieve the legislative goal of securing the provision of health care services by maintaining the availability of malpractice insurance at affordable rates, this section meets the requirements of the equal protection and due process clauses, and must be upheld on those grounds. Boyd v. Bulala, 647 F. Supp. 781 (W.D. Va. 1986), aff'd in part, rev'd in part, 877 F.2d 1191 (4th Cir. 1989).

Assertion that this section violates procedural due process by creating an irrebuttable presumption was without merit, because this section creates no presumptions whatsoever regarding the individual merits of a medical malpractice claim, but merely affects the parameters of the remedy available after the merits of a claim have been decided. Etheridge v. Medical Center Hosps., 237 Va. 87, 376 S.E.2d 525 (1989).

The purpose of this section, which limits the amount of recoverable damages in a medical malpractice action -- to maintain adequate health care services in this Commonwealth -- bears a reasonable relation to the legislative cap, i.e., ensuring that health care providers can obtain affordable medical malpractice insurance; therefore, it does not violate substantive due process. Etheridge v. Medical Center Hosps., 237 Va. 87, 376 S.E.2d 525 (1989).

The classification in this section does not violate the Equal Protection Clause. Etheridge v. Medical Center Hosps., 237 Va. 87, 376 S.E.2d 525 (1989).

THIS SECTION DOES NOT VIOLATE THE FOURTEENTH AMENDMENT'S GUARANTEES OF DUE PROCESS OR EQUAL PROTECTION, since the cap on liability bears a reasonable relation to a valid legislative purpose--the maintenance of adequate health care services in the Commonwealth of Virginia. , 877 F.2d 1191 (4th Cir. 1989).

THIS SECTION, WHICH LIMITS THE AMOUNT OF RECOVERABLE DAMAGES IN A MEDICAL MALPRACTICE ACTION, DOES NOT INFRINGE UPON THE RIGHT TO A JURY TRIAL, because the section does not apply until after a jury has completed its assigned function in the judicial process, and because although a party has the right to have a jury assess his damages, he has no right to have a jury dictate through an award the legal consequences of its assessment. Etheridge v. Medical Center Hosps., 237 Va. 87, 376 S.E.2d 525 (1989).

THE VIRGINIA CAP CANNOT VIOLATE FEDERAL SEPARATION OF POWERS PRINCIPLES for the simple reason that those principles are inapplicable. , 877 F.2d 1191 (4th Cir. 1989).

VIRGINIA MEDICAL MALPRACTICE CAP LEGISLATION CLEARLY DOES NOT CREATE SUSPECT CLASSIFICATION. Certainly, the law treats victims of medical malpractice differently from the victims of other torts, and within the class of medical

malpractice plaintiffs, the law further discriminates between those whose losses exceed the cap and those whose losses do not. Such classifications, while facially unfair, do not violate the equal protection clause according to current interpretation. Boyd v. Bulala, 647 F. Supp. 781 (W.D. Va. 1986), aff'd in part, rev'd in part, 877 F.2d 1191 (4th Cir. 1989).

The purpose of this section, to maintain an adequate level of health care services in the Commonwealth by ensuring that health care providers can obtain affordable insurance, is sufficient justification under the Constitution for treating those injured through medical malpractice differently from those injured in other torts. Boyd v. Bulala, 647 F. Supp. 781 (W.D. Va. 1986), aff'd in part, rev'd in part, 877 F.2d 1191 (4th Cir. 1989).

The rationality of this section justifies the distinction it draws between medical malpractice plaintiffs whose damages are less than the cap amount, who may be completely compensated for their injuries, and those whose damages exceed the cap, who will not be completely compensated. Boyd v. Bulala, 647 F. Supp. 781 (W.D. Va. 1986), aff'd in part, rev'd in part, 877 F.2d 1191 (4th Cir. 1989).

THE MANDATE OF THIS SECTION is that in any judgment entered against a health care provider, the quantum of the recovery for a medical malpractice injury cannot exceed the aggregate amount capable of recovery. Fairfax Hosp. Sys. v. Nevitt, 249 Va. 591, 457 S.E.2d 10 (1995).

THE GENERAL ASSEMBLY ENACTED MEDICAL MALPRACTICE CAP FOR THE PURPOSE of enabling licensed health care providers to secure medical malpractice insurance at affordable rates. Schwartz v. Brownlee, 253 Va. 159, 482 S.E.2d 827 (1997).

CAP APPLIES TO RECOVERIES UNDER THE EMERGENCY MEDICAL TREATMENT AND ACTIVE LABOR ACT. --The statutory cap of $1,000,000 imposed by this section applies to medical malpractice recoveries under the Emergency Medical Treatment and Active Labor Act, 42 U.S.C. § 1395 dd. Lee ex rel. Wetzel v. Alleghany Regional Hosp. Corp., 778 F. Supp. 900 (W.D. Va. 1991).

A patient who recovers one million dollars in a negligence suit against one health care provider cannot recover more damages for the same injury from a second, even more culpable health care provider. Plaintiff, having recovered one million dollars from the hospital under the Emergency Medical Treatment and Active Labor Act cannot recover further malpractice damages from other parties. Power v. Alexandria Physicians Group, 887 F. Supp. 845 (E.D. Va. 1995), aff'd, 91 F.3d 132 (4th Cir. 1996), cert. denied, -- U.S. --, 117 S. Ct. 514, 136 L. Ed. 2d 403 (1996).

THE PLAIN MEANING OF THE STATUTE FIXES THE "TOTAL" AMOUNT RECOVERABLE at the statutory cap. Thus, application of the $750,000 cap serves to extinguish awards of punitive damages on claims which have exhausted the statutory amount. Bulala v. Boyd, 239 Va. 218, 389 S.E.2d 670 (1990) (decided under former § 8-654.8).

AWARD IN EXCESS OF PERMITTED AMOUNT WOULD INVADE PROVINCE OF LEGISLATURE. --Whether the remedy prescribed in this section, which limits the amount of recoverable damages in a medical malpractice action, is viewed as a modification of the common law or as establishing the jurisdiction of the courts in specific cases, it was a proper exercise of legislative power. Indeed, were a court to ignore the legislatively determined remedy and enter an award in excess of the permitted amount, the court would invade the province of the legislature. Etheridge v. Medical Center Hosps., 237 Va. 87, 376 S.E.2d 525 (1989).

THIS SECTION IS A CLASSIC EXAMPLE OF AN ECONOMIC REGULATION. --A legislative effort to structure and accommodate the burdens and benefits of economic life. and as such, it is subject only to limited rational basis review; plaintiffs have the burden of demonstrating that in enacting the cap the Virginia §legislature had acted in an arbitrary and irrational way. , 877 F.2d 1191 (4th Cir. 1989).

THE STATUTORY CAP sets a separate limit on the total damages recoverable for "any injury" to a single "patient," regardless of the number of claims and claimants and theories of recovery related to that injury. Accordingly, the cap applicable to any single patient's injury covers both compensatory and punitive damage claims of the patient and any claims by others that, by substantive law, are "derivative" of the patient's claims. Boyd v. Bulala, 905 F.2d 764 (4th Cir. 1990).

Having suffered one indivisible set in injuries all stemming from the same malpractice event, plaintiff is entitled to no more than one million dollars under the statute. Power v. Alexandria Physicians Group, 887 F. Supp. 845 (E.D. Va. 1995), aff'd, 91 F.3d 132 (4th Cir. 1996), cert. denied, -- U.S. --, 117 S. Ct. 514, 136 L. Ed. 2d 403 (1996).

The statute does not apply a separate one million dollar cap to each individual negligent act by health care providers, or to each visit and telephone call between a patient and her doctors. Rather, the statute only allows one million dollars per injury, even if the jury arises from several wrongful acts during the course of treatment. Power v. Alexandria Physicians Group, 887 F. Supp. 845 (E.D. Va. 1995), aff'd, 91 F.3d 132 (4th Cir. 1996), cert. denied, -- U.S. --, 117 S. Ct. 514, 136 L. Ed. 2d 403 (1996).

CAP COVERS BOTH COMPENSATORY AND PUNITIVE DAMAGE CLAIMS. --The malpractice cap applicable to any single patient's injury covers both compensatory and punitive damage claims of the patient and any claims by others that, by substantive law, are derivative of the patient's claim. Claims of emotional distress caused by injury to a single patient and claims for medical expenses of a single patient are derivative. Starns v. United States, 923 F.2d 34 (4th Cir.), cert. denied, 502 U.S. 809, 112 S. Ct. 54, 116 L. Ed. 2d 31 (1991).

DAMAGES LIMITED TO STATUTORY AMOUNT REGARDLESS OF NUMBER OF LEGAL THEORIES. --In a medical malpractice action, the total damages recoverable for injury to a "patient" are limited to the statutory amount, regardless of the number of legal theories upon which the claims are based. Bulala v. Boyd, 239 Va. 218, 389 S.E.2d 670 (1990).

This section provides that a single one million dollar cap applies to all of a patient's "malpractice" claims, regardless of the particular theory or body of law on which they are based. Power v. Alexandria Physicians Group, 887 F. Supp. 845 (E.D. Va. 1995), aff'd, 91 F.3d 132 (4th Cir. 1996), cert. denied, -- U.S. --, 117 S. Ct. 514, 136 L. Ed. 2d 403 (1996).

PATIENT CANNOT AVOID CAP BY CHARACTERIZING EACH MISTAKE AS SEPARATE INSTANCE. --An injured patient may recover no more than one million dollars for injuries arising from one malpractice event. This principle holds whether the patient sues one defendant or many, whether she cites one action or several separate ones, or whether she proceeds under more than one legal theory or cause of action constituting "an action for malpractice" under the statute. Moreover, a patient cannot avoid the one million dollar cap by characterizing each of the

health care provider's mistakes that contribute to her injury as a separate instance of malpractice. Power v. Alexandria Physicians Group, 887 F. Supp. 845 (E.D. Va. 1995), aff'd, 91 F.3d 132 (4th Cir. 1996), cert. denied, -- U.S. --, 117 S. Ct. 514, 136 L. Ed. 2d 403 (1996).

A PARENT'S CAUSE OF ACTION FOR MEDICAL AND INCIDENTAL EXPENSES IS DERIVATIVE OF THE CHILD'S ACTION. Lee v. Adrales, 778 F. Supp. 904 (W.D. Va. 1991).

CHILD HAS STATUTORY CAP SEPARATE FROM CAP ON MOTHER'S CLAIMS. --At the moment of live birth, and until the pediatrician assumes responsibility for the care of the newborn, the infant is the obstetrician's "patient." Hence, a separate statutory cap for compensatory damages applies to the child's case. Bulala v. Boyd, 239 Va. 218, 389 S.E.2d 670 (1990).

A mother and her newborn child are separate "patients," and thus, each may recover a maximum of $1,000,000. Lee ex rel. Wetzel v. Alleghany Regional Hosp. Corp., 778 F. Supp. 900 (W.D. Va. 1991).

THE CHILD'S MEDICAL EXPENSES MUST BE INCLUDED IN HER OWN DAMAGE AWARD. Lee v. Adrales, 778 F. Supp. 904 (W.D. Va. 1991).

FATHER'S EMOTIONAL DISTRESS CLAIM was covered by the Medical Malpractice Act where it was wholly derivative of his child's claim. However, the total damages recoverable for injury to the child, including derivative claims, were limited to the statutory amount. Bulala v. Boyd, 239 Va. 218, 389 S.E.2d 670 (1990).

Since the damages awarded for the value of the mother's past services, for lost wages of the father, and for hospital and travel expenses incurred on behalf of the baby are derivative, they must be included within the injured baby's cap. Starns v. United States, 923 F.2d 34 (4th Cir.), cert. denied, 502 U.S. 809, 112 S. Ct. 54, 116 L. Ed. 2d 31 (1991).

A father seeking damages for emotional harm and medical expenses, resulting from the malpractice to the mother and child, may not recover separately. Lee ex rel. Wetzel v. Alleghany Regional Hosp. Corp., 778 F. Supp. 900 (W.D. Va. 1991).

The father's claims for emotional distress and medical expenses are derivative of the child's, and thus fall within the child's statutory cap. Lee ex rel. Wetzel v. Alleghany Regional Hosp. Corp., 778 F. Supp. 900 (W.D. Va. 1991).

DAMAGES LIMITED TO $750,000. --Where plaintiff's claim was for an indivisible injury caused by the concurring negligence of each defendant, her damages were limited to a total of $750,000 under this section. Etheridge v. Medical Center Hosps., 237 Va. 87, 376 S.E.2d 525 (1989).

ERROR IN CREDIT CALCULATION. --Where trial court reduced the $2,000,000 jury verdict rendered against the hospital by $600,000 (the amount of the health care group's settlement) and then reduced the remainder ($1,400,000) to the medical malpractice cap ($1,000,000), the plain meaning of § 8.01-35.1 and this section, read together, is that where there is a verdict by a jury or a judgment by a court against a health care provider for "injury to ...a patient" and the total amount recovered in that action and in all settlements related to the medical malpractice injury exceeds one million dollars, the total amount the plaintiff can recover for that injury is $1,000,000. Accordingly, the trial court erred when it failed to apply the $600,000 credit for the statutory recovery cap in determining the quantum of plaintiff's judgment. Fairfax Hosp. Sys. v. Nevitt,

249 Va. 591, 457 S.E.2d 10 (1995).

AWARD OF STATUTORY MAXIMUM NOT ABUSE OF DISCRETION. --Award of statutory maximum for mental and physical injuries to mother who gave birth to stillborn child due to defendant's negligence held not abuse of discretion. Modaber v. Kelley, 233 Va. 60, 348 S.E.2d 233 (1986).

§PHYSICIAN'S CORPORATION LIABLE FOR EXCESS OF JURY AWARD. --Where physician-defendant was also president and sole shareholder in S corporation, which was not licensed as a health care provider, physician was entitled to protection of statutory $1 million medical malpractice cap, but corporation was liable for excess when jury award of $1.85 million was rendered jointly and severally. Schwartz v. Brownlee, 253 Va. 159, 482 S.E.2d 827 (1997).

Boyd v. Bulala, 678 F. Supp. 612 (W.D. Va. 1988); Jenkins v. Payne, 251 Va. 122, 465 S.E.2d 795 (1996).

Creh to see of common law rules

EFFECT OF AMENDMENTS. --The 1997 amendment, effective Oct. 1, 1997, added "means" to the end of the introductory language of (a) (1); deleted "means" preceding "pain" in (a) (1) (i); deleted "means" preceding "mental anguish" in (a) (1) (ii); added (a) (3) and (4); and rewrote (d) (2) (ii).

§

EDITOR'S NOTE. --Section 2, ch. 639, Acts 1986, as amended by § 1, ch. 111, Acts 1996, effective Oct. 1, 1996, provides that "every insurer providing professional liability insurance to a health care provider in this State shall submit to the Insurance Commissioner information on the nature and cost of reinsurance, the claims experience by category of health care providers, the amount of claims settlements and claims awards, the amount of reserves for claims incurred and incurred but unreported claims, the number of structured settlements used in payment of claims, and any other information relating to health care malpractice claims as prescribed by the Insurance Commissioner in rule and regulation. The Insurance Commissioner may require, by rule and regulation, insurers of other lines of liability insurance to submit such reports. The Insurance Commissioner shall report the Commissioner's findings as to the impact of this Act and Chapter 477 of the Acts of 1994 on the availability and affordability of health care malpractice and other liability insurance in this State to the Legislative Policy Committee of the General Assembly by October 31 of each year. This section shall remain effective through October 31, 2001, and with no further action required by the General Assembly, this section shall be abrogated and of no further force and effect."

Section 2, ch. 629, Acts 1989, provides that "the provisions of this Act shall apply to any jury trial commencing after July 1, 1989 in an action subject to the provisions of § **11-108** of the Courts Article."

Section 2, ch. 477, Acts 1994, provides that "this Act shall be construed only prospectively and may not be applied or interpreted to have any effect on or application to any cause of action arising before October 1, 1994."

Section 2, ch. 318, Acts 1997, provides that "this Act shall be construed prospectively to apply only to causes of action for wrongful death that arise on or after October 1, 1997, and may not be applied or interpreted to have any effect on or application to causes of action for wrongful death that arise before October 1, 1997."

MARYLAND LAW REVIEW. --For survey, "Developments in Maryland Law, 1991-92," see 52 Md. L. Rev. 530 (1993).

For survey, "Developments in Maryland Law, 1992-93," see 53 Md. L. Rev. 616 (1994).

For note, "Recent Developments, The Maryland General Assembly," see 54 Md. L. Rev. 891 (1995).

For note, "The Maryland Survey: 1994-1995," see 55 Md. L. Rev. 529 (1996).

UNIVERSITY OF BALTIMORE LAW REVIEW. --For comment, "Blasting the Cap: Constitutional Issues Arising from Maryland's Limitation of Noneconomic Damages in Personal Injury Claims," see 16 U. Balt. L. Rev. 327 (1987).

UNIVERSITY OF BALTIMORE LAW FORUM. --For article, "The New Cap on Non-Economic Damages and Health Claims Arbitration in Maryland -- An Overview," see 17, No. 3 U. Balt. Law Forum 15 (1987).

For article, "Recent Developments," see 20.2 U. Balt. Law Forum 23 (1990).

CONSTITUTIONALITY. --The enactment by Maryland of the cap on noneconomic damages in personal injury actions was a lawful and constitutional exercise of

legislative power, both under the U.S. Constitution and the Constitution of Maryland. Franklin v. Mazda Motor Corp., 704 F. Supp. 1325 (D. Md. 1989); Simms v. Holiday Inns, Inc., 746 F. Supp. 596 (D. Md. 1990).

This section does not unconstitutionally create an irrebuttable presumption of fact. Franklin v. Mazda Motor Corp., 704 F. Supp. 1325 (D. Md. 1989).

§ This section does not violate the rights guaranteed by article 19 of the Maryland Declaration of Rights. Franklin v. Mazda Motor Corp., 704 F. Supp. 1325 (D. Md. 1989).

PURPOSE OF 1994 AMENDMENT. --The apparent intent of the General Assembly in amending this section to apply the economic cap to actions for wrongful death filed after October 1, 1994, was to abate the continuing escalation of liability insurance premiums. Cole v. Sullivan, 110 Md. App. 79, 676 A.2d 85 (1996).

The cap on noneconomic damages in personal injury actions set forth in subsection (b) violates neither article 19 of the Maryland Declaration of Rights nor the due process clause of the Fourteenth Amendment of the United States Constitution. Edmonds v. Murphy, 83 Md. App. 133, 573 A.2d 853 (1990), aff'd, 325 Md. 342, 601 A.2d 102 (1992).

The cap on noneconomic damages in personal injury actions found in this section does not interfere with the jury's function to determine the true amount of damages; and thus does not violate the separation of powers doctrine embodied in article 8 of the Maryland Declaration of Rights. Edmonds v. Murphy, 83 Md. App. 133, 573 A.2d 853 (1990), aff'd, 325 Md. 342, 601 A.2d 102 (1992).

The cap contained in this section requiring noneconomic damages in a personal injury case to be stricken if they exceed $350,000 does not interfere with a plaintiff's fundamental right to have the issue fully determined by a judgment of her peers under article 23 of the Maryland Declaration of Rights. Edmonds v. Murphy, 83 Md. App. 133, 573 A.2d 853 (1990), aff'd, 325 Md. 342, 601 A.2d 102 (1992).

The General Assembly has the power to create and abolish causes of action, and it necessarily must have the power to limit the recovery obtainable in them. So long as the right to a jury trial on the triable issues is preserved, the Seventh Amendment is not violated, and so long as there is a rational reason for the legislation, the limitation upon recovery is constitutional; thus, this section passes federal constitutional muster. Simms v. Holiday Inns, Inc., 746 F. Supp. 596 (D. Md. 1990).

The legislative classification drawn by this section between tort claimants whose noneconomic damages are less than $350,000 and tort claimants whose noneconomic damages are greater than $350,000, and who are thus subject to the cap, is not irrational or arbitrary. It does not violate the equal protection component of article 24 of the Declaration of Rights. Murphy v. Edmonds, 325 Md. 342, 601 A.2d 102 (1992).

This section does not violate the right to a jury trial protected by articles 5 and 23 of the Declaration of Rights. Murphy v. Edmonds, 325 Md. 342, 601 A.2d 102 (1992).

PROSPECTIVE APPLICATION OF 1994 AMENDMENT. --Where wrongful death actions arose when the plaintiffs' spouses died, which was after October 1, 1994, the effective date of the statutory cap, the statutory cap on noneconomic damages for wrongful death was applicable, and the trial court should have reduced the jury award for wrongful death to conform to the statutory cap; however, claims for damages resulting from personal injuries, including damages for loss of consortium, arose prior to the effective date of the statute and, therefore, were not subject to the statutory cap. Anchor Packing Co. v. Grimshaw, 115 Md.

App. 134, 692 A.2d 5 (1997).

ONE OF THE PRIMARY PURPOSES IN ENACTING THE STATUTORY LIMITATION ON NONECONOMIC DAMAGES was to promote the availability and affordability of liability insurance in Maryland. Oaks v. Connors, 339 Md. 24, 660 A.2d 423 (1995).

The purpose of the cap on noneconomic damages in paragraph (b) (1) was not §to define the reasonableness of an exemption under § 11-504 (b) (2) of this article. Governor Plaza Assocs. v. Butcher, 125 F.3d 238 (4th Cir. 1997).

CAUSE OF ACTION "ARISES" UNDER SUBSECTION (B), when the facts to support each element of a cause of action exist, not when the cause of action is discovered. Owens-Illinois, Inc. v. Armstrong, 326 Md. 107, 604 A.2d 47 (1992), cert. denied, 506 U.S. 871, 113 S. Ct. 204, 121 L. Ed. 2d 145 (1992).

A cause of action arises under the statutory cap set forth in subsection (b) of this section when it first comes into existence, as distinguished from when a cause of action accrues; a cause of action accrues when a plaintiff ascertains or should have ascertained the nature and cause of his injuries. Anchor Packing Co. v. Grimshaw, 115 Md. App. 134, 692 A.2d 5 (1997).

DAMAGES CAP TO APPLY BROADLY. --The legislative history of this section indicates that the General Assembly intended that the damages cap apply broadly, as opposed to applying only to malpractice claims. Anchor Packing Co. v. Grimshaw, 115 Md. App. 134, 692 A.2d 5 (1997).

CAP NOT APPLICABLE TO INTENTIONAL TORTS. --The conspicuous absence of any discussion in this section's legislative history concerning applicability to intentional injuries leads to the conclusion that the cap on economic damages does not apply to intentional torts, whether or not personal bodily injuries are involved; this section was enacted and amended to stabilize the spiraling cost of liability insurance, and there was no intent to protect individuals from the economic consequences of intentional misconduct. Cole v. Sullivan, 110 Md. App. 79, 676 A.2d 85 (1996).

NOT APPLICABLE TO WRONGFUL DEATH ACTIONS. --The damages cap in this section does not apply to wrongful death actions. This overrules the Court of Special Appeals' holding to the contrary in Potomac Electric v. Smith, 79 Md. App. 591, 558 A.2d 768, cert. denied, 317 Md. 393, 564 A.2d 406 (1989). United States v. Streidel, 329 Md. 533, 620 A.2d 905 (1993); Figgie Int'l, Inc. v. Tognocchi, 96 Md. App. 228, 624 A.2d 1285, cert. denied, 332 Md. 381, 631 A.2d 451 (1993).

CAP NOW APPLICABLE TO WRONGFUL DEATH ACTIONS. --The cap on wrongful death damages provided by subparagraph (b) (2) (i) applies to wrongful death actions arising from asbestos-related diseases. Anchor Packing Co. v. Grimshaw, 115 Md. App. 134, 692 A.2d 5 (1997).

AWARDS TO MULTIPLE PLAINTIFFS. --The noneconomic damages cap of this section should apply individually to all plaintiffs in a wrongful death action under § 3-904. Bartucco v. Wright, 746 F. Supp. 604 (D. Md. 1990).

APPLICABILITY OF CAP ON NONECONOMIC DAMAGES TO LOSS OF CONSORTIUM. --Both the plain meaning of the language of this section and its legislative history show that the General Assembly intended for a single cap to apply to the individual claim of an injured person and a loss of consortium claim by the marital unit, which is derivative therefrom; there is no separate cap for a consortium claim.

Oaks v. Connors, 339 Md. 24, 660 A.2d 423 (1995).

CAP NOT APPLICABLE TO PECUNIARY LOSS OF CONSORTIUM DAMAGES. --Although the General Assembly characterized "loss of consortium" as a "nonpecuniary loss," "consortium" includes both pecuniary and nonpecuniary components which can be the subject of loss. It was the goal of the General Assembly to place a limit or cap upon the nonpecuniary components of loss of consortium such as affection, §society, companionship, and sexual relations, and those services that might not be rendered by hired help. Edmonds v. Murphy, 83 Md. App. 133, 573 A.2d 853 (1990), aff'd, 325 Md. 342, 601 A.2d 102 (1992).

Compensation for the damages proved under the joint claim of a husband and wife for services which can, but need not necessarily, be performed by hired help is not includable within the cap on noneconomic damages. Edmonds v. Murphy, 83 Md. App. 133, 573 A.2d 853 (1990), aff'd, 325 Md. 342, 601 A.2d 102 (1992).

CAP APPLICABLE TO FEDERAL CONSUMER PRODUCT SAFETY ACT. --The statutory cap on noneconomic damages was applicable in an action concerning the Consumer Product Safety Act, and did not so impede the federal cause of action as to frustrate the Congressional intent. Kent Village Assocs. Joint Venture v. Smith, 104 Md. App. 507, 657 A.2d 330 (1995).

STATUTORY CAP ON NONECONOMIC DAMAGES "SUBSTANTIVE." --The statutory cap on noneconomic damages is part of the substantive, not procedural, law of Maryland. Black v. Leatherwood Motor Coach Corp., 92 Md. App. 27, 606 A.2d 295 (1992).

ITEMIZATION. --Maryland limits noneconomic damages to $350,000 and requires the trier of fact to itemize economic damages. Bankert ex rel. Bankert v. United States, 937 F. Supp. 1169 (D. Md. 1996).

HOUSEHOLD SERVICES. --The element of damages referred to as "household services" can have both pecuniary and nonpecuniary aspects. United States v. Searle, 322 Md. 1, 584 A.2d 1263 (1991).

Where a claim is made for the nonpecuniary aspect of household services, the award may overlap the claim for solatium damages. United States v. Searle, 322 Md. 1, 584 A.2d 1263 (1991).

Household services are not encompassed within the term "solatium" if the award is for the pecuniary loss of homemaker services and is based on the market value of those lost services. United States v. Searle, 322 Md. 1, 584 A.2d 1263 (1991).

Where an award for household services is compensation for the loss of domestic services and is based on the market value of those lost services, the award is pecuniary and is not duplicative of the solatium damages. United States v. Searle, 322 Md. 1, 584 A.2d 1263 (1991).

ASBESTOSIS. --An injury occurs in an asbestos-related injury case when the inhalation of asbestos fibers causes a legally compensable harm; harm results when the cellular changes develop into an injury or disease, such as asbestosis or cancer. An assertion that the injury or harm does not arise until the symptoms of the disease become apparent was rejected. Anchor Packing Co. v. Grimshaw, 115 Md. App. 134, 692 A.2d 5 (1997).

Asbestos-related injury held not to be controlled by cap on noneconomic damages. Owens-Illinois, Inc. v. Armstrong, 326 Md. 107, 604 A.2d 47 (1992), cert. denied, 506 U.S. 871, 113 S. Ct. 204, 121 L. Ed. 2d 145 (1992).

APPLIED IN Ramrattan v. Burger King Corp., 656 F. Supp. 522 (D. Md. 1987); DiLeo v. Nugent, 88 Md. App. 59, 592 A.2d 1126 (1991); Ford Motor Co. v. Wood, 119 Md. App. 1, 703 A.2d 1315 (1998), cert. denied, 349 Md. 494, 709 A.2d 139 (1998).

STATED IN Surratt v. Prince George's County, 320 Md. 439, 578 A.2d 745 (1990).

CITED IN Gardner v. State, 77 Md. App. 237, 549 A.2d 1171 (1988); Medical Mut. Liab. Ins. Soc'y v. Evans, 330 Md. 1, 622 A.2d 103 (1993); State v. Meade, 101 §Md. App. 512, 647 A.2d 830 (1994), cert. denied, 337 Md. 213, 652 A.2d 669 (1995); Montgomery Cablevision Ltd. Partnership v. Beynon, 116 Md. App. 363, 696 A.2d 491 (1997); Johns Hopkins Hosp. v. Pepper, 346 Md. 679, 697 A.2d 1358 (1997).

the nature of interpleader). See generally *Howard v. United States*, 1902, 22 S.Ct. 543, 184 U.S. 676, 46 L.Ed. 754; United States Supreme Court Admiralty Rules (1920), Rules 37 (Bringing Funds into Court), 41 (Funds in Court Registry), and 42 (Claims Against Proceeds in Registry). With the first sentence, compare *English Rules Under the Judicature Act* (The Annual Practice, 1937) O. 22, r. 1(1).

1948 Amendment

The amendment effective October 1949 substituted the reference to "Title 28, U.S.C.A., §§ 2041, and 2042" for the reference to "Sections 985 and 996, Revised Statutes, as amended, U.S.C.A., Title 28, §§ 851, 852." The amendment also added the words "as amended" following the citation of the Act of June 26, 1934, c. 756, § 23, and, in the parenthetical citation immediately following, added the reference to "58 Stat. 845".

1963 Amendment

Rule 67 has been amended in three ways. The first change is the addition of the clause in the first sentence. Some courts have construed the present rule to permit deposit only when the party making it claims no interest in the fund or thing deposited. E.g., *Blasin-Stern v. Beech-Nut Life Savers Corp.*, 429 F.Supp. 533 (D. Puerto Rico 1975); *Dinkins v. General Aniline & Film Corp.*, 214 F.Supp. 281 (S.D.N.Y.1963). However, there are situations in which a litigant may wish to be relieved of responsibility for a sum or thing, but continue to claim an interest in all or part of it. In these cases the deposit-in-court procedure should be available; in addition to the advantages to the party making the deposit, the procedure gives other litigants assurance that any judgment will be collectable. The amendment is intended to accomplish that.

The second change is the addition of a requirement that the order of deposit be served on the clerk of the court in which the sum or thing is to be deposited. This is simply to assure that the clerk knows what is being deposited and what his responsibilities are with respect to the deposit. The latter point is particularly important since the rule as amended contemplates that deposits will be placed in interest-bearing accounts; the clerk must know what treatment has been ordered for the particular deposit.

The third change is to require that any money be deposited in an interest-bearing account or instrument approved by the court.

HISTORICAL NOTES

References in Text

The Act of June 26, 1934, c. 756, § 23, as amended (48 Stat. 1236, 58 Stat. 845), 31 U.S.C. § 725v, referred to in text, was repealed by Pub.L. 97-258, § 5(b), Sept. 13, 1982, 96 Stat. 1074, the first section of which enacted Title 31, Money and Finance. Insofar as not superseded by sections 2041 and 2042 of Title 28, Judiciary and Judicial Procedure, the Act of June 26, 1934, § 23, as amended (31 U.S.C. 725v) was reenacted as sections 572a and 2043 of Title 28 by Pub.L. 97-258, § 2(g)(3), (4).

Rule 68. Offer of Judgment

At any time more than 10 days before the trial begins, a party defending against a claim may serve upon the adverse party an offer to allow judgment to be taken against the defending party for the money or property or to the effect specified in the offer, with costs then accrued. If within 10 days after the service of the offer the adverse party serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service thereof and thereupon the clerk shall enter judgment. An offer not accepted shall be deemed withdrawn and evidence thereof is not admissible except in a proceeding to determine costs. If the judgment finally obtained by the offeree is not more favorable than the offer, the offeree must pay the costs incurred after the making of the offer. The fact that an offer is made but not accepted does not preclude a subsequent offer. When the liability of one party to another has been determined by verdict or order or judgment, but the amount or extent of the liability remains to be determined by further proceedings, the party adjudged liable may make an offer of judgment, which shall have the same effect as an offer made before trial if it is served within a reasonable time not less than 10 days prior to the commencement of hearings to determine the amount or extent of liability.

(As amended Dec. 27, 1946, eff. Mar. 19, 1948; Feb. 28, 1966, eff. July 1, 1966; Mar. 2, 1987, eff. Aug. 1, 1987.)

ADVISORY COMMITTEE NOTES

1937 Adoption

See 2 Minn.Stat. (Mason, 1927) § 9323; 4 Mont.Rev.Codes Ann. (1935) § 9770; N.Y.C.P.A. (1937) § 177.

For the recovery of costs against the United States, see Rule 54(d).

1946 Amendment

Note. The third sentence of Rule 68 has been altered to make clear that evidence of an unaccepted offer is admissible in a proceeding to determine the costs of the action but is not otherwise admissible.

The two sentences substituted for the deleted last sentence of the rule assure a party the right to make a second offer where the situation permits—as, for example, where a prior offer was not accepted but the plaintiff's judgment is nullified and a new trial ordered, whereupon the defendant desires to make a second offer. It is implicit, however, that as long as the case continues—whether there be a first, second or third trial—and the defendant makes no further offer, his first and only offer will operate to save him the costs from the time of that offer if the plaintiff ultimately obtains a judgment less than the sum offered. In the case of successive offers not accepted, the offeror is saved the costs incurred after the making of the offer which was equal to or greater than the judgment ultimately obtained. These provisions should serve to encourage settlements and avoid protracted litigation.

method to retain funds pendente lite. (Added, Aug. 3, 1973; amended Apr. 1, 1985.)

Explanatory notes. — Civil Rule 67 has been revised to clarify that a party may deposit funds into the Court registry even if that party is asserting an interest in the funds. In addition, a new sentence has been added to require the party making the deposit to serve a copy of the order of deposit on the Clerk of the Court. This amendment becomes effective on April 1, 1985.

Editor's note. — See Comment following Rule 67-I.

Rule covers cases where party desires relief from responsibility for fund in dispute by paying it into Court. Wisconsin Ave. Assocs. v. 2720 Wis. Ave. Coop. Ass'n, App. D.C., 385 A.2d 20 (1978).

Rule is designed to continue in effect similar special statutory provisions such as those permitting the plaintiff in an interpleader case to get rid of money and put it in safekeeping somewhere. Wisconsin Ave. Assocs. v. 2720 Wis. Ave. Coop. Ass'n, App. D.C., 385 A.2d 20 (1978).

Rule does not authorize injunctive relief. Wisconsin Ave. Assocs. v. 2720 Wis. Ave. Coop. Ass'n, App. D.C., 385 A.2d 20 (1978).

But injunction properly ordered to remedy situation involving building's conversion to cooperative status. — Where the plaintiffs (a cooperative association and individual owners of cooperative apartments), citing defective heating equipment in the building and a paucity of funds with which to remedy the situation, filed a motion pursuant to this Rule for establishment of a trust account and for appointment of a trustee to administer it, the trial court, dissuaded by the expense of establishing a trusteeship, properly issued an order which directed the defendants (a company and individuals engaged in converting the building to a cooperative status) to pay the plaintiffs all future monthly maintenance and operating assessments on the unsold units by the 10th of each month. Wisconsin Ave. Assocs. v. 2720 Wis. Ave. Coop. Ass'n, App. D.C., 385 A.2d 20 (1978).

Rule 67-I. Recording money paid to or by Clerk.

The Clerk shall receive and keep proper accounts of all moneys deposited or paid into or out of the Clerk's office and make such reports concerning same as may be required by law or ordered by the Court. (Amended, Apr. 2, 1990.)

COMMENT

Rule 67 identical to Federal Rule of Civil Procedure 67 except for deletion of inapplicable references to United States Code and substitution therefor of the appropriate reference to the District of Columbia Code.

Rule 68. Offer of judgment.

At any time more than 10 days before the trial begins, a party defending against a claim may serve upon the adverse party an offer to allow judgment to be taken against the defending party for the money or property or to the effect specified in the offer, with costs then accrued. If within 10 days after the service of the offer the adverse party serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service thereof and thereupon the Clerk shall enter judgment. An offer not accepted shall be deemed withdrawn and evidence thereof is not admissible except in a proceeding to determine costs. If the judgment finally obtained by the offeree is not more favorable than the offer, the offeree must pay the costs incurred after the making of the offer. The fact that an offer is made but not accepted does not preclude a subsequent offer. When the liability of one party to another has been determined by verdict or order or judgment, but the amount or extent of the liability remains to be determined by further proceedings, the party adjudged liable may make an offer of judgment, which shall have the same effect as an offer made before trial if it is served within a

reasonable time not less than 10 days prior to the commencement of hearings to determine the amount or extent of liability. (Amended, Apr. 2, 1990.)

Editor's note. — See Comment following Rule 68-I.

Purpose of Rule is to encourage settlements and put an end to litigation, and not to form a basis for further controversy between the parties. Davis v. Abbuhl, App. D.C., 461 A.2d 473 (1983).

This Rule does operate as a cost-shifting mechanism. Polk-Burriss v. Garrett, 122 WLR 373 (Super. Ct. 1994).

Federal court decisions are persuasive authority. — Since this Rule is identical to its federal counterpart, Fed. R. Civ. P. 68, the District of Columbia Court of Appeals may look to federal court decisions as persuasive authority in interpreting this Superior Court Rule. Davis v. Abbuhl, App. D.C., 461 A.2d 473 (1983).

This Rule is mandatory. — The Rule states that the offeree "must pay" the costs. Polk-Burriss v. Garrett, 122 WLR 373 (Super. Ct. 1994).

Costs. — In the absence of any statement in a defendant's offer reciting that costs are intended to be covered, this Rule directs the court to ascertain and award allowable costs to the plaintiff. Roussos v. Hertz-Penske Truck Leasing, Inc., 120 WLR 685 (Super. Ct. 1992).

A "verdict" is not a judgment, since it is not an order from which an appeal may be taken. Thus, plaintiff did not escape the consequences of a prior offer of judgment because she received a verdict twice the amount of the offer. Polk-Burriss v. Garrett, 122 WLR 373 (Super. Ct. 1994).

Waiver not found. — Counsel's failure to use the exact words of the rule in a sentence he need not have included at all did not constitute a waiver of the benefits of the Rule. Polk-Burriss v. Garrett, 122 WLR 373 (Super. Ct. 1994).

Rule 68-I. Judgment by confession or consent.

(a) *Entry by the Clerk.* The Clerk shall have authority to enter judgment by confession without judicial approval upon the filing of a praecipe or equivalent form signed by the defendant and the plaintiff's attorney.

(b) *Certification.* Application for judgment by confession pursuant to subdivision (a) of this Rule shall constitute a certification by the plaintiff's attorney:

(1) That the confession of judgment was executed by the defendant after the complaint was filed;

(2) That said attorney explained to the defendant the nature and consequences of the defendant's act.

(c) *Consent of counsel.* The Clerk shall also have authority to enter judgment by consent without judicial approval by stipulation signed by the attorneys for all parties in any pending cases.

(d) *Court approval; motions.* All other requests for entry of judgment by confession shall be submitted to the Court. (Amended, Apr. 2, 1990.)

COMMENT

Rule 68 identical to Federal Rule of Civil Procedure 68.

Filing of formal answer is not prerequisite to entry of judgment by confession. Sullivan v. Malarkey, App. D.C., 392 A.2d 1057 (1978).

But Court may consider request at time made. — Where, at an initial hearing on a temporary restraining order, the counsel for the defendants made a request for the entry of a judgment by confession, it was appropriate for the Court to consider the request at the time it was made. Sullivan v. Malarkey, App. D.C., 392 A.2d 1057 (1978).

Cited in Lewis v. Gardiner, App. D.C., 294 A.2d 480 (1972).

VIOLATION BY CONTROL BOARD OF CONGRESSIONAL INTENT

[See also page 78, this volume]

Documents Reflecting Commitments And

Directives Relating To Use Of

Revitalization Act (PL 105-33) Benefits To

Reduce District's Accumulated Deficit

Page

2 DR. BRIMMER'S NEWS RELEASE DATED SEPTEMBER 8, 1997 STATING $202 MILLION FOR REDUCING ACCUMULATED DEFICIT.

4 CONTROL BOARD'S FY 1998 FINANCIAL PLAN AND BUDGET STATING $202 MILLION FOR REDUCING ACCUMULATED DEFICIT.

8 MAYOR BARRY'S TRANSMITTAL LETTER STATING $202 MILLION "WILL BE USED TO REDUCE THE DISTRICT'S ACCUMULATED DEFICIT."

10 CHIEF FINANCIAL OFFICER ANTHONY A. WILLIAMS LETTER STATING $202 MILLION TO REDUCE THE DISTRICT'S ACCUMULATED DEFICIT.

11 SENATE EXPLANATORY STATEMENT IN CONGRESSIONAL RECORD DIRECTING $30 MILLION OF $190 MILLION FEDERAL CONTRIBUTION AND NOT LESS THAN $160 MILLION OF $201,090,000 APPROPRIATION BE USED TO REDUCE THE ACCUMULATED DEFICIT.

12 DR. BRIMMER'S LETTER OF JUNE 24, 1998 STATING THAT $45 MILLION WILL BE ALLOCATED TO REDUCE THE ACCUMULATED DEFICIT.

13 CHAIRMAN TAYLOR'S LETTER OF JULY 15, 1998 ADVISING DR. BRIMMER THAT HIS PROPOSAL TO ALLOCATE $45 MILLION INSTEAD OF $202 MILLION "... IS UNACCEPTABLE" AND "...VIOLATES THE AGREEMENT THAT WAS MADE IN THE INFORMAL CONFERENCE AND CLEARLY COMMUNICATED IN THE EXPLANATORY STATEMENT (IN THE CONGRESSIONAL RECORD)".

NEWS RELEASE

District of Columbia Financial Responsibility and Management Assistance Authority
Washington, D.C.

FOR RELEASE UPON DELIVERY
September 8, 1997

CONTACT: Jim Davison
202/504-3435

STATEMENT OF THE CHAIRMAN
Dr. Andrew F. Brimmer

Good afternoon. The District of Columbia Financial Responsibility and Management Assistance Authority today meets to consider a revised Financial Plan and Budget for Fiscal Year 1998.

On June 15, 1997, in accordance with Public Law 104-8, the Authority submitted to the Congress a Financial Plan and Budget for Fiscal Year 1998. However, enactment on August 5, 1997, of the National Capital Revitalization and Self-Government Improvement Act greatly altered the fiscal landscape. Consequently, all parties agreed that a revised budget should be submitted. Public Law 104-8 also provides for a mechanism in which the budget may be re-submitted to the Congress. It is with this provision in mind that the Authority meets now.

The Authority was very pleased by the passage of the recent Act. There is no doubt that the Act will fundamentally improve the financial and management structure of the District Government. In December, 1996, the Authority issued a strategic plan that called for many of the structural changes that were ultimately embodied in the Act. Establishing an equitable distribution of public services between the Federal Government and the District was a major theme of our strategic plan - and of the new Act. So, too, was a renewed emphasis on management improvement.

The revised budget for fiscal year 1998 has revenues of $ 4.2 billion and expenditures of $ 4 billion. The new budget includes a one-time surplus of $235.9 million, a sum partly in lieu of economic development and transportation infrastructure initiatives in the President's original plan. Although there have been suggestions that those funds be earmarked as new program dollars, the Authority believes that it would be unwise to use any surplus funds to support existing or continuing programs. I would emphasize that this surplus is a one-time net gain. Thus, it should not be used for continuing obligations that would have to be funded in future years.

The Authority, in keeping with its mandate to ensure fiscal and management integrity in District affairs, will recommend in its budget submission that a substantial proportion of the surplus funds be used to reduce the District's deficit. Of the $235.9 million, we are requesting that up to $202.3 million be devoted to this critical purpose. Additionally, the Authority will seek to have at least $3.6 million earmarked for capital financing costs to fund an additional $50 million in capital borrowing. The proceeds would be used to meet pressing capital needs. These include more funds for school repairs, public works funds to fix potholes, and other general capital and infrastructure expenditures in areas such as telephones, computers, and facilities.

The Authority is also asking that the remainder of the surplus -- up to $30 million -- be used to pay for management and productivity improvements. The Authority takes very seriously the Act's mandate that we review the service delivery operations of major District agencies and functions. In fact, on Friday, September 5, we announced major contracts for the review of most of the key agencies and government-wide functions. We expect that work on these management reform initiatives will begin immediately, and that the work will proceed swiftly. I wish to make clear, however, that the successful implementation of these management reforms will take a good deal of effort and funding to ensure that plans are carried through effectively. Thus, the Authority believes that these additional funds can be spent wisely in this area.

Finally, the Authority will ask Congress to authorize us to allocate specific amounts of the surplus among the three broad expenditure categories described above. We would do so as the year unfolds and as we get a better feeling of where the most pressing needs actually are.

We believe that this revised, consensus, budget moves the District of Columbia in the right direction. We look forward to working with the Congress in the weeks ahead to secure passage of this budget.

Thank you. I will now ask my colleagues if they have any comments they wish to make at this point.

DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY



AMENDED

DISTRICT OF COLUMBIA FINANCIAL PLAN AND BUDGET FISCAL YEARS 1998 AND 1999-2001

Andrew F. Brimmer
Chairman

Stephen Harlan
Vice Chair

Joyce Ladner
Member

Constance Newman
Member

Edward Singletary
Member

-4-

September 8, 1997

On June 15, 1997, in accordance with Public Law 104-8, the District of Columbia Financial Responsibility and Management Assistance Authority submitted to the Congress a Financial Plan and Budget for Fiscal Year 1998. However, enactment in August, 1997, of the National Capital Revitalization and Self-Government Improvement Act has sufficiently altered the fiscal landscape that the Congress, the Mayor, the City Council, and the Authority agreed a revised budget submission was warranted. Public Law 104-8 also provides for a mechanism in which the budget may be re-submitted to the Congress. It is with this provision in mind that the Authority met on September 8, 1997.

The Authority was very pleased by the passage of the recent Act. There is no doubt that the Act will fundamentally improve the management and financial structure of the District Government. In December, 1996, the Authority issued a strategic plan that called for many of the structural changes that were ultimately embodied in the Act. Establishing a more equitable distribution of the cost and provision of public services between the Federal Government and the District was a major theme of our strategic plan - and of the new Act. So, too, was a renewed emphasis on management improvement.

The revised budget for fiscal year 1998 has revenues of $4.2 billion and expenditures of $ 4 billion. The new budget includes a one-time surplus of $235.9 million[1], a sum partly in lieu of economic development and transportation infrastructure initiatives in the President's

[1] The CFO's "Impact on the National Capital Revitalization and Self-Government Improvement Act of 1997 on the District's Finances" reported the net benefit estimate of $196.8 million. However, this estimate used a different interest computation, which decreased the net benefit by $4.3 million and included a transfer to the Federal government of $34.8 million less than the full costs of housing the adult felons. These omissions increase the net benefit to $235.9 million.

original plan. Although there have been some requests that those funds be earmarked as new program dollars, the Authority does not agree that a distribution to local operating programs is a wise use of any surplus funds at this time. Considering that this surplus is a one-time net gain, the Authority concluded that it should not be used for continuing obligations that would have to be funded in the years ahead.

The Authority, in keeping with its mandate to ensure fiscal and management integrity in District affairs, recommends in its budget submission that the bulk of the surplus funds be devoted to a reduction of the District's deficit. Due to the existence of its accumulated deficit, the District currently has an annual cash deficiency, i.e, cash needs that, if financed, cannot be repaid during the current fiscal year. Of the $235.9 million, we are requesting that up to $202.3 million be devoted to this critical need. Furthermore, the Authority will seek to have at least $3.6 million earmarked for capital financing costs to fund an additional $50 million in capital borrowings to address continuing capital needs, including more funds for school repairs, public works funds to fix potholes, and other general capital infrastructure needs, such as telephones, computers, and facilities' improvements.

Finally, the Authority is asking that the remainder of the surplus, about $30 million, be used to pay for management and productivity improvements. The Authority takes very seriously the Act's mandate that we review the service delivery operations of major District agencies and functions. In fact, on September 5, 1997, the Authority announced major contracts for the review of most key agencies and city-wide functions. Work on these management reform initiatives has already begun and will proceed swiftly. However, the successful implementation

- Financing and other uses increases by $13.076 million. This increase results from three elements. First, assuming a borrowing of $110 million (the funds needed in addition to the Federal contribution of $190 million to eliminate the District's $300 million cash deficit) will require annual debt service of about $15.661 million. Second, Short-term borrowing is reduced--saving an estimated $6.157 million. Finally, an increase of $50 million in capital borrowings will require an extra $3.571 million to cover the additional debt service in FY 1998.
- The federal government will assume the great bulk of the District's unfunded pension liability for the retirement plans for the teachers, police officers, firefighters, and judges. The District will pay for a new retirement plan for current and future employees. The total cost is estimated at $57.4 million for FY 1998—$47.7 million for police and firefighters and $9.7 million for teachers.

Use of One-Time Surplus

The changes made as result of the Act and the Authority's original budget for FY 1998 will result in a surplus estimated at $235.859 million. As mentioned above, the Authority proposes a small amount, $3.571 million, to be used as the cost of financing additional capital borrowings of at least $50 million. Finally, the Authority proposes using about $30 million as a commitment to funding management and productivity improvements needed throughout the District government, with the long-term goal of improving service delivery while reducing operating costs. The bulk of the surplus, up to $202.288 million, should be directed to the reduction of the District's accumulated deficit.

THE DISTRICT OF COLUMBIA
WASHINGTON, D.C. 20001

MARION BARRY, JR.
MAYOR

September 8, 1997

The Honorable Linda W. Cropp
Chairperson
Council of the District of Columbia
441 4th Street, N.W., Suite 704
Washington, D.C. 2001

Dear Chairperson Cropp:

This letter formally transmits for the Council's review and consideration the Amended Fiscal Year 1998 Budget and Financial Plan. This Amended Budget adjusts the District's original budget submission to reflect the impact of the National Capital Revitalization and Self-Government Improvement Act of 1997 ("the Act"). Also enclosed is the Amended Fiscal Year 1998 Budget Request Act.

To reflect the consensus reached, the budget submitted by the Financial Authority on June 15, 1997 has been used as the base for the Amended Budget. The Amended Budget retains the agency spending levels set in the original budget submission. The only adjustments made to agency spending levels are those necessary to reflect the transfers of functions to the federal government, changes in the Medicaid reimbursement rate, and changes in financing costs.

The District's stakeholders have agreed to use the net benefit created by the Act to further long-range financial stability. The $236 million benefit will be allocated in the following manner:

1. $202 million will be used to reduce the District's accumulated deficit.

2. $30 million will be used to establish a management and productivity fund to finance investments that will result in improved management, service delivery and cost savings.

3. $4 million will be used to pay debt service on $50 million in additional capital borrowing that will be used to improve schools and neighborhood streets.

Long term fiscal stability can only be sustained by exercising discipline in spending and increasing the revenue base. It is imperative that the stakeholders continue to work collaboratively to reduce spending and improve revenues by implementing management reforms necessary to restore fiscal discipline to the District government.

I look forward to working with you and the Authority to present a consensus Amended Fiscal Year 1998 Budget and Financial Plan to the Congress.

Sincerely,

Marion Barry, Jr.
Mayor

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Chief Financial Officer



Anthony A. Williams

September 8, 1997

The Honorable Linda W. Cropp
Chairperson
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Dear Chairperson Cropp:

I am pleased to share with you the District's *Amended Fiscal Year 1998 Budget and Financial Plan* for the Council's consideration. This budget incorporates the financial impacts of the District of Columbia Revitalization Act, which provides a tremendous opportunity for the District to restore fiscal health to the District and to re-examine how we provide basic services.

In particular, this plan reflects the stakeholders' desire to focus resources on reducing the $500 million deficit by $202 million and uses $50 million to invest in infrastructure. These actions are a major step on the District's road to fiscal recovery.

I look forward to our continuing work together in serving the needs of the District.

Sincerely yours,

Anthony A. Williams
Chief Financial Officer

REDUCTION IN DISTRICT GOVERNMENT'S ACCUMULATED DEFICIT

EXCERPTS FROM CONGRESSIONAL RECORD

[November 13, 1997, page S12658, 2nd Column]

Mr. FAIRCLOTH (Chairman, Senate Subcommittee on D.C. Appropriations). Mr. President ... Earlier today, the Senate passed the appropriations bill for the District of Columbia. Senators STEVENS, BYRD, BOXER and I submit the attached bipartisan statement to accompany H.R. 2607, making appropriations for the District of Columbia for fiscal year 1998.

* * * * * * * * *

[November 13, 1997, page S12658, 3rd Column]

Federal Contribution – ... The District is directed to use $30,000,000 of the Federal contribution to repay the accumulated general fund deficit.

* * * * * * * * *

[November 13, 1997, page S12659, 1st Column]

Deficit Reduction and Revitalization – ...The bill directs that not less than $160,000,000 be used for reduction of the accumulated general fund deficit.

District of Columbia Financial Responsibility
and Management Assistance Authority
Washington, D.C.
June 24, 1998

The Honorable Charles H. Taylor
Chairman
Subcommittee on the District of Columbia
Committee on Appropriations
United States House of Representatives
H-148 The Capitol
Washington, D.C. 20515

Attn: Mr. Migo Miconi

Dear Mr. Chairman:

The District of Columbia Appropriations Act, Public Law 105-100, requires that the District of Columbia Financial Responsibility and Management Assistance Authority ("Authority") allocate the one time net benefit that will accrue to the District of Columbia government during Fiscal Year 1998 as a result of enacting the National Capital Revitalization and Self-Government Improvement Act of 1997 (Public Law 105-33).

Under the requirements of the Appropriations Act, the Authority must allocate these funds to management and productivity improvements, capital expenditures, and the reduction of the accumulated deficit.

Pursuant to these requirements, the Authority has approved a plan to allocate $88,902,343 to management reform projects in the Fiscal Year 1998 operating budget; $66,262,311 in the capital budget authority (PAY-GO) for management reform projects, and $1,340,000 for additional debt service in Fiscal Year 1998 related to the increased capital borrowing of $50,000,000 for management reform related capital equipment; and, $44,585,346 to reduce the accumulated deficit.

If you have questions, please contact my office.

Sincerely yours,

Andrew F. Brimmer

Andrew F. Brimmer
Chairman

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Congress of the United States

House of Representatives

Committee on Appropriations

Washington, DC 20515–6015 dc99ch.ltr

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JAMES W. DYER

TELEPHONE:
(202) 225-2771

July 15, 1998

Dr. Andrew F. Brimmer
Chairman
D.C. Financial Responsibility and
Management Assistance Authority
One Thomas Circle
Washington, D.C. 20005

Dear Dr. Brimmer:

Thank you for your letter of June 24, 1998, informing the Committee of the Authority's plan to allocate the net benefit of $201,090,000 that will accrue to the District government in fiscal year 1998 as a result of the National Capital Revitalization and Self-Government Improvement Act of 1997 (Public Law 105-33). Your letter states that $44,585,346 will be used to reduce the accumulated deficit.

As you will recall from your September 8, 1997 News Release and Amended District of Columbia Financial Plan and Budget for Fiscal Years 1998 and 1999-2001, the total net benefit resulting from the Revitalization Act is $235,860,000 for FY 1998. In those documents you stated that "The Authority, in keeping with its mandate to insure fiscal and management integrity in District affairs, will recommend in its budget submission that a substantial proportion of the surplus funds be used to reduce the District's deficit. Of the $235.9 million, we are requesting that up to $202.3 million be devoted to this critical purpose." The Mayor in his transmittal letter of September 8, 1997 to the Council stated that "The District's stakeholders have agreed to use the net benefit created by the Act to further long-range financial stability" and that "$202 million will be used to reduce the FY 1998 accumulated deficit". The Chief Financial Officer in his transmittal letter also stated that $202 million would be used to reduce the accumulated deficit.

Regarding the FY 1998 D.C. Appropriations Act, while there was no formal conference, there was complete agreement between the House and the Senate as evidenced by the explanatory statement on pages S12658 and S12659 of the November 13, 1998 Congressional Record that (1) $30 million of the $190 million Federal contribution "... is directed ... to repay the accumulated general fund deficit", and (2) "... not less than $160 million (of the $201,090,000 appropriated for Deficit Reduction and Revitalization) be used for reduction of the accumulated general fund deficit."

The intent is very clear. And now in your June 24th letter you state that less than $45 million of the $201,090,000 will be used to reduce the accumulated deficit. Your proposal is unacceptable. The Committee believes the allocation outlined in your letter violates the agreement that was made in the informal conference and clearly communicated in the explanatory statement. While the Committee is pleased that the accumulated deficit was reduced by $186 million in FY 1997 (due largely to the unanticipated receipt of tax revenues) and is expected to be further reduced by $254 million in FY 1998, which would still leave an accumulated deficit at the end of FY 1998 of $79 million, we believe strongly that now is the time to eliminate the deficit completely. The Authority should not let this unexpected revenue windfall be used for other purposes, including "management reforms", until the deficit is eliminated. We all should be striving to eliminate the deficit as quickly as possible thus enhancing the District's financial condition and sending a strong positive signal to the financial community as well as others.

Dr. Brimmer, the Committee requests that you and your colleagues revisit this issue. We know of nothing that is more important at this time in the recovery of the District of Columbia from years of mismanagement and overspending than to eliminate the accumulated deficit as quickly as possible.

Please call me if you have any questions.

Sincerely,

Charles H. Taylor

Charles H. Taylor
Chairman
Subcommittee on District of Columbia Appropriations
U.S. House of Representatives

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Congress of the United States

House of Representatives
Committee on Appropriations
Washington, DC 20515-6015

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CLERK AND STAFF DIRECTOR
JAMES W. DYER

TELEPHONE
202-225-2771

December 8, 1998

Ms. Alice M. Rivlin
Chair
D.C. Financial Responsibility
and Management Assistance Authority
One Thomas Circle
Washington, D.C. 20005

Dear Ms. Rivlin:

The Committee recently received a report from GAO (GAO/AIMD-99-22), dated December 2, 1998, responding to our request for a review of the Authority's audited financial statements for fiscal years 1996 and 1997. GAO's findings regarding the Authority's statements and nonresponsiveness in providing certain information requested by GAO are of serious concern to the Committee. The Committee would appreciate a response from you as to your views on these findings.

One item of concern is noted on page 9 of the report in Table 1 which has a line item that reads: "Authority expenditures in excess of budget.....$734,471." The top of page 10 explains that the funds in excess of the budget were used, in part, for the lump sum payment of a retroactive locality pay adjustment for fiscal years 1995 and 1996 made to the Authority's executive director and general counsel. GAO subsequently found those payments to be in violation of statute (GAO's letter (B-279095.2) to the Committee dated June 16, 1998).

Another item of concern is a lease/purchase transaction the Authority consummated on September 30, 1997. GAO describes this transaction on pages 10 and 11 of their report and states "... we concluded that there was not an economic need for the Authority to enter into this transaction. Although the transaction resulted in an increase in the Authority's fiscal year 1997 surplus, it had an overall negative economic impact by creating a net additional cost of $3,488 over the term of the agreement ...".

In addition, on page 14 of the report GAO states that "While the Authority states that our view of the transaction is contrary to

the legal position of both the Authority and the bank's counsel, the Authority did not respond to our requests for the legal analysis of either its or the bank's counsel."

On pages 11 and 12 of the report GAO discusses the importance of a Management Discussion and Analysis section in the Authority's audited financial statements. GAO has suggested that the Authority include such a section in its audited financial statements. On page 15 of the report the Committee notes that "OMB and SEC have already recognized the usefulness of an MD&A section in the financial statements of federal entities and private sector companies, respectively. GASB also recognizes the importance of an MD&A section ...".

As noted earlier, GAO's findings regarding the Authority's financial statements as well as the Authority's nonresponsiveness to GAO are of concern to the Committee.

The Committee respectfully requests that you review the report and provide GAO with the material they requested at your earliest convenience. If you have any questions regarding the above, please contact me or Americo Miconi of our staff at 225-5338.

Your attention to the Committee's concerns are very much appreciated. A copy of the GAO report is included for your convenience.

Sincerely,

Charles H. Taylor
Chairman
Subcommittee on District
of Columbia Appropriations

Enclosure

United States General Accounting Office

GAO

Report to the Subcommittee on the District of Columbia, Committee on Appropriations, House of Representatives

December 1998

DISTRICT OF COLUMBIA

Presentation of the Authority's Financial Information for Fiscal Years 1997 and 1996

GAO/AIMD-99-22

GAO

United States
General Accounting Office
Washington, D.C. 20548

Accounting and Information
Management Division

B-279973

December 2, 1998

The Honorable Charles H. Taylor
Chairman, Subcommittee on the
District of Columbia
Committee on Appropriations
House of Representatives

Dear Mr. Chairman:

In a letter dated March 30, 1998, you requested that we review the audited financial statements and management letters of the District of Columbia Financial Responsibility and Management Assistance Authority (Authority) for fiscal years 1996 and 1997. Specifically, you asked that we compare the Authority's audited financial statements and management letters to the District's Comprehensive Annual Financial Report (CAFR) to (1) determine whether there was agreement of amounts and consistency of presentation regarding the Authority's financial information and (2) determine why the District's internal control weakness that relates to the Authority was not identified in the audit report on the Authority's financial statements. Subsequently, your office also requested that we provide information on

- the Authority's use of interest income from escrow accounts established on behalf of the District,
- the Authority's purpose for the transaction entitled "Taxable Equipment Lease/Purchase Agreement," and
- the status of the Authority's implementation of our suggestions for improving its financial reporting, which we made in a prior letter on the Authority's financial statements for fiscal years 1995 and 1996.[1]

Background

As a result of the District's financial crisis in 1994, the Congress passed the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (the 1995 Act).[2] The Congress established the Authority to perform the following functions, among others:

[1]Analysis of the District of Columbia Authority's Financial Statements for Fiscal Years 1995 and 1996 (GAO/AIMD-97-80R, May 23, 1997).

[2]Public Law 104-8, 109 Stat. 97, 100 (April 17, 1995), D.C. Code Ann. section 47-391.1.

- eliminate budget deficits and cash shortages of the District through visionary financial planning, sound budgeting, accurate revenue forecasts, and careful spending,
- ensure the most efficient and effective delivery of services, including public safety services, by the District during a period of fiscal emergency, and
- conduct necessary investigations and studies to determine the fiscal status and operational efficiency of the District.

In assuming these responsibilities, the Authority was to ensure that funds were available to meet the District's obligations to vendors and taxpayers in a timely manner. To accomplish this, the Authority was required by law to establish several escrow accounts separate from the District's General Fund so that monies could be separately maintained to fund District activities including water and sewer service, public schools, and the University of the District of Columbia.

The Authority was established as an entity within the District of Columbia government,[3] with five board members appointed by the President of the United States. The Authority receives a regular, annual appropriation from the general fund of the District of Columbia in fixed amounts. Other appropriations authorizing the use of (1) gifts, bequests, and other contributions and (2) interest earned on escrow accounts maintained by the Authority, are available for an indefinite period.

The District of Columbia Management Reform Act of 1997[4] (Management Reform Act) expanded the Authority's responsibilities to include the development and implementation of management reform plans. The plans cover the major entities of the District[5] and all departments of the District in the city-wide functions of Asset Management, Information Resource Management, Personnel, and Procurement.

The Management Reform Act required that the Authority enter into contracts with consultants to develop plans for the major entities and four city-wide functions and establish management reform teams to implement

[3]Section 101(a) of the 1995 Act.

[4]Public Law 105-33, title XI, subtitle B, sections 11101 through 11106, 111 Stat. 731 (August 5, 1997) D.C. Code Ann. sections 47-395.1 through 47-395.5 (1998 Supplement).

[5]The entities are Fire and Emergency Medical Services, Public Works, Administrative Services, Corrections, Human Services (functions now separated and known as the Departments of Human Development and Health), Consumer and Regulatory Affairs, Employment Services, Housing and Community Development, Public Health, Public Schools, Police, and Financial Management (the last three were previously taken over by the Authority).

each plan.[6] These new responsibilities increased the amount of funds being spent by the Authority on behalf of the District. That act also authorized the Authority to spend interest earned on the escrow accounts maintained by the Authority as it considers appropriate to promote the economic stability and management efficiency of the District government.[7]

Currently for activities for which the Authority controls the funds provided on behalf of the District, the Authority pays District-related expenses in one of three ways. For contracts originated by the District, the Authority either reimburses the District's General Fund after District agencies pay vendors, or the Authority pays third parties directly based on District agencies' submission of a payment request and approved invoice. The third approach involves the Authority using its own contracting authority. For those, it approves the services rendered and pays third parties directly for goods and services provided to District agencies.

Results in Brief

Our review of the Authority's audited financial statements and the District's audited CAFR for fiscal years 1996 and 1997 revealed that the financial statements included the same amounts for Authority operations. The presentation and categorization of the Authority's amounts were in accordance with the appropriate sections of the Government Accounting Standards Board (GASB)[8] accounting principles for both sets of financial statements.

In the District's auditors' Report on Internal Controls and Compliance for fiscal year 1997, they identified a material weakness concerning financial reporting controls over transactions involving the Authority.[9] The District's auditors recommended that the Authority, along with the District, implement procedures to provide monthly balances and the related support for all financial activity each month on behalf of the District. The Authority's auditors stated and we agree that this material weakness did not affect the Authority's internal controls over financial reporting (preparation of its financial statements). While Authority officials stated their belief that there was sufficient documentation

[6]D.C. Code Ann. sections 47-396.2(a) and 47-396.3 (1998 Supplement).

[7]Section 106(d) of the 1995 Act as added by Public Law 105-33, section 11711(a), 111 Stat. 782, August 5, 1997, D.C. Code Ann. section 47-391.6(d) (1998 Supplement).

[8]GASB establishes accounting principles for state and local government, and its statements and interpretations apply to the financial reports of state and local government entities.

[9]The District's auditors, KPMG Peat Marwick LLP, stated that the District had not developed adequate procedures to account for funds held by the Authority and did not effectively reconcile the amounts which are recorded to the relevant Authority records.

available within the District to record financial activity on its books, the Authority's role in District operations and the District's dependence on the Authority for data on certain transactions and balances would seem to necessitate effective communication of financial activity between the two entities. Absent this level of communication, the District will continue to have difficulty in recording all District activity and reconciling District and Authority financial records.

Since the Authority established the escrow accounts on behalf of the District, the accounts have earned interest income of $9.8 million and $5.6 million for fiscal years 1997 and 1996, respectively. During fiscal year 1997, the Authority used $5 million of the interest income on behalf of the District in accordance with the law.[10] The $5 million was paid directly to vendors, transferred from an escrow account, or used to finance the Authority's operations. As of September 30, 1997, the balance of accrued interest income in the escrow accounts was $10.3 million.

The Authority entered into an agreement, entitled "Taxable Equipment Lease/Purchase Agreement." Authority officials stated that the purpose of the agreement was to obtain needed financing and to free-up budget capacity (budget authority). After looking at the economic benefit of the transactions and analyzing account balances as of September 30, 1997, we concluded that there was not an economic need for the Authority to enter into the agreement.

In our prior letter,[11] we identified seven opportunities for improving the Authority's future financial statements. To date, the Authority has implemented six of our seven suggestions. The one exception was the inclusion of a Management Discussion and Analysis (MD&A) section as part of its audited financial statements. The Authority is currently required under Section 224 of the 1995 Act to submit annual reports that address its financial performance and accomplishments, which, according to the Authority, makes including the same information in its financial statements unnecessary. However, with the concept of MD&A expanding across all governmental entities and presently a requirement in the federal government and for publicly-traded private sector corporations, we continue to believe that including an MD&A section in the Authority's audited financial statements is needed and would enhance its financial statements.

[10]See footnote 7.

[11]GAO/AIMD-97-80R, May 23, 1997.

Objectives, Scope, and Methodology

Our objectives were to determine (1) whether the Authority's financial information was in the same amounts and consistently presented in the fiscal year 1996 and 1997 audited financial statements of the Authority and the District's CAFR, (2) why the District's internal control weakness concerning the Authority was not also included in the audit report on the Authority, (3) the Authority's use of the escrow accounts' interest income, (4) the Authority's purpose for the "Taxable Equipment Lease/Purchase Agreement," and (5) whether suggestions made to the Authority's management in our prior letter[12] were implemented.

To address these objectives, we reviewed the Authority's audited financial statements and management letters and the District's CAFR and Report on Internal Controls and Compliance for fiscal years 1997 and 1996. We also obtained detailed supporting schedules, related documentation, and explanations from Authority officials as we considered necessary. In addition, we obtained and reviewed the specific laws cited and legal interpretations made through discussions with Authority officials.

To further support the information provided in the financial statements and management letters, we interviewed and received additional supporting documentation from the external independent auditors of the Authority and the District. We also interviewed the Authority's Executive Director, Chief Financial Officer, and General Counsel.

We conducted our work from April 1998 through August 1998 in accordance with generally accepted government auditing standards. We requested comments from the Authority's Chairperson on a draft of this report. The Authority's Executive Director provided us with written comments, which are discussed in the "Authority's Comments and Our Evaluation" section and are reprinted in appendix II.

[12]GAO/AIMD-97-80R, May 23, 1997.

Comparison of Fiscal Year 1996 and 1997 Audited Financial Statements of the Authority and the District

The Authority's financial information as reported in its financial statements is consistent with the Authority's financial information presented in the District's CAFR. The fiscal years 1996 and 1997 financial statements of the Authority were included in the District's CAFR, as a component unit, as required by GASB,[12] and both the Authority and the District presented the Authority's financial activities in accordance with GASB.

As a result of the widely different annual revenue amounts for the Authority ($8.6 million for fiscal year 1997) and the District ($5.2 billion in fiscal year 1997), the Authority's account balances, which represent less than .2 percent of the District's revenue, are summarized in the District's CAFR instead of being reported in detail, as in the Authority's financial statements. For example, several account line items (Due from District-Management Reform, Other Receivables from the District, and Advances from the District) on the Authority's financial statements were combined, identified by a different name, and rounded to the nearest $1,000 when incorporated into one account (Interfund Account) in the District's CAFR. However, the total dollar amounts reported by both the Authority and the District were the same.

In addition, because the Authority and the District are different reporting entities, there were appropriately some differences in their presentation and classification of accounts. For example, several account balances (Government Appropriation, Interest Transferred from Escrow Accounts, and Other Income) that the Authority presented as "revenue" were presented as Interfund Transfers-In, an "other financing source" in the District's CAFR. Further, the Sale of Fixed Asset amount was presented as "revenue" by the Authority and as an "other financing sources—proceed" in the District's CAFR.

Reported Internal Control Weakness Concerning the Authority

In the District's auditors' Reports on Internal Controls and Compliance for fiscal years 1996 and 1997, an internal control weakness was identified concerning controls over financial reporting involving the Authority's transactions that relate to the District. The material weakness related to a lack of communication between the District and the Authority when transactions involve funds that are held by the Authority on behalf of the

[12]GASB requires that "combining financial statements for discretely presented component units should be included in the reporting entity's comprehensive annual financial report using the same methodology as combining (and individual fund) statements of the fund types of the primary government."

District.[14] No finding on this issue was reported by the Authority's auditors nor would such a finding be expected since this internal control weakness does not affect the Authority's financial operations.

The District's auditors reported that the District's Office of Finance and Treasury did not have complete records of the District funds that are maintained by the Authority in escrow accounts and could not regularly reconcile its balances for those accounts with the Authority's recorded balances. The auditors also cited the following specific reasons for the above-reported internal control weakness.

- The Authority did not promptly notify or provide the necessary documentation to the District of the specific details regarding financial activity that it incurred on behalf of the District.
- The Authority issued the management reform contracts without promptly notifying the District of the financial activity to allow for the prompt recording of the related transactions.
- The District and the Authority had not developed procedures to promptly notify each other of amounts anticipated or actually received by the Authority on behalf of the District.

The District's auditors recommended that the District and the Authority jointly develop procedures that would result in the Authority providing to the District the kind of monthly financial information needed for the District to perform a comprehensive reconciliation. They further stated that such information should include the monthly balances and the financial activity for each individual escrow account maintained by the Authority on behalf of the District. It was also recommended that the Authority and District develop procedures that provide for dual notification of activities involving donations and contracts administered by the Authority for the District.

The Authority's auditors stated, and we agree, that this material weakness did not affect the Authority's internal controls related to preparation of its financial statements. Authority officials added their view that the problems cited in the District auditors' report resulted from an internal control weakness within the District agencies, and not within the Authority, for the following reasons.

[14]Page 13 of appendix B - Internal Control Over Financial Reporting, in KPMG's Report On Compliance And On Internal Control Over Financial Reporting Based On An Audit Of Financial Statements Performed In Accordance With Government Auditing Standards for the year ended September 30, 1997, dated February 5, 1998.

- The Authority did not originally notify the District of the management reform contracts and their cost since the Authority originally intended to pay for those studies from its available funds. However, the documentation of the contract and costs to date were provided to the District agencies once a decision was made by the Authority to have the agencies reimburse the Authority for these costs.
- The U.S. Department of the Treasury or the District's Office of Treasury is responsible for notifying District agencies of cash receipts held on their behalf by the Authority for the issuance of general obligation bonds or receipt of the District's annual appropriation.
- District agencies should be responsible for recording expenditures when they approve amounts for payment, and prior to their submission to the Authority for payment from escrow accounts.

The reasons cited for the Authority's disagreement with the District's auditors' findings are valid for transactions initiated and approved by the District. However, as described in the earlier "Background" section of this report, when transactions are initiated by the Authority, that data would not necessarily be concurrently available for the District. As a result, implementation of the District auditors' recommendations that the Authority provide monthly information to the District and that the two entities provide dual notification on activities involving Authority-administered contracts and donations is practical and necessary. Effective implementation of these recommendations would improve the District's controls over cash by enabling it to promptly report and reconcile all financial activity.

Use of Interest From Escrow Accounts

Section 106(d) of the 1995 Act[15] authorizes the Authority to expend any amounts derived from interest income on accounts held by the Authority on behalf of the District for such purposes as it considers appropriate to promote the economic stability and management efficiency of the District government. In fiscal years 1997 and 1996, the escrow accounts earned interest of $9.8 million and $5.5 million, respectively. The Authority used $5 million of the interest income during fiscal year 1997, and the escrow accounts contained $10.3 million in accumulated interest as of September 30, 1997 (see table 1).

[15]D.C. Code Ann. section 47-391.6(d) (1998 Supplement).

Table 1: Interest on Escrow Accounts

Description	Amount
Interest income - FY 1996	$5,516,716
Interest income - FY 1997	9,810,517
Total interest income as of 9/30/97	**15,327,233**
Direct payments to consultants	2,075,199
Transferred from the Federal Payment Fund Escrow Account	1,752,390
Payment to D.C. General Fund for D.C. share of medicaid	476,700
Authority expenditures in excess of budget	734,471
Total payments/transfer during fiscal year 1997	**5,038,760**
Balance in escrow accounts as of 9/30/97	**$10,288,473[a]**

[a]Upon the return of the almost $1.8 million to the Federal Payment Fund escrow account in October 1997, the Authority's balance of interest income in the escrow accounts was $12 million.

Source: Information provided by the Authority's auditors.

The Management Reform Act required the Authority to contract with consultants to perform preliminary studies and reviews of District agencies so that recommendations could be made on the nature of the reform required at each agency. Of the $2.1 million paid in fiscal year 1997, the largest portion, about $1.3 million, was used for an ongoing contract to conduct a comprehensive study and make recommendations on the Metropolitan Police Department's organization and operation. The remaining contractor payments of about $800,000 were for various operational reviews of the University of the District of Columbia, Public Schools, and other agencies.

At September 30, 1997, the Authority held almost $1.8 million that had been transferred from interest earned on the Federal Payment Fund escrow account. The Authority initially intended to pay for management reform consulting expenses using the transferred amount. However, before the end of the fiscal year, the Authority decided to have the affected District agencies pay for the consulting expenses. Accordingly, it established an amount due back to the Federal Payment Fund escrow account and authorized the bank to return the almost $1.8 million to the escrow account. Authority officials stated that the amount was returned in October 1997.

The Authority also paid $476,700 to cover the District's share of medicaid payments and used the remaining $734,471 to pay its actual operating expenses in excess of budgeted amounts. This included a $478,000

increase in personnel costs for fiscal year 1997 that resulted from (1) hiring additional employees, (2) giving pay raises totaling $120,000 to 24 employees, and (3) paying $24,500 for lump sum retroactive locality pay adjustments for fiscal years 1995 and 1996.[16]

Taxable Equipment Lease/Purchase Agreement

On September 30, 1997, the Authority borrowed from a bank $300,000 secured by (1) a lien on personal property (furniture and equipment) acquired by the Authority during fiscal years 1996 and 1997 and (2) a pledge of a $300,000 certificate of deposit (CD) purchased from the bank.[17] Under the agreement,[18] title to the property, with a book value of $271,770, and the interest earned on the CD, vests in the bank should the Authority default on the repayment of the loan. In addition, in the event of default, the bank is given the right to the funds on deposit in the CD to satisfy the Authority's obligation. The District can pay off the debt at any time without fines or penalties for early prepayment.

The agreement calls for the Authority to make 12 quarterly repayments of $25,000 totaling $300,000, from January 1, 1998, to October 1, 2000. The Authority is also required to pay $15,487 in interest during the first 4 quarters of the agreement's term to cover the first year's interest. Interest expenses for years 2 and 3 of the agreement will be determined in accordance with the terms of the agreement. It stipulates that the interest rate on the debt accrues at the rate of 50 basis points in excess of the interest earned on the CD pledged as security. The interest rate on the CD is subject to annual adjustments.

Authority officials stated that the purpose of the agreement was to obtain needed financing by recovering the net cost of assets acquired with fiscal year 1997 and 1996 funds and spreading the cost over a 3-year period and to free-up budget capacity (budget authority). After looking at the economic benefit of the transaction and analyzing the Authority's cash on

[16]Our letter, dated June 16, 1998 (B-279995.2), to the Honorable Charles H. Taylor, Chairman, Subcommittee on the District of Columbia of the House Committee on Appropriations, we concluded there was no basis for the Authority to make retroactive payments to the Executive Director and General Counsel.

[17]The agreement also requires the Authority to maintain the certificate of deposit in an amount equal to the outstanding loan balance owed the bank. This requirement was made in order to secure the rate for the loan.

[18]We found that while the agreement is entitled "Taxable Equipment Lease/Purchase Agreement," it is in substance a secured loan because the Authority received $300,000 in cash for the bank's security interest in property owned by the Authority prior to entering into the agreement, and absent default on the payments, there is no provision for ownership and possession of the equipment vesting in the bank.

hand and other account balances as of September 30, 1997, and analyzing the transaction's future impact, we concluded that there was not an economic need for the Authority to enter into this transaction. Although the transaction resulted in an increase in the Authority's fiscal year 1997 surplus,[19] it had an overall negative economic impact by creating a net additional cost of $3,488 over the term of the agreement (interest payments of $27,863 versus interest earned on the pledged certificate of deposit of $24,375). In addition, when the Authority entered into this agreement, it

- pledged $300,000[20] of existing cash to the bank (which placed the cash in a restricted account) in order to receive the same amount of funds, resulting in no increase in available cash,
- had an accumulated surplus of $444,982 at the beginning of fiscal year 1997, already had a $253,000 surplus for fiscal year 1997 from general operations, and had sufficient cash on hand to meet its current liabilities,
- had access to $10.3 million of escrow account interest as of September 30, 1997, which was available for District operations, and
- created the need to repay $303,488[21] over the term of the loan using future appropriations or escrow account interest.

Repaying this debt would (1) save the Authority more than $1,100 in net interest to be paid over the next 2 years, (2) remove restrictions on the outstanding amount of $200,000 currently being held in a certificate of deposit, and (3) eliminate the need for further administration of the agreement.

Follow-Up on Prior GAO Letter

Our May 23, 1997, letter[22] identified seven opportunities to improve the Authority's future financial statements. The Authority implemented all of our prior report's suggestions, except for the inclusion of an MD&A section as part of its audited financial statements (see appendix I).

In our 1997 letter, we suggested to the Authority that, although it is not a current reporting requirement for state and local government entities,

[19]In state and local government accounting, the proceeds of a lease or loan are reflected as Other Financing Sources, which, depending on the circumstances, either increases the surplus or reduces the deficit in the general fund.

[20]Twelve $25,000 quarterly payments over a 3-year period.

[21]The amount to repay is equal to the minimum payments of $300,000 plus the net interest paid $3,488 on the outstanding debt over the interest earned on the pledged certificate of deposit.

[22]GAO/AIMD-97-80R, May 23, 1997.

including a MD&A section could enhance the Authority's financial statements. Authority officials stated that they provide a separate annual report on their progress and accomplishments to the Congress, as required under Section 224 of the 1995 Act, and that audited financial statements under GASB are not required to address the Authority's performance and accomplishments. They suggested that including the same information in its financial statements is unnecessary.

Federal agencies that prepare financial statements under the Chief Financial Officer Act of 1990 (the CFO Act)[23] and publicly held private sector corporations[24] regulated by the Securities and Exchange Commission (SEC) include as part of their financial statements an overview of the reporting entity, which is similar to an MD&A section. In addition, the Federal Accounting Standards Advisory Board[25] (FASAB) and GASB have issued exposure drafts that will expand the use of MD&A. An MD&A section presents information based on the results of an analytical review of relevant financial and performance data of the programs, activities, and funds that make up the reporting entity. An MD&A section would enhance the Authority's financial statements since it is an important vehicle for (1) communicating managers' insights about the reporting entity, (2) increasing the understandability and usefulness of the financial statements, and (3) providing understandable and accessible information about the entity and its operations, successes, challenges, and future.

Conclusions

As of September 30, 1997, the same financial activity for the Authority for fiscal years 1997 and 1996 was reported and presented properly in the Authority's financial statements and the District's CAFR. We agree with the District's auditors that if the District received from the Authority more prompt and detailed information regarding monthly balances and financial activity, improved controls over cash and improved communication between the two entities would result. We continue to believe that our prior suggestion that the Authority include an MD&A section in its audited financial statements is needed and would enhance its financial statements.

[23]Office of Management and Budget (OMB) Bulletins No. 93-02 and 97-01, Form and Content of Agency Financial Statements.

[24]SEC Accounting Standards Release No. 289, Management's Discussion and Analysis of Financial Condition and Results of Operations, dated September 28, 1981.

[25]FASAB recommends accounting standards for the federal government, and OMB, Treasury, and GAO decide whether to adopt the recommended standards. If they are adopted, the standards are published by OMB and GAO.

The Authority has made the required payments on the "Taxable Equipment Lease/Purchase Agreement" through September 30, 1998. At this time, the transaction has 2 years to run and we see no economic benefit for the Authority in continuing with it. The Authority has the ability to pay off the loan by using some of the $10.3 million in interest income from escrow accounts.

Authority's Comments and Our Evaluation

In commenting on a draft of the report, the Authority disagreed with sections in our report concerning

- the lack of communication between the Authority and the District when transactions involve funds that are held by the Authority on behalf of the District,
- the Authority's rights and economic benefits resulting from the agreement called "Taxable Equipment Lease/Purchase Agreement," and
- our suggestions to enhance the Authority's financial statements with an MD&A section.

In addition, the Authority took exception to a previously issued GAO legal opinion that was referred to in a footnote to this report regarding the Authority's compliance with pay rate limits provided in the 1995 Act.

The Authority stated that it disagreed with the District auditors' statement that the Authority did not notify the District in a timely manner of specific details regarding expenditures. The Authority's basis for disagreement is that the District incurs expenditures, and not the Authority. The Authority, however, does incur expenditures not only when it initiates payments made for transactions incurred by the District, but also for transactions it initiates on behalf of the District. As such, the District auditors' noted that for these types of transactions the District did not have complete records of its funds maintained by the Authority in escrow accounts and could not regularly reconcile its balances. The Authority also stated that it is a temporary entity and that it is appropriate to hold the District's Office of the CFO responsible for tracking and reconciling its revenues and expenditures, regardless of where funds may be held. Even though it is temporary in nature, until the Authority no longer exists it has a fiduciary responsibility to provide the necessary documentation in a timely manner to the District CFO to ensure that the District's records are adequately maintained, especially in those cases where it initiates payments on behalf of the District.

The Authority took exception with our statement that the transaction provided in the "Taxable Equipment Lease/Purchase Agreement" between the Authority and a bank is in substance a secured loan. We believe our description of this transaction is accurate for several reasons. First, while the Authority stated that our view of the transaction failed to recognize that the equipment "was sold back to the bank," the Authority also stated that the bank "only has a lien against the equipment." If the Authority sold the equipment to the bank, thereby making the bank the equipment's owner, then the bank would not have needed to have a lien against equipment it owned when it leased the equipment to the Authority. Second, the Authority's statement that the equipment was sold to the bank is inconsistent with the agreement. Section 10 of the agreement states that title to the equipment is deemed to be with the Authority unless the Authority defaults on its obligation under the agreement. Section 21 of the agreement provides that the bank's security interest in the equipment ends and the Authority's title is free and clear of all encumbrances when the Authority satisfies its obligations under the agreement. These and other provisions of the agreement establish that the transaction was a secured loan. While the Authority states that our view of the transaction is contrary to the legal position of both the Authority and the bank's counsel, the Authority did not respond to our requests for the legal analysis of either its or the bank's counsel.

During our review, the Authority staff advised us that the transaction and use of the proceeds was entered into pursuant to section 103(g) of the 1995 Act, authorizing the Executive Director to enter into such contracts as the Executive Director considers appropriate (subject to approval of the chair) to carry out the Authority's responsibilities under the act. The general grant of authority to contract does not authorize an entity to borrow and spend the proceeds. Without explicit authority to borrow—and we are not aware of any such authority in this case—the Authority's borrowing and use of the proceeds was an improper augmentation of its appropriation.

In addition, the Authority stated that the transaction sets an example for the District government because it leveraged scarce operating revenues. However, the Authority had a $253,000 surplus for fiscal year 1997, a $444,982 accumulated surplus carried forward from prior years, and access to more than $10 million of interest earned on escrow accounts. Further, it was not leveraging resources since it had to pledge $300,000 of existing cash, which was placed into a restricted account, in order to receive the same amount. The Authority also stated that our analysis

unfairly focused upon the economic benefit of the transaction. As discussed in our report, the transaction did not generate additional cash and resulted in a net cost to the District with no apparent benefit, financial or nonfinancial. Thus, entering into such a transaction without a sound reason, economic or otherwise, is not a good example for the District government to emulate.

The Authority stated that the inclusion of an MD&A section in the financial statements is unnecessary, time consuming, and redundant. OMB and SEC have already recognized the usefulness of an MD&A section in the financial statements of federal entities and private sector companies, respectively. GASB also recognizes the importance of an MD&A section for state and local government entities as demonstrated in its exposure draft on "Basic Financial Statements—and Management's Discussion and Analysis—for State and Local Government," dated January 31, 1997. Currently, the Authority prepares another report with the same types of information that can be used in an MD&A section. Thus, utilizing information already available would not be time consuming and, as stated in our report, would enhance the understandability and usefulness of the Authority's financial statements.

Finally, the Authority took exception to our legal opinion (B-279095.2) issued on June 16, 1998 relating to its compliance with the rate of basic pay to senior executives. At the time we prepared our opinion, we were aware of the Authority's argument, which was included in attachments to its November 2, 1998 response commenting on a draft of this report, but we concluded that the language of section 102 of the 1995 Act does not permit the Authority's staff to be paid at rates that exceed the pay limitation. In addition, the Congress specifically stipulated in the Authority's fiscal year 1999 appropriation that funds provided to the Authority may not be used to pay "any compensation of the Executive Director or General Counsel of the Authority at a rate in excess of the maximum rate of compensation which may be paid to such individual during fiscal year 1999 under section 102 of [the 1995 Act] as determined by the Comptroller General (as described in GAO legal opinion B-279095.2)."

We have evaluated the Authority's technical suggestions and have incorporated them as appropriate. In addition, the Authority provided attachments to its response regarding it correspondence with congressional committees on the Authority's compliance with rate of basic

pay. We have considered these attachments in our evaluation. However, these attachments are not included in the report.

We are sending copies of this report to the Ranking Minority Member of your Subcommittee and the Chairmen and Ranking Minority Members of the Subcommittee of the District of Columbia, Senate Committee on Appropriations; Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia, Senate Committee on Governmental Affairs; and Subcommittee on the District of Columbia, House Committee on Government Reform and Oversight. We are also sending a copy to the Chairperson, District of Columbia Financial Responsibility and Management Assistance Authority. Copies will be made available to others upon request.

Major contributors to this report are listed in appendix III. If you or your staff have any questions, please contact me at (202) 512-4476 or Hodge Herry, Assistant Director, at (202) 512-9469.

Sincerely yours,

Gloria L. Jarmon

Gloria L. Jarmon
Director, Health, Education, & Human Services
Accounting and Financial Management Issues

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Abbreviations

CAFR	Comprehensive Annual Financial Report
CD	certificate of deposit
CFO	chief financial officer
FASAB	Federal Accounting Standards Advisory Board
GASB	Government Accounting Standards Board
MD&A	Management Discussion and Analysis
OMB	Office of Management and Budget
SEC	Securities and Exchange Commission

Appendix I

Status Of GAO's Prior Year Suggestions

Suggestions	Implemented	Not addressed
Include a Management Discussion and Analysis (MD&A) section to enhance the annual report.		X
Clearly label and describe (1) the Agency Funds' separate statement, (2) what the information represents, and (3) how it relates to the Authority's financial statements, in the notes to the financial statements.	X	
Define the actual, actual (budgetary basis), and budgeted reporting bases used in the FY 1996 Combined Statement of Revenues, Expenditures, and Changes in Fund Balance.	X	
Delete reference to Propriety Fund in Note 2 since none were reported.	X	
Revise Note 2 to refer to the Combined Statement of Revenues, Expenditures, and Changes in Fund Balance and discuss that no encumbrances were reported for fiscal year 1996.	X	
Include more detailed and useful information on the types of reimbursement due from the District in Note 3.	X	
Explain in Note 5 that fixed assets are reported on the Combined Balance Sheet at their net value and depreciation is not reported on the Statement of Revenues, Expenditures, and Changes in Fund Balance in accordance with governmental accounting standards.	X	

Appendix II

Comments From the District of Columbia Financial Responsibility and Management Assistance Authority

Note: GAO comments supplementing those in the report text appear at the end of this appendix.

District of Columbia Financial Responsibility
and Management Assistance Authority
Washington, D.C.

November 2, 1998

Mr. Gene L. Dodaro
United States General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Dodaro:

This is in response to the request of the General Accounting Office ("GAO") for the comments of the District of Columbia Financial Responsibility and Management Assistance Authority ("Authority") regarding the draft report on the financial information of the Authority for Fiscal Years 1996 and 1997.

The Authority has no comment upon the "Comparison of Fiscal Year 1996 and 1997 Audited Financial Statements of the Authority and the District" portion of the draft report.

The "Reported Internal Control Weakness Concerning the Authority" portion of the draft report centers around what the District's independent auditors call the lack of communication between the District and the Authority when transactions involve funds that are held by the Authority on behalf of the District. The Authority agrees with the District's independent auditor's finding that the District has not developed adequate procedures to account for funds and balances held by the Authority. The Authority expressed similar concerns to the Office of the Chief Financial Officer ("OCFO") regarding the need for a reconciliation of funds. The Authority requested that the OCFO develop proper procedures for the accounting of District funds. The draft report states that the "reasons cited for the Authority's disagreement with the District's auditors' findings are valid for transactions initiated and approved by the District." The report states that in transactions initiated by the Authority the information would not necessarily be concurrently available to the District. In February, 1998, the Authority informed GAO of its policy regarding notification of the availability of funds. According to the policy of the Authority, the Authority advises the OCFO of the availability of funds. It is the responsibility of the OCFO to communicate with financial personnel in District agencies. Financial personnel in the agencies are a part of and report directly to the OCFO. Given this policy, the Authority disagreed with the independent auditor's statement that the Authority does not notify the District in a timely basis of specific details regarding expenditures. This statement by the independent auditor is inaccurate because it is not the Authority who is incurring the expenditure.

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It should also be noted that the Authority does not initiate these transactions. The funds that the Authority receives and holds on behalf of the District, results from Congressional appropriations and market borrowings initiated by the District. The disbursements of these funds occurs upon a request by the District to the Authority. With the exception of pulling appropriated funds for the Authority's budget, the Authority does not initiate any of these transactions. The GAO recommendation to provide dual notification to the District government agencies from the Authority and the OCFO would cause confusion. The Authority is a temporary entity and as such, strongly believes the OCFO must have appropriate procedures to track the receipt, encumbrance and disbursement, including notifications to government agencies, of these and all other funding sources. The Authority therefore maintains that it is appropriate and necessary to hold the OCFO primarily responsible for tracking and reconciling its revenues and expenditures, regardless of where funds may be held.

The "Use of Interest From Escrow Accounts" portion of the draft report states that the Management Reform Act ("MRP") "authorized" the Authority to pay contractors for studies and recommendations on the nature of reform. This characterization understates the requirements of the MRP by making the Authority's actions seem discretionary. The Management Reform Act required the Authority to contract with consultants in the nine departments and four city-wide functions within thirty days of enactment, and to develop management reform plans for each department and function within 90 days. The Authority believes that GAO should clarify the MRP requirements.

See comment 1.

The Authority also takes exception to GAO's characterization that it used $734,471 to give pay raises totaling $120,000 to 24 employees and $24,500 to pay lump sum retroactive pay adjustments for Fiscal Years 1995 and 1996. The Authority used interest earnings to support those activities related to the District which were not anticipated in its budgets for Fiscal Year 1997. In fact, the Authority did not use interest earnings at all during Fiscal Year 1996 to offset actual expenditures. It is important to note that as the role and functions of the Authority have increased from inception, the Authority's appropriated budget was never increased to support the additional requirements imposed by the Congress. Therefore, during Fiscal Year 1997, the Authority began allocating those non-budgeted costs, not anticipated by the budget, against interest earnings and also required that the District reimburse the Authority for certain expenditures directly.

See comment 2.

See comment 3.

See comment 4.

Footnote 17 on page 13 of the draft report states that a GAO letter of June 16, 1998, (B-279095.2) found no basis for certain retroactive payments to the Executive Director and General Counsel of the Authority. The Authority does not agree with the GAO conclusions expressed in that letter. On July 17, 1998, the Chairman of the Authority wrote to the Chairman of the Senate Appropriations Subcommittee on the District of Columbia and on July 28, 1998, to the Chairman of the House Appropriations Subcommittee on the District of Columbia enclosing information on the Authority's reply to the GAO opinion. Those letters and the attachment are enclosed.

The Authority also takes exception to GAO's characterization of the Taxable Equipment Lease/Purchase Agreement. GAO wishes to construe this transaction as a

secured loan which is contrary to the legal position of both the Authority and the Bank's counsel. GAO states that the transaction in substance is a secured loan because the Authority owned the property but fails to recognize that the property was sold back to the Bank for $300,000. The GAO implies that the $300,000 certificate of deposit is pledge to the Bank when in fact, it is not. The Bank only has a lien against the equipment, and in the event of a default, would seek recourse against any other assets the Authority may have at the time. Neither the CD nor the interest thereon is pledged to the Bank. The interest earnings revert back to the Authority like other investments that it has. As communicated to the GAO on several occasions, the sole purpose of the CD was to establish the rate of interest for the Authority.

See comment 5.

In its discussion under the "Taxable Equipment Lease/Purchase Agreement" portion of the draft report there is no reference to the Authority's efforts to encourage District agencies to undertake these types of financing arrangements rather than purchasing capital-like equipment with scarce local operating revenues, thereby leveraging its operating budget. The Authority believes that the benefits enumerated by the GAO for its recommendation are weak and designed solely to justify a conclusion reached before its inquiry began. The GAO analysis unfairly focuses upon the economic benefit of the transaction to the Authority, rather than the example it set for the District government.

See comment 6.

The "Follow-up on Prior GAO Letter" section of the draft report notes that the Authority has implemented all of the recommendations, except for the recommendation to include management discussion and analysis ("MD&A") as part of its audited financial statements. The Authority continues to believe that the inclusion of an MD&A, while at the same time fulfilling the requirement to issue an annual report on October 30th of each year, provides an unnecessary and time consuming redundancy. Further, GAO should consider that the Governmental Accounting Standards Board ("GASB") January 31, 1997, Exposure Draft on "Basic Financial Statements—and Management's Discussion and Analysis—for State and Local Governments" is proposed for periods beginning after June 15, 2000. Therefore, the first fiscal year to which this new requirement would apply would be 2001. Under the District's current financial plan Fiscal Year 2001 would be the final Control Year. While the Authority supports the early implementation of the MD&A requirement for the District government, the Authority is not a permanent entity and already provides a more comprehensive statement thirty days after the close of each fiscal year. The Authority believes this is adequate.

See comment 7.

Finally, footnote 5 on page 3 listing the agencies that fall under management reform requires a point of clarification. At the time the Management Reform Act was approved "Human Services" and "Public Health" functions were contained within the Department of Human Services ("DHS"). The current functional alignment has separated DHS into the Department of Human Development and the Department of Health. Additionally, the footnote does not list the four city-wide functions that are part of management reform, personnel, procurement, information technology and asset management.

We hope that these comments will be useful as you finalize this report

Sincerely,

John W. Hill, Jr.
Executive Director

Attachment

The following are GAO's comments on the letter from the Executive Director of the District of Columbia Financial Responsibility and Management Assistance Authority dated November 2, 1998.

GAO Comments

1. We revised the report as appropriate.

2. Our report did not state that the Authority used $734,471 to give pay raises and lump sum retroactive pay adjustments. Our report properly states that these payments were part of the Authority's expenditures in excess of budgeted amounts.

3. Our report did not state that the use of interest earnings took place in fiscal year 1996. Our report properly states that the Authority was authorized to use interest income on all escrow accounts with the passage of the Management Reform Act and retroactively applied the interest earnings to its excess expenditures during fiscal year 1997.

4. The Authority stated that its role and function have increased from its inception without an increase to the Authority's appropriated budget. While it is true that the Authority's responsibilities have increased, the Congress also provided the Authority with additional sources of financing that could be used for the increased responsibility. In fiscal year 1997, the Congress, in the Management Reform Act, provided the Authority with access to the interest earned on all escrow accounts held on behalf of the District.

5. The Authority's statements that neither the CD nor the interest is pledged to the bank is inconsistent with provisions of the "Taxable Equipment Lease/Purchase Agreement" and related documents. Section 10 of the agreement states that the Authority's obligation under the agreement shall be secured by a Deposit Pledge Agreement under which the Authority will pledge to the bank a CD representing $300,000 on deposit with the bank. Section 2.1 of the Deposit Pledge Agreement provides that the Authority pledge a continuing lien and security interest in the (a) CD, (b) all money and funds on deposit pursuant to, or represented by, the CD, and (c) all rights for payment of the CD and all interest payable by reason of the CD. Finally, section 4.1 of the Deposit Pledge Agreement provides that the Authority's failure to pay the amount owed to the bank entitles the bank to the CD, related cash, and unpaid interest to satisfy the Authority's obligation to the bank.

6. The draft report provided to the Authority for formal comment on October 21, 1998, did not include any recommendations.

7. We revised the report to reflect the District's current functional realignment.

Appendix III

Major Contributors to This Report

Accounting and Information Management Division, Washington, D.C.	Hodge Herry, Assistant Director Steven Haughton, Audit Manager Godwin Nwosu, Auditor-In-Charge Maria Zacharias, Communications Analyst
Office of General Counsel	Richard Cambosos, Senior Attorney

CONTROL BOARD WITHHOLDING OF
DOCUMENTS NEEDED FOR BANK RECONCILIATION

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DISTRICT OF COLUMBIA GOVERNMENT

REPORT ON COMPLIANCE AND ON INTERNAL CONTROL OVER FINANCIAL REPORTING BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS*

SEPTEMBER 30, 1997

KPMG Peat Marwick LLP

2001 M Street, N.W.
Washington, DC 20036

REPORT ON COMPLIANCE AND ON INTERNAL CONTROL OVER FINANCIAL REPORTING BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS*

District of Columbia Financial Responsibility
and Management Assistance Authority:

The Inspector General of the District of Columbia:

Mayor and Council of the District of Columbia:

We have audited the general purpose financial statements of the District of Columbia (the District) as of and for the year ended September 30, 1997, and have issued our unqualified report thereon dated February 5, 1998. Our report refers to a change in accounting principle in the Water and Sewer Authority component unit and the adoption of certain new standards of the Government Accounting Standards Board. We conducted our audit in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. The financial statements of the District of Columbia Financial Responsibility and Management Assistance Authority (the Authority), the District of Columbia Retirement Board (Retirement Board), and the District of Columbia Housing Finance Agency (Housing Finance) were audited separately. Accordingly, this report does not extend to the Authority, the Retirement Board, or Housing Finance.

This report contains three appendices, each of which is further described in the following paragraphs, which present detailed information as follows:

- Appendix A - material weaknesses in internal control over financial reporting which are also instances of material noncompliance
- Appendix B - other material weaknesses in internal control over financial reporting
- Appendix C - other instances of material noncompliance

Compliance

As part of obtaining reasonable assurance about whether the District's general purpose financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grants, noncompliance with which could have a direct and material effect on the determination of general purpose financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed the following instances of material noncompliance that are required to be reported under *Government Auditing Standards* and which are also considered material weaknesses in the District's internal control over financial reporting, which are described in detail in Appendix A:

- the District of Columbia Procurement Practices Act of 1985
- the Anti-Deficiency and Home Rule Acts
- the Quick Payment Provision of the District of Columbia Code
- the Depository Act of 1977

The results of our tests disclosed the following additional instances of material noncompliance that are required to be reported under *Government Auditing Standards* which are described in detail in Appendix C:

- Lawsuits and Court Orders
- Federal Grant Requirements
- the District of Columbia Financial Responsibility and Management Assistance Authority Act

We also noted certain immaterial instances of non-compliance that we will report to management of the District of Columbia in a separate letter.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the District's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on internal control. Accordingly, we do not express such an opinion. However, we noted certain matters involving the internal control over financial reporting and its operation that we consider to be reportable conditions. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control over financial reporting that, in our judgment, could adversely affect the District's ability to record, process, summarize and report financial data consistent with the assertions of management in the financial statements. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Our consideration of internal control over financial reporting would not necessarily disclose all matters in internal control that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses. Reportable conditions that we considered to be material weaknesses which are related to material noncompliance are described in detail in Appendix A. Other reportable conditions considered material weaknesses are described in detail in Appendix B:

- Electronic data processing
- Business tax information system processing
- Monitoring of Department of Housing and Community Development loan activity
- DC Lottery and Charitable Games Control Board financial management
- Bank reconciliation controls
- Control over transactions involving the Authority
- Lack of timely entry of transactions into FMS
- Other reconciliation and management items
  - on-going analysis and management of Medicaid costs
  - reconciliations of Retirement Board Trust Funds
  - maintenance of payroll data
  - disability compensation supporting records
  - financial management at WASA
  - reconciliations of accounts at the Unemployment Compensation Trust Fund

We also noted other matters involving the internal control over financial reporting that we will report to management of the District in a separate letter.

The items described in certain of the above areas, as well as other matters that have been reported to the District that are not considered material weaknesses or reportable conditions, indicate possible instances of fraudulent financial reporting or fraudulent misappropriation of assets. We have communicated these items to District management as required under generally accepted auditing standards and *Government Auditing Standards*.

This report presents information on events and circumstances that existed or occurred during fiscal year 1997. This report does not address events and circumstances subsequent to September 30, 1997.

The District is also subject to audits, examinations, and operational assessments/reviews by numerous other entities such as the General Accounting Office, the District of Columbia Inspector General, the District of Columbia Auditor, and management reform consultants engaged by the Authority or others. Reports issued by these entities have included items that could be considered material noncompliance or reportable conditions in internal control over financial reporting or have indicated that fraudulent financial reporting or fraudulent misappropriation of assets may have occurred. We have not repeated those items herein.

This report is intended for the information of the Authority, the Inspector General of the District, the Mayor and Council of the District, the United States Congress, and federal regulatory agencies. However, this report is a matter of public record and its distribution is not limited.

February 5, 1998

KPMG Peat Marwick LLP

While we noted that reconciling items which need research are identified and forwarded to appropriate personnel by the Cash Reconciliation Unit, the resolution of these items is not documented and posted to FMS timely. Agency personnel believe that Treasury is responsible for posting the journal entry, while Treasury is waiting for agency personnel to confirm that a journal entry is appropriate. Treasury also indicated that there are significant delays in responding to requests for additional information from the District's banks. As a result, correcting entries often take up to one year. As the information becomes stale, the ability to research the item diminishes. To properly close the books at September 30, 1997, the District had to record adjusting entries aggregating over $450 million, most being entries to record transactions among the various cash and investment accounts, to adjust FMS to the correct reconciled balances. As of the final close, the District did not record approximately $20 million of reconciling items identified in the bank reconciliations because research was not complete.

We recommend the District review its procedures for reconciling bank statements to ensure that all agencies which prepare cash entries clearly understand their responsibilities to assist in clearing reconciling items. The policy should dictate the maximum amount of time allowed to clear a reconciled item and post an adjustment. A listing should be prepared of all unreconciled items past the due date and the party responsible for clearing the item. This listing should be forwarded to the Chief Financial Officer for appropriate action. If implemented, revised policies will help ensure that reconciling items will be resolved timely.

Controls Over Transactions Involving the Authority

The District of Columbia Financial Responsibility and Management Assistance Authority (the Authority) receives and holds the Federal payment and the proceeds of borrowings for the District. These amounts are maintained by the Authority until the District reports to the Authority that such funds are needed for operations. Upon such a request, the Authority remits the requested funds. The Authority also holds other funds on behalf of the District to facilitate the administration of District contracts. In these cases, the District advances the entire contract amount which the Authority holds and disburses as the contract is performed. To satisfy donors requests, the Authority also holds donations to the District. Finally, the Authority at times incurs expenditures for which it expects the District to provide reimbursement.

The District has not developed adequate procedures to account for funds held by the Authority and does not effectively reconcile the amounts which are recorded. Specifically those weaknesses are:

- While the Office of Finance and Treasury keeps an ongoing record of certain funds it believes are held by the Authority, the record does not encompass all funds held by the Authority for the benefit of the District, and the District does not regularly reconcile this record to the amount held by the Authority. Attempts at such reconciliations have been incomplete as the Authority has not provided necessary documentation. In many respects, the Authority acts as the District's bank. The basic bank account control is reconciliation of the amount held by the bank to the amount recorded on the District's financial records. This reconciliation typically involves comparing the activity recorded by the bank to the activity recorded by the District. Differences are then investigated and resolved. The District has not performed this reconciliation as the Authority has not provided either the balance currently held or the activity within those funds, both integral components of an effective reconciliation. For fiscal year 1997, the District obtained limited information (i.e. draft Authority financial statements) from the Authority to begin the reconciliation process on January 22, 1998 and final Authority financial statements on January 30, 1998.

- The District does not track the separate sources of funds held by the Authority and generally does not specify the source from which requests for operating funds should be withdrawn. For example, when the District requests $20 million from the Authority, the District does not specify whether the amount should be withdrawn from the Federal payment or borrowings. The District inappropriately relies on the Authority to make that determination.
- The District does not actively monitor contracts for which it has budget authority that the Authority manages on its behalf. At inception of certain contracts, the District advances funds to the Authority and records the entire contract amount as an expenditure. The District does no further monitoring of contract progress. As a result, the District does not know and cannot properly account for the contract amounts held by the Authority. This approach could possibly be used by the District as a means of circumventing its budget policy which requires that all unexpended amounts are canceled at year end. Additionally, management reform contracts were issued by the Authority without the District recording the related transaction. These were the cause of several out-of-balance conditions at September 30, 1997.
- The Authority does not notify the District on a timely basis of the specific details regarding expenditures which it incurs in expectation of the District's reimbursement. For example, the Water and Sewer Authority did not record (presumably because they had not received supporting documentation) its $1 million federal appropriation, the $735 thousand spent for services, or the $20 thousand of interest earned while the appropriated funds were being held by the Authority.
- The District and the Authority have not developed procedures to provide notification to each other of amounts anticipated or actually received by the Authority on behalf of the District. For example, the District was unable to obtain information from the Authority regarding the exact amount of donations which it received for the benefit of Public Schools until late January 1998. Additionally, University of the District of Columbia records indicated that the Authority should have received $12.0 million on its behalf from the sale of the University's radio station, while the Authority's financial statements indicate they hold only $11.975 million.

We recommend the District and the Authority jointly develop procedures that result in the Authority providing monthly information to the District that is typical of a banking entity. Such information should include the balance and activity for each individual account it holds on behalf of the District. The information should be used by the District to perform a monthly reconciliation of the amount recorded in the District's records to the amount reported by the Authority. This reconciliation should be performed separately for each funding source. As an integral part of performing such a reconciliation, the District must develop procedures to determine and specify, to the Authority, the budgetary source from which funding requests should be withdrawn.

The District and the Authority should also develop procedures which provide for the dual notification of both the District and the Authority on activities involving donations and contracts administered by the Authority for the District. Implementation of these procedures should allow for the timely resolution of transactions between the entities and assist the District's budgetary and cash flow management.

Lack of Timely Entry of Transactions into FMS

A key foundation for successful financial and operational stewardship of an organization is an effective management information system which provides accurate, reliable and timely data in a format which allows management to make informed business decisions throughout the year. Inherent in such a system is not only effective and efficient hardware and software systems, but also the existence of a knowledgeable, trained professional staff to manage the input, reconciliation and

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