

# DISTRICT OF COLUMBIA APPROPRIATIONS FOR FISCAL YEAR 2006

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## HEARINGS

BEFORE A

### SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS UNITED STATES SENATE ONE HUNDRED NINTH CONGRESS

FIRST SESSION

ON

### **H.R. 3058/S. 1446\***

MAKING APPROPRIATIONS FOR THE DEPARTMENTS OF TRANSPORTATION, TREASURY, AND HOUSING AND URBAN DEVELOPMENT, THE JUDICIARY, DISTRICT OF COLUMBIA, AND INDEPENDENT AGENCIES FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2006, AND FOR OTHER PURPOSES

[\* Appropriations in the jurisdiction of the Senate District of Columbia Subcommittee were funded by the House in H.R. 3058 and added by the Senate as division B.]

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#### **District of Columbia**

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## **DISTRICT OF COLUMBIA APPROPRIATIONS FOR FISCAL YEAR 2006**

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**WEDNESDAY, APRIL 20, 2005**

U.S. SENATE,  
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,  
*Washington, DC.*

The subcommittee met at 10:35 a.m., in room SD-138, Dirksen Senate Office Building, Hon. Sam Brownback (chairman) presiding.  
Present: Senators Brownback and DeWine.

### **DISTRICT OF COLUMBIA**

#### **COURTS**

#### **STATEMENT OF HON. ANNICE M. WAGNER, CHIEF JUDGE, DISTRICT OF COLUMBIA COURT OF APPEALS, AND CHAIR, JOINT COM- MITTEE ON JUDICIAL ADMINISTRATION**

##### **OPENING STATEMENT OF SENATOR SAM BROWNBACK**

Senator BROWNBACK. The hearing will come to order. Thank you all for joining us this morning. Sorry for running just a little bit late. I wish we were holding the hearing outside. Such a beautiful D.C. day. And in the spring and the flowering trees and everything, it looks just gorgeous.

I'm delighted to convene this hearing. It's my first as the chairman of the D.C. Appropriations subcommittee. I've previously served as the authorizing subcommittee chairman, but not the appropriations subcommittee chairman. And so, I'm delighted to be on this side, and pleased, also, to be joined by the immediate past-chairman of the D.C. Appropriations subcommittee, who did a great job with this subcommittee. And I look forward to carrying on his legacy and seeking his wisdom and counsel on how to do it, particularly on some issues with the Family Court. I was just over at the courts yesterday, and saw a little bit of the hallways there and some of the items done. I think we have made some nice progress there.

The hearing today will be on the fiscal year 2006 budget request for the District of Columbia Courts, the Court Services and Offender Supervision Agency, and the Public Defender Service.

Since the enactment of the National Capital Revitalization and Self-Government Improvement Act of 1997, the Federal Government has provided the sole source of funding for these three agencies.

The President has requested \$221.7 million for the courts in fiscal year 2006. This is \$30.9 million more than the fiscal year 2005

enacted levels. I understand that the lion's share of this increase will be used to restore the now-vacant Old Courthouse so that it can house the Court of Appeals, which, in turn, will free up more space in the Moultrie Courthouse for the safe family/friendly Family Court. In addition, it will provide much-needed courthouse space. The renovation of the Old Courthouse will also be an important historical preservation achievement. This building is the fourth oldest in the District of Columbia and has great historic significance. It's where President Lincoln was first inaugurated—or, excuse me, where his first Inaugural Ball was held and where his assassination conspirators were tried and convicted. It's where Frederick Douglass had his offices, and where Daniel Webster practiced law.

I'm also interested in hearing the progress that the courts are making in implementing the D.C. Family Court Act of 2001. The goals of this legislation are "one family, one judge," exclusive jurisdiction of the Family Court, better training for judges and all staff, increased accountability of attorneys, judges, and staff, better technology to track cases, attorney dispute resolution, and better facilities to provide a safe and family friendly environment. I believe that the full implementation of this law is the most critical priority facing the D.C. Courts.

The Director of the Court Services and Offender Supervision Agency (CSOSA) will also present this agency's fiscal year 2006 budget request. CSOSA is responsible for supervising adults who are on pretrial release, probation, and/or parole, supervision in the District. The President's fiscal year 2006 budget request is \$203.4 million for CSOSA, an increase of \$23 million over the fiscal year 2005 enacted level.

I'd like to hear how these additional resources will be used to further the agency's mission and goals. This subcommittee has appropriated funds specifically to enable CSOSA to reduce its caseload ratio for sex offenders, for domestic violence offenders, and for offenders with mental health problems. I'd like to hear whether these caseloads are continuing to decline.

Also, this subcommittee has provided resources to allow CSOSA to purchase GPS anklet monitoring equipment to ensure that parolees are not venturing to places like schools and libraries, where they are prohibited. I'd like to know if the agency will be able to expand the use of this important monitoring technique, and if I can use it on my own children.

Finally—Mike, you probably figured that out years ago, haven't you, on how to follow your own children?

Finally, we'll hear from the Director of the Public Defender Service (PDS) for the District of Columbia, who will also present her agency's fiscal year 2006 budget request. PDS provides legal representation to indigent adults and children facing criminal charges in the District. PDS also provides legal representation for people in the mental health system, as well as to children in the delinquency system, including those who have special education needs due to learning disabilities. The President's budget request for PDS is \$29.8 million, the same as the fiscal year 2005 enacted level.

I want to thank you all for appearing here today. I've had a chance to meet several of you previously, and I've enjoyed those en-

counters. I'm in an input mode. I need information, and I look forward to that.

The prepared statement of Senator Landrieu, the ranking member, will appear in the record at this point.

[The statement follows:]

PREPARED STATEMENT OF SENATOR MARY L. LANDRIEU

Good morning. I would like to welcome our new chairman, Senator Sam Brownback of Kansas today to his first hearing of the District of Columbia Appropriations Subcommittee. We are very fortunate to have Chairman Brownback joining the District's appropriations oversight committee as he had a hand in the shape and focus of this bill as the previous chairman of the authorizing subcommittee.

Under Chairman Brownback's leadership in 1997 the D.C. Revitalization Act eliminated the \$600 million Federal payment appropriated by Congress to the District. The Act transferred several functions of the D.C. government to full Federal responsibility, areas traditionally carried out at the state level: criminal justice and District employee pensions. I hope Chairman Brownback and I can focus this year on the effect of the Revitalization Act and we can do more to find the appropriate balance between the Federal government and the District.

The District's criminal justice activities are under the direct oversight of this subcommittee and are comprised of the main entities here today: the D.C. Courts, the Court Services and Offender Supervision Agency (CSOSA) and the Public Defender Service. These agencies encompass the representation, adjudication, and supervision of offenders in the District. The final component of criminal justice, corrections, was successfully terminated by the closure of Lorton prison and the D.C. Correction's Trustee transition of all adult felons to the Federal Bureau of Prisons in December 2001. Corrections of D.C. adult felons are now the sole responsibility of the Federal system; some 6,400 D.C. inmates housed in the Bureau of Prisons are scattered in 77 prisons nationwide. Though we do not fund the corrections of D.C. adult felons, we do fund the challenges of re-entry and the impact of transition on the District community—particularly, the ability of offenders to maintain close ties with children and families.

The CSOSA is the primary entity responsible for successful re-entry, as well as pre-trial and pre-sentencing supervision. I welcome Director Paul Quander back to the committee, thank you for your leadership and we look forward to your testimony. In fiscal year 2006 CSOSA requests an increase of \$24.8 million (14 percent) from fiscal year 2005 and increases staff by 77 for a total of 1,467 positions (a 6 percent increase in staffing). The main increase (\$14.6 million) is to staff the new Re-Entry and Sanctions Center which will provide a 30 day intensive re-entry program for the highest risk offenders. The President recommends minor increases over fiscal year 2005 for the two other primary functions, Pre-Trial and Public Defender Service, to continue their critical services. I look forward to hearing from their directors, Susan Schaffer and Avis Buchanan, to explore the request further and discuss creative areas of supporting your functions.

The other Federal component under this subcommittee's jurisdiction, the D.C. Courts, is responsible for the administration of justice of District residents accused of D.C. Code violations. I am glad to welcome back Chief Judge Annice Wagner and Chief Judge Rufus King. Congratulations are in order for Chief Judge Wagner, as I understand you are retiring soon. You have made a tremendous contribution, not only to the District, but to improving the administration of the Courts and their transition to Federal oversight.

The Courts are requesting \$342.7 million for fiscal year 2006 operations of the court system and capital improvements. This is \$151.9 million more than the enacted level in fiscal year 2005, which is a 79 percent increase. Of this increase, the majority is for the capital improvement plan for Judiciary Square, which entails major renovation of the five main buildings on the square. The President's request for fiscal year 2006 for the entire Court's is \$221.7 million, which is an increase of \$30.9 million from fiscal year 2005. We have much work to determine the needs of the Courts and how to meet them in a stretched Federal budget year.

The Court's capital improvements request totals \$192.8 million which is an increase of \$136.7 million over the fiscal year 2005 enacted level of \$56 million. The Court's continue to budget for major construction and renovation by paying the entire cost up front. Though this is the preferred method of GSA, the Committee strongly encouraged the Court's to negotiate a phased funding approach and which lead to our approach of funding only the fiscal year 2005 needs last year. The President's request for capital is \$83.5 million and continues the concept that major con-

struction can be phased. The Court's proposed approach, a 243 percent increase from last year, is honestly un-affordable for the Federal government.

The fiscal year 2005 conference report provided \$56 million for Capital Improvements and directed the Courts to negotiate a phased payment plan with GSA. If, as the Court's staff provided, \$31.7 million was provided for the Old Courthouse project, then \$24 million was remaining. Why, within that \$24 million could the \$6 million needed to keep the Family Court design on track not allocated?

I understand the funding was tight, but it is sufficient for both projects. Money for design of the family court to the garage because the designs would have gone "stale" since they wouldn't be able to implement them until much later than they anticipated because we didn't provide the full funding. We should explore the issue of priorities in this hearing and I look forward to your views. However, let me be clear, creation of the Family Court has been the highest priority of this subcommittee; I know the Court's have not missed that point so I hope you pay the requisite attention to the facility.

The President's recommendation for the D.C. Federal entities includes healthy increase and signals support for these important functions. This is not the case elsewhere in the Federal budget for programs which affect the entire nation. Chairman Brownback, I am pleased to be here to begin my fourth year as the ranking member of the D.C. Appropriations Subcommittee. I look forward to the testimony of our federal entities and to working with you in the coming year.

Senator BROWNBACk. Senator DeWine, thoughts?

#### STATEMENT OF SENATOR MIKE DEWINE

Senator DEWINE. Well, Mr. Chairman, let me just, first, congratulate you on becoming chairman of this subcommittee. I know that you will do a great job. I had the opportunity to serve, as you've indicated, as chairman of the subcommittee, with Senator Landrieu. I enjoyed working with her. I enjoyed working with our panelists. And it was my great pleasure to serve as chairman of the subcommittee.

I know that you will do a great job, and I know you share my passion for children. Senator Landrieu and I had many focuses during the time that we passed the gavel back and forth, but probably our main focus was on children. And I know, from my experience with you and my discussions with you over the years, that you share that same passion. So, I look forward to working with you as we continue to work on issues such as the Family Court, foster care, adoption, and the other issues that are so very, very important for the District of Columbia.

So, I welcome you and just look forward to working with you on the subcommittee, and I'm glad I'm still on the subcommittee. And we have a lot of work to do.

Senator BROWNBACk. Thank you, Senator DeWine, and I look forward to your input and thoughts on how we move forward.

Presentations will be in the following order: the Honorable Annice Wagner, the Chief Judge, District of Columbia Court of Appeals, and Chair of the Joint Committee on Judicial Administration; then the Honorable Rufus King, III, Chief Judge, District of Columbia Superior Court; the Honorable Paul Quander, Jr., Director, Court Services and Offender Supervision Agency; and Ms. Avis Buchanan, Director of the District's Public Defender Service.

Our timer clock is not working. If you can be in the 5- to 7-minute ballpark, we will take your complete statements into the record, and that'll give us, I think, the best opportunity to also have some interaction.

So, Judge Wagner, thank you for joining us. Good to see you again. Welcome.



Judge WAGNER. Good morning. Mr. Chairman, Senator DeWine, Senator Landrieu, and subcommittee members, thank you for this opportunity to discuss the fiscal year 2006 budget request for the District of Columbia Courts.

As you know, I am appearing today in my capacity as Chair of the Joint Committee on Judicial Administration in the District of Columbia, which is the policymaking body for the District of Columbia Courts. I am also serving as Chief Judge of the District of Columbia Court of Appeals.

My remarks this morning will summarize the request for the courts and highlight the courts' most critical priority, which is our capital budget. With me this morning is Chief Judge Rufus King, also Ms. Anne Wicks, our Executive Officer for the courts and Secretary to the Joint Committee, and we are all prepared to answer questions you may wish to pose concerning the courts' budget request.

Unquestionably, we live in a changing environment, facing new challenges in our Nation and in our Nation's Capital and in our court system. Whatever challenges we face, the fair and effective administration of justice remains critical to our way of life in America.

The District of Columbia Courts are committed to meeting these new challenges and the changing needs of a 21st century society. The District of Columbia Courts serve approximately 10,000 courthouse visitors each day, process more than 200,000 cases each year, and employ a staff of 1,200 who directly serve the public, process cases, and provide administrative support. The District of Columbia Courts are among the busiest and most productive court systems in the United States.

In accordance with our strategic plan, we are undergoing significant changes to accommodate and apply new technologies and to ensure that the courts of this jurisdiction have a sound infrastructure. Notably, improved facilities are identified as a high priority among all constituency groups surveyed by the courts as the strategic plan was developed. Therefore, although we have requested funds for several important operating initiatives, the critical focus of our fiscal year 2006 budget request is our infrastructure; that is, all court buildings, information technology systems, and security essential for the protection of all who use and work in the courthouses. Only by investing in these areas will the courts be in a position to ensure that our facilities are in a safe and healthy condition, reasonably up to date, and that the type of security necessary to protect our citizens and our institutions is in place.

The courts are responsible for four buildings in the historic Judiciary Square, and expect to have a fifth building returned to the courts' inventory this year. One of the original historic green spaces identified by Pierre L'Enfant's plan for the capital of a new nation, Judiciary Square is the subject of an urban renewal plan that the courts have developed in response to requirements of the National Capital Planning Commission.

The courts have conducted extensive planning efforts; first, to evaluate and to address the physical condition of our facilities, and, second, to document and to address the courts' severe space shortage for court operations. The restoration of the Old Courthouse for

use by the District of Columbia Court of Appeals is pivotal to meeting the space needs of the court system. An architectural jewel and the centerpiece of Judiciary Square, the Old Courthouse is one of the oldest public buildings in the District of Columbia, and you've already outlined some of its rich history.

A picture of that Old Courthouse is right in front of me this morning.

The architectural and historical significance of the Old Courthouse led to its listing on the National Register of Historic Places and its designation as an official project of Save America's Treasures. Investment in the Old Courthouse, however, is a practical solution to a space problem. It will enable the Court of Appeals to vacate 37,000 square feet of critically needed space in the Moultrie Courthouse, which was designed to meet the unique needs of a busy urban trial court, and it will free this space for Superior Court and for Family Court operations. Restoration of the Old Courthouse is the courts' highest priority in the fiscal year 2006 budget. We are pleased that Congress appropriated funds to finance the first phase of construction in fiscal year 2005, and expressed its commitment to fund the balance in fiscal year 2006. We are also pleased that the President has once again supported full funding for the Old Courthouse in his budget recommendation for fiscal year 2006.

The President has recommended at least partial funding for most of the courts' priorities in the capital budget request, and we do appreciate that support. The courts' buildings range in age from 25 to 200 years old, and pose significant maintenance and modernization challenges. Deferred maintenance necessitated by many years of limited capital funding has led, of course, and expectedly, to increased costs for many projects. However, we have carefully examined the President's capital budget recommendation, and, although it is less than the courts' original request, we have found a way to reschedule project phases in order to continue, without interruption, the most important projects within the President's recommended funding level.

Mr. Chairman and members of the subcommittee, the District of Columbia Courts have long enjoyed a national reputation for excellence. We are proud of the courts' record for administering justice in a fair, accessible, and cost-efficient manner. Adequate funding for the courts' fiscal year 2006 priorities is critical to our success both in the next year and as we implement plans to continue to provide high-quality service to the community in the future. We appreciate the President's level of support for the courts' funding needs and the support that we have received from this body.

#### PREPARED STATEMENT

We look forward to working with you throughout the appropriations process, and we thank you for this opportunity to discuss the fiscal year 2006 budget request of the courts.

[The statement follows:]

#### PREPARED STATEMENT OF ANNICE M. WAGNER

Mister Chairman, Senator Landrieu, Subcommittee members, thank you for this opportunity to discuss the fiscal year 2006 budget request of the District of Colum-

bia Courts. I am Annice Wagner, and I am appearing in my capacity as the Chair of the Joint Committee on Judicial Administration in the District of Columbia. I also serve as Chief Judge of the District of Columbia Court of Appeals.

As you know, the Joint Committee is the policy-making body for the District of Columbia Courts. By statute, its responsibilities include, among others, facilities, general personnel policies, accounts and auditing, procurement and disbursement, management of information systems and reports, and submission of the Courts' annual budget request to the President and Congress. This jurisdiction has a two-tier system comprised of the D.C. Court of Appeals, our court of last resort, and the Superior Court of the District of Columbia, a trial court of general jurisdiction, which includes our Family Court. Administrative support functions for our Courts are provided by what has come to be known as the Court System.

My remarks this morning will summarize the request and highlight our most critical priority, our capital budget. With me this morning are Chief Judge Rufus King, III, Chief Judge of the Superior Court, Ms. Anne Wicks, the Executive Officer for the Courts and Secretary to the Joint Committee, and Mr. Joseph Sanchez, our Administrative Officer. We are prepared to answer questions you may wish to pose concerning the budget request for the Courts.

#### INTRODUCTION

We live in a changing environment, facing new challenges to our nation, our Nation's Capital, and our court system. Whatever challenges we face, the fair and effective administration of justice remains crucial to our way of life. The District of Columbia Courts are committed to responding to the changing needs of our society and meeting these new challenges. We have been steadfast in our mission, which is to protect rights and liberties, uphold and interpret the law, and resolve disputes peacefully, fairly and effectively in the Nation's Capital. Through our Strategic Plan, finalized in fiscal year 2003 and now in the implementation phase, the Courts strive to enhance the administration of justice; broaden access to justice and service to the public; promote competence, professionalism, and civility; improve court facilities and technology; and build trust and confidence. We appreciate the support that this Subcommittee has given us that makes possible the achievement of these goals for our community.

The Courts are committed to fiscal prudence and sound financial management. We are undergoing significant changes to meet the challenges of new technologies and are working to ensure that the courts of this jurisdiction have a sound infrastructure. Although we have requested funds for several important operating initiatives, the critical focus of our fiscal year 2006 budget request is our infrastructure.

To support the Courts' mission and goals in fiscal year 2006, the Courts are requesting \$342,734,000 for Court operations and capital improvements. Of this amount, \$10,270,000 is requested for the Court of Appeals; \$89,088,000 is requested for the Superior Court; \$50,502,000 is requested for the Court System; and \$192,874,000 is requested for capital improvements for courthouse facilities. In addition, the Courts request \$54,000,000 for the Defender Services account.

The demands on the D.C. Courts require additional resources in fiscal year 2006. To build on past accomplishments and to support essential services to the public in the Nation's Capital, investment in infrastructure, and security are essential priorities. Only by investing in these areas will the Courts be in a position to ensure that our facilities are in a safe and healthy condition and reasonably up-to-date and that the type of security necessary to protect our citizens and our institution is in place. Focus on these capital areas is particularly critical now to meet these needs and to ensure that the quality of justice is not compromised.

#### RECENT ACHIEVEMENTS

As the Courts approach the eighth year of direct federal funding in fiscal year 2006, we are continuing to build on past reforms that have enhanced our services to the community and demonstrated our commitment to fiscal responsibility. We are particularly proud of the Courts' progress with a number of recent achievements that include the following:

- Commencement of construction on the Restoration of the Old Courthouse, a building of historic and architectural significance that is critical to meeting the long term space needs of the Courts by freeing space in the Moultrie Building for the final phase of the implementation of the Family Court, following approval of design plans by the National Capital Planning Commission, Commission of Fine Arts and Historic Preservation Board;
- Revision, as requested by the National Capital Planning Commission, of a draft Master Plan for Judiciary Square, an urban design and renewal plan for revital-

- ization of this historic area that dates to the original L'Enfant Plan for the Nation's Capital;
- Further implementation of the Family Court Act, including: opening the new Family Court space on the JM level in fiscal year 2004, which consolidates the public face of the Family Court and houses the new Central Intake Center to provide one-stop services to Family Court customers; implementation of the one family-one judge principle; creation of attorney panels for neglect and juvenile cases and development of attorney practice standards; establishment of a Family Treatment Court; piloting a Self-Help Center with assistance from the bar; hiring nine additional magistrate judges; investing three new Family Court Judges; opening the Mayor's Services Liaison Center in the courthouse; and transferring all required children's cases to Family Court judges;
- Implementation of a five-year strategic plan, "Committed to Justice in the Nation's Capital," as Court divisions prepared Management Action Plans to align their activities and objectives with the Strategic Plan, the product of nine months of extensive input from stakeholders, detailed analysis of community trends, and significant work by the Strategic Planning Leadership Council;
- Implementation of the Courts' new case management system, IJIS (Integrated Justice Information System) in Family Court, Wave 1 in August 2003, Wave 2 in December 2003, and in the new Intake Center in August 2004; in the Probate Division in May 2004; and in the Small Claims and Landlord and Tenant Branches of the Civil Division in December 2004 and February 2005, respectively;
- Launching of the Courts' website, designed to enhance public access by providing information on operations and procedures, answers to frequently asked questions, and documents that can be printed out and filed with the court;
- Continuing sound fiscal management, including an "unqualified" opinion for the fourth year in a row on the Courts' annual independent financial audit conducted in accordance with OMB Circular No. A-133 (Audits of States, Local Governments, and Non-Profit Organizations);
- Implementation by the Court of Appeals of a comprehensive revision of its rules of practice, the first such revision since the mid-1980's;
- Implementation of the Landlord Tenant Resource Center to provide free legal information to unrepresented landlords and tenants with residential housing disputes and to provide assistance with referrals to legal and social service providers;
- Promulgation of draft Probate attorney practice standards, creation of the Probate Review Task Force, and greater oversight of Probate attorneys and fiduciaries to enhance service to incapacitated adults and other parties in Probate cases;
- Reengineering of the Appeals Coordinator's Office to facilitate appellate case filings by providing one-stop services in a central point of filing for all appellate cases, regardless of the division in which the Superior Court proceeding took place; and
- Renovation of specialized and more efficient space for the Landlord Tenant and Small Claims courts, juvenile probation (the Social Services Division), and the Crime Victims Compensation Program, as the Courts' Master Plan for Facilities is implemented.

#### CRITICAL FISCAL YEAR 2006 PRIORITY—INFRASTRUCTURE

The District of Columbia Courts serve approximately 10,000 courthouse visitors each day, process more than 200,000 cases each year, and employ a staff of 1,200 who directly serve the public, process the cases, and provide administrative support. The District of Columbia Courts are among the busiest and most productive court systems in the United States<sup>1</sup>. For example, published report indicate that the Superior Court of the District of Columbia has the seventh highest number of cases filed per judge, and the highest number of civil and criminal case filings per capita of all state courts in the nation, and our Court of Appeals has the second highest number of appeals filed per capita among all states and the highest among those with a similar court structure.

The Courts' capital funding requirements are significant because they include funding for projects critical to maintaining, preserving, and building in a timely manner safe and functional courthouse facilities essential to meeting the heavy demands of the administration of justice in our Nation's Capital. To effectively meet

<sup>1</sup> See *Examining the Work of State Courts 2003: A National Perspective from the Court Statistics Project*, by B. Ostrom, N. Kauder, & R. LaFountain (National Center for State Courts 2004).

these demands, the Courts' facilities must be both functional and emblematic of their public significance and character. The 2006 Capital Budget seeks to address these issues in a comprehensive manner.

Facilities that provide adequate and efficiently designed space enhance the administration of justice, simplify public interaction with courts, and improve access to justice for all. In contrast, facilities with inadequate space for employees to perform their work, with evidence of long-deferred maintenance and repair, and with inefficient layouts can detract from the public perception of a court and impair its ability to function in the community. This negative perception impacts public trust and confidence in courts, a nationally recognized critical requirement for the effective administration of justice. The National Center for State Courts succinctly states the relationship between courts and their facilities:

—Court facilities should not only be efficient and comfortable, but should also reflect the independence, dignity, and importance of our judicial system . . . It is difficult for our citizens to have respect for the courts and the law, and for those who work in the court, if the community houses the court in facilities that detract from its stature.<sup>2</sup>

The D.C. Courts presently maintain 1.1 million gross square feet of space in Judiciary Square. The age of the Courts' buildings range from nearly 200 to 25 years. Many years of deferred maintenance forced by limited financial resources has left these buildings in a state that may in fact be perceived to detract from the stature of the Courts.

The Courts' fiscal year 2006 budget request seeks resources to meet health and safety building codes and to provide safe, sanitary, and healthful facilities to the public in the courthouse. For example, adequate ventilation must be provided in the courthouse buildings. Electrical systems must be upgraded, both to meet modern office needs and to limit risk of fire. Fire and security recommendations from the U.S. Marshals Service must be implemented. Safety hazards posed by disintegrating flooring materials must be remedied.

The halls of justice in the District of Columbia must be well maintained, efficient, and adequately sized to inspire the confidence of the members of the public who enter our buildings. The Courts' facilities plans reflected in the fiscal year 2006 budget request will, over the next ten years, meet the well-documented space needs of the Courts and return the buildings to a condition that reflects the dignity of the Courts and inspires trust in the justice system of the Nation's Capital.

The Courts' facilities plans will also enhance the efficient administration of justice and improve public access to justice in this jurisdiction by co-locating related functions. The restoration of the Old Courthouse for the Court of Appeals, for example, will provide the public with a single location for services that are currently located on different floors and in different buildings from most Court of Appeals offices. Offices related to the Family Court will be consolidated through the planned addition to the Moultrie Courthouse. More efficient location of these offices will not only facilitate public access to the Courts, but will also enhance the efficiency of staff operations.

In addition, basic mechanical systems impact the administration of justice. A broken air conditioning system, for example, can force suspension of a trial when courtroom temperatures rise to unbearable levels.

#### FACILITIES IN THE COURTS' STRATEGIC PLAN

The capital projects included in this request are an integral part of the Courts' Strategic Plan, completed in fiscal 2003. The Strategic Plan of the D.C. Courts, entitled *Committed to Justice in the Nation's Capital*, articulates the mission, vision, and values of the Courts in light of current initiatives, recent trends, and future challenges. It addresses issues such as implementation of a Family Court, increasing cultural diversity, economic disparity, complex social problems of court-involved individuals, the increasing presence of litigants without legal representation, rapidly evolving technology, the competitive funding environment, emphasis of public accountability, competition for skilled personnel, and increased security risks.

Improved facilities were a need identified as a high priority among all constituency groups surveyed by the Courts as the Strategic Plan was developed. Employees, judges, and attorneys were asked to identify the most important issues the Courts must address in the coming years, and they all ranked "enhance court facilities" among the highest priorities. In addition, approximately half of judges and 65

<sup>2</sup>Don Hardenbergh with Robert Tobin, Sr. and Chang-Ming Yeh, *The Courthouse: A Planning and Design Guide for Court Facilities*, National Center for State Courts, 1991, p. xiii.

percent of employees reported inadequate light, heat, air conditioning, and ventilation in their workspaces.

"Improving Court Facilities and Technology" is the Plan's Strategic Issue 4. The Strategic Plan states—

"The effective administration of justice requires an appropriate physical and technical environment. Court personnel and the public deserve facilities that are safe, comfortable, secure, and functional, and that meet the needs of those who use them. Technology must support the achievement of the Courts' mission."

#### THE D.C. COURTS' FACILITIES

In preparing the fiscal year 2006 capital budget request, the Courts carefully assessed the capital requirements essential to performing our statutory and constitutionally mandated functions. The Courts' request for capital funding is particularly critical in fiscal year 2006 because of the need: (1) to address essential public health and safety conditions in our busy court buildings, including our main building to which some 10,000 people come each day; (2) to meet the courts' space requirements for conducting their business, which includes our new Family Court, recently established by Congress; and (3) to avoid interruption of ongoing projects as that typically results in substantially increased costs.<sup>3</sup> Significantly increased space needs for court operations and inadequate capital funding in prior years that necessitated maintenance deferral compel the Courts' significant capital request for fiscal year 2006.

The Courts are responsible for four buildings in the square: the Old Courthouse at 451 Indiana Avenue, the Moultrie Courthouse at 500 Indiana Avenue, N.W., and Buildings A and B, which are located between 4th and 5th Streets and E and F Streets, N.W. In addition, when the District government's payroll office vacates Building C, the old Juvenile Court, it will be returned to the Courts' inventory. Recent studies by the General Services Administration (GSA) have documented both the D.C. Courts' severe space shortage<sup>4</sup> and the inadequacy of the physical condition of the Courts' facilities.<sup>5</sup>

The recently completed Master Plan for D.C. Courts Facilities, conducted by experts in architecture and space planning, secured through the General Services Administration (GSA) defined a present shortfall of 48,000 square feet of space, with a shortfall of 134,000 square feet projected in the next decade. The experts proposed to meet the Courts' space needs through three mechanisms: (1) renovation of the Old Courthouse for use by this jurisdiction's court of last resort, the District of Columbia Court of Appeals, which will free critically needed space in the Moultrie Courthouse for trial court operations; (2) construction of an addition to the Moultrie Courthouse, a major portion of which will be developed as a separately accessible Family Court facility; and (3) the future occupation of Building C, adjacent to the Old Courthouse.

The restoration of the Old Courthouse for use by the District of Columbia Court of Appeals is pivotal to meeting the space needs of the court system. We are very pleased that Congress financed the first phase of construction last year and expressed its support for funding the balance in fiscal 2006. We are also very pleased that the President has recognized the importance of this project by supporting it in his budget recommendation for fiscal 2006.

Investment in the restoration of the Old Courthouse not only will improve efficiencies by co-locating the offices that support the Court of Appeals, but also will provide 37,000 square feet of space critically needed for Superior Court and Family Court functions in the Moultrie Courthouse. The Moultrie Courthouse is uniquely designed to meet the needs of a busy trial court. It has three separate and secure circulation systems—for judges, the public, and the large number of prisoners present in the courthouse each day. Built in 1978 for 44 trial judges, today it is strained beyond capacity to accommodate 62 trial judges and 24 magistrate judges in the trial court and 9 appellate judges, as well as senior judges and support staff for the two courts. Essential criminal justice and social service agencies also occupy office space in the Moultrie Courthouse. The Courts have clearly outgrown the space available in the Moultrie Courthouse. The space is inadequate for this high volume court system to serve the public in the heavily populated metropolitan area in and around our Nation's Capital. The Courts require well-planned and adequate space to ensure efficient operations in a safe and healthy environment.

<sup>3</sup>For example, in the last decade, the estimated cost for restoring the Old Courthouse has more than tripled.

<sup>4</sup>Master Plan for D.C. Courts Facilities, 2002.

<sup>5</sup>Building Evaluation Report, 2001.

## HISTORIC JUDICIARY SQUARE

The historical and architectural significance of Judiciary Square lend dignity to the important business conducted by the Courts and, at the same time, complicate somewhat efforts to upgrade or alter the structures within the square. As one of the original and remaining historic green spaces identified in Pierre L'Enfant's plan for the capital of a new nation, Judiciary Square is of keen interest to the Nation's Capital.

The Old Courthouse, the centerpiece of the historic Judiciary Square, built from 1821 to 1881, is one of the oldest public buildings in the District of Columbia. Inside the Old Courthouse, Daniel Webster and Francis Scott Key practiced law and John Surratt was tried for his part in the assassination of President Abraham Lincoln. The architectural and historical significance of the Old Courthouse led to its listing on the National Register of Historic Places and its designation as an official project of Save America's Treasures. The unique character of the building, together with its compact size, makes it ideal for occupancy by the highest court of the District of Columbia. At the same time, the structure requires extensive work to meet health and safety building codes and to readapt it for modern use as a courthouse. Since it has been vacated, with the support of Congress, the Courts have been able to take steps to prevent its further deterioration. The restoration of the Old Courthouse for use as a functioning court building will not only provide much needed space for the Courts, but it will also impart new life to one of the most significant historic buildings and precincts in Washington, D.C. It will meet the needs of the Courts and benefit the community through an approach that strengthens a public institution, restores a historic landmark, and stimulates neighborhood economic activity.

Buildings A, B, and C, dating from the 1930's, are situated symmetrically along the view corridor comprised of the National Building Museum, the Old Courthouse, and John Marshall Park and form part of the historic, formal composition of Judiciary Square. These buildings have been used primarily as office space in recent years, with a number of courtrooms in operation in Building A. The D.C. Courts have begun implementation of the Master Plan, relocating the Superior Court's two highest volume courtrooms, Small Claims and Landlord and Tenant, into Building B. This move vacated space in the Moultrie Building that was immediately renovated for the Family Court, permitting the construction of three new courtrooms, three new hearing rooms, a centralized case intake facility, a family-friendly waiting area and District government liaison offices for Family Court matters. The Interim Space Plan for the Family Court was completed and opened for business in July 2004.

The H. Carl Moultrie I Courthouse, built in the 1970's, although not historic, is also located along the view corridor and reinforces the symmetry of Judiciary Square through its similar form and material to the municipal building located across the John Marshall Plaza. Currently the Moultrie Courthouse provides space for most Court of Appeals, Superior Court, and Family Court operations and clerk's offices, as previously described.

## JUDICIARY SQUARE MASTER PLAN

The National Capital Planning Commission (NCPC) required that the D.C. Courts develop a Master Plan for Judiciary Square—essentially an urban design plan—before any construction can be commenced in the area. The D.C. Courts have worked with all stakeholders on the Plan, including the United States Court of Appeals for the Armed Forces, the National Law Enforcement Officers Memorial Fund (Memorial Fund), the Newseum, and the Metropolitan Police Department. A draft Judiciary Square Master Plan was submitted to the NCPC in June 2003 and subsequently approved in August 2003. Review of the final plan is anticipated in May 2005.

The Judiciary Square Master Plan integrates the facilities development program of the Courts into a rapidly changing and publicly oriented area of the District. The Plan resolves important technical issues related to access, service, circulation, and security while re-establishing the importance of this historic setting in the "City of Washington." It provides a comprehensive framework for project implementation and lays the groundwork for the regulatory approval process with the National Capital Planning Commission, the U.S. Commission of Fine Arts, the District of Columbia Office of Historic Preservation, the District of Columbia Office of Planning, and the District of Columbia Department of Transportation, among others.

The Judiciary Square Master Plan recommends (1) re-introduction of landscaped green space around court buildings and the construction of secure underground parking garages for the Courts, including the U.S. Court of Appeals for the Armed Forces, to house vehicles now parked in surface lots; (2) integration of a new service area, security features and landscape concept; and (3) coordination of the Courts' de-

velopment with development of the National Law Enforcement Officers Museum by the Memorial Fund.

The Judiciary Square Master Plan will ensure the preservation of one of the last green spaces in the District of Columbia awaiting revitalization, incorporating areas where the public can gather and relax, and creating a campus-like environment where citizens can feel safe and secure. The Judiciary Square Master Plan will be of great benefit to the city of Washington, D.C.

#### MASTER PLAN FOR FACILITIES

The Courts have been working with GSA on a number of our capital projects since fiscal year 1999, when the Courts assumed responsibility for our capital budget from the District's Department of Public Works. In 1999, GSA produced a study for the renovation of the Old Courthouse to house the D.C. Court of Appeals. In 2001, GSA prepared Building Evaluation Reports that assessed the condition of the D.C. Courts' facilities, which have been adversely affected by maintenance deferrals necessitated by severely limited capital funds in prior years. These projects culminated in the development of the first Master Plan for D.C. Court Facilities, which delineates the Courts' space requirements and provides a blueprint for optimal space utilization, both in the near and long term.

The Master Plan for D.C. Court Facilities, completed in December 2002, incorporates significant research, analysis, and planning by experts in architecture, urban design and planning. During this study, GSA analyzed the Courts' current and future space requirements, particularly in light of the significantly increased space needs of the Family Court. The Master Plan examined such issues as alignment of court components to meet evolving operational needs and enhance efficiency; the impact of the D.C. Family Court Act of 2001 (Public Law Number 107-114); accommodation of space requirements through 2012; and planning to upgrade facilities, including, for example, security, telecommunications, and mechanical systems. The Plan identified a space shortfall for the Courts over the next decade of 134,000 occupiable square feet, and, as noted above, proposed to meet that need through renovation of the Old Courthouse for adaptive reuse by the D.C. Court of Appeals; construction of an addition to the Moultrie Courthouse; and reoccupation of Building C, adjacent to the Old Courthouse. In addition, the Plan determined that other court facilities must be modernized and upgraded to meet health and safety standards and to function with greater efficiency.

#### FAMILY COURT IN THE MASTER PLAN

##### *Interim Family Court Space Plan*

The Master Plan incorporates an Interim Space Plan for the Family Court that provides the facilities necessary to fully implement the Family Court Act, as well as a long term plan that optimizes space and programmatic enhancements for the Family Court. The Interim Space Plan for Family Court was completed in the summer of 2004 and procedural changes have been implemented within the Family Court to meet the requirements of the Family Court Act. Recently completed components of the Plan are straightforward.

- During fiscal year 2002, the Courts constructed and reconfigured space in the Moultrie Courthouse to accommodate nine new Family Court magistrate judges and their support staff. The Courts also constructed four new hearing rooms in Building B for Family Court magistrate judges hearing child abuse and neglect cases, and renovated short-term space for the Mayor's Services Liaison Office.
- Two Superior Court operations formerly located on the JM level of the Moultrie Courthouse, the Small Claims and Landlord Tenant Branches of the Superior Court's Civil Division, were relocated in November 2003 to Building B to free space for the Family Court. Construction of space and system upgrades in Building B were completed and these Courts have been fully operational in their new location since December 2003.
- Construction in JM Level of the Moultrie Courthouse for the Interim Space Plan of the Family Court was completed in the summer of 2004, and progress has been made toward establishing a fully consolidated Family Court. The project provides the Family Court with three new courtrooms, three new hearing rooms, the Mayor's Services Liaison Office, a Centralized Family Court Case Filing and Intake Center, a family-friendly child waiting area, and a new Family Court entrance from the John Marshall Plaza into the Moultrie Courthouse. In addition, the corridors and hallways along the courthouse's JM-level were re-designed to create family-friendly seating and waiting areas.



*Long Term Family Court Space Plan*

The long term plan for the Family Court includes expansion of the Moultrie Courthouse. Once complete, it will provide a state-of-the-art, family-friendly facility for Family Court operations, with its own identity and separate entrance, which will be a model for the nation. The plan envisions a safe facility that will be inviting and welcoming to families with children of all ages and that will incorporate a “one-stop” concept by locating all related court units in one place and making it easier for families to access needed social services from D.C. government agencies. The interim Family Court plan is designed to transition smoothly into this long term plan and to maximize the efficient use of time and money.

The Master Plan studied the cost and feasibility of expanding the Moultrie Courthouse in the Feasibility Study for the H. Carl Moultrie I Courthouse—May 2003. This approach has been developed with the overarching objectives of keeping the court system continually operating efficiently while carefully complying with the Family Court Act. Independent projects related to the Family Court Act include the renovation and expansion of the Old Courthouse to free space in the Moultrie Building, system upgrades and renovation of Buildings A & B, occupation and renovation of Building C, leasing of space for functions not directly related to the public and court proceedings, and renovation and expansion of the Moultrie Courthouse. These projects will shift operations currently located in existing Court facilities (1) to create “swing space” that permits the required construction to take place in an operating courthouse that receives 10,000 visitors daily and (2) to make contiguous office space available for all related Family Court activities.

CAPITAL FUNDING IN FISCAL YEAR 2006

To permit the Courts to continue to meet the needs of the community and the demands confronting the District’s judicial branch, adequate resources are essential. The most critical issue we face today is sufficient capital funding to address the Courts’ severe space shortage and aging infrastructure. Only by investing in these areas will the Courts be in a position to ensure that the type of security necessary to protect our citizens and our institution is in place, and that our facilities are in a safe and healthy condition and reasonably up-to-date.

The first part of the Capital Budget request identifies projects to renovate, improve, and expand court facilities, as specified in the Master Plan for Facilities. The request is a comprehensive, five-year plan, with projects divided into phases to the extent practicable. In fiscal year 2006, \$59.26 million is requested to complete the construction of the Old Courthouse renovation, which began in March 2005. In addition, \$21.4 million is requested for the Juvenile Holding area renovation, C Street Expansion, and Renovation and Reorganization parts of the Moultrie Courthouse Renovation and Expansion project in fiscal year 2006. For work to renovate Building C and for construction in Building A, \$35.5 million is requested. To design and prepare signs to guide the public through the court complex, which will become increasingly important as court operations move out of the Moultrie Courthouse, \$5 million is requested. For design work to implement campus perimeter security features around Judiciary Square Court buildings including installation of plinth walls, bollards, fencing, and security furnishings and the widening of sidewalks, \$3.5 million is requested. To begin design work on a new East Underground Garage project, \$3 million is requested.

The second part of the Capital Budget request addresses the condition of the Courts’ existing infrastructure, including projects necessary for the health and safety of the public in the courthouse and including the Integrated Justice Information System (IJIS). The Courts have expanded the scope of the Fire and Security Alarm Systems project to include installation of a sprinkler system for the entire Moultrie Courthouse. This is a significant health and safety infrastructure upgrade for which \$15.6 million is requested in fiscal year 2006, as recommended by GSA and U.S. Marshals Service studies. For HVAC, Electrical, and Plumbing Upgrades to remediate lead-contaminated drinking fountains, provide adequate ventilation, and meet electrical load needs, among other things, \$27 million is requested. To renovate dilapidated restrooms used by the public and court staff, \$2.5 million is requested. In addition, \$8.6 million is requested for, among other things, ADA accessibility, safety repairs, and refurbishment of run-down areas in courtrooms and secure areas. To improve safety and ADA accessibility in public areas, to clean the exterior of the Courts’ buildings, to replace doors and windows in historic Buildings A and B, to repair roofing and to make other general repairs, \$10 million is requested. Finally, \$1.51 million is requested for continued implementation of IJIS.

The capital projects identified are critical to the Courts’ ability to meet the current and future needs of the District of Columbia Courts. Approval of the requested

capital funding in fiscal year 2006 offers important advantages including: (1) addressing urgent public health and safety conditions in the Court's busy buildings; (2) allowing ongoing projects to continue without interruption, thereby avoiding increased costs occasioned by delays; (2) and meeting the Courts' critical space requirements, including our New Family Court.

#### STATUS OF KEY CAPITAL PROJECTS

##### *Old Courthouse Restoration*

The D.C. Courts' numerous facilities renovation projects have converging critical scheduling paths. The Old Courthouse project is the first step in a series of interdependent moves that must progress in sequence to provide space and make way for the next step in the Courts' Master Plan for Facilities. Since the pre-design study for the restoration was completed in 1999, the Courts have, with the support of Congress and the President, taken steps to preserve the building, including making watertight the roof, and mothballing the building. Design of the Old Courthouse restoration began April 30, 2003 with the selection, from among nearly 30 bids in the General Services Administration procurement process, of Beyer Blinder Belle Architects and Planners LLP (BBB). BBB is a nationally renowned architectural and engineering firm whose historic preservation and renovation projects have included Grand Central Station, Ellis Island, and the U.S. Capitol.

BBB first completed the design of the first phase of the restoration, the parking garage to be shared by the U.S. Court of Appeals for the Armed Forces, and its construction has begun.

BBB has also completed the design of the Restoration of the Old Courthouse itself. The regulatory agency approval process is completed. The Commission of Fine Arts (CFA) gave final approval to the Old Courthouse design on July 15, 2004 and the National Capital Planning Commission (NCPC) approved the design of the Old Courthouse and the interim plaza on August 5, 2004. As requested by both agencies, the Courts continue to seek an agreement on a final design for the plaza with the National Law Enforcement Museum (NLEM), which is authorized to build an underground museum with aboveground entrance pavilions on part of the site. We believe that the key to an agreement is a neutral treatment that respects dignity of the Old Courthouse as well as the separation between law enforcement and courts of law that must necessarily exist in our system of government.

We are very pleased that the President has supported the Courts' plans for the construction phase of the Old Courthouse restoration, including \$51.5 million in his budget recommendations for the Courts.

##### *Moultrie Courthouse Expansion*

The expansion of the Moultrie Courthouse is a key element in the long-term plan for Family Court. The expansion builds on the interim plan for the Family Court, completed last summer, that consolidates the public face of the Family Court through a centralized intake center and space for the Mayor's Services Liaison Office and provides a separate entrance as well as new courtrooms, hearing rooms, and a family-friendly child waiting area. The expansion will complete the facilities enhancements for the Family Court providing, for example, additional space for child protection mediation, increased Child Care Center space, and safe and comfortable family waiting areas. It will also fully consolidate all administrative operations of the Family Court including relocation of juvenile probation (the Social Services Division of the Family Court) from Building B to the Moultrie Courthouse. A portion of the addition will meet critical space needs for other Superior Court operations.

#### COMPLETE BUDGET REQUEST SUMMARY

To build on past accomplishments and to serve the public in the District of Columbia, the Courts require additional resources in fiscal year 2006 to invest in capital infrastructure and technology; security; strategic management; self-representation services; enhanced and more timely customer service; financial, materiel, and facilities management; and human resources. Without additional capital resources, the courthouse and the District's historic buildings will continue to deteriorate; without remediation, the Courts' information technology will fail; and without targeted investments in these critical areas, the quality of justice in the Nation's Capital will be compromised. The fiscal year 2006 request addresses these requirements by:

—*Investing in Infrastructure.*—To ensure the health, safety, and quality of court facilities and to address court space needs, the fiscal year 2006 capital request totals \$192,874,000. The fiscal year 2006 capital request incorporates the sig-

nificant research and planning comprising the D.C. Courts' first-ever Master Plan for Facilities, completed in December 2002. In the master plan process, the General Services Administration (GSA) analyzed the Courts' current and future space requirements, particularly in light of the significantly increased space needs of the Family Court, and established a 134,000 occupiable square feet shortfall over the next ten years. The Master Plan recommended a three-part approach to meeting the Courts' space needs: (1) restoration of the Old Courthouse at 451 Indiana Avenue to house the D.C. Court of Appeals and to make additional space available in the Moultrie Courthouse to accommodate the Family Court and other Superior Court operations; (2) an addition to the Moultrie Courthouse to accommodate fully consolidated and state-of-the art Family Court facilities; and (3) reoccupation of Court Building C, adjacent to the Old Courthouse and currently being vacated by the District government.

- Old Courthouse.*—Included in the Courts' capital request is \$59,260,000<sup>6</sup> to complete the restoration of the Old Courthouse. Built from 1820 through 1881, the Old Courthouse is an architectural jewel that has been the site of many historic events. The structure is uninhabitable in its present condition and requires extensive work to ensure that it meets health and safety building codes. Design of the project began in June 2003, and construction of the accompanying garage is scheduled to begin in February 2005. In the fiscal year 2005 appropriation, Congress financed the first phase of the project and expressed its support for the restoration and its commitment to fund it in fiscal year 2006. The work begun in fiscal year 2005 must proceed without delay in fiscal year 2006 to avoid disruption of the work, increased costs, and the risk of costly partial restorations in a building that cannot be used until completed. Restoring this historic landmark to meet the urgent space needs of the Courts and preserving it for future generations are critical priorities for the District of Columbia Courts.
- Moultrie Courthouse.*—Also included in the capital budget request is \$21,400,000 to continue work on the Moultrie Courthouse, as delineated in the Master Plan. This amount includes \$9,000,000 for the design<sup>7</sup> of the C Street Expansion, an addition planned for the south side of the Moultrie Courthouse. The addition will complete the facilities enhancements for the Family Court, providing, for example, a new Family Court entrance, child protection mediation space, increased Child Care Center space, safe and comfortable family waiting areas, and consolidation of all related Family Court offices in one place (to include the Social Services Division, currently housed in Court Building B, which provides juvenile probation supervision). Furthermore, a portion of the addition will meet critical space needs for other Superior Court operations. This request also includes (1) \$5,000,000 to renovate space in the Moultrie Building for the juvenile holding area, which will free space for Family Court offices; (2) \$6,000,000 for the second phase of the renovation and reorganization of the Moultrie Courthouse, to make optimal use of existing space as envisioned in the Master Plan; and (3) \$1,400,000 for preconstruction work on the Indiana Avenue expansion of the Moultrie Courthouse primarily to provide a security screening lobby for the public to await entry to the courthouse sheltered from the weather.
- Maintaining Infrastructure.*—The capital budget also includes \$48,100,000 to maintain the Courts' existing infrastructure, preserving the health and safety of courthouse facilities for the public and the integrity of historic buildings for the community. The Courts facilities encompass more than 1.1 million gross square feet of space. Over the course of many years, limited resources have forced the Courts to defer routine maintenance of these facilities, leading to increased risk of system failures that threaten public health and safety in the Courthouse. For example, the \$27,000,000 requested for HVAC, Electrical and Plumbing Upgrades will be used to replace public drinking fountains that have been disconnected due to lead contamination and 21 failing air handling units that ventilate the Moultrie Courthouse. Historic court buildings on Judiciary Square, such as Buildings A and B, were funded by Congress and constructed in the 1930's and require ongoing maintenance, such as the replacement of doors and windows. The cost for such maintenance is included in the fiscal year 2006 General Repair Projects request.

<sup>6</sup>Please note that the Courts' request to the President for this project was \$51,500,000, which was based on the average of the House and Senate versions of the fiscal year 2005 appropriations bill. The enacted fiscal year 2005 figure was lower than this average, necessitating an increased request for this project.

<sup>7</sup>Funds provided for this project in fiscal year 2005 had to be reprogrammed to another construction project.

- Homeland Security*.—To protect the 10,000 daily visitors to the courthouse and meet the increased security threat post September 11, 2001, the Courts' capital budget request includes \$19,100,000, for security enhancements. This figure includes \$3,500,000 for campus perimeter security to protect the occupants of the high-profile court buildings in Judiciary Square and \$15,600,000 to finance fire and security improvements recommended by both a U.S. Marshal Service Physical Security Survey and a GSA Preliminary Engineering Report (including design, construction, and installation of a new fire and security system and building sprinklers as well as additional security cameras, duress alarms and upgrades).
- Investing in Information Technology (IT)*.—To achieve the Courts' strategic goal of improving technology, including providing a case management system with accurate, reliable data across every operating area available to the judiciary, the District's child welfare and criminal justice communities and the public, the Courts request \$4,744,000 in fiscal year 2006. This amount includes \$3,230,000 in the operating budget for a new case management system in the Court of Appeals, IT infrastructure enhancement, IT business integration, and systems to enhance service to District citizens serving as jurors. In addition, the Courts' capital budget request includes \$1,514,000 to finance the final phase of IJIS, which the Court launched in fiscal year 1999. As noted above, implementation of IJIS is well underway, with the full Family Court module operational in December 2003 and the Probate module operational in May 2004.
- Strategic Planning and Management*.—To support implementation of long-range strategic planning and court performance measurement and reporting, \$635,000 is requested for an Office of Strategic Management. This request would build on the Courts current strategic planning effort by coordinating enterprise-wide projects and enhancing the Courts' performance measurement capability. The request would finance performance management software, training, and staff to establish and analyze court performance, perform strategic planning, and coordinate and prioritize competing projects and activities.
- Serving the Self-Represented*.—To enhance equal access to justice for the more than 50,000 litigants without lawyers who come to the courthouse each year, especially in the Family Court, Civil Division, and Court of Appeals, \$1,895,000 and 10 FTEs are requested for staff and facilities for a Self-Representation Service Center. This initiative would utilize best practices and build upon the very limited pro bono services currently available in the courthouse. This initiative is particularly vital to the public we serve, as a recent study found that local agencies providing legal services to the poor turn away more than 50 percent of persons who seek assistance. These individuals require assistance when they arrive in the courthouse with no choice but to represent themselves.
- Enhanced and More Timely Public Service*.—To enhance and provide more timely services to the public, the Courts' fiscal year 2006 request includes \$1,833,000 and 11 FTEs. Included in the total is \$780,000 for a pilot program to enhance the record of court proceedings and timely transcript production; \$525,000 and 8 FTEs to provide services for incapacitated adults and other customers in the Probate Division; \$259,000 and 2 FTEs to expand mediation, interpreting and juror services; and \$269,000 and 1 FTE to undertake community outreach, to increase monitoring of juveniles on probation and to enhance the reference materials in the library.
- Financial, Materiel, and Facilities Management*.—To enhance financial, materiel, and facilities management, \$2,098,000 and 15 FTEs are requested. Included in the total is \$636,000 and 8 FTEs to build upon financial and program management improvements, including creation of an independent internal audit function; \$722,000 and 1 FTE for materiel management, including warehouse space, equipment, and staff; and \$740,000 and 6 FTEs to enhance facilities management and administrative support, including building engineers and equipment leases.
- Investing in Human Resources*.—To help the Courts attract, develop, and retain highly qualified employees and address the risks of high retirement eligibility, \$1,852,000 is requested, including \$800,000 for succession planning and tuition assistance and \$109,000 and one FTE to enhance training for court personnel. Currently, 24 percent of the Courts' non-judicial employees, of whom 17 percent are in top management positions, are eligible to retire in the next five years, representing a potential loss of experience and talent that the Courts must plan now to address.
- Built-In Increases*.—The fiscal year 2006 request also includes \$3,417,000 for a COLA increase, \$676,000 for non-pay inflationary cost increases, and \$568,000 for within-grade increases. The Courts' request includes within-grade increases

for employees because unlike typical agencies, which may fund these increases through cost savings realized during normal turnover, the Courts have a very low turnover rate (7 percent in fiscal year 2004).

—*Strengthening Defender Services.*—In recent years, the Courts have devoted particular attention to improving the financial management and reforming the administration of the Defender Services programs. For example, the Courts have significantly revised the Criminal Justice Act (CJA) Plan for representation of indigent defendants to ensure that highly qualified attorneys represent indigent defendants. In addition, the Courts have developed a new Counsel for Child Abuse and Neglect (CCAN) Plan for Family Court cases, adopting Attorney Practice Standards and requiring attorney training and screening to ensure that well-qualified attorneys are appointed in these cases. The Guardianship Program has also been revised, imposing a training requirement on attorneys participating in the program.

In the Defender Services account, the Courts' fiscal year 2006 budget request represents an increase of \$15,500,000 over the fiscal year 2005 enacted level of \$38,500,000. Of the total increase, \$6,500,000 is requested to cover projected increases in the base program due to higher criminal caseloads, increases in a contract guardian ad litem program, and program management efficiencies that have resulted in accelerated attorney payments. The remaining \$9 million reflects a compensation adjustment for attorneys from \$65 to \$90 per hour, to keep pace with the rate paid court-appointed attorneys at the Federal courthouse across the street from the D.C. Courts.

#### CONCLUSION

Mister Chairman, Senator Landrieu, Subcommittee members, the District of Columbia Courts have long enjoyed a national reputation for excellence. We are proud of the Courts' record of administering justice in a fair, accessible, and cost-efficient manner. Adequate funding for the Courts' fiscal year 2006 priorities is critical to our success, both in the next year and as we implement plans to continue to provide high quality service to the community in the future. We appreciate the President's level of support for the Courts' funding needs in 2006 and the support we have received from the Congress. We look forward to working with you throughout the appropriations process, and we thank you for this opportunity to discuss the fiscal year 2006 budget request of the Courts.

Senator BROWNBAC. Thank you, Judge Wagner. How many years have you served the court system? You were telling me the other day.

Judge WAGNER. In June, it will be 28 years. I've been on the Court of Appeals since 1990 and served in the trial court prior to that time. It's been a wonderful opportunity. It's been a privilege to serve. It has made me both proud and optimistic about our future.

Senator BROWNBAC. I remember you saying the number of years, and I was very impressed. And that's fabulous. Thanks for your years of great service that you've provided, and continue to provide, as well, in the courts.

Judge KING, who has a distinguished set of years, too. How many years, as well?

Judge KING. I'm 20, now.

Senator BROWNBAC. Twenty. Oh, a mere child.

#### STATEMENT OF HON. RUFUS KING, III, CHIEF JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Judge KING. Mr. Chairman, Senator Landrieu, subcommittee members, thank you for this opportunity to discuss the D.C. Courts' fiscal year 2006 budget request.

I'm Rufus King, III, and I'm appearing in my capacity as Chief Judge of the Superior Court of the District of Columbia.

As you know, the Superior Court is the trial court for the District of Columbia. It is a unified court of general jurisdiction, hearing

matters brought to court under all areas of District of Columbia law.

Chief Judge Wagner's testimony on behalf of the Joint Committee on Judicial Administration details the courts' complete budget request. So, my testimony will highlight the Family Court, the integrated justice information system (IJIS), and some of our problem-solving courts as initiatives of special importance to the Superior Court.

The District of Columbia Family Court Act of 2001 changed the way the court serves children and families in the District. The act authorized additional judges, and this subcommittee provided additional resources to enable the court to meet the challenges presented by those special cases and as authorized under the act.

The Family Court, ably led by presiding Judge Lee Satterfield, his deputy, Judge Anita Josey-Herring, and division director Dianne King, has largely implemented the Family Court Act. Through close collaboration with D.C. executive branch agencies in the child welfare system, the Family Court is making great strides in improving the lives of children and families in the District.

Recently, we have increased the compliance with the Adoptions and Safe Families Act. In 2003, the compliance rate was 93 percent, as opposed to 51 percent in the year 2000, when we started, just before the act was passed.

The court has implemented the Benchmark Permanency Hearing Pilot Program for older youth in foster care to help them plan for the time when they become independent. Children between the ages of 15 and 21 years make up 35 percent of the children under court supervision in our neglect system.

In July, we opened the new Family Court space in the Moultrie Courthouse. This space consolidates the public face of the Family Court, and, as you saw yesterday, Mr. Chairman, provides a family friendly environment with comfortable waiting areas. I am especially proud to be able to report that all of the construction for the Family Court has been completed in-budget and on time.

We have established a truancy task force to address absence from school as one of the early warning signs of troubled families and children, as well as a predictor of future crime.

Turning to the integrated justice information system, the courts' unified information technology initiative was put in place to consolidate 20 different databases and provide comprehensive information to judicial officers. It was implemented first in the Family Court. To date, it has been implemented in the Family Court, the Probate Division, and the small claims and landlord/tenant branches of the civil division. The remainder of the civil division and the criminal division are scheduled to come online later this year, which will complete its implementation in Superior Court.

When the system is completed, judges and staff will be able to easily cross-reference cases in any division of the court so that a judge in a neglect case will be able to keep track of other cases involving that family in criminal court or landlord/tenant court, as well as in other family cases.

Critical to the principle of "one family, one judge," the IJIS system also enhances efficiency of operations and provides better information to judges and the public. It also supports our ability to

communicate with other child welfare agencies, as required in the Family Court Act.

In response to the needs in a different community we serve, the Superior Court has implemented several programs known as “problem-solving courts.” These courts are gaining prominence nationally as communities seek to cope with lower-level or quality-of-life crimes. The expectation is that by addressing the causes underlying minor crimes, such as substance abuse and mental health issues, early, the court helps slow down the rate of recidivism and graduation to more serious crime. These courts combine restorative justice under which the offender repays the community in some way—cleaning up the graffiti, doing some form of community service, for example—and therapeutic justice, in which an effort is made, from the very outset of a case, to connect the offender with social services or other services that might be needed in order to address underlying problems.

The Superior Court has several such problem-solving courts. The D.C. and traffic community court serves all of those cases. The east of the river community court serves a variety of minor criminal offenses. An adult drug court and juvenile drug court serve those particular needs. And a family treatment court serves the needs of persons afflicted with drug abuse in a family setting, prior to the breakup of the family, rather than following it.

The east of the river community court, to take one, just one, was implemented for all cases from wards 6 and 7, as a pilot project in September 2002. This community faces significant inner-city challenges, including high rates of poverty, crime, and disorder. And these rates are actually higher there than in many parts of the city. Most defendants appearing in this court have substance abuse problems and lack job skills and education. The court seeks to ensure that those who have harmed the community through criminal activities perform community service, and the judge seeks to implement and coordinate the implementation of services designed to discourage the defendants from returning to court.

Mr. Chairman, the D.C. Courts are proud of our efforts to serve children and families and to implement technology that enables them to enhance our service to the public and to respond directly to community needs. We expect to continue these programs in the future, with your support.

#### PREPARED STATEMENT

Thank you for this opportunity to address the subcommittee. I'd be pleased to answer any questions you may have.

Senator BROWNBACK. Thank you, Judge King.

[The statement follows:]

#### PREPARED STATEMENT OF RUFUS G. KING, III

Mister Chairman, Senator Landrieu, Subcommittee members, thank you for this opportunity to discuss the D.C. Courts' fiscal year 2006 budget request. I am Rufus King and I am appearing in my capacity as the Chief Judge of the Superior Court of the District of Columbia.

As you know, the Superior Court is the trial court for the District of Columbia. It is a unified court of general jurisdiction, hearing matters brought to court under all areas of District of Columbia law.

Chief Judge Wagner's testimony on behalf of the Joint Committee on Judicial Administration details the Courts' complete budget request, so my testimony will high-

light specific operational areas of the Superior Court, in particular the Family Court, the Integrated Justice Information System, and our problem-solving courts.

#### FAMILY COURT IMPLEMENTATION

The District of Columbia Family Court Act of 2001 changed the way the court serves children and families in the District. The Act authorized additional judges and this Subcommittee provided additional resources to enable the Court to meet the challenges presented by the Act. Key elements of implementing the Act included the One Family/One Judge concept, improved use of technology, and creation of family-friendly space in the courthouse.

The Family Court, ably led by Presiding Judge Lee Satterfield and Division Director Dianne King, after examining best practices around the nation, has largely implemented the major elements of the Family Court Act. Through close collaboration with Executive Branch agencies in the child welfare system, the Family Court is making great strides in improving the lives of children and families in the district.

The Court's Transition Plan, submitted pursuant to the Family Court Act in April 2002, set out seven specific goals to achieve its mission of providing positive outcomes for children and families. Last month, the Court submitted to Congress the third annual Family Court report, which details the Family Court's activities in 2004. I would like to highlight some of the measures taken and continued recently to achieve each goal.

1. Make child safety and prompt permanency the primary considerations in decisions involving children.
  - Completed implementation of one family, one judge case management approach.
  - Increased compliance with the Adoptions and Safe Families Act (ASFA)<sup>1</sup>. In 2003, 93 percent of cases were in compliance with ASFA permanency hearing requirements, compared to 51 percent in 2000.
  - Established Attorney Practice Standards for juvenile cases.
  - Continued use of improved AFSA compliant court order forms.
  - Continued operation of the Mayor's Services Liaison Center at the courthouse.
  - Continued operation of the Benchmark Permanency Hearing pilot program for older youth in foster care to help them make decisions and plans for their future and to coordinate a full range of services necessary for their success when they gain independence. Children 15 years of age or older make up 35 percent of children under court supervision in the neglect system.
  - Continued operation of the Family Treatment Court.
2. Provide early intervention and diversion opportunities for juveniles charged with offenses, to enhance rehabilitation and promote public safety.
  - Use Time Dollar Institute's Youth Court Diversion Program (run by students).
  - Collaborated with the Metropolitan Police Department to create a Restorative Justice Supervision Program to address an increase in unauthorized use of motor vehicle crimes by juveniles.
3. Appoint and retained well-trained and highly motivated judicial officers.
  - Conducted third annual Family Court Interdisciplinary Cross Training Conference, entitled "Family Court Partnerships: Supporting the Emotional Well-Being and Mental Health of Children, Youth, and Families," in October 2004.
  - Planned and hosted bi-monthly cross training programs for all stakeholders.
  - Participated in national training programs on issues relating to children and families, including training programs and an annual conference of the National Council of Juvenile and Family Court Judges.
4. Promote alternative dispute resolution.
  - Continued operation of the Child Protection Mediation Program, which has been found to result in significantly faster adjudication, disposition, and permanency in children's cases. In addition, mediation appears to reduce recidivism in neglect cases.
  - Continued implementation of the case evaluation program in partnership with the D.C. Bar, for domestic relations cases when counsel represents parties.
  - Implemented same day mediation in domestic relations cases.
5. Use technology effectively to track cases of children and families.
  - Collaborated with the Child and Family Services Agency (CFSA) to scan court orders into the agency's automated system so that agency social workers have complete and accurate information.
  - Continued operating courtwide the Integrated Justice Information System (IJIS) to facilitate case management.

<sup>1</sup> Refers to the Federal ASFA statute, Public Law 105–89.



6. Encourage and promote collaboration with the community and community organizations.

—Continued to meet regularly with stakeholders and participated in numerous committees of organizations serving children and families.

7. Provide a family friendly environment by ensuring materials and services are understandable and accessible.

—In July, opened the new Family Court space in the Moultrie Courthouse. This space consolidates the public face of the Family Court with centralized intake center, provides one-stop shopping with the Mayor's Services Liaison Center, and provides a family-friendly environment with comfortable waiting areas decorated with artwork created by children from the D.C. Public Schools.

—Continued operation of the Pro-Se Self Help Clinic at the courthouse, in partnership with the D.C. Bar, so litigants without counsel can obtain materials about Family Court processes and seek assistance with court forms.

—Continued review and revision of Family Court forms, through working groups, to make them more understandable.

I would like to mention one other initiative in the Family Court: the Truancy Task Force. A joint effort of the Family Court, the D.C. School Board, the D.C. Public Schools, the Child and Family Services Agency, the Metropolitan Police Department, the Public Defender Service and the D.C. Office of the Attorney General seeks to address truancy, which is often the first sign of problems in the home. These problems may result in the child's misbehavior, a criminal act that brings juvenile delinquency charges, or adult criminal acts.

The truancy effort involves a protocol for parents of students with more than 15 unexcused absences to determine whether services are needed, the child is neglected, or a criminal charge should be brought for violation of the Compulsory School Attendance Act. One Family Court judge hears cases of all of a parents' children. Early intervention demonstrates to parents that they have a responsibility to get their children to school. CFSA works with the family to determine whether services, such as parenting classes, are needed and monitors to make sure the children are back in school and no educational or other neglect occurs.

The Truancy Task Force has made great strides over the past year. So far this initiative has shown tremendous success: a reduction in truancy of 51 percent for elementary school children between the first semester of the 2003 school year and the first semester 2004.

#### INTEGRATED JUSTICE INFORMATION SYSTEM

The Court's major information technology initiative to consolidate some 20 different data bases and provide comprehensive information to judicial officers was implemented first in the Family Court. The Integrated Justice Information System (IJIS) is especially critical in the Family Court, where related case data is necessary to make the best decisions for children and families.

IJIS is a multi-year project to replace the aging computer infrastructure of the Superior Court and link it with the Court of Appeals by creating an integrated case information system to eliminate the fragmented legacy systems. The project was commenced in fiscal year 1999 with a Federal grant-funded needs assessment. After much planning and preparation, implementation began late in fiscal year 2002, and we expect to complete the implementation later this year.

Apart from making the policy of one judge/one family possible in Family Court, IJIS project is part of a District-wide effort to improve information technology within and among the District's criminal justice agencies. Once complete, the system will allow the Court electronically to store and retrieve data, to make information available to the public, and to exchange vital information with law enforcement and homeland security agencies much more effectively.

In August 2003, the Courts implemented Wave 1 of the Family Court. Family Court began using IJIS to process adoptions cases, abuse and neglect cases, and juvenile delinquency cases. In addition, IJIS was used for juvenile probation cases in the Family Court's Social Services Division and Family Court mediation cases in the Court's Multi-Door Dispute Resolution Division. In December 2003, with Wave 2, IJIS was implemented in additional Family Court cases, including domestic relations and mental health and mental retardation, and the Marriage Bureau and Counsel for Child Abuse and Neglect office. The Central Intake Center began using IJIS in August 2004 when it opened.

The Family Court has been sharing data with the Child and Family Services Agency, the Department of Youth and Rehabilitative Services (formerly the Youth Services Administration), the Office of the Attorney General, and the Pre-Trial Services Agency through the JUSTIS system, an interagency data sharing system cre-

ated originally to address criminal justice data sharing needs. The Court has continued to involve all interested internal and external stakeholders as it has validated requirements, developed testing plans, and conducted training.

IJIS implementation continued in other divisions of the Superior Court. The Probate Division began using IJIS in May 2004. IJIS was implemented in the Small Claims Branch of the Civil Division in December 2004. The Civil Division's Landlord Tenant Branch began using IJIS in February 2005. The Criminal Division is scheduled to come on line later this year.

#### PROBLEM SOLVING COURTS

In response to needs in the community we serve, the Superior Court has implemented several programs known as problem-solving courts. These types of courts are gaining prominence nationally as communities seek to cope with lower level or "quality of life" crimes and the social ills, which frequently underlie these kinds of crimes. These courts typically combine restorative justice, in which the offender repays the community, such as through community service, and therapeutic justice, in which the offender is linked with social services available through Executive Branch agencies or in the community, for example alcohol counseling.

The Superior Court has several such problem solving courts. My remarks today will highlight the D.C. and Traffic Community Court, the East of the River Community Court, a drug court, and the Family Treatment Court. In addition, I will discuss the Domestic Violence Unit, a one-stop-shopping program that links domestic violence victims with government and community assistance.

#### *Community Courts*

Community courts are collaborative efforts that bring together courts, government agencies, and community partners to respond to crime and public safety issues in innovative ways. In a community court, numerous parties play a role in solving local problems—not just the traditional judge, prosecutor and defense attorney, but also social service providers, government agencies, community organizations, and individual residents. Through this partnership, community courts can respond more effectively to crime and develop solutions that improve outcomes for the community, the victims, and the defendants.

As in a traditional court setting, these courts seek to determine guilt or innocence. Unlike traditional courts, they have a broad array of responses. Community courts seek not only to punish offenders but also to repair the harm done. Community courts frequently require offenders to repay the community by performing court-supervised community service. They also seek to reduce the likelihood of future offenses by linking offenders to needed services, such as drug treatment, job training, or mental health services.

By strengthening ties between the Court and the community, the community courts ultimately seek to improve neighborhood daily life, strengthen communities and improve public confidence in the criminal justice system. The Superior Court has two community courts: the D.C. and Traffic Community Court and the East of the River Community Court.

Implemented in January 2002, the D.C. and Traffic Community Court handles all D.C. misdemeanor cases and traffic violations from all parts of the City. D.C. misdemeanor crimes, often referred to as "quality of life" offenses, include, for example, disorderly conduct, aggressive panhandling, possession of an open container of alcohol, and drinking in public. Although such criminal behavior is not violent, it can have significant negative impacts on communities. Much of this court's business is traffic cases, including a substantial number of cases involving driving without permits, operating after suspension and/or revocation. In a diversion program, charges may be dropped against defendants without driver's permits if they obtain valid licenses.

The East of the River Community Court was implemented as a pilot project in September 2002, and expanded into a permanent program in June 2003. This community court handles all U.S. misdemeanor cases (i.e., prostitution and minor drug offenses) not involving domestic violence that occur in area east of the Anacostia River, a community facing significant inner-city challenges, including higher rates of poverty, crime and disorder than in other sections of the District. In the Community Court, the judge, prosecutor, defense counsel, and pretrial services staff work together to identify social service needs that may contribute to criminal behavior and to fashion appropriate diversion programs to address those needs. Most defendants appearing in the Court have substance abuse problems and lack job skills and education. In addition, the Court seeks to ensure that those who have harmed the community through criminal activities perform community service that benefits the same community. The judge seeks to administer justice in a manner that reflects

a balance between punishment, community restitution, and services that the defendant may need. The judge also attends numerous community meetings and other neighborhood events to establish and strengthen relationships with community residents, keep abreast of community developments, and better address crime problems and community concerns.

#### *Drug Court*

The Superior Court Drug Intervention Program (Drug Court) was launched following a 1993 pilot project determined that a sanctions-based program, which penalized participants for failing drug tests and encouraged treatment, was an effective drug court model due to the certainty of penalties, the swiftness of penalties, and the fairness of the process. In fiscal 2004, among pre-trial defendants who use drugs, 23 percent were rearrested while on pretrial release; however, among Drug Court participants, only 10 percent were rearrested.

The court serves as a forum for motivating, supporting, and measuring progress as the defendant goes through drug rehabilitation. Defendants in the Drug Court gain early program intervention after arrest, undergo regular urinalysis, and receive immediate access to needed treatment. Eligibility requirements for the Drug Court program are closely monitored in cooperation with the U.S. Attorney's Office. The Drug Court is open to misdemeanants either as a diversion program or after a finding of guilty or entry of guilty plea and to felony-charged defendants as a pre-trial release option.

The Drug Court uses supervision, client-centered treatment interventions, and immediate and meaningful responses to defendant behavior to promote each participant's desire to lead a drug free life. Case managers monitor the defendant's compliance and provide supervision and substance abuse counseling services. Drug-testing staff provides results to measure the defendant's progress.

#### *Family Treatment Court*

The Family Treatment Court is a yearlong voluntary, comprehensive substance abuse treatment program for mothers (or other female caretakers) whose children are the subject of a child neglect case. In May 2003, the Family Court and the Office of the Deputy Mayor for Children, Youth, Families, and Elders, in cooperation with key District health and human services agency stakeholders, partnered to develop the Family Treatment Court (FTC), an effort to serve drug-dependent mothers with active child neglect cases and to assist them to enhance their parenting skills.

The mission of the FTC is to promote safe and permanent homes for children by working collaboratively with stakeholders to develop readily accessible services based on a continuum of care that is culturally competent, family focused, and strength based. The goal of the FTC is to help the individual abstain from drug use and to promote emotional, financial, and personal self-sufficiency with enhanced parenting and coping skills.

Those interested in participating must stipulate to the allegations of neglect. The first 6 months involve the residential component of the program, where the women are housed in a treatment facility. Following a period of adjustment, up to four children aged ten and under may accompany their mother in the program. Program participants receive intensive drug treatment, individual and/or family counseling, parenting instruction, health screenings, mental health treatment, and biweekly court appearances before the Family Treatment Court Judge. Social workers from the Child and Family Services Agency ensure that the goals embodied in the identified treatment plan for both children and their mother are met.

If the mothers successfully complete the residential phase, they formally graduate and proceed to the community-based after care phase under the auspices of the Addiction Prevention and Recovery Program (APRA). Strict court monitoring and drug testing remain in effect. Through the collaborative efforts of the Mayor's Services Liaison Office and stakeholder partnerships, the women are afforded opportunities to procure housing and jobs and to further their education.

#### *Domestic Violence Unit*

The Court's award-winning Domestic Violence Unit hears cases in which parties request protection orders against persons to whom they are related. The Unit provides "one-stop-shopping" for domestic violence victims through two intake centers staffed by the U.S. Attorney's Office, the D.C. Office of the Attorney General, the Metropolitan Police Department, Women Empowered Against Violence (WEAVE), and D.C. Coalition Against Domestic Violence. Victims can file for a temporary protection order on the basis of alleged domestic violence, receive legal counsel, and support services, and meet with an advocate from the Court's Crime Victim's Compensation Program to find out about other resources available to them.

In October 2002, the Court opened the satellite Domestic Violence Intake Center at Greater Southeast Hospital. Twenty-eight percent of new domestic violence cases are filed at the Southeast center. The location is convenient for Southeast residents: there is free parking and it is Metro-accessible. In addition, the location in the hospital facilitates the provision of both medical care and legal protection. The petitioner is transported via a web camera to the judicial officer hearing the request in a courtroom at the Moultrie Courthouse. Judges hear and see the petitioners and, if appropriate, grant and issue temporary protection orders, which are transmitted electronically from the courtroom to the waiting petitioner at the Center.

The four judges and two magistrate judges in the Domestic Violence Unit also hear cases alleging violations of protection orders and all misdemeanor criminal cases involving an "intrafamily offense." When appropriate, judges in the Domestic Violence Unit also adjudicate related divorce, custody, visitation, paternity and support cases involving the same parties, as well as certain related civil actions.

#### CONCLUSION

Mister Chairman, Senator Landrieu, the D.C. Courts are proud of our efforts to serve children and families, to implement technology that enables to enhance our service to the public, and to respond to the community. We expect to continue these programs in the future, with your support. Thank you for this opportunity to address the Subcommittee. I would be pleased to answer any questions you may wish to pose.

#### COURT SERVICES AND OFFENDER SUPERVISION AGENCY

##### STATEMENT OF HON. PAUL A. QUANDER, JR., DIRECTOR

Senator BROWNBACK. Mr. Quander.

Mr. QUANDER. Good morning, Chairman Brownback.

Thank you for the opportunity to appear before you today in support of the Court Services and Offender Supervision Agency's (CSOSA) fiscal year 2006 budget request. As you are aware, CSOSA provides community supervision to approximately 15,000 offenders sentenced under the District of Columbia Code. The Pretrial Services Agency, which is an independent entity within CSOSA, supervises an additional 7,000 defendants.

CSOSA requests \$203,388,000 in direct budget authority for fiscal year 2006. Of this amount, \$131,360,000 is for the Community Supervision Program, which supervises sentenced offenders; \$42,195,000 is for the Pretrial Services Agency; and \$29,833,000 is for the Public Defender Service, which transmits its budget with CSOSA's. The total budget request represents a 14 percent increase over CSOSA's fiscal year 2005 enacted budget.

Our fiscal year 2006 budget contains one major request, to fully implement an ongoing initiative. The Community Supervision Program requests \$14,630,000 and 77 positions to operate the Reentry and Sanctions Center, or RSC, at Karrick Hall. This facility housed our Assessment and Orientation Center Program, or AOC, until 2004, when the program was temporarily relocated to allow the much-needed renovation work to be completed at Karrick Hall, which is on the grounds of D.C. General Hospital.

In fiscal year 2002, CSOSA received a \$13 million appropriation to renovate and expand the AOC program. We greatly appreciate the subcommittee's past support for these funds. At that time, Congress authorized 95 positions necessary to operate the expanded units. Eighteen of these positions were funded in fiscal year 2004 to allow us to begin hiring the key staff that must be in place during the pre-operations planning and training process. The renovations are scheduled for completion early in fiscal year 2006. In order for us to open the new units on schedule, we need to begin

hiring the remaining 77 positions several months before the expected opening.

The Reentry and Sanctions Center is based on the Assessment and Orientation Center Program model, which has been in operation since 1996. The AOC is a 30-day transition from prison to community, designed specifically for high-risk substance abusing offenders. The program focuses on physical, intellectual, and emotional assessment and treatment readiness. AOC participants are often not appropriate for Halfway House placements, so the AOC provides an essential alternative to direct release from prison to the street. The AOC also provides services to defendants who are court-ordered to participate in this program.

The Reentry and Sanctions Center will expand the AOC capacity from its current 27 beds to approximately 100 beds, enabling us to offer these services to about 1,200 individuals per year. These beds will be divided into four men's units, one female unit, and one unit for offenders with mental health issues. We are particularly eager to make the AOC program available to the underserved female population. The expanded capacity will enable us to realize the great potential of this program as a residential sanction for supervised offenders and defendants who relapse into substance abuse. Residential sanctions are an essential aspect of effective community supervision, particularly if they can be imposed quickly. Removing the offender from the external factors that contribute to the violation also allows us to assess and stabilize him or her, evaluate the case plan, and make adjustments before incarceration is the only option.

An initial study of the AOC's effectiveness indicated a 74.5 percent drop in drug use after 1 year among program graduates. The type of programming offered at the AOC, and expanded to the Reentry and Sanctions Center, improves treatment outcomes, which, in turn improves supervision outcomes.

Although the Reentry and Sanctions Center is the main feature of our budget request, I would also like to highlight a few of this past year's most important accomplishments.

We have developed an automated research-based risk and needs assessment tool that will assist our community supervision officers in developing prescriptive supervision plans and improving case management.

We opened a Day Reporting Center Program to provide an all-day supervision option for high-risk offenders.

We expanded our global positioning system electronic monitoring program, begun as a pilot in fiscal year 2004, to an average caseload of approximately 50 offenders. The Pretrial Services Agency increased the use of electronic monitoring to all defendants assigned to heightened or intensive supervision.

We continue our faith initiative, matching returning offenders with volunteer mentors from the area's faith institutions. This January, we celebrated our fourth reentry week, a series of events highlighting the faith-community concern for, and contribution to, returning offenders.

## PREPARED STATEMENT

In conclusion, I would like to thank the subcommittee for your continued support for our program. I remain confident that we are putting in place the most effective community supervision program possible and that the citizens of the District of Columbia will be safer, as a result.

Thank you, Mr. Chairman.

Senator BROWNBACK. Thank you very much.

[The statement follows:]

## PREPARED STATEMENT OF PAUL A. QUANDER, JR.

Chairman Brownback and Members of the Subcommittee: Thank you for the opportunity to appear before you today in support of the Court Services and Offender Supervision Agency's (CSOSA's) fiscal year 2006 budget request. As you know, CSOSA provides community supervision to approximately 15,000 offenders sentenced under the D.C. Code. The Pretrial Services Agency, which is an independent entity within CSOSA, supervises an additional 8,000 defendants. Since its establishment in 1997, CSOSA has rebuilt community supervision in the District of Columbia. We are proud to say that we now have one of the most responsive, innovative, and comprehensive systems of community supervision in the country. While we are still implementing some key aspects of our program model, we believe that we have put in place a system of accountability, sanctions, and support services that will enable us to better achieve our public safety mission.

CSOSA requests \$203,388,000 in direct budget authority for fiscal year 2006. Of this amount, \$131,360,000 is for the Community Supervision Program, which supervises sentenced offenders; \$42,195,000 is for the Pretrial Services Agency; and \$29,833,000 is for the D.C. Public Defender Service, which transmits its budget with CSOSA's. The total budget request represents a 14 percent increase over CSOSA's fiscal year 2005 enacted budget.

Our fiscal year 2006 budget contains one major request to fully implement an ongoing initiative. The Community Supervision Program requests \$14,630,000 and 77 positions to operate the Reentry and Sanctions Center, or RSC, at Karrick Hall. This facility housed our Assessment and Orientation Center Program until 2004, when the program was temporarily relocated to allow the much-needed renovation work to begin.

In fiscal year 2002, CSOSA received a \$13 million appropriation to renovate and expand the Assessment and Orientation Center program. At that time, Congress authorized the 95 positions necessary to operate the expansion units. Eighteen of these positions were funded in fiscal year 2004 to allow us to begin hiring the key staff that must be in place during the pre-operations planning and training process. The renovations are scheduled for completion early in fiscal year 2006. In order for us to open the new units on schedule, we need to begin hiring the remaining 77 positions several months before the expected opening.

We greatly appreciate the Subcommittee's past support of the Reentry and Sanctions Center. As we move toward implementation, I would like to take a moment to discuss the program, its place in our overall strategy, and the potential benefits it can realize.

The Reentry and Sanctions Center is based on our successful Assessment and Orientation Center, or AOC, which has been operating since 1996. The AOC targets offenders and defendants with long histories of substance abuse and crime. Although nearly 70 percent of CSOSA's population has a history of substance abuse, it is this core group of long-term users that are the most resistant to change, the most intractable—and the most likely to recidivate. The AOC program targets these individuals with 30 days of intensive programming. For offenders, this is a critical period during reentry from prison to the community. Many of these offenders leave prison without secure housing, family connections, or community ties. They have been away a long time, and they have no idea where to go or how to do things differently. At the AOC, we provide comprehensive intellectual, psychological, and physical assessments so that we understand each individual's particular issues. If there's a health issue, we ensure that the offender gets treatment. If there's a psychological issue, we ensure that he has access to appropriate therapy. We provide programming and support to help the offender clarify his thinking about what he needs to do. We explain the rules and processes of supervision so that the offender understands what is expected of him. In short, the AOC is a 30-day transition from

prison to community designed specifically for the high-risk substance abusing offender. These individuals are often not appropriate for Halfway House placement, so the AOC provides an essential alternative to direct release from prison to the street. The AOC also provides services to defendants who are court-ordered to participate in the program.

The Reentry and Sanctions Center will expand the AOC's capacity from its current 27 beds to approximately 100 beds, enabling us to offer these services to about 1,200 individuals per year. These beds will be divided into four men's units, one women's unit, and one unit for offenders with mental health diagnoses. We are particularly eager to make the AOC program available to the underserved female population.

The expanded capacity will enable us to realize the great potential of this program as a residential sanction for supervised offenders and defendants who are relapsing into substance abuse. Residential sanctions are an essential aspect of effective community supervision, particularly if they can be imposed quickly. The longer the interval between violation and sanction, the less force the sanction carries—and the more time the offender has to escalate to even more dangerous behavior. Removing the offender from the external factors that contributed to the violation allows us to assess and stabilize him or her, evaluate the case plan, and make adjustments before the behavior gets to the point that supervision cannot contain it. Having this type of environment is particularly important for special needs offenders, such as those with dual mental health and substance abuse issues, who are currently somewhat difficult to place in our Halfway Back residential sanctions.

An initial study of the AOC's effectiveness indicated a 74.5 percent drop in drug use after 1 year among program graduates. Criminologist Dr. Faye Taxman, who has studied effective supervision practices extensively, has written, "Pretreatment activities are critical to improving the client's commitment to behavior change, motivation, and adjustment to the treatment process."<sup>1</sup> In other words, the type of programming offered at the AOC, and expanded to the Reentry and Sanctions Center, improves treatment outcomes—which in turn improves supervision outcomes.

CSOSA's strategic plan identifies four critical success factors that are essential to our success: risk and needs assessment, close supervision, treatment and support services, and partnerships. The Reentry and Sanctions Center initiative touches all of those factors. It will be our most powerful tool to date in a system of assessment-driven, community-based supervision that is already a national model.

Although the Reentry and Sanctions Center is the main feature of our budget request, I would also like to highlight several of this past year's most important accomplishments:

- We have developed an automated, research-based risk and needs assessment tool that will assist our Community Supervision Officers in developing prescriptive supervision plans.
- We have fully implemented electronic submission of Presentence Investigation Reports, raising our on-time completion rate from 51 percent in 2002 to 97 percent last year.
- We continue to increase offender drug testing. The average monthly frequency has risen from 1.9 times per month in 1999 to 3.7 times per month last year.
- We opened a Day Reporting Center program to provide an all-day supervision option for high-risk offenders. This program involves unemployed offenders in academic and vocational education, as well as life skills classes, to increase their compliance with supervision.
- We implemented several key enhancements in our automated case management system, including automated rearrest notification, automated violation reporting, and an expanded management reporting capability.
- We expanded our Global Positioning System electronic monitoring program, begun as a pilot in fiscal year 2004, to an average caseload of approximately 50 offenders.
- We continue to implement our model of supervising offenders in their communities. This past year, we signed a lease on a new field unit on Rhode Island Avenue, and we are developing a Far Northeast Field Unit on Benning Road. These units will close a critical gap in ensuring that our Community Supervision Officers are deployed throughout the neighborhoods in which most offenders reside. At the Benning Road site, the Pretrial Services Agency will also locate supervision officers in the field for the first time. In developing these projects, we continue to work collaboratively with community groups to ensure that our presence is welcome and our mission is known.

<sup>1</sup>Faye Taxman, Ph.D. "Unraveling 'What Works' for Offender in Substance Abuse Treatment," National Drug Court Institute Review, Vol. II, No. 2, 1999.

- We have achieved a 94 percent response rate to offender supervision violations. The implementation of the Reentry and Sanctions Center will increase the range of sanctions available to us, but I am pleased to report that we are already responding to the vast majority of violations. The Pretrial Services Agency also improved its response rates in fiscal year 2004, sanctioning 80 percent of drug testing violations, 79 percent of contact conditions, 83 percent of curfew conditions violations, and 97 percent of treatment program condition violations.
- The Pretrial Services Agency increased the use of electronic monitoring to all defendants assigned to Heightened or Intensive Supervision.
- We continue our faith initiative, matching returning offenders with volunteer mentors from the area's faith institutions. This January, we celebrated our fourth Reentry Week, a series of events highlighting the faith community's concern for, and contribution to, returning offenders. This year's Reentry Week featured a community forum organized by previously incarcerated persons to discuss implementation of the District's Citywide Reentry Strategy, which CSOSA played a major role in developing.
- We continued our outreach to the Rivers Correctional Institution in North Carolina, which houses over 1,000 D.C. offenders. We are now conducting quarterly "Community Resource Day" presentations via videoconference. These presentations provide information on housing, health care, education, and employment—as well as presentations about supervision and release—to inmates within 90 days of reentry.

In conclusion, I want to thank the subcommittee for your continued support for our program. As you can see, CSOSA is in transition. Soon, we will be able to say that we have completed the system we set out to build. I remain confident that it is the most effective community supervision program possible, and that the citizens of the District of Columbia will be safer as a result of its implementation.

#### PUBLIC DEFENDER SERVICE

##### STATEMENT OF AVIS E. BUCHANAN, ESQ., DIRECTOR

Senator BROWNBACK. Ms. Buchanan, thank you for joining us today.

Ms. BUCHANAN. Good morning, Mr. Chairman and members of the subcommittee.

#### INTRODUCTION

I am Avis E. Buchanan, Director of the Public Defender Service for the District of Columbia. I am here today to testify in support of PDS's fiscal year 2006 budget request. We thank the subcommittee for its earlier support of our programs, and I welcome you, Senator Brownback, to your new chairmanship.

In 2005, PDS will proudly mark its 35th year of providing quality defense representation to people in the District of Columbia. Since 1970, when PDS took on its role as a model public defender, PDS has maintained a reputation as the best public defender office in the country, local or Federal. To maintain that reputation, PDS has designated fiscal year 2006 as a year of performance management assessment for PDS. We will continue to evaluate our staffing complement and our fiscal year 2005 data collection for our constitutionally mandated mission. We are, therefore, proposing a budget that remains at the level of the President's fiscal year 2005 budget request, \$29.8 million.

PDS's core work consists of the more serious, complex, and resource-intensive criminal cases, but PDS also handles matters such as criminal appeals, serious delinquency charges, parole revocations, involuntary mental health system commitments, drug court, and special education for children in the delinquency system.



## FISCAL YEAR 2005 ACCOMPLISHMENTS

PDS has grown more sophisticated in its administrative and program functioning since 1970. Our fiscal year 2005 accomplishments include implementing our first-ever strategic plan and conducting our first-ever survey of the District's local judges. All 35 responding trial court judges agreed, and 27 of these strongly agreed—the highest-possible rating—that PDS provides and promotes quality legal representation to the indigent.

One appellate judge wrote, "Of all the litigants' counsel who come before the Court of Appeals on a regular basis, PDS lawyers are uniformly better. They give this judge, and, I believe, all judges, a sense that their clients are soundly and zealously represented while giving the court considered legal arguments. If I were facing prosecution in the District of Columbia, I would want PDS to represent me."

I am proud of that opinion of this office. I am proud that PDS collaborates with others to improve the justice system, that we touch individual lives, that we have a strong training program, and that we have improved our operations.

## PROGRAM ACCOMPLISHMENTS

Our collaborative work includes helping to develop the District's new pilot sentencing program. The pilot program uses voluntary sentencing guidelines developed by the D.C. Sentencing Commission, which PDS served on along with community representatives and criminal justice agency representatives. The preliminary compliance rate of this voluntary system is close to 90 percent.

PDS's activities during fiscal year 2005 had significant implications for individual clients or improved the administration of justice. The Offender Rehabilitation Division (ORD) worked with a woman who was diagnosed with mental retardation, but who dropped out of the sixth grade after not receiving specialized services in school. ORD, the division, referred her to a residential treatment program run by a faith-based organization. The client completed the program, and, through the program, received vocational training to become a home health aide. After she graduated from the program, the division referred her to a program run by a different faith-based group. The program helps people with mental illness transition to permanent independent housing.

The Appellate Division won a motion for a new trial based on the ineffective assistance of counsel provided by a private attorney who had been paid thousands of dollars by the defendant's family, but who conducted virtually no investigation of the very serious charges the client was facing. The successful motion followed painstaking reinvestigation of the case. The government elected not to retry the client.

In fiscal year 2005, our Community Defender Division's Reentry Program identified resources available to PDS's reentering clients, and organized a panel to educate judges and practitioners about children with incarcerated parents. The Reentry Program also assisted the members of the East of the River Clergy-Police-Community Partnership in planning a reentry forum for community members, attorneys, social workers, counselors, and prison ministries.

Our Special Litigation Division has been expanding PDS's work on various scientific issues in the courtroom. The exoneration of individuals through DNA evidence has revealed that flawed eyewitness testimony was involved in 80 percent of the cases. The Special Litigation Division, working closely with the Trial Division, has pulled together scientific research assessing witness identification and the various identification procedures used by law enforcement. This information has been used to educate lawyers so that they might better educate judges and jurors about what circumstances are more likely to produce mistaken identification.

PDS conducts and participates in numerous training programs for its own staff and for others. A training highlight is PDS's 2003 and 2004 Forensic Science Conferences. In 2004, various experts taught judges, lawyers, and others about crime scene investigation, sentencing, and bodily injuries. The third conference, scheduled for September 2005, will incorporate the Trial Division's growing expertise in challenging both DNA evidence and cases arising out of database searches, in anticipation of the President's initiative to reduce the backlog of DNA cases.

#### ADMINISTRATIVE ACCOMPLISHMENTS

PDS's administrative accomplishments are further steps toward better serving clients and better modeling excellent financial and management practices. PDS's relatively new status as a federally funded entity and the guidance of the President's management agenda have allowed us to enhance our acquisition management and our competitive sourcing, to improve our ability to develop financial and performance management integration, and to implement relevant e-government initiatives.

And in the area of human capital, PDS has a workforce with a strong affinity to the clients, mission, and management of PDS. In a recent employee survey, 99 percent of the respondents reported being proud to work for PDS—the highest score on this question of any organization, private or government, that our contractor has surveyed.

#### CONCLUSION

In closing, I'd like to make two points. One, in a mid-1970s report, the Department of Justice designated PDS as an exemplary project, praising PDS's defense model. It's an approach that PDS has remained committed to for 30 years. Two, PDS still achieves a level of quality representation that is to be sustained and emulated.

#### PREPARED STATEMENT

I would like to thank the members of the subcommittee for your time and attention to these matters and for your support of our work to date. I would be happy to answer any questions the subcommittee members may have.

Senator BROWNBACK. Thank you, Ms. Buchanan, appreciate that. [The statement follows:]

## PREPARED STATEMENT OF AVIS E. BUCHANAN, ESQ.

Good afternoon, Mister Chairman and members of the Subcommittee. My name is Avis E. Buchanan, and I am the Director of the Public Defender Service for the District of Columbia (PDS). I come before you today to provide testimony in support of PDS's fiscal year 2006 budget request. We thank this Subcommittee for its support of our programs in previous years.

In 2005, the Public Defender Service will mark its 35th year of providing quality defense representation to people in the District of Columbia. Since 1970, when PDS took on its intended role as a model public defender, PDS has developed and maintained a reputation as the best public defender office in the country—local or Federal. PDS has become the national standard bearer and the benchmark by which other public defense organizations often measure themselves in a number of practice and administrative areas.

To maintain that reputation, PDS has designated fiscal year 2006 as a year of performance management assessment for PDS, a year in which we want to work to increase our internal efficiencies. Setting this goal has led us to propose a budget that remains at the level of the President's fiscal year 2005 budget request. All pay raises and other resource needs will be funded by internal spending reallocations and business efficiencies. PDS does not anticipate any increase to staffing levels. After several years of investment, PDS will use fiscal year 2006 to continue to evaluate its strategic direction for human capital and the amount of support required by the legal divisions. Also, PDS will evaluate its fiscal year 2005 data collection for quantitative and qualitative performance measures. These measures will serve as a baseline as we transition to performance-based budgeting and management that assist in maintaining quality representation for indigent persons in the District of Columbia courts.

## BACKGROUND

In the District of Columbia, PDS and the local District of Columbia courts share the responsibility for providing constitutionally mandated defense representation to people who cannot pay for their own attorney. Under the District of Columbia's Criminal Justice Act (CJA)<sup>1</sup>, the District of Columbia courts appoint PDS generally to the more serious, more complex, resource-intensive, and time-consuming criminal cases. The courts assign the remaining, less serious cases and the majority of the misdemeanor and traffic cases to a panel of approximately 350 pre-screened private attorneys ("CJA attorneys"). Approximately 110 PDS staff lawyers are appointed to represent: a majority of people facing the most serious felony charges; a substantial number of individuals litigating criminal appeals; a significant number of the children facing serious delinquency charges; nearly 100 percent of all people facing parole revocation; and the majority of people in the mental health system who are facing involuntary civil commitment.

While much of our work is devoted to ensuring that no person is ever wrongfully convicted of a crime, we also provide legal representation to recovering substance abusers participating in the highly successful Drug Court treatment program, and to children in the delinquency system who have learning disabilities and require special educational accommodations under the Individuals with Disabilities in Education Act.<sup>2</sup>

The Public Defender Service, unique among local public defender offices in that it is federally funded,<sup>3</sup> has always been committed to its mission of providing and promoting constitutionally mandated legal representation to adults and children facing a loss of liberty in the District of Columbia who cannot afford a lawyer, and we have had numerous significant accomplishments in pursuit of that mission. In addition, PDS has developed innovative approaches to representation, from instituting measures to address the problems of clients returning to the community who have been incarcerated to creating a one-of-a-kind electronic case tracking system. Other public defender offices across the country have sought counsel from PDS as they have patterned their approach to their work after ours.

As part of its statutory mission to promote quality criminal defense representation in the District of Columbia as a whole, PDS has also provided training for other

<sup>1</sup>D.C. Code § 11-2601 et seq. (2001 Ed).

<sup>2</sup>20 U.S.C. § 1400, et seq.

<sup>3</sup>As a result of the National Capital Revitalization and Self-Government Improvement Act of 1997 (the "Revitalization Act"), PDS was established as a federally funded, independent District of Columbia organization. In accordance with the Revitalization Act, PDS transmits its budget and receives its appropriation as a transfer through the Court Services and Offender Supervision Agency (CSOSA) appropriation. Pub. L. No. 105-33, Title X (1997).

District of Columbia defense attorneys and investigators who represent those who cannot afford an attorney, and PDS has provided support to the District of Columbia courts.

#### FISCAL YEAR 2005 ACCOMPLISHMENTS

PDS has grown more sophisticated in its administrative and program functioning since 1970. PDS has drafted its first-ever strategic plan and annual performance plan, and has begun incorporating them more fully into the management of our client service.

In an effort to develop performance baselines, and in conjunction with its strategic plan, PDS conducted an anonymous survey of the District's local trial and appellate judges before whom we regularly appear. Of the 60 trial judges who received the survey, 35 responded. All 35 agreed (27 of these "strongly agreed"—the highest possible rating on the survey) that PDS staff provides and promotes quality legal representation to indigent adults and children facing a loss of liberty. All 35 agreed (23 "strongly agreed") that PDS staff are well prepared to defend their clients. Of the 16 of the appellate judges to whom the survey was sent, half responded, all of whom agreed that PDS staff provide and promote quality legal representation, are zealous advocates for their clients, and are well prepared to defend their clients. In fact, one appellate judge wrote:

"Of all the litigants' counsel who come before the Court of Appeals on a regular basis, PDS lawyers are uniformly better. They give this judge—and I believe all judges—a sense that their clients are soundly and zealously represented while giving the court considered legal arguments. If I were facing prosecution in D.C., I would want PDS to represent me."

#### GENERAL PROGRAM ACCOMPLISHMENTS

##### COLLABORATIVE WORK

Although widely known for zealously participating in the adversarial process of the criminal justice system, PDS also works closely with criminal justice agencies and the courts to improve the system and make it function more efficiently and fairly.

##### *Sentencing Guidelines*

In June 2004, the Superior Court began a pilot sentencing program using voluntary sentencing guidelines developed by the D.C. Sentencing Commission. PDS is a member of the D.C. Sentencing Commission along with three D.C. Superior Court judges; representatives from the Office of the United States Attorney, the District of Columbia Office of the Attorney General, the Court Services and Offender Supervision Agency, the D.C. Metropolitan Police Department, the D.C. Department of Corrections, and the U.S. Bureau of Prisons; and citizens representing victims and families of inmates. Although the system is voluntary, the preliminary data gathered thus far shows an extremely high compliance rate of close to 90 percent.<sup>4</sup>

While the Sentencing Commission looked to Federal and State guidelines systems for ideas, it created a system most suited to the District. The PDS representatives, the U.S. Attorney's representatives, and the judges crafted the details of the system, to which the full Commission gave final approval. This almost unprecedented collaboration on a hotly debated topic may be part of the reason for the high compliance rate. The long, and often contentious, working sessions produced a fair and balanced system that may well achieve the goal of greater uniformity and predictability in sentencing.

Once the guidelines were completed, PDS and the U.S. Attorney's Office continued this collaboration, drafting a lengthy, detailed practice manual. Together PDS and the U.S. Attorney's Office resolve the many problems that arise in the implementation of such a complicated system. PDS conducted internal trainings on the new

<sup>4</sup>Preliminary data shows that of the sentencings that occurred in felony cases since June 14th, 2004 and that were reported to the D.C. Sentencing Commission, over 90 percent were within the recommended guideline range. This statistic does not include allowable departures, either upward or downward. The statistic may actually be higher, as it appears that some sentences outside the recommended range were inadvertent and resulted from unfamiliarity with this very new system. By comparison, in the Federal guidelines system, since the Supreme Court's decision in *United States v. Booker-Fanfan*, 125 S.Ct. 738 (2004), 62 percent of cases are within guidelines ranges. See U.S. Sentencing Commission Memorandum, from Office of Policy Analysis, to Judge Hinojosa, Chair (March 22, 2005). The two systems differ in many respects that would affect this compliance rate, including the fact that guideline ranges in the Federal system are narrower than those in the District's system.

guidelines as well as numerous trainings for the private criminal defense bar and, with the U.S. Attorney's Office, assisted with the training of the judges and of the CSOSA staffers responsible for preparing presentence reports and completing initial guidelines calculation recommendations for the court.

#### *Competency to Stand Trial in Criminal Court*

The District of Columbia Code statute that governs proceedings to determine a defendant's competence to stand trial has undergone few changes in the almost five decades since its enactment. However, evolving Supreme Court and District of Columbia courts jurisprudence, as well as increased understanding of mental illness, have made the statute outdated. PDS drafted a complete overhaul of the competency statute, improving and updating it, and shared it with the Chair of the D.C. Council's Committee on the Judiciary, who introduced it as a bill. PDS, the U.S. Attorney's Office, D.C.'s Office of the Attorney General, and the D.C. Department of Mental Health then modified the bill in response to the concerns of all the parties to the system. The negotiated bill passed the D.C. Council unanimously at the end of 2004 and is projected to become law in April 2005.

#### *Practice Standards in Family Court*

PDS worked with judges in the D.C. Family Court to create practice standards for panel lawyers representing children charged with acts of delinquency. These practice standards establish minimum requirements for attorneys such as how often to visit the client and how many hours of continuing legal education each attorney must receive each year.

These are just a few examples of how PDS works with the court and with other entities engaged in the criminal justice system to improve and enhance criminal justice in the District of Columbia.

### OTHER PROGRAM ACCOMPLISHMENTS

PDS engaged in a number of activities during fiscal year 2005 that had significant implications for individual clients or that improved the overall administration of justice.

#### *Individual Clients*

The core work of PDS is the representation of individual clients facing a loss of liberty. As you know, the criminal justice system is premised on an adversarial system, and PDS has able adversaries in the District's Attorney General's Office and the United States Attorney's Office for the District of Columbia. A fair criminal justice system depends on having all components (judges, government, and defense) fulfill their respective roles. PDS plays a pivotal part in ensuring that all cases, whether they result in pleas or trials, involve comprehensive investigation and thorough consultation with the client, and that the trials constitute a full and fair airing of reliable evidence. As it has every year since its inception, in fiscal year 2005, PDS won many trials, fought a forceful fight in others, and found resolution prior to trial for many clients. Whatever the outcome, PDS's goal for each client was competent, quality representation.

All of these cases and their outcomes are far too varied and numerous to recount here, and the ethical rules that protect all clients' confidences, regardless of their economic circumstances, preclude me from providing detailed examples. Instead, the following cases, absent identifying information, are a small sample of how competent, quality representation can change lives.

*Mental Health.*—The Mental Health Division won the release of a client who had been committed to St. Elizabeths since the mid-1970s on a finding of not guilty by reason of insanity on a charge of attempt shoplifting. After spending nearly 30 years at St. Elizabeths on a charge that carried a maximum jail sentence of no more than a year, the client is now, through the assistance of the D.C. Department of Mental Health, living in a sponsored, independent apartment and working in a supervised environment.

*Children.*—The Trial Division represented a teenager who was charged with driving a stolen car after he crashed the car. PDS's investigation and an independent professional evaluation revealed that the teenager, who had not been to school for years and who had been essentially abandoned as a child by his mother because she was chronically ill, had been trying to commit suicide with the car crash. Helped by PDS to identify the problems and identify appropriate services, the teenager raised his reading level from kindergarten to 3rd grade, responded positively to therapy, and entered a therapeutic foster home.

*Men.*—PDS's Offender Rehabilitation Division helped a young man who was charged with unauthorized use of a vehicle. His mother's history of cocaine abuse

led to her being in and out of prison. As a result, the client grew up in the foster care system and dropped out of the 9th grade. After a presentation from ORD staff and the trial attorney, the court put the young man on probation with the condition that he complete a rigorous, year-long residential rehabilitation program operated by a faith-based social service organization. The program required that he report to work every day to support the organization's mission. With much supervision and support from the ORD staff, the client overcame his lack of a good work history and of a familiarity with good work habits, and became a more reliable, more timely, and more responsible worker. The client also participated in various groups run by the program, such as a Bible-based enrichment group that helps participants become more responsible as individuals and as members of the community. Although he struggled, the young man completed the program successfully and, as a result of his progress, the judge released him from probation early. The client is now planning to complete his GED and obtain certification as an electrical technician.

*Women.*—The Offender Rehabilitation Division works with many clients who are in the criminal justice system as a result of substance abuse. Often this abuse is symptomatic of an underlying problem that must be identified and addressed to ensure recovery. One such client was a woman who was diagnosed with mental retardation, but who dropped out of the 6th grade after not receiving specialized services in school. ORD referred her to a residential drug treatment program for women run by a faith-based organization. The client completed the program and, through the program, received vocational training to become a home health aide. After the client graduated from the program, ORD referred her to a transitional living program run by a different faith-based group. The program, which accepted the client, helps people with mental disabilities move over the course of a couple of years to permanent, independent housing.

#### *Appellate Division*

The Appellate Division's appellate litigation has impact throughout the District's criminal justice system as decisions in their cases often establish or clarify the standards trial court judges and litigants must follow in criminal and juvenile cases. The complex and novel legal issues the Division is called upon to address therefore are best handled by experienced and talented attorneys—which the Division does not lack.

*Ensuring Fairness.*—The Government's long-standing obligation to disclose exculpatory evidence to the defense in a timely fashion reflects the considered judgment of our justice system that the search for truth cannot succeed if the prosecutor conceals material information tending to prove the defendant innocent or tending to undermine the reliability of the government's witnesses. Unfortunately, however, prosecutors sometimes fail to honor their obligation to disclose this "*Brady*<sup>5</sup> information," and only thorough investigation by defense counsel brings these failures to light. In four cases during fiscal year 2004, the Appellate Division uncovered *Brady* information that had not been disclosed to trial counsel, calling into question the reliability of the clients' convictions. In all four separate cases, the litigation ended with the government deciding that dismissal of all charges for all four clients was appropriate.

The Appellate Division persuaded the trial court to vacate a client's murder conviction after a long battle to demonstrate that the former Federal prosecutor assigned to the case had committed intentional misconduct. Appellate counsel first intervened in the U.S. District Court on behalf of the client to make public the results of a Justice Department Office of Professional Responsibility report that had found that the prosecutor had improperly paid tens of thousands of dollars in witness fees to the friends and family of government witnesses in a Federal drug and murder conspiracy prosecution. Over the government's objection, PDS won an order from the Federal judge unsealing the records of the prosecutor's misconduct. Armed with these records and with the results of years of investigation, the appellate attorney demonstrated that the prosecutor had also improperly paid tens of thousands of dollars in witness fees to the friends and relatives of government witnesses in the client's case. The United States agreed to join in a motion to vacate the client's murder conviction in the interests of justice. The client's appeal that the appellate attorney had argued before the District of Columbia Court of Appeals en banc was also dismissed as part of the agreement.

*Ensuring Quality Representation.*—The Division won a motion for a new trial based on the ineffective assistance of counsel provided by the original, private attorney, who had been paid thousands of dollars by the defendant's family but who conducted virtually no investigation of the very serious charges against the defendant.

<sup>5</sup>*Brady v. Maryland*, 373 U.S. 83 (1963).

The successful motion followed painstaking re-investigation of the facts of the case. In response, the government elected not to retry the client.

#### *Special Litigation Division*

The Special Litigation Division litigates systemic issues in the District of Columbia criminal justice system before every court in the District of Columbia—the Superior Court and Court of Appeals in the local system, and the District Court, the Court of Appeals, and the Supreme Court in the Federal system. These are some of the highlights of our litigation:

*Incarcerated Children.*—SLD has litigated the lawsuit challenging the juvenile detention system in the District, *Jerry M., et al. v. District of Columbia, et al.*<sup>6</sup>, for 19 years, and we are at last hopeful of a resolution. The lawsuit and the resulting consent decree focus on the conditions of the juvenile detention facilities and on the treatment and rehabilitation provided to youths at the facilities to reduce their chances of recidivating and increase their chance of becoming productive members of the community. Last year, the Division's *Jerry M.* lawyers asked the court to appoint a receiver to oversee the District's Youth Services Administration (now the Department of Youth Rehabilitation Services) until the consent decree's mandates could be met. While the request was pending, the court held the District in contempt for violating several consent decree provisions. The District then agreed to the appointment of a special arbiter to resolve disputes and formulate a new model for juvenile justice in D.C. SLD and the District are now well on their way toward the formulation of a comprehensive work plan to address the systemic issues that have plagued the District's juvenile justice system for years.

*Eyewitness Identifications.*—Eighty percent of recent DNA exonerations nationally stemmed from faulty eyewitness evidence. SLD has focused on helping to make courtroom eyewitness evidence more reliable, and its flaws and limitations more understandable to jurors. To support this effort, SLD has collected all the recent scientific research and developed model pleadings. Using these resources, SLD has worked with the trial lawyers to introduce the testimony of eyewitness identification expert witnesses to help inform jurors about the science surrounding how various factors such as facts about the offense, the witness, or the identification procedure used can affect the reliability of a witness's identification.

#### *Community Defender Division*

The Community Defender Division provides services through four programs: the Juvenile Services Program, which focuses on children confined to the Oak Hill Youth Detention Center in Laurel, Maryland and placed in residential facilities across the country; the Community Re-entry Program, which responds to the legal and social needs of newly released D.C. parolees and assists them in making a successful transition back into the community; the Institutional Services Program, which serves as a liaison to the U.S. Bureau of Prisons to assist D.C. Code offenders in the Bureau's custody; and the Community Outreach and Education Program, which educates members of the community about their legal rights and responsibilities in the criminal justice system.

*Re-entry Programs.*—In fiscal year 2005, the Community Re-entry Program worked to educate various communities about the issues facing PDS's re-entering clients and to identify resources available to them. The Community Re-entry Program organized a panel, as part of the Family Court Training Series to educate judges and practitioners about what it means for a child to have an incarcerated parent. The panel featured a formerly incarcerated parent and two youths whose parents have been incarcerated for a number of years. The Program also assisted the members of the East of the River Clergy-Police-Community Partnership to plan a forum for community members, attorneys, social workers, employment and drug treatment counselors, and prison ministries. The purpose of the forum was to educate these groups about the particular issues facing re-entering women.

*Mental Health.*—Some of our most challenging clients are severely mentally ill persons who are arrested on less serious charges, but incarcerated pending trial, and who are without support systems. Their incarceration results in the cancellation of all their benefits (SSI, SSDI, Medicaid). Without these benefits, our clients lose access to affordable housing and some essential services. Because the Community Defender Program has been able to take advantage of relationships that the Offender Rehabilitation Division staff is developing with a number of agencies and with contract providers of mental health services, this situation is improving. More of our severely mentally ill clients are now able to obtain financial benefits, housing, and intensive outpatient mental health services, and in the last year, we have had

<sup>6</sup>Civil Action No. 1519–85 (IFP).

tremendous success helping these clients re-enter the community without re-offending.

*Catholic University Group Home Project.*—Two years ago, PDS approached Catholic University about providing services to girls committed to the care of the District of Columbia. PDS assisted in developing a proposal, modeled after a successful program in Missouri, for creating a girls' group home on the university's campus. The girls would receive social services, public health education and services, and education support, including special education assistance, from the school's graduate programs. The university obtained foundation funding to do a feasibility study of the proposed project, which should be completed in early May 2005. Officials from the District's Department of Youth Rehabilitation Services recently met with the university administration to offer technical assistance for the project. Catholic University has expressed a strong interest, not just in providing a site for and services to the group home, but in offering care such as day treatment, encouraging family involvement, partnering with a charter or independent school, and offering scholarships to "graduates" of the program. PDS continues to be involved in moving this project forward.

*Truancy Initiative.*—The Community Defender Program is working closely with the Family Court, the D.C. Public Schools, and the D.C. School Board to address the truancy problem by developing a program modeled after one in Louisville, Kentucky. The initiative is a family intervention program created to address the root causes of truancy. A community team of judicial officers, school personnel, social services providers, mental health providers, and substance abuse rehabilitation providers would work together to identify families for whom intensive services would help resolve barriers to school attendance. The program would be based in the schools, rather than in the courts, allowing the team to make weekly visits to the school, with regular contacts by the case manager with the family in between the school visits. Like the group home project with Catholic University, this is another example of PDS recognizing a need and identifying a model that could be modified to suit the District.

#### *Parole Division*

The Parole Division, created pursuant to the Lorton Closure Initiative, provides required representation to parolees facing revocation before the United States Parole Commission.<sup>7</sup> This Division represents nearly 100 percent of all D.C. Code offenders facing parole revocation.

*Law School Program.*—The Parole Division expanded its law clinic program to include Howard University School of Law students and cooperative students from the Northeastern School of Law. Now law students in the criminal justice clinics at these two schools and at the Georgetown University Law Center receive training on advocating in the parole revocation process and become qualified to represent parolees facing revocation. PDS has collaborated with these law schools to leverage its expertise to ensure that this small division can effectively represent almost 100 percent of the parole cases of D.C. Code offenders that come before the U.S. Parole Commission.

*Working with the Parole Commission.*—PDS's Parole Division continues to monitor closely the work of the U.S. Parole Commission and to seek out areas of collaboration, such as commenting on proposed parole regulations and assisting in the training of new Parole Commission hearing examiners in connection with their role in the parole revocation process.

#### *Training*

PDS conducts and participates in numerous training programs throughout the year. The annual Criminal Practice Institute and the Summer Criminal Defender Training Program address the training needs of the court-appointed CJA attorneys and investigators. In fiscal year 2005, PDS attorneys and investigators also taught sessions at almost all of the D.C. law schools, including the law schools at Georgetown University, Catholic University, American University, and Howard University. PDS attorneys were also invited to teach elsewhere locally, including at the D.C. Bar, the National Legal Aid and Defender Association, and the Defender Services Division of the Administrative Office of the U.S. Courts.

*Forensic Science Conference.*—The first forensic science conference held by PDS in 2003 was such a success, allowing D.C. defense attorneys to learn forensic science issues from national experts, that the grantor awarded funding for a second conference. In 2004, PDS sponsored "An Interactive Crime Scene Investigation," a 2-

<sup>7</sup> The Revitalization Act shifted responsibility for D.C. parole matters from the D.C. Board of Parole to the United States Parole Commission. 28 C.F.R. 2.214(b)(1) and 2.216(f).



day conference open to judges, lawyers, mental health professionals, and investigators. The second day was an interactive training session using a single case to study fingerprinting technology, blood spatter evidence, and the information scientists can glean from bodily injuries.

The next forensic science conference is scheduled for September 2005; it will serve as a “DNA college” for trial attorneys. Using the expertise PDS’s Trial Division has developed in challenging nuclear DNA evidence, mitochondrial DNA evidence, and cases arising out of database searches, and in anticipation of the President’s initiative to reduce the backlog of DNA cases and better educate lawyers and judges about DNA evidence, PDS is planning a conference to promote quality representation in cases that increasingly involve complex scientific concepts and technologies.

#### ADMINISTRATIVE ACCOMPLISHMENTS

PDS’s current increased focus on enhancing its administrative functions represents a further step toward better serving clients and toward better serving as a model defender organization. The right to a qualified attorney for people who cannot afford one can be read to include an expectation that representation will be provided to clients not only effectively, but also efficiently. As PDS has been in the forefront in meeting and exceeding the standards defining what it means to satisfy the requirements of the right to counsel, PDS can also be on the forefront in modeling excellent financial and management practices in support of that right.

Before PDS became a federally funded entity, funding limitations compromised our ability to achieve as high a level of proficiency in our administrative functioning as we are known for in our legal representation. PDS’s relatively new status as a federally funded entity has created the opportunity for us to enhance our administrative functions: in the past 8 years, PDS has established a human resources department, an information technology department, and a budget and finance department where none previously existed. PDS is working to continue this “administrative maturation.” We have already adopted Federal best practices in a number of support areas, and we are preparing to expand their use in other areas as well.

PDS’s strategic planning agenda for executive and administrative management follows the President’s Management Agenda as the framework for managing performance. The fiscal year 2004 accomplishments are highlighted within the context of this framework.

*Human Capital.*—During the winter of early 2004, PDS for the first time formally assessed the staff’s view of PDS’s working environment. Using an independent contractor, PDS surveyed employees’ opinions on topics such as PDS’s commitment to its clients, the demographic diversity of PDS’s staff, PDS’s administrative efficiency, PDS management’s and line staff’s trust in each other, PDS’s responsiveness to the needs of its employees, and individual job satisfaction. The contractor noted that the overall survey results were the most positive the contractor had encountered in conducting such employee surveys in both private industry and government. All across the demographic spectrum, employees felt a strong affinity to the clients, mission, and management of PDS. As we reported to this Subcommittee during last year’s fiscal year 2005 budget hearing, almost 70 percent of employees responded to the survey; 99 percent of responding employees reported being proud to work for PDS. The independent firm that conducted the anonymous survey reported that this was the highest score on this question of any organization it has surveyed.

In fiscal year 2005, PDS continues to develop and review its baseline for recruitment, retention, and succession planning programs.

*Competitive Sourcing.*—During fiscal year 2004, PDS improved its competitive sourcing practices by establishing a fully appointed contracting officer and enhancing its acquisition management strategy and policies. During fiscal year 2005, PDS has begun reducing the number of suppliers for any given product or service the organization requires and competing like products and services under larger contract proposals. PDS is also contracting for ancillary service needs where feasible, practical, and supportive of quality client representation.

*Financial Performance.*—At the start of fiscal year 2004, PDS implemented a financial management improvement program. The program adopts financial best practices, including the use of audited financial statements as but one form of measurement. In fiscal year 2004, PDS selected a new audit firm and a new accounting service provider. Both actions improve PDS’s ability to develop financial and performance measurement integration, and create efficiencies and effectiveness in providing financial services to PDS.

*E-Government.*—In order to implement e-government initiatives, PDS leverages the capabilities of service providers. During fiscal year 2004, PDS entered into an agreement with a Federal agency to provide e-travel service. PDS began receiving

that service, which will enhance management controls and efficiency, in fiscal year 2005. Also in fiscal year 2005, PDS implemented a more fully electronic procurement card system that supports the competitive sourcing initiatives. During fiscal year 2006, PDS will be better positioned to evaluate other e-government initiatives that could directly support PDS's mission of indigent client representation.

*Budget and Performance Integration.*—The success of PDS's financial management improvement program, which will assist PDS in executing its budget and performance integration, can be measured in part by PDS's ability to hold the line in its fiscal year 2006 budget request to the level of the President's fiscal year 2005 budget request. During fiscal year 2005, PDS is refining its performance measures for subsequent use in the development of the fiscal year 2007 budget.

#### CONCLUSION

I would like to thank the members of the Subcommittee for your time and attention to these matters and for your support of our work to date. I would be happy to answer any questions the Subcommittee members may have.

Senator BROWNBACK. Judge Wagner, I think you mentioned this to me—do you retire this year? Is that right?

Judge WAGNER. I'm sorry?

Senator BROWNBACK. Are you retiring this year?

Judge WAGNER. Yes, I am. So this may—

Senator BROWNBACK. You gave me a surprised look, like I let a cat out of a bag here, did I?

Judge WAGNER. This is probably my last appearance before this body on behalf of the courts. Again, I just want to reiterate what a privilege it has been to be in a position to see the Congress of the United States in operation and to appear on behalf of the people of the District of Columbia and the hardworking judges and staff at the courts. Everyone has always been courteous and receptive, and I really appreciate it, and I want to thank you.

Senator BROWNBACK. Well, we want to thank you. I mean, that's just such a great record of service, it's deeply appreciated, and we'll try to make this last presentation not like going to the dentist and getting a root canal.

So it will, hopefully, not be too bad.

I do want to know, because of recent things that have happened in other places in the country about security in the courtroom and for judges—I'm sure that's something you've looked at a lot—are you comfortable with where we are now for your court?

Judge WAGNER. Yes. I think we're pretty comfortable. We have a combination security system involving the United States Marshals Service, as well as contract security officers who we hire. We have done a number of enhancements since 9/11, obviously, as everyone else has done. It gave us an opportunity, and prompted us, to do a complete security assessment, which was conducted by the U.S. Marshals Service. We've upgraded our control centers. We've upgraded the security in the various buildings. We've done a number of things to make sure that the people who enter the building do not have items of contraband or items that will be harmful to anyone. We've done things about our mail and our courier deliveries. We have a 100 percent security check. So we've done a lot of things, and they're ongoing.

Senator BROWNBACK. These latest events have been cases where a prisoner overpowered a guard; and another was a home attack. The judge in Chicago was actually a Kansan, a native Kansan, and her husband and mother were killed. What about those types of situations? Are you comfortable where the D.C. Courts are there?

Judge WAGNER. Typically, when you have a situation involving judges at home, it is some unique or special case that is involved. That has been the experience that I'm aware of. Arrangements are made when something occurs that makes it apparent that something is necessary, beyond the courthouse facility itself. It is something that I'm sure that the marshals are looking at. Everyone has become more sensitive to the various types of risk that exists that we had not, perhaps, accounted for before all of the recent events. But I think our Marshals Service has pretty good regulations about how they handle prisoners, and I can't really address them directly, but—

Senator BROWNBAC. I'm just asking you, you know, is it—you've been in this system for some period of time. If you're comfortable—

Judge WAGNER. Yeah. I only—

Senator BROWNBAC [continuing]. With where—

Judge WAGNER [continuing]. I've only had a couple of incidents, personally, and they were taken care of. The marshals came, they found out what the situation was, who made what threat, and it was addressed very, very quickly. I think that the other situations, for example, a judge in a particular trial many, many years ago, I knew, had to have round-the-clock Marshals Service. They offer it when it is necessary, because of the exigencies of the circumstances.

Senator BROWNBAC. Okay.

Where are people held in the District of Columbia pending trial or getting ready for trial in the District since we've—

Judge WAGNER. D.C. Jail.

Senator BROWNBAC. A number of people were—we closed Lorton down, when I was authorizer, and—where are people held now?

Judge KING. They're held in the D.C. Jail—

Senator BROWNBAC. Where is that—

Judge KING [continuing]. Which is near the—

Senator BROWNBAC [continuing]. Located now?

Judge KING. It's right south of the armory, near the—

Senator BROWNBAC. Okay.

Judge KING [continuing]. Baseball stadium and the armory and the hospital. My office works fairly closely with the warden of the jail and the director of the Department of Corrections in managing that flow of persons being brought to and from court, and where they're located, and how they're classified, once they're sentenced, to go out of the jail and into the Federal system.

Senator BROWNBAC. What's your rough capacity of that facility, do you know?

Judge KING. Twenty-two—

Mr. QUANDER. Twenty-two-hundred.

Judge KING. Twenty-two-hundred.

Senator BROWNBAC. Twenty-two-hundred in that? That's a large facility.

Judge KING. And it's near capacity. It has not been going over, recently, although it's always nip and tuck. It's always a close call. It's a struggle to keep it within capacity.

Senator BROWNBAC. And I'm presuming you hold people in there awaiting trial, and then immediately after, until you can get them moved into another facility—

Judge KING. That's—

Senator BROWNBAC [continuing]. In the region.

Judge KING [continuing]. That's exactly correct. In working with the Department of Corrections and the Marshals Service and others, we've recently reorganized the way the classification process takes place so that it's drastically cut down the waiting time to get someone classified into the Federal system once they've been sentenced. So, we've tried to move that process along much more effectively.

Senator BROWNBAC. How are you doing on your recidivism rates of people entering D.C. courts—convictions, and return rates? Mr. Quander, I guess that would probably be best to throw that to you.

Mr. QUANDER. In fiscal year 2003, the rearrest rate for offenders who were under our supervision, and who were rearrested by the Metropolitan Police Department, were approximately 16 percent of everyone that was arrested by the Metropolitan Police Department. In 2004, that rate went up to 18 percent. But that's just the rearrests. When we look at the number of individuals who are rearrested, the largest percentage of individuals rearrested are rearrested because of warrants that we have requested for technical violations or other violations. The next-largest group of rearrests are for driving offenses—no permit, lack of registration. When you look at the actual recidivism number of individuals who were rearrested and convicted and incarcerated, it's approximately 6 percent.

Senator BROWNBAC. Let me—now, let me challenge you a little bit on that. That would be one of the absolute best in the Nation, at 6 percent. This is over a 3-year, 5-year window—

Mr. QUANDER. It's—

Senator BROWNBAC [continuing]. That you're measuring that?

Mr. QUANDER [continuing]. It's moving. What we measured fiscal year 2003, the first cohort group. And from 2003 to present, those individuals who were rearrested, convicted, and incarcerated, it's about 6 percent.

Senator BROWNBAC. Okay, I may not be asking my question quite right, because the nationwide average on this is about two-thirds—

Mr. QUANDER. Well—

Senator BROWNBAC [continuing]. Is the recidivism rate, and I mean, if you're at 6 percent—and that's fabulous if you're at 6 percent, but I maybe—not be asking—and that—I need to get you the exact window, whether it's a 3- or 5-year window, of rearrests for after a conviction.

Mr. QUANDER. Right. And what commonly happens is, it depends on the definition of recidivism. That's why I started out with our rearrest figures being about 18 percent for this fiscal year, but rearrest really doesn't get to recidivism. Rearrests—as I indicated, most of the individuals rearrested were rearrested because of technical violations, where we requested of the Parole Commission to issue a warrant because someone has violated technical conditions, or we have requested the Superior Court to issue a show-cause

order because a person is noncompliant. And so, once those warrants are issued, individuals are arrested.

Senator BROWNBAC. Yeah.

Mr. QUANDER. But as far as being convicted of new offenses—

Senator BROWNBAC. Let me shape the question in a written statement to you so we can get a specific—

Mr. QUANDER. Certainly.

Senator BROWNBAC. And if you could spend a little time going through that, I would appreciate you looking at what the recidivism rate is in the District—is there—there's a pretty set definition of these, and I want to—let me get it to you in writing, if you don't mind trying to—

Mr. QUANDER. Certainly.

Senator BROWNBAC [continuing]. To take it that way.

[The information follows:]

*The Bureau of Justice Statistics (BJS) reports that 67.5 percent of prisoners released in 1994 were rearrested, and 46.9 percent reconvicted, within 3 years. BJS states that these statistics "come closest to providing a 'national' recidivism rate for the United States."*<sup>1</sup> Can CSOSA provide comparable recidivism statistics?

When asked about CSOSA's recidivism rate in a hearing before the Senate Committee on Appropriations, Director Paul A. Quander, Jr. responded by citing three statistics that, together, offer a current picture of recidivism among the supervised population:

- About 14 percent of all individuals arrested by the Metropolitan Police Department in fiscal year 2004 were under CSOSA supervision;
- Almost half of these arrests were for previous warrants; violations of supervision conditions; or offenses related to public order or motor vehicles;
- About 6 percent of the total supervised population was convicted of a new offense in fiscal year 2004.

These statistics, while revealing, cannot be compared to the Bureau of Justice Statistics' "national" recidivism rate. The reason for this is simple: Until very recently, CSOSA did not have the raw data necessary to generate comparable statistics. CSOSA reports the percentage of the total supervised population that was arrested in a given year; BJS reports the cumulative percentage of a cohort that was arrested during a three year-period.

#### *Past Data Issues*

Prior to January 2002, when the agency's automated case management system (SMART) came online, the agency lacked reliable historical case data. This undermined efforts to report long-term outcomes. Because of these problems, CSOSA developed an incremental methodology for reporting recidivism—to report only the data we could trust, and to expand our reporting as data quality improved. We started with manual collection of parole rearrest, expanding to probation and fully automated reporting after SMART came on-line.

CSOSA's annual parole rearrest rate averaged 17 percent over the past three years (since SMART implementation). While this number is not comparable to BJS's data for the reasons discussed above, it is a reliable indicator of annual rearrest among a comparable population (offenders who have been released from prison). It should be noted that CSOSA's rearrest statistics will never be completely comparable to BJS's because BJS includes all released offenders, regardless of whether they had a post-release supervision obligation.

BJS's measurement of reconviction also follows a three-year cohort. For the reasons discussed above, CSOSA is unable to duplicate that measurement. Reporting of conviction is further complicated by the fact that this data must be obtained from Superior Court. CSOSA and the court are currently working to improve automated data-sharing mechanisms. For fiscal year 2003, the last year for which data are available, the reconviction rate was approximately 6 percent of the total probation and parole population.

<sup>1</sup> Bureau of Justice Statistics, "Reentry Trends in the U.S.," cited from web site: <http://www.ojp.usdoj.gov/bjs/reentry/recidivism.htm>.

*Planned Improvements*

Beginning in the spring of 2005, CSOSA's Office of Research and Evaluation will initiate a recidivism measurement study using three distinct indicators: arrest for a new charge, conviction of a new charge, and incarceration for a new charge. The initial study will focus on a two-year cohort because SMART data validation was not completed until the fall of 2002; therefore, only two complete years of data are available. However, the initial study will be used to establish a methodology that will apply to subsequent cohorts as well. Beginning with this study, CSOSA will establish a "rolling" recidivism measurement. That is, the initial two-year cohort will become the first three-year cohort, and a second three-year cohort will be established starting the day after the "cutoff" for the first cohort.

This study will generate multi-year data that is comparable to the BJS reports. Preliminary results will be available in the summer of 2005. We will supply them to the Committee as soon as possible.

Senator BROWNBAC. Are there particular things you're doing to reduce your recidivism rates that you've found to be particularly successful?

Mr. QUANDER. Yes, we are. One of the biggest things that we're doing is, we're imposing graduated sanctions upon the offenders. And, essentially, what that allows us to do is to address a problem or a deficiency very quickly, so that there's a direct consequence for inappropriate behavior. That way, we don't have to run back to court or to the U.S. Parole Commission before we can address it. The court has given us certain authority to supervise offenders and to impose certain sanctions. For example, if a person misses an appointment, there's an—a sanction that is immediately placed on that person. It may be—

Senator BROWNBAC. What? What would be—

Mr. QUANDER. It could be community service. It could be a meeting with not only his CSO, but the supervisor. If that individual is being supervised at a medium level, it could be increased to maximum. If he's reporting once a week, we could increase the reporting to twice a week. If he has other violations, we have a Day Reporting Center, whereby we can ask—make that individual come to our office and spend—there's a continuum of services for an 8-week period, where that person would have to report and be monitored and partake in services that deal with anger management, time management, adult basic education. It's a complete program that we have.

We also have sanctions for community services. If an individual violates, then, on a weekend, he has to perform 6 to 8 hours worth of cleanup in the city to help out various community groups that are doing cleanup projects around the city.

We also have global positioning equipment that we use to sanction individuals, so that we can place curfews on individuals—curfews in the evenings or curfews on the weekend—so we can, essentially, place someone on house arrest for an evening or a weekend as a sanction.

Senator BROWNBAC. How many of the people do you have on that GPS-type system now, that you're supervising?

Mr. QUANDER. Beginning of this month, we have 60 individuals that are currently on the GPS system.

Senator BROWNBAC. And then you just have somebody that monitors—or the system just records, "Here's where they're moving to and through and"—

Mr. QUANDER. Each individual on the system is monitored by a CSO, his community supervision officer, or probation and parole officer. That parole officer, or CSO, gets a report every morning that will show where this person has moved, if there were any violations noted. We'll use it in our domestic violence cases to enforce stay-away orders, and there will be an alert that is issued, not only to the CSO, but to the offender, as well, that he's entering a stay-away or an exclusion zone. That way, there is no confusion as to where a person is supposed to be. It also makes it significantly easier when you have to report an individual for a violation, and it cuts down on disputes as to whether or not a person was there or not. There really is no dispute whatsoever.

Senator BROWNBAC. Yeah. What—if you've got a domestic violence situation, do you have some people being supervised with the GPS in that?

Mr. QUANDER. Yes.

Senator BROWNBAC. Do you warn the person that has been the subject of the violence if that individual comes near, in your GPS system?

Mr. QUANDER. Yes. We have regular contact——

Senator BROWNBAC. In realtime?

Mr. QUANDER. Not in realtime. It's—we get the reports the next morning. However, the CSO has the ability to log on to the computer, his computer at his or her workstation, and will receive the information realtime if they log on to it. So——

Senator BROWNBAC. The reason I asked that is, I remember, with my own law practice, in having some of these cases come up, where they're just—the fear that the person that's the recipient of the violence lives under that this person's going to be around, and if there would be a way to warn them in realtime, I would just think there would be a reduction of that fear in——

Mr. QUANDER. What we do is, we maintain contact with the victims. And the CSOs have a standard relationship with them. So we're sharing information. So we let them know what the parameters are, that an individual offender is on GPS, "If you see the individual, call."

We also have notification that can be given to the individual CSO to receive a page or a notice alert to a cell phone. So if we set it up that way, the CSO will receive the notice that there is a violation, the CSO then can call the victim and let the victim know that the offender is in a prohibited area.

Senator BROWNBAC. Do they do that?

Mr. QUANDER. It's being done.

Senator BROWNBAC. Okay. Good.

And, Ms. Buchanan, thank you for your work in that field. I did some public defender work myself, years ago, in Manhattan—Manhattan, Kansas—and it was rewarding work, and it's important work. I appreciated the report and the satisfaction that you've had within that system.

Ms. BUCHANAN. Thank you.

Senator BROWNBAC. So I appreciate very much what you're doing.

Ms. BUCHANAN. Thank you.

Senator BROWNBACk. Thank you all very much for the information that you're presenting. And the budgetary information, we'll review. And I appreciate, particularly, as well, the pictures of the courthouse where a lot of the funding increase is going toward in the capital structure. Those are beautiful facilities. I was down there yesterday, and just glanced at the facilities, but they were impressive looking structures. But as any, I mean, they have some show of wear and tear in different places, and it's—be good to get those upgraded.

Anything further you'd care to add?

Judge WAGNER. If I did not ask to have my written statement made a part of the record, I would do so now.

Senator BROWNBACk. It will be, and all of your written statements will be placed in the record.

So, thank you all very much for joining us. We'll be taking the budget on up and working together on it as a subcommittee.

#### ADDITIONAL COMMITTEE QUESTIONS

The record will remain open the requisite number of days. And I will be submitting one question to you, if I could, Mr. Quander. If you could take some time to look at that recidivism-rate issue, I would appreciate that.

Mr. QUANDER. Yes, sir.

[The following questions were not asked at the hearing, but were submitted to the agencies for response subsequent to the hearing:]

#### QUESTIONS SUBMITTED TO PAUL A. QUANDER, JR.

#### QUESTIONS SUBMITTED BY SENATOR SAM BROWNBACk

##### COMMUNITY SUPERVISION PROGRAM

*Question.* CSOSA's fiscal year 2002 Appropriation included \$13,015,000 in no-year funds to renovate Karrick Hall or some other facility for use as CSOSA's Reentry and Sanctions Center. What is the status of the renovations?

*Answer.* In fiscal year 2002 Congress appropriated \$13,015,000 in no-year funds for the renovation of the entire eight-floor Karrick Hall. The renovations would expand the existing Assessment and Orientation Center into a Reentry and Sanctions Center. The expanded facility will provide a 30-day assessment and treatment readiness program for defendants and offenders with long-term substance abuse problems. The program will also be used as a residential sanction for offenders under CSOSA supervision.

In September 2002, CSOSA signed a long-term lease (10 years) with the District of Columbia for the use of Karrick Hall as CSOSA's Reentry and Sanctions Center. Renovations at Karrick Hall are scheduled to be completed and the facility ready for full operations in early fiscal year 2006.

The completed Reentry and Sanctions Center will consist of six program units: four for males, one for females, and one for offenders/defendants with mental health diagnoses. The population will be drawn from the following sub-groups:

- Offenders from BOP facilities released to CSOSA community supervision;
- Misdemeanants or pretrial detainees under the supervision of the District of Columbia Department of Corrections (DCDC);
- Split-sentence probationers released by DCDC to CSOSA supervision; and
- Offenders under CSOSA supervision with pending violations.

During renovations at Karrick Hall, operation of the existing Assessment and Orientation Center (AOC) program has been temporarily relocated to 1301 Clifton Street, which has capacity for 27 beds. Once completed, Karrick Hall will have six units, approximately 100 beds and capacity to treat 1,200 offenders and defendants annually. Offenders/defendants remain in the unit for approximately 30 days and undergo a structured pre-treatment program operating 7 days per week. During the program, participants cannot leave the facility or receive visitors. After completing



the 30-day program, the majority of offenders/defendants are referred to residential or intensive outpatient drug treatment as the next phase in their transition.

*Question.* Describe the Reentry and Sanctions Center program and its potential public safety benefits.

*Answer.* In describing the potential value of the RSC, it is useful to place the facility in the context of both the national debate surrounding offender reentry and the discussion of best practices in substance abuse treatment. The two are inextricably connected. The Bureau of Justice Statistics estimates that approximately 600,000 individuals are released from State and Federal prisons each year. The majority (50 to 70 percent) report a history of substance abuse,<sup>1</sup> but only one in ten State prisoners and one in nine Federal prisoners reports receiving treatment during incarceration.<sup>2</sup>

The connection between substance abuse and crime has been well established. Long-term success in reducing recidivism among drug-abusing offenders, who constitute the majority of individuals under CSOSA's supervision, depends upon two key factors:

- Identifying and treating drug use and other social problems among the defendant and offender population; and

- Establishing swift and certain consequences for violations of release conditions.

National research supports the conclusion that treatment significantly reduces drug use. A study conducted by the Department of Health and Human Services Substance Abuse and Mental Health Services' Administration (SAMHSA) found a 21 percent overall reduction in the use of drugs following treatment; a 14 percent decrease in alcohol use; 28 percent in marijuana use; 45 percent in cocaine use; 17 percent in crack use; and a 14 percent reduction in heroin use.<sup>3</sup> CSOSA's preliminary analysis of the effectiveness of its treatment programming echoes these findings. A study of CSOSA offenders referred to treatment in fiscal year 2001 revealed a 20 percent reduction in substance use. In the year prior to treatment, offenders were testing positive at a rate of 37 percent. The rate of positive tests among this population dropped to 17 percent in the year following treatment.

While reduction in drug use is encouraging, the benefits of drug treatment are proven to extend well beyond this basic measure. There is substantial research that demonstrates the impact of substance abuse treatment on criminal behavior. One national study showed a 45 percent reduction in predatory crime in the 2 years following treatment.<sup>4</sup> Another study compared criminal activity during the 12 months prior to treatment with the activity 12 months following treatment and found a 78 percent decrease in drug sales, 82 percent decrease in shoplifting, and 78 percent decrease in physical altercations. The same study showed a 51 percent decrease in arrests for drug possession and a 64 percent decrease in arrests overall.<sup>5</sup>

The goal of treatment is to return the individual to productive functioning in the family, workplace, and community. Not only can treatment reduce drug use and criminal behavior, it can also improve the prospects for employment, with gains of up to 40 percent after a single treatment episode. Treatment therefore increases the offender's chances for successful reentry in all areas of his or her life.

In order for the potential positive effects of treatment to be realized, the individual must be receptive and committed to it. The American Society of Addiction Medicine's Patient Placement Criteria for the Treatment of Substance Abuse Disorders classify "Readiness to Change" as a critical dimension of assessment. The ASAM standards state (page 6):

" . . . [A]n individual's emotional and cognitive awareness of the need to change and his or her level of commitment to and readiness for change indicate his or her degree of cooperation with treatment, as well as his or her awareness of the relationship of alcohol or other drug use to negative consequences . . . . [I]t is the degree of readiness to change that helps to determine the setting for and intensity of

<sup>1</sup> Cited in Taxman, Faye, "Effective Practices for Protecting Public Safety through Substance Abuse Treatment." Washington, D.C.: National Institute on Drug Abuse, 2004.

<sup>2</sup> Bureau of Justice Statistics, "Substance Abuse and Treatment, State and Federal Prisoners, 1997." Washington, D.C.: U.S. Department of Justice, 1999.

<sup>3</sup> Office of Applied Studies. *Services Research Outcome Study (SROS)*. DHHS Publication No. (SMA) 98-3177. Rockville, MD: Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Office of Applied Studies, 1998.

<sup>4</sup> Hubbard, R.L.; Marsden, M.E.; Rachal, J.V.; Harwood, H.J.; Cavanaugh, E.R.; and Ginzburg, H.M. *Drug Abuse Treatment—A National Study of Effectiveness*. Chapel Hill, NC: University of North Carolina Press, 1989.

<sup>5</sup> Gerstein, D.R.; Datta, A.R.; Ingels, J.S.; Johnson, R.A.; Rasinski, K.A.; Schildhaus, S.; Talley, K.; Jordan, K.; Phillips, D.B.; Anderson, D.W.; Condelli, W.G.; and Collins, J.S. *The National Treatment Evaluation Study. Final Report*. Rockville, MD: Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment, 1997.

motivating strategies needed, rather than the patient's eligibility for treatment itself.<sup>6</sup>

The value of pre-treatment assessment and treatment readiness programming for individuals under criminal justice supervision has also been noted. As Dr. Faye Taxman writes:

"Pretreatment activities are critical to improving the client's commitment to behavior change, motivation, and adjustment to the treatment process. Readiness usually deviates from traditional psychosocial education groups by working on motivational issues instead of educational issues. In many cases, this requires the development of verbal skills; the identification of feelings and emotions are part of the process of committing to change."<sup>7</sup>

The issue of "desire to change" becomes particularly critical for individuals with long-term histories of substance abuse and inconsistent or ineffective past treatment experiences. These individuals may be highly skeptical of the value of treatment and reluctant to participate actively. They will also usually present other physical or emotional issues that must be treated concurrently with the substance abusing behavior.

The Reentry and Sanctions Center (RSC) at Karrick Hall will provide 30 days of intensive assessment and reintegration programming for high-risk offenders/defendants, as well as residential sanctions for offenders/defendants who violate the conditions of their release. Based on CSOSA's successful Assessment and Orientation Center (AOC), the RSC program is specifically tailored for offenders/defendants with long histories of crime and substance abuse who cannot be released directly to the community or to inpatient treatment. These individuals are particularly vulnerable to both criminal and drug relapse at the point of release. Since only about 50 percent of releases to supervision transition through halfway houses, this placement option is even more valuable.

The RSC program will also allow CSOSA to impose prompt, meaningful, graduated sanctions for violations of release conditions, improving the likelihood of a successful supervision outcome. If sanctions can be imposed as soon as violating behaviors are detected—and if those sanctions predictably increase in force and duration as the behavior escalates—then supervision will be more meaningful.

From its inception, CSOSA has worked with the D.C. Superior Court and the U.S. Parole Commission to define a range of sanctions that the Community Supervision Officer can impose without the delay of seeking judicial or paroling authority approval. CSOSA's authorizing legislation, the National Capital Revitalization and Self-Government Improvement Act of 1997, empowers the Director of CSOSA to "develop and operate intermediate sanctions programs for sentenced offenders" [Public Law 105-33, Title XI, § 11233 (b)(2)(f)]. The idea that CSOSA would operate a system of graduated sanctions, including residential sanctions, also informed the recommendations of the District of Columbia Advisory Commission on Sentencing. In its report to the D.C. Council, the Commission stated:

"CSOSA is developing a series of graduated sanctions, so that penalties short of imprisonment can be imposed. Offenders should have ample opportunity to comply with conditions of supervised release before the U.S. Parole Commission imposes a term of imprisonment, which the Commission considers the punishment of last resort."<sup>8</sup>

By increasing Community Supervision Officers' ability to reinforce accountability, the Agency will decrease the number of cases in which the individual must be reincarcerated to interrupt his or her violating behaviors. The RSC will greatly increase both the range of sanction options available to CSOSA and the programmatic value of brief residential placements.

The Reentry Policy Council (RPC)'s recent report, summarizing the "state of the art" in reentry programming, recommends that "community supervision officers have a range of options available to them . . . to address, swiftly and certainly, failures to comply with conditions of release" and that offenders who have violated

<sup>6</sup>American Society of Addiction Medicine, Inc. *ASAM Patient Placement Criteria for the Treatment of Substance-Related Disorders (Second Edition-Revised)*. Chevy Chase, MD: American Society of Addiction Medicine, Inc., 2001.

<sup>7</sup>Taxman, Faye, Ph.D. "Unraveling 'What Works' for Offender in Substance Abuse Treatment." National Drug Court Institute Review, Vol. II, No. 2, 1999.

<sup>8</sup>"Report of the District of Columbia Advisory Commission on Sentencing," April 5, 2000, p. 35.

release conditions should be assessed to determine the most appropriate response.<sup>9</sup> Although the use of graduated sanctions is currently under review in California and elsewhere, the practice has gained considerable credibility in recent years. The RPC report also notes that “[r]esponses that are treatment-oriented . . . have . . . shown greater promise than the alternative of re-incarceration.”<sup>10</sup> The RSC program will provide the option of immediate placement, assessment, and stabilization of non-compliant offenders, typically for repeated substance abuse violations.

Studies by the Institute for Behavior and Health<sup>11</sup> found that offenders who participated in the Washington/Baltimore HIDTA drug treatment program were less likely to commit crimes. The indicator used was arrest rate, which is defined as the number of arrests for non-technical violations per participant in the year before treatment vs. the number of arrests for non-technical violations per subject in the year following treatment. The 2000 Cohort study reported that the overall arrest rate for program participants within the Washington/Baltimore HIDTA in calendar year 2000 dropped 51.3 percent, from 0.8 to 0.39. Participants in the Assessment and Orientation Center program experienced a 74.5 percent decrease in arrest rates, from 0.94 to 0.24. Such public safety benefits are expected to be replicated in the Reentry and Sanctions Center.

*Question.* What is the funding history for operation of the Reentry and Sanctions Center?

*Answer.* CSOSA’s fiscal year 2004 Appropriation included funding for 18 positions and limited operations of Karrick Hall. CSOSA’s fiscal year 2005 Appropriation includes \$250,000 in operations funding for Karrick Hall. CSOSA’s fiscal year 2006 request includes \$14,630,000 and 77 new positions for full-year operation of all six units of the Re-Entry and Sanctions Center at Karrick Hall.

*Question.* What is the annual operating cost of the Reentry and Sanctions Center?

*Answer.* The annual operating cost, beginning in fiscal year 2006, will be approximately \$18 million.

*Question.* This committee included funds in CSOSA’s fiscal year 2004 appropriation for 27 new positions to provide for increased supervision of high-risk sex offenders, mental health cases, and domestic violence cases, as well as to expand the use of global positioning system [GPS]-based electronic monitoring. GPS electronic monitoring employs state of the art technology to offender supervision and hold great promise for solving crimes and detecting offender movements or patterns that would enable CSOSA to take action before he or she commits more crime. This technology would appear to be a valuable tool for supervising all high risk-risk offenders, and in particular, sex offenders and domestic violence offenders in which offenders are supposed to avoid certain locations, such as schools or specific residences.

What is the status of implementing the special supervision initiative?

*Answer.* Two new Special Supervision Teams (Sex Offender and Mental Health) started on March 22, 2004 and are currently supervising offenders. Additional Special Supervision CSOs, authorized from the fiscal year 2004 Special Supervision initiative, started on January 24, 2005 and are being allocated to Special Supervision Teams.

The table below shows the status of CSP Special Supervision as of January 31, 2004 (prior to the new fiscal year 2004 Special Supervision resources) and as of February 28, 2005. Because of additional Special Supervision resources, the overall caseload ratio decreased from 31:1 to 30:1, despite a 15 percent increase in Special Supervision offenders.

Total Special Supervision	January 31, 2004			February 28, 2005		
	Offenders	CSOs	Caseload Ratio	Offenders	CSOs	Caseload Ratio
Sex Offender .....	509	17	27:1	567	24	24:1
Mental Health .....	666	24	27:1	843	30	28:1
Domestic Violence .....	1,122	31	31:1	1,014	32	32:1
Subtotal .....	2,297	72	32:1	2,424	86	28:1

<sup>9</sup> *Report of the Reentry Policy Council: Charting the Safe and Successful Return of Prisoners to the Community.* Washington, D.C.: Reentry Policy Council, 2005. Policy Statement 29.

<sup>10</sup> *Ibid.*

<sup>11</sup> “The Effect of W/B HIDTA-Funded Substance Abuse Treatment on Arrest Rates of Criminals Entering Treatment in Calendar Year 2001.” College Park, Md.: Institute for Behavior and Health, June 2004.

Total Special Supervision	January 31, 2004			February 28, 2005		
	Offenders	CSOs	Caseload Ratio	Offenders	CSOs	Caseload Ratio
TAP .....	296	9	33:1	638	10	63:1
STAR/SAINT HIDTA .....	321	12	27:1	276	14	19:1
TOTAL .....	2,914	93	31:1	3,338	110	30:1

*Question.* What is the status of implementing the GPS system? What criteria do CSOSA use to determine which offenders are placed under electronic or GPS monitoring? Using these criteria, how many offenders would be placed on GPS at any given time? How many offenders are currently under GPS monitoring?

*Answer.* Since inception of the GPS Electronic Monitoring pilot in fiscal year 2004, 221 different offenders have been placed on the system and as of February 28, 2005, 45 offenders were on GPS Electronic Monitoring.

*Question.* Is the GPS technology being used for defendants?

*Answer.* No. However, if resources become available, the Pretrial Services Agency would pilot this type of monitoring for high-risk defendants with court orders to stay away from particular persons or places.

*Question.* Supply the Committee with a description of CSOSA's faith-based initiative, including the number of offenders who have participated in the initiative and any accomplishments to date. Are faith-based institutions also providing services to meet offenders' needs?

*Answer.* CSOSA's faith-based initiative is a collaboration between the Agency and the District of Columbia's faith institutions. The initiative focuses on developing mechanisms through which offenders on supervision can establish permanent connections with the community's positive, pro-social institutions. Crime is inextricably linked to the individual's alienation from mainstream values. By overcoming that alienation, the faith community can help the offender replace negative associations and attitudes with positive contact and messages. Furthermore, the faith institution can address issues of personal accountability and change that are beyond the scope of community supervision. The church or temple cannot (and should not) replace law enforcement, but it can provide a permanent source of positive contact and moral guidance. The Community Supervision Officer represents external accountability by enforcing release conditions; the faith institution represents internal accountability by stressing spiritual growth. In addition, CSOSA recognized from the initiative's inception that the District's faith institutions provide many practical support services, such as tutoring, job training, food and clothing banks, personal and family counseling, and substance abuse aftercare. CSOSA wanted to "tap into" this important source of community-based programming in order to expand the range of support services available to offenders.

The faith initiative's governing body is the CSOSA/Faith Community Partnership Advisory Council. Established in 2001, the Advisory Council membership represents a range of denominations; efforts are currently underway to broaden both the membership of the Council and its representational diversity.

Late in 2001, CSOSA and the Advisory Council chose mentoring as the initial focus of the initiative to connect faith institution volunteers with offenders returning to the community from prison. A successful outreach event was held in January 2002, in which faith institutions across the city addressed the issue of reentry and issued a call for volunteers. Over 400 people attended our initial mentor information meeting in February 2002. Since then, the "Reentry Worship" event has become an annual citywide occurrence.

CSOSA and the Advisory Council then established a structure through which the mentor program could be coordinated and faith institutions could provide services to offenders. The city was divided into three clusters, and CSOSA issued a Request for Proposals to establish a contractual relationship with a lead institution in each cluster. The lead institutions are:

—Cluster A (Wards 7 and 8)—East of the River Clergy/Police/Community Partnership;

—Cluster B (Wards 5 and 6)—Pilgrim Baptist Church; and

—Cluster C (Wards 1, 2, 3, 4)—New Commandment Baptist Church.

Each institution employs a Cluster Coordinator, who coordinates mentor and other service referrals and performs outreach to increase the involvement of faith institutions in the cluster.

CSOSA also developed and implemented training programs for both mentors and the program coordinators at each faith institution. The training familiarizes prospective mentors with the structure and requirements of community supervision,

the offender profile, and the program's administrative and reporting requirements, as well as providing role-playing exercise in which mentors encounter the challenges of mentoring. To date, approximately 200 mentors and coordinators from more than 40 institutions have been trained.

The initial cohort of 24 returning offenders was "matched" with mentors in August 2002. Since then, the number of offenders in the program has grown to over 100. In 2003, CSOSA expanded the program to include inmates at the Bureau of Prisons' Rivers Correctional Institution in North Carolina. Rivers houses over 1,000 District of Columbia inmates. Thirty-three Rivers inmates were placed with mentors, who attended biweekly mentoring sessions conducted through video conference technology. All but four of the inmates have been released as of February 23, 2004.

As of March 2005, 52 faith organizations were active in the Faith-Based Reentry Initiative with diverse denominations, including Apostolic, Baptist, Catholic, Muslim, Moorish, Episcopal, Methodist, Protestant, and Scientology. More than 275 persons from faith organizations have volunteered to mentor offenders as they transition from incarceration to the community. While mentoring had been the initial focus of services, the Initiative has now evolved to providing more than 60 other types of services including addiction counseling, jobs and housing assistance, anger management and life skills, health and education and literacy. In total, the Initiative now offers 92 programs throughout the city. (see table below for a listing of the types of services offered by the Initiative)

Types of Services	Total	A	B	C
Addiction:				
Alcohol Abuse Counseling .....	1	.....	.....	1
Substance Abuse Counseling .....	9	3	3	3
Psychological and Social:				
Life Skills Training .....	4	2	1	1
Social and Leisure Activities .....	3	2	.....	1
Health:				
AIDS Counseling .....	1	.....	.....	1
Medical Services .....	1	.....	.....	1
Education and Literacy:				
GED Training .....	5	2	2	1
Literacy Training .....	5	2	2	1
Vocational Development:				
Job Skills Training .....	4	1	2	1
Job Placement .....	3	.....	1	2
Computer Training .....	5	4	1	.....
Community Support:				
Food Distribution .....	5	1	2	2
Clothing Distribution .....	4	1	2	1
Housing Assistance .....	4	1	.....	3
Parenting Support .....	1	.....	.....	1
Family Counseling .....	4	2	1	1
Day Care .....	4	1	1	2
Mentoring .....	29	11	6	12
Total No. of Programs .....	92	33	24	35

Through grant funding from the U.S. Department of Justice, Community Oriented Policing Service (COPS), one of CSOSA lead faith institutions, New Commandment Baptist Church, is now able to facilitate and expand its ability to intercede, with CSOSA and other faith institutions, to improve the likelihood that participating parolees will have lower rates of recidivism. CSOSA's network of interdenominational faith-based participants will contribute to the success of this effort. Collaborating with the District of Columbia Jobs Partnership, New Commandment Baptist and other faith institutions are able to enroll returning offenders in job readiness training programs, educational and vocational training, interviewing skills and job placement.

Another participating faith institution, East of the River Clergy/Police/Community Partnership, has recently received a grant award from the U.S. Department of Labor to facilitate and place returning offenders into jobs which offer career opportunities. It is projected that the availability of this resource will substantially build the capacity of the District of Columbia to better serve the returning offenders and their families.

From the enthusiasm of a core group of concerned citizens, the CSOSA faith initiative has grown to a citywide effort involving hundreds of individuals in a wide range of activities to support returning offenders. We look forward to the initiative's continued growth as a sustainable long-term resource that offenders can access both during and after their term of supervision.

#### PRETRIAL SERVICES AGENCY

*Question.* How many defendants did the Pretrial Services Agency supervise over the course of fiscal year 2004? What was the rate of rearrest for pretrial defendants while under the supervision of the agency? What is the rearrest rate for drug users in contrast to non-drug users?

*Answer.* In fiscal year 2004, the Pretrial Services Agency supervised a total of 22,101 defendants (a 6 percent increase over fiscal year 2003). The overall rearrest rate for defendants under PSA supervision was 14 percent. The rearrest rate for violent crimes was 3 percent, while the rearrest rate for drug related crimes was 5 percent.

As would be expected from the research documenting the links between drug use and crime, drug-using defendants (defined as those with at least one positive drug test) have higher rearrest rates than non-drug using defendants. In fiscal year 2004, 23 percent of drug-using defendants were rearrested as compared to only 6 percent of non-drug using defendants. Drug using defendants had a rearrest rate of 5 percent for violent crimes while non-drug using defendants had a rearrest rate of only 1 percent for violent crimes.

*Question.* What improvements has PSA made to its supervision of high-risk defendants?

*Answer.* In fiscal year 2004, PSA made as an operating priority improving supervision of defendants designated as high-risk to fail to appear or commit new crimes while on release. This improvement aimed to achieve the following objectives:

- Eliminate unnecessary restrictions to high-risk supervision placement;
- Create a more suitable supervision protocol for high-risk defendants identified by the Agency's new risk assessment scheme;
- Provide more suitable community supervision for formerly halfway house-bound defendants, following the D.C. Department of Corrections' reduction of halfway house beds; and
- Incorporate electronic monitoring into all facets of high-risk supervision.

To meet these objectives, in fiscal year 2005, PSA consolidated its three high-risk supervision units—Heightened Supervision, Intensive Supervision, and Restrictive Community Supervision—into a single High Intensity Supervision Program (HISP). Establishing a single high-risk supervision unit has allowed PSA to achieve each of the above objectives. PSA has reduced the eligibility restrictions for high-risk supervision to defendants with outstanding warrants or detainers or who have been in poor compliance with high-risk supervision within the past 60 days. With the introduction of the Agency's new risk assessment scheme in June, HISP supervision will be tied to defendants assessing at a high level of pretrial misconduct risk. These include defendants who are non-compliant with current community-based supervision, who have failures to appear for court dates, and who have serious criminal histories. The scheme also diverts defendants formerly eligible for halfway house placements to the HISP, provided they have a verified curfew address. Finally, high-risk defendants in this program either receive curfew conditions enforced with electronic monitoring or Department of Corrections oversight in a halfway house. Twenty-four hour home confinement is administratively imposed for those HISP defendants in violation of curfew requirements.

While it is too early to gauge the success of the consolidation, initial data is promising. Since the first quarter of fiscal year 2005, PSA's high-risk units have averaged nearly 480 defendants. HISP's manager-to-defendant ratio has averaged 1:20. The high-risk's unit's responses to defendant infractions also have improved during this time. For example, staff responded to 94 percent of electronic monitoring infractions in first quarter fiscal year 2005 compared to 81 percent in fiscal year 2004, 72 percent of contact infractions (58 percent in fiscal year 2004) and 79 percent of drug testing infractions (78 percent in fiscal year 2004).

*Question.* What administrative changes has PSA made to better manage its in-house and contracted substance abuse treatment resources?

*Answer.* PSA's Strategic Plan commits the Agency to integrate substance abuse treatment into pretrial supervision. To meet this requirement, PSA's operating budgets since fiscal year 2001 have included funding for treatment placement with community-based substance abuse treatment programs. The Agency also created a walk-in unit to assess treatment needs of supervised defendants, maintained its Su-

perior Court Drug Intervention Program (SCDIP) and created the New Directions Program. SCDIP and New Directions are in-house treatment units that provide outpatient treatment services. New Directions also handles outpatient services for defendants completing short-term residential placements.

PSA data indicate that the supervised defendant population's treatment needs have stabilized over the past 2 fiscal years: Since fiscal year 2003, nearly 85 percent of the Agency's contracted treatment budget has gone to residential treatment placements. To accommodate this need, PSA has enhanced its in-house treatment capacity to over 500 slots, thus allowing more contracted treatment funds to be available for residential placements. SCDIP and New Directions supervised over 40 percent more defendants in fiscal year 2004 than in fiscal year 2003. Both programs together now supervise over 550 defendants. More internal outpatient placements have allowed PSA to increase referrals to community-based treatment vendors. The Agency made 58 percent more contracted treatment referrals in fiscal year 2004 than fiscal year 2003. In total, PSA placed 1,622 defendants in treatment during fiscal year 2004.

#### SUBCOMMITTEE RECESS

Senator BROWNBACK. The hearing's recessed.

[Whereupon, at 11:30 a.m., Wednesday, April 20, the subcommittee was recessed, to reconvene subject to the call of the Chair.]





## **DISTRICT OF COLUMBIA APPROPRIATIONS FOR FISCAL YEAR 2006**

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**WEDNESDAY, JUNE 15, 2005**

U.S. SENATE,  
COMMITTEE ON APPROPRIATIONS,  
*Washington, DC.*

The subcommittee met at 10:15 a.m., in room SD-138, Dirksen Senate Office Building, Hon. Sam Brownback (chairman) presiding.  
Present: Senators Brownback, Allard, and Landrieu.

### **DISTRICT OF COLUMBIA**

#### **STATEMENT OF HON. ANTHONY A. WILLIAMS, MAYOR**

##### **OPENING STATEMENT OF SENATOR SAM BROWNBACK**

Senator BROWNBACK. I call the hearing to order. I thank you all for joining us this morning. We are scheduled for an early vote this morning, but what we will do is get the hearing started, get as far along as we can, and then we will have to take a recess for the vote and then we will come back.

I want to welcome the Mayor and the members of the City Council, the Superintendent, the Chief Financial Officer for the District of Columbia, looking forward to the discussion that we will have here this morning.

Today we will hear testimony regarding the District of Columbia's fiscal year 2006 local budget request. D.C. Mayor Anthony Williams, Council Chairman Linda Cropp, Chief Financial Officer Natwar Gandhi will present the city's budget and we will discuss the District's request for Federal resources.

In addition, D.C. School Superintendent Clifford Janey will discuss the D.C. Public Schools' local budget request and his plans for using the \$13 million in Federal funds that have been requested of this subcommittee.

I would like to note that in the last Congress the Senate passed a bill by unanimous consent which would have given the District autonomy over its local budget, eliminating the need for the D.C. local budget to be passed on the annual appropriations bill. By decoupling the local budget from the Federal appropriations process, we would avoid delaying the city's local funds whenever the D.C. appropriations bill is not passed before the end of the fiscal year.

Since the House did not pass a companion measure during the last Congress, Senator Collins, chairman of the Committee on Homeland Security and Government Affairs, has reintroduced a

D.C. budget autonomy bill which her committee will soon be considering.

As we review the local budget, I would like to congratulate city leaders for making dramatic improvements in the District's financial conditions. At a time when many local jurisdiction bonds have been downgraded, the District is enjoying an A rating from all three credit rating agencies. The city is also maintaining a cash reserve balance of about \$250 million, which is among the largest in the country. The city is enjoying an impressive commercial real estate boom and has been creating jobs at a rate that is twice the national average. Congratulations on all of these financial scores. Those are excellent.

There are areas of concern that temper some of these positive facts and I hope to be able to discuss some of those with you today. Only one-third of the jobs that the District is creating are going to city residents. In fact, even as the District has been creating new jobs unemployment in the District has been increasing.

The adult illiteracy rate is something that we have discussed at a hearing previously we had on education, I have discussed privately with the Mayor and with the chairperson. The adult illiteracy rate in the District is 37 percent. The District—this is surely one of the prime reasons for the persistent unemployment problem.

For years we have been failing generations of school students in the District and now we are reaping some of these sad consequences. As I stated in the hearing last month on the D.C. Public Schools, money I do not believe is the direct problem. Funding for the District school system has increased 83 percent since fiscal year 1999 even as enrollment has dropped 5 percent in the same time period. Despite these large increases, only 32 percent of fourth graders are reading at a basic level compared to 62 percent nationwide, and only 36 percent of these students are performing at the basic level in math, compared to 77 percent nationwide.

I know that District officials and others have stated there are reasons for this as this is an urban area and in other States you are comparing urban and broader regions. Still, these numbers are just not acceptable. They are not acceptable for the children, and if we fail the children we will fail future generations, we will fail the District overall.

I want to hear from city leaders about how they plan to rein in school spending and give the superintendent the tools and support to aggressively improve the schools and at the same time what we can do to get these grades and scores up. We simply must do better.

Something I met directly with the Mayor about also is the need to work to support families in the District. This is a key to the future and to education. We have to have a strong family structure so that children at home are being read to and their math is being practiced. We have got five children in our family and it is a constant that you are doing all the time. But if you do not have somebody doing that, you cannot expect them to go to school and be in a prepared situation.

We need to strengthen those families to be able to have the children raised in a better environment and be better prepared to go to school.

Regarding the Federal portion of the D.C. budget, I know that the District has a number of programs and capital projects that may merit funding through this subcommittee. Today I would like to hear more about these project requests from our panel. Although our resources are always limited, as chairman of the subcommittee I look forward to partnering with the city leaders to find ways to make life better for those who live, work, and visit this great capital city.

As usual, witnesses will be limited to 5 minutes for their oral remarks. Copies of all written statements will be placed in the record in their entirety and the hearing record will remain open for the requisite number of days to make that presentation.

I would like to turn over to my colleague Senator Landrieu for opening comments. Senator Landrieu.

STATEMENT OF SENATOR MARY L. LANDRIEU

Senator LANDRIEU. Thank you, Mr. Chairman, and I look forward to working with you and the other members of the subcommittee on this important topic and I want to join with you. I am going to submit my full statement, Mr. Chairman, to the record, but because of the time and because I am very interested and anxious to hear from our panelists today I just want to commend the city for the really extraordinary turnaround, Mr. Mayor, that has taken place on the financial side: the historic surplus, the opportunity that the city has to take some of that surplus and really make some strategic investments for the development of the city. The chair of the Council, thank you, Ms. Cropp, for the work that the Council has done in that regard. Dr. Gandhi, you have given extraordinary leadership.

So because the financial situation of the city has improved quite dramatically with the help of this subcommittee and with Congress, but in large measure due to some of the management decisions that have been made at the city level, we are hoping now that some really good strategic investments can be made as this city looks forward. One of those investments of course could be the school system, which, as the chairman has pointed out, while progress has been made, while we are pleased, Dr. Janey, that you are here and you are providing some excellent ideas for that improvement, that this is a real opportunity for the city and the Council to step up and even partner in a stronger way with the school system.

Great cities cannot be built without great school systems, and this school system, just like many school systems in America, are struggling. Not uniquely, not singularly, but many cities have this same struggle. The difference is that I see, which is a positive difference, is that this city has a surplus. This city has a reserve fund. This city has made significant progress. There are cities, even if they wanted to help their school system, could not do it because their budget situation is so dire.

Now, I understand that there are other needs. Housing is a need, streets and transportation, crime and investments in keeping crime rates down and supporting the police department. I am not unaware of that. We struggle to help our cities in our own States with that.

But truly there is an opportunity here, and I look forward, Mr. Chairman, to continuing to work to identify excellence in our public school system here, to identify failure and eliminate it, identify success and reward it, provide more choice and opportunity for parents, and focus on real results, not process.

The final thing I will say about it is solving this problem with the schools is not just about money. It is about management. When you have on the front page of the newspaper today—and I know this is about the city budget, but the city should be about schools and I know this Mayor is. When you have the front page of the newspaper today stating that schools had to be let out because it is 100 degrees in classrooms, we have to ask ourselves, what more could we do. That is what I hope we can get to later today.

[The statement follows:]

PREPARED STATEMENT OF SENATOR MARY L. LANDRIEU

Welcome Mayor Williams, Chairman Cropp, CFO Dr. Gandhi, and Superintendent Janey. We are so pleased that you could be here this morning to inform us about your fiscal year 2006 DC Local budget. Thank you, Mr. Chairman, for calling this hearing today. I know it will be helpful to us as we prepare to mark up the fiscal year 2006 D.C. Appropriations bill. As you know, the D.C. Appropriations Subcommittee is unique in that it has the responsibility to approve, without change the local funds budget as proposed by the Mayor and passed by the Council. This year's local budget totals \$7.35 billion, of which \$4.95 billion is derived from locally-generated taxes and has been fully debated in the Council of the District of Columbia. I hope that we can continue our focus on the Federal funding provided through this bill to the District government. In the past we have used these funds to both enhance particular local programs or projects and fulfill our sole responsibility to provide oversight to the District's criminal justice functions, the Courts and Court Services and Offender Supervision Agency.

Over the last four years, this Committee has tried to be a partner, not a dictator. As such, we have tried to refrain from altering the local funds budget as passed by the locally-elected leadership of the District—you are best equipped to determine the priorities of city agencies. This is not to say that we cannot be active partners in reform, or provide funding for discreet projects to catalyze improvement, or help to make recommendations in policy in line with Federal law. We have tried to play this role in the areas of education, nudging the leadership to funding excellence, replicate success and eliminate failure.

Great cities, Mr. Chairman, need great schools. I am a city person, having grown up in New Orleans, a city much like D.C. In education is particular, both cities are faced with the ongoing challenge of providing a quality education to all children. The purpose of the public education system in America mirrors much of the mission of the United States as it was formed—to provide an open opportunity for citizens to create, build, and contribute to our great nation. Our primary mission in providing access to a quality was to encourage the development of a creative workforce which would, and has, driven the innovation America is known for.

But the public education system that served us for so long is becoming increasingly outdated and faces many challenges. To survive, I must change and adjust. To remain competitive in competitive times, it must be more consumer focused and less bureaucratic, more dynamic. D.C. itself has suffered a decline in enrollment of 2,000 students every year for the last 10 years. People have grown tired of a slow moving bureaucracy who cannot meet the needs of its students or the workforce demands of our society and they have gone elsewhere I believe that can change and I am encouraged by Dr. Janey's commitment to develop targeted areas of improvement.

One such area we have worked closely on is the \$40 million annual investment in school improvement. In 2004, the Congress initiated a five year demonstration program to invest \$13 million annually in three sectors of education: scholarships to private school, expansion of public charter schools, and strengthening of public schools. I have worked hard not only to invest in leading edge innovation in public charter schools, but also to challenge the oversight of charter schools to be more strenuous. From Dr. Janey's first weeks we have worked to target the funding to public schools to increasing student achievement and teacher readiness. I look forward to hearing about implementation of these funds and plans for fiscal year 2006.

Education is just once piece of the unprecedented increase in Federal dollars that have gone to the city (\$157 million in fiscal year 2003–2005). The last several years have marked an increase in Congressional confidence in local leadership, resulting in increased autonomy for D.C., and increased investment in strategic projects. A more broad challenge was confirmed by the General Accounting Office (GAO) in a landmark study of the District's "Structural Imbalance", finding the city faces an annual deficit of \$400 million to \$1 billion between their revenue capacity and cost of providing average services. The report, requested by D.C. Congresswoman Norton and myself, found the underlying reason for the structural imbalance in the city's budget is the high cost of providing services in D.C. The study also identified management inefficiencies, particularly in schools and Medicaid billing that with attention could realize savings.

Finally, the GAO estimated that the imbalance has caused the District to defer maintenance or invest in critical infrastructure to the tune of \$2.5 billion over the years. In the past the Committee has included a marker on the Federal share of building and maintaining infrastructure in the city, particularly in the area of transportation and the Anacostia River. I hope to build on this investment this year by partnering with the city on major infrastructure investments.

At the same time as working on the structural imbalance, we must focus on other tools for bringing greater prosperity and long term stability to the District. Cities that have good public schools, safe communities and strong families are cities that have strong economies. If we focus on providing these elements in the District, we will go a long way toward the economic independence the city needs and deserves. One such tool Mayor Williams and I have developed—City Build Program for Charter Schools—is a grant program for public charter schools to locate in neighborhoods which have the near-term potential of attracting or retaining residents to meet the goal of increasing the population by 100,000 residents. This can be done by keeping the people you have with services targeted to their needs that would otherwise have moved to the suburbs for the child's public education, transportation issues, or to find affordable housing.

In addition to the investment in these building blocks of neighborhoods, the Committee has focused on ways to support the development of infrastructure which the GAO identified as the primary victim of an imbalance in the city's finances. While the President's budget request has increased the level of projects recommended for Federal funding each year, this year the President made a grave oversight in not funding the Combined Sewer Overflow program. This 30-year, billion dollar renovation of the underground sewer system, built by the Congress in the 1800's, is a key to revitalization of the Anacostia and Potomac waterfronts.

If the city is to have a beautiful baseball stadium at the confluence of these two rivers, and a river walk all the way from Maryland, and wonderful housing and shops at the South East Federal Center, and a grand boulevard on M Street at the Navy Yard, and the revitalization of Reservation 13 extending Massachusetts Avenue down to the water, and recreation for youth and families at Kenilworth Park and Poplar Point, and creating a sanctuary on Kingman Island, and all of the other important improvements for the life of the city, its residents and visitors—how are we to do this alongside a river which suffers from over 80 overflows from the sewer system every year? How are we to make the Anacostia River accessible when contamination is off the charts?

I am pleased to see the Mayor has included funding for the plan to renovate the Combined Sewer system on his list of Federal funding priorities, however if the list is to be read in order of priority it is last. I hope the Mayor and Chairman Cropp can provide some insight into their lobbying efforts to ensure this critical project is funded.

Finally, a major area of annual concern on the D.C. bill is the addition of social riders which require the city to limit their own policies, a limitation which is not placed on other cities. I am committed to treating the District like any other city when it comes to spending locally raised taxes. To that end, I will not support efforts to limit the elected officials in the practice of their duties.

I appreciate the witnesses' time and commitment to the District of Columbia. I have greatly valued our partnership over the last four years and I look forward to working together this year.

Senator BROWNBACK. Thank you, Senator Landrieu.

We do have a vote on now, but I want to go to my colleague Senator Allard for a brief statement, and then we will recess until after the vote. Senator Allard.

## STATEMENT OF SENATOR WAYNE ALLARD

Senator ALLARD. Thank you, Mr. Chairman.

I would just like to welcome the Mayor and Dr. Gandhi and Chairman Cropp and Dr. Janey for appearing before the panel here and associate myself with the comments of my colleagues.

Just one other concern that I would like to bring up. As chairman of the Subcommittee on the Legislative Branch appropriations, I have oversight on the new expansion here at the Capitol. It is the visitor center there, and I just would hope that as we move toward the concluding part of the construction on this particular facility that we can make sure that all our ducks are in order as far as meeting the requirements for occupancy. There could be some issues that could come up there and if you see any utility issues or anything that could come up here on the last minute, please work with the contractors and work with the Architect and ourselves and see if we cannot begin to identify these problems early on so that they will not end up in unnecessary delays as we move toward closing down the project and getting the certificate of occupancy.

I want to thank all of you for being here. I have another subcommittee running, so I will not be able to be here for all your testimony. But I will be reviewing it closely and I look forward to working with the chairman on those issues that are important to you.

Thank you very much.

Mayor WILLIAMS. Thank you.

Senator BROWNBACK. Thank you, Senator Allard.

We have 5 minutes left in the vote. We are going to recess the hearing. I would ask my colleagues, if we could, to go over and vote and get back as soon as possible. As soon as I am back, we will start with the presentation. My apologies to this. It is just one of the hazards of the job that when they call a vote you have got to go run and vote.

So the subcommittee will be in recess, hopefully for no more than 15 minutes, and then we will reconvene.

I call the hearing back to order. Again my apologies for the interruption on the energy bill we are voting on.

Mayor Williams, delighted to see you. I want to say publicly, too, when I first came into the Senate, elected in 1996, the District of Columbia was in a very difficult financial condition and many things were not moving in the right direction. We had the emergency board. I am not putting the right title on that. I was the chair of the authorizing committee at that point in time. I worked with you some then.

This has been a dramatic turnaround. It has been a most impressive turnaround. I want to compliment you in particular about that because you have been at the center of much of that change, that turnaround that has taken place, and it is very good to see. I am looking forward to addressing the rest of the issues that remain, but I do not want to take anything away from the efforts that have been made and what has been accomplished in really a relatively short period of time. So my congratulations to you.

The floor is yours.

## STATEMENT OF ANTHONY A. WILLIAMS

Mayor WILLIAMS. Thank you, Mr. Chairman. My full statement has been submitted for the record of the subcommittee and I am going to try to paraphrase wherever I can, not only to keep my remarks within 5 minutes, but to allow you to hear from our other presenters and to have the dialogue that you desire.

I want to thank you and ranking member Landrieu and the other members of the subcommittee for the opportunity to testify before you today. You have already mentioned, Mr. Chairman, as has Senator Landrieu, the fiscal responsibility that we have stressed in our city and the fiscal prowess that we are now enjoying. But I do want to mention one thing in that regard and that is the District's strong financial performance occurs in spite of what I believe is a long-term structural imbalance. Now, that may seem paradoxical. One would ask, how can such an imbalance be real when the economy of the city is so strong?

I believe that the explanation is twofold. First, our residents are among the most heavily taxed people on Earth. Second, the District is deferring massive investments in critical services and infrastructure. Approximately \$2.5 billion of infrastructure has been deferred over the years. Not only outdated sewer system, fixing accumulated needs of our streets, bridges, and mass transit, which have a homeland security component because of our role as the National Capital Region, but also in light of your remarks and Senator Landrieu's remarks and in light of my colleague Dr. Janey I would mention the massive deferral of investment in our schools infrastructure. Whatever we may think about the operating budget of the schools, there clearly is a need for investment in our school buildings. I would agree with you, it really is tragic if the schools have to be closed because our kids are in 100 degree or over classrooms.

Now, last year the subcommittee held a landmark hearing on the District's fiscal challenges and your continued commitment to resolution of this structural deficit will be critical to putting us on a permanent and equitable financial footing. I hope that we can continue in that effort. I would refer to the subcommittee one promising vehicle, the District of Columbia Fair Federal Compensation Act of 2005, which would provide the District with annual Federal payment of \$800 million a year dedicated to transportation projects, debt service payments, public school facilities, information technology investments. It would be on a formula basis, not just for regular operations of government but for strategic things that go to the long-term undergirding of our city.

Now, very briefly, Mr. Chairman, in terms of our priorities in our local budget, I just very briefly mention that one is new communities, a major investment in housing and physical infrastructure in our city's most challenged neighborhoods. We have been very successful in working with two Presidents, both Democrat and Republican, to bring HOPE VI projects to our city. We believe very strongly in the role of mixed income communities, not to displace our low income residents, but to allow our low income residents to live in a healthy community of a mix of incomes, both rental property and home ownership, with all the amenities, the good schools,

the libraries, the recreation centers, all the amenities of a good neighborhood.

Great streets are another major investment in our city, recognizing that in our urban areas of our country our great streets are our major commercial corridors. To accomplish this, we propose \$88 million in investment in revitalization of major corridors in our city, unleashing I believe economic potential on major streets such as Georgia Avenue, H Street, Nannie Helen Burroughs, Benning Road, and other neighborhood arteries.

Roads and bridges are a major priority and our budget reflects this in a major new investment in our city's physical infrastructure, starting with \$230 million of local investment in streets and bridges along the Anacostia Waterfront. This project, which we funded \$35 million in fiscal year 2006, will make critical infrastructure improvements.

Education is a major part of our budget. I will allow Dr. Janey in his time to stress the importance of education, but I want to use this opportunity, Mr. Chairman, to state my full and emphatic and unequivocal support for our superintendent. Now, everybody knows that over the last year I spent a lot of time trying to assume responsibility for the schools and the people have spoken. The people are right in our democracy. So, given where we are, I believe that the locus of authority and responsibility has to be in one place. It cannot be in three places, five places, eight places. It has to be in one place. I believe that the locus of that authority and responsibility, with the support of the Mayor, the support of the Council, our nonprofits, our faith community, our business community, should be in this superintendent. Dr. Janey knows that he has my strong support as he meets a very, very heavy challenge.

Health and welfare and youth are a major investment in our city, and our budget includes new investments in primary health care services through community health centers, which would improve our support for patients from underserved communities. We also provide multiyear funding of \$76 million for our 10-year plan to end chronic homelessness, including investment in wrap-around services.

We make a major investment in tax relief in our city of some \$88 million. I am particularly pleased that this tax relief is spread across all income levels in our city.

Now, very briefly, Mr. Chairman, our request for Federal funding includes, one, as you have come to know, members of this subcommittee know, our strong support for what we call our marquee Federal initiative, and that is the tuition assistance grant program. This has been an absolute tremendous success and we would ask for full funding. This program is funded at \$33 million in the President's budget and we ask for your continued support for this very successful initiative.

The consolidated laboratory, crime lab, we have enjoyed the support of the subcommittee on that and we are requesting that you match the President's mark of \$7 million for this project.

A new mental health hospital in the city is also a major initiative of ours. Last but not least—well, let me, before I get to the last point, we continue our appeal to the subcommittee for funding to provide for long-term control of discharge into the Anacostia River.



The D.C. Water and Sewer Authority (WASA) is embarking on a 30-year plan to fix the system in order to drastically reduce pollution in our waterways, and we ask that the committee support this program in the amount of \$30 million.

This is—the Federal Government plays a major role in the pollution status of the Anacostia River because most of the old city is occupied by the Federal Government. The lack of storm and sewage drainage separation is a result of decisions made way back by the Federal Government. The Federal Government is our major corporate partner of all of our corporate partners. For that reason, we would ask that the subcommittee continue its investment in the Anacostia River, as it has in so many different ways, working with our local leadership and certainly with Congresswoman Norton, who in general I want to applaud for all her leadership on these things.

Then, Mr. Chairman, I reserve for my last appeal something that I know you are interested in. This is the result of bad decisions and management over years and years and years, as you know, a high number of ex-felons in our city, who come back to our city every year. I know this is something that you care about. We have identified access to housing as one of a number of important risks to recidivism for individuals making the transition from prison back to society.

To address this need and to reduce the chance that today's returning prisoners will become tomorrow's homeless and go through that revolving door and end up back in prison, we propose a \$5 million level of funding to do, within a mixed income setting—we are not talking about segregating our ex-felons, but within a mixed income vibrant community—\$5 million to house our ex-felons as we provide them one-stop service to get them back on their feet, get them their training, and get them into jobs.

#### PREPARED STATEMENT

So, Mr. Chairman and Senator Landrieu, that is my testimony. Again, thank you for your partnership. As I close my remarks, I would again make my continued yearly annual appeal for full representation for our beautiful Nation's capital.

Senator BROWNBACK. Thank you, Mayor, and thank you for the discussion and the specifics that you lay out in front of us. I look forward to the question and answer session.

Thank you very much.

[The statement follows:]

#### PREPARED STATEMENT OF ANTHONY A. WILLIAMS

Chairman Brownback, Ranking Minority Member Landrieu, and other distinguished members of this subcommittee, thank you for the opportunity to testify before you today in support of the District of Columbia's fiscal year 2006 budget and financial plan. I continue to appreciate the support and commitment that this committee has provided to our efforts to improve the District of Columbia as a place to live, work, and visit.

With our fiscal house in order, city services improved, and a robust environment for economic and housing development, we now face the challenge and opportunity to ensure that the rising tide we have created lifts all communities.

My remarks this morning will focus on three main goals we have for working with this subcommittee:

—Maintaining fiscal responsibility;

- Responding to citizens’ priorities with local budget decisions; and
- Pursuing federal investments that address our special status as the nation’s capital and invite partnership with the federal government on local priorities.

#### MAINTAINING FISCAL RESPONSIBILITY

The District has achieved a tremendous amount of financial progress over the past decade under the leadership of my administration and the City Council and diligence of the Chief Financial Officer. Fiscal year 2004 marked the District’s eighth consecutive balanced budget; the District has an A rating from all three credit rating agencies which is the highest level we have achieved since the inception of Home Rule; we are maintaining a cash reserve balance of about \$250 million, which is among the strongest in the country; and our fund balance exceeds \$600 million. The turnaround and success of the District, impressive on its own merits, is truly laudable when you consider how much we have achieved over such a short period of time.

In fiscal year 2006, the District’s baseline general fund revenue is projected to grow by 5.6 percent. This strong revenue growth, along with our robust reserves from prior years, have allowed us to submit a fiscal year 2006 budget of \$7.35 billion in total funding that supports 34,635 full-time equivalent (FTE) staff. In local funds, this budget proposes \$4.95 billion in funding and supports 26,787 FTEs.

Despite the temptation to allocate all available resources to programs during strong fiscal years, this budget reflects a high standard of fiscal responsibility by providing for \$88 million in new tax relief. This budget also responsibly ensures that we do not rely on one-time funding for long-term programs and more than half of the growth in this budget comprises one-time expenditures that are not built into the District’s baseline budget.

Even more impressively, we have accumulated this record despite a long-term structural imbalance, which is estimated by the Government Accountability Office to be between \$470 million and \$1.1 billion per year. The GAO cites multiple factors causing this imbalance: the high cost of providing services in the D.C. metropolitan area, the relative poverty of our population, and federal restrictions on our revenue collection authority.

The District’s strong financial performance in spite of a long-term structural imbalance may appear paradoxical. How can such an imbalance be real when the economy is so strong? The explanation is twofold. First, our residents are among the most heavily taxed in the nation, and, second, the District is deferring massive investments in critical services and infrastructure. Approximately \$2.5 billion of infrastructure has been deferred, including renovating crumbling schools, repairing our outdated sewer system, and fixing accumulated needs in our streets, bridges and mass transit system.

As we seek solutions to address the structural imbalance and address our long-standing problems, it is clear that taxing our residents more or providing fewer services are not viable alternatives. Nor can we solve our long-term challenges through additional borrowing. This year, our budget includes a capital outlay of almost \$500 million in new spending, much of which is supported by a one-time windfall of recent, hard-earned surpluses. Though this allows us to begin to address our most pressing capital needs, we remain unable to meet our accumulated needs on our own. An option proposed by the GAO is a change in federal policy to expand the District’s tax base or to provide additional financial support.

One very promising vehicle for resolving this imbalance is the “District of Columbia Fair Federal Compensation Act of 2005”. This bill would provide the District with an annual federal payment of \$800 million a year dedicated to transportation projects, debt service payments, public school facilities, or information technology investments. This approach to addressing the District’s structural imbalance would allow the federal government to invest in infrastructure that benefits the federal government itself, the Washington metropolitan area, as well as the District of Columbia. Last year, this committee held a landmark hearing on the District’s fiscal challenges and your continued commitment to a resolution to our structural deficit will be critical to putting the District on permanent and equitable financial footing.

In addition to addressing the federal contribution to our budget, we also need to repair the federal process for reviewing our budget. This year, the President again endorsed budget autonomy for the District of Columbia and legislation has been introduced in the Congress to provide this authority. This legislation, besides being a well-deserved advancement of Home Rule, would significantly streamline and rationalize our budget process by allowing the city to better align local funds with oftentimes unpredictable and shifting needs. This year, we are hopeful that the Congress will pass legislation this session to provide for budget autonomy. In the mean-

time, we hope you consider intermediate measures to streamline our budget modification process throughout the fiscal year to allow us to better respond to future unanticipated needs. For example, our budget includes language that would allow the District to spend up to an additional 6 percent of our total revenues without coming back to Congress for supplemental budget authority, provided that additional revenues are certified as available by the Chief Financial Officer. This would provide us with the flexibility to respond to changing revenue realities at the local level in a more timely matter than the supplemental appropriation process provides.

#### FUNDING CITIZEN PRIORITIES

This budget funds groundbreaking initiatives that will reshape the physical landscape of the District of Columbia and strengthen our social fabric in a fiscally responsible and balanced manner. This budget has been developed around the core principles of fiscal responsibility, fairness, strategic investments in critical social needs, and improving our infrastructure. With input from residents, the priorities addressed in this budget are housing, employment, better transportation infrastructure, targeted services for youth, and continued commitment and support to education and public safety.

The fiscal year 2006 Budget and Financial Plan will lift all communities by making major new investments in the following initiatives:

##### *New Communities*

New Communities is a major investment in the housing and physical infrastructures of the city's most challenged neighborhoods. Although many District neighborhoods are undergoing rapid change and transformation, there are still places in the city where crime, unemployment, and truancy converge to create intractable physical and social conditions. The New Communities initiative is more than the bricks and mortar transformation of neighborhoods. It is a comprehensive community development program aimed at lifting people and neighborhoods by addressing a community's social and economic ills, along with its physical problems. The long-term goals of New Communities are to meet the needs of lower-income District families and residents by providing critical social support services; decreasing the concentration of poverty and crime; and enhancing access to education, training and employment opportunities, but this effort will begin immediately with a large-scale investment in our housing infrastructure with a special focus on public housing.

##### *Great Streets*

It is important to extend the District's downtown economic success to the neighborhoods throughout the city by leading private investment with public investment. To accomplish this, we propose to securitize new bus shelter revenue to raise approximately \$88 million to invest in the revitalization of the District's corridors, unleashing the commercial potential of Georgia Avenue, H Street, NE, Nannie Helen Burroughs, NE, Benning Road NE and other neighborhood arteries. In order to complement this investment in physical infrastructure with the revitalization of the commerce along these streets, we are dedicating an additional \$16.6 million to attract new businesses and to help existing businesses flourish.

##### *Bridges and Roads*

Our budget reflects a major new investment in our city's physical infrastructure, starting with a \$230 million local investment in the District's streets and bridges along the Anacostia River. This project, which is funded at \$35 million in fiscal year 2006, will make critical infrastructure improvements needed to alleviate congestion and overflow traffic in surrounding neighborhoods. In addition, this budget dedicates approximately \$23.2 million in additional resources for street, sidewalk and alley paving.

##### *Education*

Our fiscal year 2006 budget includes a total of \$1.1 billion in local funds to educate approximately 80,000 students within the District of Columbia Public Schools (DCPS) and public charter schools. This funding level represents an increase of \$101 million, or 10.5 percent, over the fiscal year 2005 budget. The fiscal year 2006 budget is aligned with the Superintendent's core budget request of \$775 million, provides an additional \$25 million to support strategic educational investments at both DCPS and charter schools, funds eleven new charter schools, and allocates \$20 million for additional salary step increases.

To support DCPS capital needs, this budget provides \$147 million in capital funding to support rehabilitation and modernization of D.C. Public School buildings. In addition, this budget includes funding for a new public school modernization fund,

which will provide an additional \$150 million for capital investments. These resources will be made available to the school system provided that DCPS meets criteria regarding co-location, special education space needs, and coordination with other public facilities.

#### *Health and Welfare*

In the area of health care, the fiscal year 2006 budget demonstrates the District's continued commitment to providing health services to residents, particularly those who are underserved. This budget augments primary health care services and increases support for community health centers, which will result in the ability to support additional patients from underserved communities. This budget also includes multi-year funding of \$76 million to support the District's ten-year plan to end chronic homelessness. This funding will go towards providing enhanced wrap-around services for homeless families and individuals, building new housing assistance centers, providing eviction prevention services, and creating subsidized housing.

#### *Children and Youth*

Children and youth are among the most vulnerable of our residents. This budget supports additional funding to provide education, health, enrichment and other opportunities for our children and youth, which is critical in preventing juvenile violence and providing meaningful supports so that young residents grow into productive, engaged members of the District's community.

#### *Tax Relief*

Starting in fiscal year 2006, District residents will benefit from \$88 million in new tax relief. This tax package provides for a balance between income tax relief and property tax relief that is especially targeted to low-income families. All property owners living in their homes and coping with rapidly rising home value assessments will benefit from \$211 in tax relief from an increase in the homestead deduction from \$38,000 to \$60,000. Low-income homeowners will be further protected from rising tax bills by a new provision that will allow households earning less than \$50,000 per year to defer any property tax increases until they sell their house. This will provide for neighborhood stability, especially for seniors who have difficulty meeting rising property tax costs in rapidly changing neighborhoods.

This budget also includes income tax reductions. First, the local Earned Income Tax Credit (EITC) program is being improved to make it one of the most generous programs in the nation by increasing our refundable credit from 25 percent of the federal benefits level to 35 percent of the federal level. Also, for the first time, program benefits will be expanded to cover non-custodial parents who are paying their child support. This provides a work incentive and ensures the equal treatment of parents. In addition to targeted income tax relief, this budget includes a \$500 increase in the standard deduction and a \$130 increase in the personal exemption, which will benefit all taxpayers in the city. These income tax proposals will provide a more progressive complement to the broad tax changes that will be triggered by tax parity in fiscal year 2006. Tax parity reduces the rates of all three of the District's income tax brackets, including a reduction in the top rate from 9.0 percent to 8.7 percent.

#### PRIORITY FEDERAL FUNDING FOR CRITICAL PROJECTS

These local investments will leverage the strength of our economy to lift all communities by investing new resources in our neighborhoods, our infrastructure, and our more challenged communities. Connecting these communities to the economic vitality we are experiencing in many parts of the District is paramount to the continuation of the District's renaissance.

The President's fiscal year 2006 budget has recognized the importance of partnering and contributing toward several of the District's top priorities, including full funding for the Tuition Assistance Grant Program, inflation-adjusted funding for the Three-Sector Education Initiative, funding for the Consolidated Laboratory Facility, funding for the Anacostia Riverwalk and Trail, which is part of my Anacostia Riverfront Initiative, funding for the Criminal Justice Coordinating Council, and funding for the Emergency Planning and Security Cost Fund.

The Tuition Assistance Grant Program is a marquee federal initiative that has been a tremendous success. This program compensates the District for our lack of a state-like university system by allowing our high school graduates to attend out-of-state public universities at in-state tuition rates and providing grants for attending selected private universities. Program costs have continued to grow rapidly due to rising tuition costs nationwide and rising program participation. This program is

funded at \$33.2 million in the President's budget and I ask you to continue your support for this successful initiative by fully funding the President's mark.

Another critical program which was first funded by this subcommittee, and funded for the first time this year by the President at \$7 million, is the Consolidated Laboratory Facility. This laboratory will combine forensics capacities, our medical examiner functions, and our various public health laboratories into a single combined facility, leveraging our capital investment and providing the District with state-of-the-art forensics analysis capacities for the first time at the local level. This will free up resource at the federal facilities which we are currently using for testing while providing additional surge capacity for lab needs throughout the Washington area.

In addition to these important funded projects, our budget request to the Congress includes requests for the following projects that are worthy of congressional attention:

—*Mental Health Hospital.*—The city is constructing a new hospital on the St. Elizabeths campus which will allow us to continue to implement court-mandated improvements in services to our patients. Our current facilities do not meet the standards of care required of the District and the costs of operating our existing buildings are increasingly cost prohibitive. Currently, approximately 17 percent of inpatients that we serve are referred to the city by federal agencies and courts. Therefore, we are seeking a contribution for our capital investment in this new facility at a pro-rated commensurate level of \$32 over the next three years and \$17 million in fiscal year 2006.

—*Ex-Felon Housing.*—We have identified access to housing as one of the most important risk of recidivism for individuals making the transition from prisons back into society. To address this need, and reduce the chance that today's returning prisoners will become tomorrow's homeless, we propose a \$5 million ex-felon housing program to provide organizations and developers with an incentive to construct housing specifically for the ex-felon community. Once this housing is in place, we will devote our existing resources to providing the job training, mental health, and other public services necessary to provide these returning prisoners with a true opportunity to return to society as productive citizens.

—*WASA's Long-Term Control Plan.*—As you know, I believe that the Anacostia River is one our most precious and under-appreciated assets as a city. Improving public access and for the tremendous natural amenities along the Anacostia River is a driving priority of my administration, but my vision for the revitalization of the Anacostia River will not be possible unless we clean up the river by fixing our combined sewer system that currently deposits waste into the river throughout the year. The D.C. Water and Sewer Authority is embarking on a 30-year plan to fix this system in order to drastically reduce pollution in our waterways and I ask that you support this critical program in an amount of \$30 million.

—*Fire/EMS Command Center.*—The District's emergency response functions are outdated and in need of repair. As the fire department for the nation's capital, including the U.S. Capitol, the headquarters for the Fire and Emergency Medical Services is inadequate and does not meet the specifications for a modern emergency response in high-threat environment. The District currently has plans in place to leverage private investment to improve our fire command capacity and in addition provide for new and necessary storage facilities for homeland security emergency response equipment and is requesting a \$10 million contribution as part of our budget to support this investment.

—*Downtown Circulator.*—The city will soon launch a new bus service designed to link the Central Business District and key federal destinations. The Downtown Circulator project will provide the 22 million visitors to Washington, DC with an inexpensive and easy way to move around the Monumental Core while helping to mitigate the impact of street closures for security purposes. The service will connect several of the District's most popular destinations for residents, tourists and even federal employees. In the future, the system could also be adopted by federal agencies as cost-saving replacement for private vehicle fleets and shuttle services. The federal government has contributed to this project in fiscal year 2004 and fiscal year 2005 and the District is requesting an additional \$1 million in fiscal year 2005, which the District will match with local funds on a one-to-one basis on top of considerable support from the city's tourism and business sectors.

## DEMOCRACY FOR THE NATION'S CAPITAL

Having outlined our budget objectives, it is important to keep in mind a District priority whose value is beyond fiscal measure, and that is our democratic rights. The District is the capital of the world's greatest democracy and it is the ultimate hypocrisy that its citizens suffer from the exact disenfranchisement this nation was founded to end.

The United States is continuing to sacrifice hundreds of lives and billions of dollars to spread democracy worldwide, yet denies full democracy to more than a half a million people at its very heart. I urge you to end this injustice and provide the city with full voting representation in the Congress. Anything short of full democracy for our residents should be at the level of personal outrage for all Americans.

In recent years, this subcommittee has successfully resisted efforts to add undemocratic social riders to our appropriations bill. No matter what any Senator's opinion may be on the topic at hand, we hope this body will respect the right of District residents to decide local matters, just as the residents do in our 50 states. We also hope this body will repeal riders that restrict our ability to make decisions about spending local funds on needle exchange programs and lobbying.

This concludes my remarks today. Thank you for the opportunity to testify before you today and I look forward to answering any questions you may have.

Senator BROWNBACK. Chairperson Cropp.

**STATEMENT OF HON. LINDA CROPP, CHAIRMAN, CITY COUNCIL**

Ms. CROPP. Thank you very much. Good morning, Chairman Brownback, Senator Landrieu. I am pleased to be here with my colleagues to testify today on the District's budget for fiscal year 2006. This budget represents the ninth year in a row for a fiscally sound and balanced budget. The budget is also a reflection of our resolve to stand as one government that will remain fiscally prudent and responsible.

The budget represents the District's reinvesting in itself and in our future. We have committed resources and services for our citizens through revitalization of our neighborhoods, investment in our youth, and protection of our most vulnerable citizens, promotion of continued economic stability and growth, health programs, child care, and education.

We will invest in our employees with pay raises and prudently set aside \$138 million for future employee health and retirement benefits. These funds will become mandatory in fiscal year 2008 and it is good that we made the decision to allocate them at this time when we have the money.

Fiscal discipline has always been and will be a top priority of our legislative agenda. We will not only demand it of the executive branch, but we also practice it ourselves. The various forms of fiscal discipline from rainy day savings funds, financial safeguards, insurance and investment policies, economic triggers for pay-as-you-go capital financing, that we have demanded and imposed upon ourselves in the past several years have yielded significant returns to the District of Columbia. This is reflected in the District government receiving for the seventh consecutive year an unqualified audit opinion and a positive future outlook of increased ratings from bond rating agencies.

## THE BUDGET PROCESS

During the Council's 56 day review period, we held 66 hearings totaling 322 man-hours where we provided an opportunity for the public to come in and have their input on our budget. The Council

worked diligently with the Mayor in aligning our priorities and put together a fiscally sound and responsible spending plan.

The operating budget funds basic city services and programs. The capital budget, as a result of stringent oversight by the Council, has been realigned. We will devote funds to our infrastructure through investment of over \$300 million in pay-as-you-go funding. For example, funds were redirected and targeted for projects with higher priority and more critical needs, such as schools for children and housing for low and moderate income individuals.

#### HIGHLIGHTS OF THE FISCAL YEAR 2006 BUDGET

On May 10 the Council approved a \$4.9 billion spending plan that provides for adequate funding for basic city services and programs. The budget earmarks \$1.2 billion for public schools and public charter schools. The schools funding increased by \$65 million, human services programs by another \$65 million, and there was an increase in child care specifically by \$11.5 million in the hopes that we could get more of our families out to work.

We have selectively adjusted tax rates to make homeownership more affordable and to reward the hard work of our citizens and businesses. In total, taxes were reduced by \$94 million.

#### FEDERAL BUDGET REQUEST

I would also like to ask for your help in obtaining an approval of an extension of the District's tax incentives that are to expire at the end of the year. The first time home buyer credit, the enterprise zone credit, and the revenue bond program are important to economic development in the District of Columbia. The first time home buyer credit attracts residents to our city and assists persons in purchasing homes that might not otherwise have had an opportunity to do so. The enterprise zone credit and the revenue bond program are real incentives for attracting businesses to operate within the District, and it is important to our economic growth that these tax incentives be reauthorized.

While speaking about items of importance to the District, I would like to mention one other item that is not directly related to the budget. You have heard it before: voting representation. But it is something that is so extremely important to the citizens of the District of Columbia, who pay almost \$3 billion in Federal taxes. It is important for the image of this country, the leader of the free world, to provide to all of its citizens the same rights we fight for abroad, the right for all citizens to be represented by the persons they elect.

A number of different types of legislation have been introduced in the House and in the Senate. Congresswoman Eleanor Holmes Norton's bill, H.R. 398, is an example of one bill. Hopefully, you will be able to embrace one of those bills so that the District's citizens can no longer—will no longer be disenfranchised.

#### BUDGET AUTONOMY

Just like the other 50 States, the District should be solely responsible for approving its own local spending. Achieving such budget autonomy will allow the District to implement its budget in

a timely manner and will assist in improving the city's fiscal management.

I want to thank the subcommittee and the Senate for supporting this initiative in the past and would ask for you to do it again in support of S. 800 the District of Columbia Budget Autonomy Act of 2005.

#### FEDERAL CONTRIBUTION

The District is always challenged in developing its budget due to ongoing structural imbalance that exists between its spending needs and its revenue generation capacity. As noted in the General Accounting Office May 2003 report, the imbalance ranges between \$400 million to \$1.1 billion annually. The report also noted that the cost of providing public services is much higher in the District than it is in the average State due to the relatively large poverty population, poor health indicators, high crime, and high cost of living. The report stated that the District has a very high revenue capacity and the city is already taxing toward the upper limit of our revenue capacity, thereby creating a punitive tax structure.

The congressional limitation on the District's ability to tax certain institutions and persons severely restricts the District's ability to raise revenue needed to cover both the operational and infrastructure costs.

Recently, many of you have heard of the budget surplus that the District has. The budget surplus is only on one end, the management end, due to good management of the day to day operations of the city's budget. But while we have a surplus on that end, it cannot be thought of as a total surplus because we have a deficit in our infrastructure when you look at what our capital needs are, when you look at our school system.

When the issue was brought up of closing the schools, the average age of the District's schools is 80 years of age. So you will see that our capital side is where we cannot continue to borrow money because we are at our capacity, our limit. So we do not even have the dollars necessary or the capacity to go out on Wall Street and borrow the dollars to fix up our schools, which probably need \$1 to \$2 billion. If we did then our bond rating would go down. So we are caught between a dog and a tree and that is not a good position.

So the infrastructure situation with the District is one that we really need to have changed, and it is not because of mismanagement in the District government, but it is because of the unique situations as to how the budget is set. I would ask that at some point that the Congress look at some type of special funding plan for the school system and for Metro.

Metro functions as a way to bring in Federal workers into the District of Columbia. When you look at our capital budget, the herculean share of the city's capital budget is spent in two areas: the D.C. Public School system, where we see there are even greater needs, and Metro. So I hope that that is something that we can look at in the future.



## CONCLUSION

Finally, as you consider our appropriations we request, we ask that you support and pass the budget in time for the start of the new fiscal year and before the adjournment of the 109th Congress. We urge you to pass the budget as is, without any riders. This much anticipated fiscal year 2006 budget is important because it shows how the Mayor and the Council can work together and underscores our commitment to make Washington, DC, one of the best-governed cities in the Nation.

The District's financial problems of the 1990s combined with the national recession earlier this decade, as well as the September 11 attacks, created an environment where we had to disinvest in our budget. Over the past 2 fiscal years, however, we began the process of reinvestment in our city. This fiscal year 2006 budget represents a great leap forward.

We will be responsive to our constituents who call the District of Columbia their home. We will work with the Mayor, the Congress, and the surrounding governments to achieve our mutually shared goals. Together with the Mayor, we will produce good, responsible budgets that invest dollars in making the District of Columbia a much better place for all.

Thank you very much.

Senator BROWNBACK. Thank you very much, Chairperson Cropp. I appreciate that.

[The statement follows:]

## PREPARED STATEMENT OF LINDA W. CROPP

Good morning, Chairman Brownback, Senator Landrieu and members of the Senate Appropriations Subcommittee on the District of Columbia. I am pleased to be here with my colleagues to testify on the District's budget for fiscal year 2006.

## INTRODUCTION

The fiscal year 2006 budget represents for the ninth year in a row, a fiscally sound and balanced budget. This budget is also a reflection of our resolve to stand as one good government that will remain fiscally prudent and responsible. The efforts of the Council and the Mayor, working together, has created a spending plan that continues to provide the services needed to make the District a better place in which to live, to work, to raise a family, and to visit. The budget represents the hard work of all thirteen Council members and the efforts of our ten standing committees. The Council and the Mayor will continue this collaborative effort throughout the year in order to manage government spending.

This budget represents the District reinvesting in itself and our future. We committed resources in services for our citizens through revitalization of our neighborhoods, investment in our youth, protection of our vulnerable residents, promotion of continued economic stability and growth, health programs, childcare and education.

We will invest in our employees with pay raises and prudently set aside \$138 million for future employee health and retirement benefits. These funds will become mandatory in fiscal year 2008 and it is good that we made the decision to allocate them now.

Fiscal discipline has always been and will always be a top priority on our legislative agenda. We not only demand it of the executive branch, we practice it. The various forms of fiscal discipline—from rainy day savings, financial safeguards, insurance and investment policies, economic triggers to Pay-As-You-Go Capital Financing—that we have demanded of, and imposed on ourselves in the past several years, have yielded significant returns to the District of Columbia. This is reflected in the District Government receiving for the seventh consecutive year an unqualified audit opinion and a fiscal year 2004 Comprehensive Annual Financial Report (CAFR) showing a balanced budget. The District continues to maintain an "A" rating from all of the Wall Street financial rating agencies.

In 2005 the Council passed the fiscal year 2006 Budget Submission Requirements Resolution of 2005. It established the date for submission of the Mayor's proposed budget. It required performance plans and reports, and that certain information and documentation be submitted to the Council along with the proposed budget.

#### THE BUDGET PROCESS

During the Council's fifty-six days review period 66 hearings totaling 322 man-hours were conducted. These public hearings are an important part of the budget process. The public hearings provide the citizens and our workforce with an opportunity to comment on and critique programmatic and funding needs, and the performance of government agencies. This feedback is essential in reaching the decisions and determining the recommendations of each committee in the mark-up of the agency budgets.

The Council worked diligently with the Mayor in aligning priorities and, put together a fiscally sound and responsible spending plan. The operating budget funds basic city services and programs. The capital budget, as a result of stringent oversight by the Council, was realigned. We will devote funds to our infrastructure through direct investment of over \$300 million in "Pay-As-You-Go" funding. For example, funds were redirected and targeted for projects with higher priority and critical needs, such as schools for the children and housing for low and moderate-income residents.

The Mayor submitted the budget to the Council on March 21, 2005. The proposed local budget was \$4.903 billion, an increase of \$712 million or 17.1 percent above the revised fiscal year 2005 budget. The Council carefully reviewed the proposed expenditures to ensure that priority programs were properly funded. Adjustments were made through hard decisions between competing program preferences and by rooting out unnecessary budget cushions within the request.

#### HIGHLIGHTS OF THE FISCAL YEAR 2006 BUDGET

On May 10 the Council approved the \$4.949 billion spending plan that provides adequate funding for basic city services and programs. This funding level for fiscal year 2005 represents a growth of 18 percent over the revised fiscal year 2005 local budget. The budget provides \$116.6 million for the production of low and moderate-income housing and increases the funding for childcare, substance and drug abuse treatment, and health care for uninsured residents. In keeping with the seven goals on the Council's legislative agenda, schools continue to receive significant funding. The budget earmarks \$1.2 billion for public schools and public chartered schools. The schools funding increased by \$65 million, human services programs by another \$65 million and the Council is increasing child-care by \$11.5 million.

We selectively adjusted our tax rates to make homeownership more affordable and to reward the hard work of our citizens and businesses. In total, taxes were reduced by \$94 million.

In order to address the Council's concerns about the growth of spending in certain agencies while still wanting to finance programs important to the District's most vulnerable residents, a Pay-Go contingency fund was established. The fund would provide additional financial support to certain agencies once they demonstrate the need for these additional funds. Requests to expend money from the Pay-Go contingency fund require approval by the CFO, the Mayor and the Council.

#### FEDERAL BUDGET REQUEST

The Council supports the Congressional budget request items included in the Mayor's proposal. However, I would like to highlight the Tuition Assistance Grant Program (TAG). The TAG program has been extremely successful in the District. A total of 4,645 students are receiving funds this year from the program. TAG has had a significant impact on furthering the education of these students. Therefore, it is important that the additional \$33.2 million be provided to continue to fully fund this program.

I would also like to ask for your help in obtaining approval of an extension of the District's tax incentives that are to expire at the end of this year. The First Time Homebuyer credit, the Enterprise Zone credit and the revenue bond program are important to economic development in the District. The First Time Homebuyer credit attracts residents to the District and assists persons in purchasing homes that might not otherwise have an opportunity to do so. The Enterprise Zone credit and the revenue bond program are real incentives for attracting businesses to operate within the District. It is important to our economic growth that these tax incentives be re-authorized.

While speaking about items important to the District, I would like to mention one other item that is not directly related to the budget, i.e., voting representation. It is important for the image of this country, the leader of the free world, to provide to all of its citizens the same rights we fight for abroad, the right for all citizens to be represented by persons they elect.

A number of pieces of legislation have been introduced, Congresswoman Eleanor Holmes Norton's bill, H.R. 398 "No Taxation Without Representation Act of 2005" and its companion piece introduced by Senator Joseph Lieberman, S. 195, would treat the District as a State with full voting representation in the House and the Senate. Representative Thomas Davis' bill, H.R. 2043, "District of Columbia Fairness in Representation Act" would add two seats to the House, one to the District of Columbia and one to State of Utah, which narrowly failed to secure a fourth Congressional seat after the 2000 census. In Representative Davis' bill the District would be treated as a Congressional district for the purpose of representation in the House. Representative Dana Rohrabacher's bill, H.R. 190, "District of Columbia Voting Rights Restoration Act of 2005" would treat the citizens of the District as residents of the State of Maryland for the purpose of participating in elections for the House and Senate. While each piece approaches the issue in a different way, the key point is that they all call for voting rights to be granted to the citizens of the nation's capital. I ask that you support voting rights for the District of Columbia.

#### FEDERAL CONTRIBUTION

Historically, the relationship between the District and the Federal Government has been a unique political and financial arrangement. Between 1879 and 1920, the Federal Government would provide assistance by paying half of all District expenditures. Subsequently, given the various federal prohibitions on taxing nonresident incomes, federal properties, federal purchase of goods and services, the District would receive a direct payment. This payment was stopped in 1997 when the Federal Government assumed responsibility for the cost of the contributions to the police, firefighters, and teachers retirement plans, various Court services and portions of other state functions.

It is worth recalling that when the 1997 Revitalization Act was passed, one recommendation was that Congress would not need to review or approve the District's budget because the city would no longer receive any federal payments. At a minimum, Congress should no longer approve the local portion of the District's budget. Under such a proposal the Mayor would notify the Committees on Appropriations of the House of Representatives and Senate in writing 30 days in advance of any obligation or expenditure. Just like the other 50 states, the District should be solely responsible for approving its own local spending. Achieving such budget autonomy will allow the District to implement its budget in a timely manner and will assist in improving the city's fiscal management. I want to thank the Subcommittee and the Senate for supporting this initiative in the past and would ask for your support of S.800 the "District of Columbia Budget Autonomy Act of 2005".

The District Government is always challenged in developing its budget due to the ongoing structural imbalance that exists between its spending needs and its revenue generation capacity. As noted in the General Accounting Office's May 2003 report the imbalance ranges between \$400 million to \$1.143 billion per year. The report also noted that the cost of providing public services is much higher in the District than it is in the average state due to a relatively large poverty population, poor health indicators, high crime, and the high cost of living. The report stated that the District has a very high revenue capacity, and the city is already taxing toward the upper limit of our revenue capacity, thereby creating a punitive tax structure.

The Congressional limitations on the District's ability to tax certain institutions and persons severely restrict the city's ability to raise the revenue needed to cover both operational and infrastructure costs. These limitations are reflected in the streets and schools in need of repair. While the city currently has a management surplus of day-to-day operations, these dollars are insufficient to cover the total cost of infrastructure improvements.

The inability to fund infrastructure costs are not due to mismanagement by the District Government. As noted earlier, the District Government has maintained an "A" rating by the financial rating agencies over the last few years. It is due to the inability to tax revenue at its source and other infrastructure issues addressed in the 2003 GAO report.

Congresswoman Eleanor Holmes Norton has introduced Bill H.R. 1586, the "District of Columbia Fair Federal Compensation Act of 2005". The bill outlines the unique situation of the District of Columbia as a federal city. It proposes an annual federal payment of \$800 million with provisions to adjust the number in the future.

The \$800 million would be made available to address important structural needs of the city, which the District Government cannot fully fund from its current budget. Transportation and street maintenance, information technology and DCPS capital improvements are essential to the running of the city. I ask for this Subcommittee to support this legislation and encourage adoption by the Senate.

#### CONCLUSION

Finally, as you consider our appropriations request, we ask that you support and pass the budget in time for the start of the new fiscal year and before the adjournment of the 109th Congress. Furthermore, we urge you to pass the budget as is, without any extraneous riders. This much anticipated fiscal year 2006 budget is important because it shows how the Mayor and the Council can work together and underscores our commitment to make Washington D.C. one of the best governed cities in the nation.

The District's financial problems of the nineties combined with the national recession earlier this decade, as well as, the September 11th attacks created an environment, where we had to disinvest to balance our budget. Over the past two fiscal years, we began the process of reinvestment and this fiscal year 2006 budget represents a great leap forward.

We will be responsive to our constituents who call the District their home. We will work with the Mayor, Congress, and the surrounding governments to achieve mutually shared goals. Together with the Mayor, we will produce good responsible budgets that invest dollars for the District and leave a legacy for future generations.

I thank you for this opportunity to present the fiscal year 2006 budget and these issues of major importance to the District of Columbia.

Senator BROWNBACK. Dr. Gandhi, and if you could stay within the timeframes. We are going to be running tight on this hearing and we both would like to have some exchanges back and forth. So I will probably put the hook on the last two witnesses a lot tighter than I have on the front two.

Dr. Gandhi.

#### STATEMENT OF NATWAR M. GANDHI, Ph.D., CHIEF FINANCIAL OFFICER

Dr. GANDHI. Thank you, Mr. Chairman. Good morning, Mr. Chairman, Senator Landrieu, and members of the subcommittee. I am Natwar M. Gandhi, Chief Financial Officer of the District of Columbia, and I am here to testify on the District's 2006 budget request and the overall health of the District's finances.

The Congress created the Office of the Chief Financial Officer to preserve, protect, and enhance the District's financial viability and credibility at all times. I am pleased to report to this subcommittee, Mr. Chairman and Ms. Landrieu, that the District has again made substantial progress in the past year, marking the eighth consecutive year of fiscal recovery.

We again achieved a balanced budget and received a clean audit opinion from our external auditors and improved the District's financial infrastructure. The graph on the chart before you, sir, illustrates the turnaround in our general fund balance from a negative \$518 million in 1996 to a positive \$1.2 billion at the end of 2004. Many cities that have gone through control period experience, such as New York, Philadelphia, Cleveland, none has been able to come back as well and as fast as the District has.

Roughly half of that fund balance is reserved as a result of congressional mandate or is legally reserved for bond escrows or other purposes. The fund balance is likely to climb in the current fiscal year to reach an unprecedented level of approximately \$1.3 billion.

Our emergency and contingency reserves totaled \$285 million, among the highest such reserves as a percentage of the budget of

all major cities or States in the Nation. Last year, recognizing that our reserves were strong, Congress lowered reserve requirements to 6 percent from 7 percent. This fiscal year we estimate these reserves will be about \$250 million, an amount that is still expected to be among the highest in the country.

We have again received favorable reviews from the bond rating agencies. Standard & Poor raised the rating on the District's general obligation bonds to A from A minus, and Fitch placed the District's A minus rating on a positive outlook for a possible upgrade.

Again, this year I must stress that it is time to grant the District of Columbia local budget autonomy—can I illustrate a point, sir? Do you have a question on this?

Senator BROWNBACK. My eyes are not quite as good as they used to be, so I am trying to make sure——

Dr. GANDHI. Well, I can withhold my testimony to explain this.

Senator BROWNBACK. Please go on. Please proceed.

Dr. GANDHI. All right. Because what really matters here is that in the mid-90s we were very near bankrupt and today we are really a welcome presence on Wall Street. We have accomplished this financial stability by institutionalizing changes that have been commended by rating agencies and investors. We are monitoring the budget on a constant basis and have enabled decisionmakers to receive timely and accurate information on which to make informed judgments.

Without budget autonomy, we must prepare specific spending plans and revenue estimates at least 9 months in advance of the beginning of the actual budget year, a constraint under which no other State or municipal government operates. This issue of timing has added far greater uncertainty in budget planning and has posed more difficulty in executing the budget as well.

In fiscal year 2006, the District's certified general fund revenue is forecasted to be \$4.8 billion, an increase of about 14 percent over 2005. Underlying the District's robust revenue growth is continued strength in the District's real estate market and strong growth in personal income.

As Chief Financial Officer, sir, I believe that it is not the role of the government to amass a large amount of cash when needs for infrastructure and other prudent investments must be met. The magnitude of resources available for budgeting both from the improved level of current revenues and the sizable accumulated surplus in the fund balance provides an opportunity to address critical needs of the District. Accordingly, the proposed budget before you, sir, would result in a reduction in the general fund balance of about \$610 million. This amount is composed almost entirely of one-time spending and reduction of large pension liabilities that our Council Chair, Mrs. Cropp talked about and programs to address critical social needs that the Mayor talked about.

I believe this spending level and the uses of fund balance are fiscally prudent and will not endanger the District's sound financial position or our strong credit standing. This is demonstrated in the 5-year proposed budget and financial plan attached to my testimony. Unlike any other jurisdiction, the District prepares a 5-year plan so as to assure the Congress that the District will remain financially viable for 5 years.

Since Mrs. Cropp and the Mayor talked about structural imbalance, I will not go into that. I would simply note that the GAO's structural imbalance report identifies about \$470 million to about \$1 billion of structural imbalance, this structural imbalance somehow has to be helped by the Federal Government. There are not enough local resources to address the imbalance, and I request and strongly urge, that Congress take positive action on Congresswoman Norton's bill, the District of Columbia Fair Federal Compensation Act of 2005, (H.R. 1586).

#### PREPARED STATEMENT

That concludes my oral remarks, Mr. Chairman, and I request that my written testimony be made part of the record. I will be pleased to answer any questions you or Mrs. Landrieu may have. Thank you.

Senator BROWNBACK. Your formal testimony will be made part of the record. We look forward to the discussion.

[The statement follows:]

#### PREPARED STATEMENT OF NATWAR M. GANDHI

Good morning, Mr. Chairman, Senator Landrieu, and members of the subcommittee. I am Natwar M. Gandhi, Chief Financial Officer for the District of Columbia, and I am here today to testify on the District's fiscal year 2006 budget request to the Congress. My remarks will briefly touch on the fiscal year 2005 financial outlook, the fiscal year 2006 request, and the overall health of the District's finances.

#### CONTINUING FINANCIAL STRENGTH

The Congress created the Office of the Chief Financial Officer to preserve, protect and enhance the District's financial viability and credibility at all times. I am pleased to report that the District has again made substantial progress in the past year, marking the eighth consecutive year of fiscal recovery. We again achieved a balanced budget and received a clean audit opinion from our external auditors and improved the District's financial infrastructure. The graph on Attachment 1 illustrates the turnaround in our general fund balance from a negative \$518 million in fiscal year 1996 to a positive \$1.2 billion fund balance at the end of fiscal year 2004. Roughly half of that fund balance is reserved as a result of Congressional mandate, or is legally reserved for bond escrows or other purposes. The fund balance is likely to climb in the current fiscal year to reach an unprecedented level of approximately \$1.3 billion.

Our emergency and contingency reserves totaled \$285.4 million, among the highest such reserves as a percentage of budget of all major cities or states in the nation. Last year, recognizing that the District's reserves were strong, Congress enacted legislation lowering the total reserves required to 6 percent from 7 percent. This fiscal year, we estimate that the emergency and contingency reserves will be about \$249 million, an amount which we expect will still remain among the highest in the country.

We have again received favorable reviews from the bond rating agencies. Standard & Poor's raised the rating on the District's general obligation bonds to A from A- last November and at the same time, Fitch Ratings placed the District's A- rating on positive outlook for possible upgrade. The graph in Attachment 1 also shows the history of the District's ratings by all three major bond rating agencies.

We continue to strive to improve on this record of accomplishment. Our standardized spending plans for all agencies allow us to monitor results against those plans, and we continue to control agency spending using our online financial management tools. Spending plans are one component of the District's own Anti-Deficiency Act designed to hold financial and program managers accountable for achieving program results within approved budgets. We have built performance budgets across all agencies that set specific targets which are benchmarked against best practices in local government.

Again this year, I must stress that it is time to grant the District of Columbia local budget autonomy. We have accomplished financial stability by institutional-

izing changes that have been recognized by rating agencies and investors in the District's bonds and notes. We have established systems to monitor our budget on a constant basis and have enabled decision makers to receive timely and accurate information on which to make informed judgments. Without autonomy we must prepare specific spending plans and revenue estimates at least nine months in advance of the beginning of the actual budget year, a constraint under which no other state or municipal government must function. This issue of timing has added far greater uncertainty in budget planning and formulation and has posed more difficulty in executing the budget as well. We have been fortunate in recent years in finding that our revenues have far exceeded our forecasts, but such time constraints have forced us to be overly conservative in our estimates, and have prevented us from providing tax relief or larger service benefits to our taxpayers as a result of those excess revenue collections. Congresswoman Eleanor Holmes Norton has introduced the District of Columbia Budget Autonomy Act of 2005, H.R. 1629, and Senator Collins introduced an equivalent bill, S.800, which would allow the Mayor and City Council to enact the locally funded portion of the District's annual budget. We appreciate the interest of this Subcommittee on the matter of budget autonomy and urge the Congress to consider the bills favorably.

#### BEGINNING FUND BALANCE, GENERAL FUND

As noted in the fiscal year 2004 Comprehensive Annual Financial Report (CAFR), the District concluded fiscal year 2004 operations with a \$1.215 billion general fund balance (i.e., net accumulated surplus).

Based on current revenue and expenditure estimates, the General Fund is expected to end fiscal year 2005 with an operating surplus of \$320.6 million. The general fund balance is likely to reach \$1.35 billion at the end of fiscal year 2005.

#### FISCAL YEAR 2006 REVENUES

In fiscal year 2006, District's certified general fund revenue is forecasted to be \$4.81 billion, an increase of 13.8 percent over fiscal year 2005 approved budget after tax policy changes. Underlying the District's robust revenue growth is continued strength in the District's real estate market and strong growth in personal income. Substantial increases in prices and the number of transactions in both residential and commercial real estate markets were major sources of revenue gains in fiscal year 2003 and fiscal year 2004, and are expected to contribute significantly to fiscal year 2005 and fiscal year 2006 revenues. Going forward, our revenue projections assume District personal income will grow between 5 and 6 percent annually, and the financial markets will continue their recovery.

The fiscal year 2006 Proposed Budget includes tax policy reductions of \$35.0 million and revenue shifts to capital of \$30.0 million. The tax policy reductions include an increase in the homestead deduction, an increase in the local Earned Income Tax Credit, increases in both the standard deduction and the personal exemption, and a property tax deferral for low-income homeowners. The revenue shift to capital is to provide a dedicated stream of revenues to finance major investments in bridges and roads.

#### FISCAL YEAR 2006 PROPOSED EXPENDITURES

As Chief Financial Officer, I believe that it is not the role of government to amass large amounts of cash when needs for infrastructure improvements and other prudent investments in the future must be met. The magnitude of resources available for budgeting, both from the improved level of current revenues and the sizable accumulated surplus in the fund balance, provides an opportunity to address critical needs of the District.

Accordingly, this proposed budget would result in a reduction in the general fund balance of \$610 million, to a balance of \$740.2 million, from the projected year-end fiscal year 2005 fund balance. This amount is composed almost entirely of one-time spending or transfers for future and retroactive pay-as-you-go capital funding, a reduction of a large pension benefit liability, policy shifts to special purpose and capital funds and operating budget programs to address critical social needs. I believe the spending levels and the uses of fund balance contained in this budget proposal are fiscally prudent and will not endanger the District's sound financial position or our strong credit standing. As shown in the table below, the Mayor and Council have weighed these financial opportunities in formulating policy goals for fiscal year 2006, as incorporated into this proposed budget.

TABLE 2.—GENERAL FUND PROPOSED FISCAL YEAR 2006 BUDGET SUMMARY

[In millions of dollars]

	Amount
Total Revenues .....	4,871.2
Less Recurring Budget Expenses .....	(4,804.9)
Excess Revenues .....	66.3
Less Tax Policy Reductions and Revenues Shift to O type and Capital .....	(65.0)
Add Appropriated Fund Balance .....	591.6
Sources for Program and Fiscal Policy Initiatives .....	592.9
Less Non-recurring Budget Expenses .....	(399.8)
Less Fiscal Policy Initiatives .....	(191.8)
Projected fiscal year 2006 Operating Margin .....	1.3

The fiscal year 2006 general fund budget spending proposal of \$5.40 billion is 19.8 percent higher than fiscal year 2005 approved spending of \$4.5 billion. This represents increases in both recurring expenses and the one-time uses of fund balance which I discussed previously. Recurring budget expenses of \$4.80 billion are a net increase of \$467 million, or 10.8 percent, over the fiscal year 2005 approved budget.

TABLE 3.—GENERAL FUND FISCAL YEAR 2006 BUDGET SUBMISSION

[Dollars in millions]

	Fiscal year 2005	Fiscal year 2006	Change	Percent change
Recurring Budget Expenses .....	\$4,337.8	\$4,804.9	\$467.1	10.8
Program Policy Initiatives:				
Nonrecurring Budget Expenses .....	165.0	192.8	27.8	16.8
PayGo Capital (Nonrecurring) .....		207.1	207.1	n/a
Net Change: Recurring Expenses and Program Policy Initiatives .....			702.0	
Non-recurring Fiscal Policy Initiatives:				
Post Employment Health Benefits .....		138.0	138.0	n/a
Contribution to Capital Fund Balance .....		53.8	53.8	n/a
Total General Fund Request .....	4,502.8	5,396.6	893.8	19.8

## FINANCING THE BUDGET REQUEST

To finance both the program and fiscal policy initiatives, the District utilizes \$591.6 million from the accumulated fund balance. The planned drawdown of fund balance will reduce the accumulated general fund balance to a projected \$740.2 million by the end of fiscal year 2006.

TABLE 4.—FISCAL YEAR 2006 GENERAL FUND BALANCE ANALYSIS

[In millions of dollars]

Projected Beginning Fund Balance (October 1, 2005) .....	1,350.6
Appropriated for Fiscal Year 2006 .....	(591.6)
Projected Fiscal Year 2006 Operating Margin .....	1.3
Projected GAAP Adjustments .....	(20.0)
Projected Ending Fund Balance (September 30, 2006) .....	740.2

## PROPOSED FISCAL YEAR 2006 GROSS FUNDS BUDGET

The proposed fiscal year 2006 gross funds operating budget is \$7.35 billion, an increase of \$1.07 billion, or 17.0 percent, over the approved fiscal year 2005 gross



funds budget of \$6.29 billion. The \$1.07 billion expenditure increase is comprised largely of a \$893.7 million increase in the General Fund budget, which reflects the program policy initiatives and fiscal policy initiatives discussed above. The other \$171.9 million increase in non-local funds reflects projected expenditures in federally funded programs (\$169.0 million), including Medicaid; and private grants (\$2.9 million).

TABLE 5.—FISCAL YEAR 2006 GROSS FUNDS BUDGET BY FUND TYPE  
[Dollars in millions]

Fund Type	Fiscal year 2005	Fiscal year 2006	Change	Percent Change
Local .....	\$4,170.1	\$4,949.5	\$779.4	18.7
Special Purpose (O Type) .....	332.8	447.1	114.4	34.4
Subtotal, General Fund .....	4,502.8	5,396.6	893.7	19.8
Federal .....	806.3	931.4	125.1	15.5
Federal Medicaid Payment .....	963.8	1,007.6	43.9	4.6
Private Grants .....	13.3	16.2	2.9	21.8
Total Gross Funds .....	6,286.2	7,351.8	1,065.6	17.0

#### CAPITAL IMPROVEMENTS PLAN

The District faces a wide variety of infrastructure needs, placing great demands on its Capital Improvements Plan (CIP). The total proposed appropriation request for the fiscal year 2006-fiscal year 2011 CIP is \$2.176 billion for all sources (including the Highway Trust Fund). This six-year plan includes a net increase in local budget authority of \$778 million (\$1.073 billion of new budget authority offset by \$295 million of rescissions). The increased budget authority will be financed by General Obligation (G.O.) bonds, the Master Equipment Lease Program, asset sales and PayGo financing. The fiscal year 2006 capital program consists of \$737 million in planned local non-streets capital expenditures (financed by up to \$495 million in new G.O. bond issuance, \$199 million of PayGo transfers from the General Fund balance, and \$43 million from other sources), as well as \$60 million of expenditures from the Local Streets Maintenance fund.

#### PERFORMANCE BUDGETING

This budget also reflects our continued progress implementing performance-based budgeting (PBB). In fiscal year 2005, we transitioned 11 new agencies to PBB for a grand total of 67 agencies now fully enrolled in PBB for fiscal year 2006. These 67 agencies account for nearly 63 percent of the District's annual gross operating budget. Transition to PBB is a key accomplishment because it establishes a clear relationship between the funding that agencies receive, the programs they operate, and the results that they must achieve. A critical component of PBB is development of programmatic benchmarks to assist policy makers, District executives and the public in assessing the value of the District's programs and determining opportunities for improvement. The current set of benchmarks for District programs has grown from 39 benchmarks for 18 agencies in fiscal year 2005 to 71 benchmarks for 26 agencies in the fiscal year 2006 proposed budget.

#### STRUCTURAL IMBALANCE IN THE DISTRICT'S BUDGET

Mr. Chairman, despite this record of balanced budgets, there remains an ongoing, long-term financial problem, and that is the issue of the structural imbalance. This serious situation has been documented a number of times by sources outside the District including most notably by the General Accounting Office in report GAO-03-666 back in May 2003. This report defines a financial structural imbalance as the inability to provide a representative array of public services by taxing at representative rates. The District is the only city in the nation that has no state to share costs or underwrite expenditures in whole or part. The District bears about \$500 million annually in costs of mental health, human services, child and family services, a university, motor vehicles licensing, taxation, insurance regulation, public service commission, and other services performed at the state level.

The District's primary employer—the federal government—has exempted itself from taxation on its property and its income. Further, the preponderance of workers

in the District of Columbia are exempt from D.C. income tax because they reside in the neighboring states of Maryland and Virginia. Finally, the District is the only municipality in the nation that must exercise the responsibilities of a city, a county, a state and a school district. Although the District has the authority for all types of taxes typically levied by states and municipal governments, it does not have the corresponding tax base sufficient to pay for the services it must provide.

Again this year, I must ask the Subcommittee to consider the necessity of providing some additional federal consideration of the District's infrastructure needs. The District has pressing infrastructure needs—mostly in our schools, streets and transportation—that we cannot possibly fund locally. D.C. already has the highest per capita general obligation debt in the nation and, according to the GAO report, a tax burden that is 18 to 33 percent higher than average for the states. Our only options for addressing these infrastructure needs locally are:

- Adding even more debt per capita;
- Increasing the tax burden per capita—an action that is likely to discourage potential residents and employers and possibly drive current residents out of the city; or
- Reduce delivery of other services—a very difficult choice in a city with a large population of people in need.

The GAO report stressed the unique financial challenges the District faces in generating the funds to finance usual and necessary services, and identified an annual structural imbalance of \$470 million to \$1.14 billion between the costs of delivering typical services and the revenue available from typical tax burdens, based on fiscal year 2000 budget and data. Over the years, the District dealt with this gap by neglecting infrastructure needs and assessing very high taxes.

For example, our capital program is constrained by limited operating revenues to support debt service as well as by the impact of prudent debt ratios and debt affordability determinations. The District's capital needs are now estimated to be about \$7 billion, but our capital spending plan in fiscal year 2006-fiscal year 2011 for which we have identified funding sources is only about \$2 billion, leaving a gap of about \$5 billion. If borrowing occurs as planned, our tax-supported debt per capita will rise to over \$11,000 by fiscal year 2009.

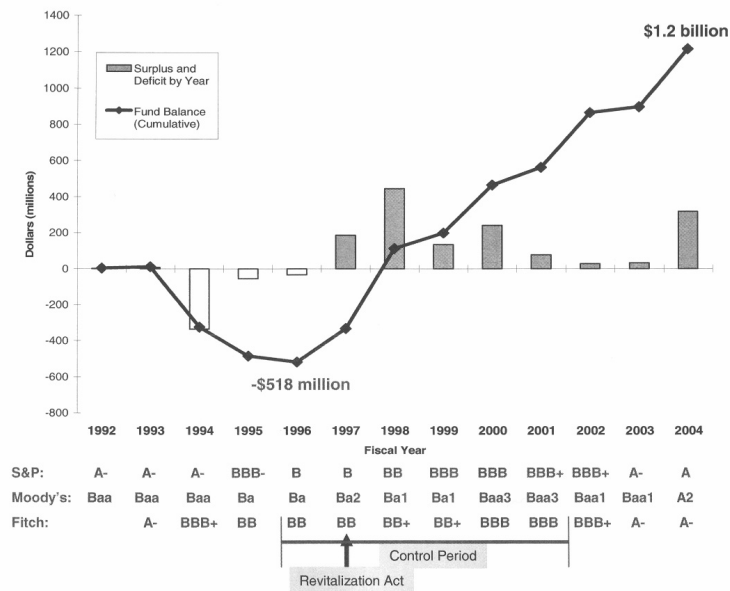
Again this year, Congresswoman Norton has introduced a bill, the Fair Federal Compensation Act of 2005, H.R. 1586 to address the structural imbalance, to relieve some of the unsustainable burden on the D.C. government and residents and businesses and to prevent another fiscal crisis for the capital city. We urge Congress to take action to enact this important legislation.

#### CONCLUSION

Mr. Chairman, this concludes my remarks. I request that my written testimony be made part of the record. I will be pleased to answer any questions you or the other members may have.

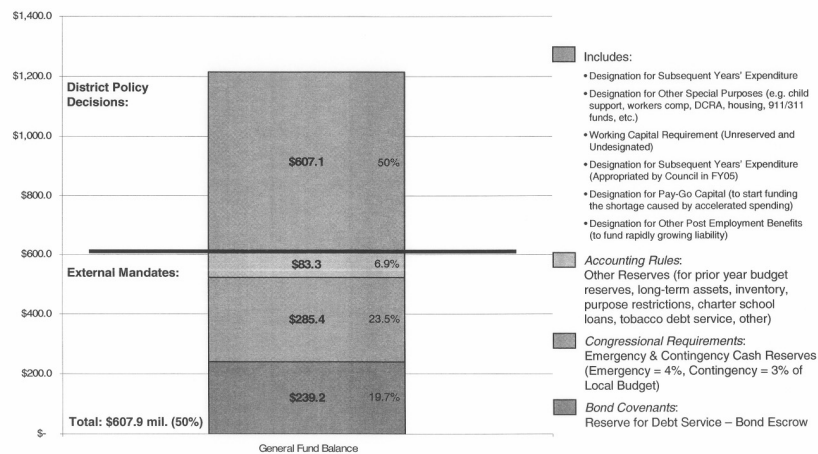


## General Fund Balance History



## FY 2004 General Fund Balance

(\$ in millions)



Total as of September 30, 2004: **\$1,215.0 million**

## RESERVE REQUIREMENTS

[In millions of dollars]

Fund Type	Fiscal year—					
	2004	2005	2006	2007	2008	2009
Emergency & Contingency Cash .....	285	249	254	258	302	307
Budgeted .....	50	50	50	50	50	50
<b>Total</b> .....	<b>335</b>	<b>299</b>	<b>304</b>	<b>308</b>	<b>352</b>	<b>357</b>

Cash Reserve Requirements Reduced from 7 percent to 6 percent; Emergency Reserve changed from 4 percent to 2 percent; and Contingency Reserve changed from 3 percent to 4 percent.

**DISTRICT OF COLUMBIA FISCAL YEAR 2006–2009 PROPOSED BUDGET AND FINANCIAL PLAN—GENERAL FUND**

[In thousands of dollars]

	Fiscal Year—					
	2004 Actual	2005 Ap- proved	2005 Revised	2006 Pro- posed	2007 Pro- jected	2008 Pro- jected
<b>Revenues:</b>						
Taxes .....	3,665,195	3,628,730	3,875,218	4,101,533	4,330,091	4,890,072
General Purpose Non-Tax Revenues .....	324,493	292,447	330,973	340,522	342,896	346,573
Special Purpose (0-type) Revenues .....	240,253	208,624	236,026	264,254	273,603	287,789
Transfer from Lottery .....	73,500	71,100	70,000	73,100	73,100	73,100
<b>General Fund Revenues .....</b>	<b>4,303,441</b>	<b>4,200,901</b>	<b>4,512,217</b>	<b>4,779,409</b>	<b>5,019,690</b>	<b>5,597,534</b>
<b>Bond Issuance Costs .....</b>	<b>.....</b>	<b>.....</b>	<b>15,400</b>	<b>40,000</b>	<b>16,000</b>	<b>15,615</b>
Payment-in-Lieu-of-Taxes from WASA .....	.....	.....	1,500	1,576	1,622	1,669
Transfer from Federal and Private Resources .....	.....	6,361	6,361	6,502	6,646	6,979
Fund Balance Use .....	129,128	165,015	165,015	591,642	.....	.....
Transfer to Special Purpose Revenues .....	.....	.....	.....	.....	.....	.....
Transfer to Capital .....	.....	.....	.....	(30,000)	(30,300)	(30,909)
Revenue Proposals/One-time Revenue .....	.....	128,107	76,600	8,729	7,607	11,137
<b>Total General Fund Resources .....</b>	<b>4,432,569</b>	<b>4,500,384</b>	<b>4,777,093</b>	<b>5,397,858</b>	<b>5,021,265</b>	<b>5,602,073</b>
<b>Expenditures (by Appropriation Title):</b>						
Governmental Direction and Support .....	231,364	315,813	327,899	340,859	326,649	346,999
Economic Development and Regulation .....	148,949	241,570	216,715	328,156	246,557	259,394
Public Safety and Justice .....	746,066	790,815	799,194	827,037	864,258	884,495
Public Education System .....	1,029,193	1,067,666	1,055,821	1,189,302	1,194,175	1,263,822
Human Support Services .....	1,117,035	1,192,755	1,244,598	1,307,530	1,345,993	1,458,860
Public Works .....	314,620	327,936	328,334	366,101	373,427	404,451
Financing and Other .....	400,963	511,692	468,917	588,717	607,655	678,362
Cash Reserve (Budgeted Contingency) .....	.....	50,000	15,000	50,000	50,000	50,000
Lease Purchase Costs .....	.....	.....	.....	.....	.....	25,000
<b>Subtotal, Operating Expenditures .....</b>	<b>3,988,190</b>	<b>4,498,247</b>	<b>4,456,478</b>	<b>4,997,702</b>	<b>5,008,714</b>	<b>5,404,062</b>
<b>Paygo Capital .....</b>	<b>.....</b>	<b>.....</b>	<b>.....</b>	<b>207,083</b>	<b>10,000</b>	<b>.....</b>

DISTRICT OF COLUMBIA FISCAL YEAR 2006–2009 PROPOSED BUDGET AND FINANCIAL PLAN—GENERAL FUND—Continued  
[In thousands of dollars]

	Fiscal Year—						
	2004 Actual	2005 Ap- proved	2005 Revised	2006 Pro- posed	2007 Pro- jected	2008 Pro- jected	2009 Pro- jected
Transfer to Trust Fund for Post-Employment Benefits .....				138,000		81,000	86,200
General Fund Contribution to Capital Fund Balance .....				53,800			
Total General Fund Expenditures .....	3,988,190	4,498,247	4,456,478	5,396,585	5,018,714	5,286,156	5,490,262
Operating Margin, Budget Basis .....	444,379	2,137	320,615	1,273	2,551	19,583	111,810
Beginning General Fund Balance .....	897,357	1,215,015	1,215,015	1,350,615	740,246	722,798	722,380
Operating Margin, Budget Basis .....	444,379	2,137	320,615	1,273	2,551	19,583	111,810
Projected GAAP Adjustments (Net) .....	2,407	(20,000)	(20,000)	(20,000)	(20,000)	(20,000)	(20,000)
Deposits into Reserve Funds (From Fund Balance) .....	(31,609)	(19,041)	36,032	(4,489)	(4,570)	(43,113)	(5,428)
Deposits into Reserve Funds (To Cash Reserves) .....	31,609	19,041	(36,032)	4,489	4,570	43,113	5,428
Tax Increment Financing (TIF) Reserve (From Fund Balance) .....		(9,710)	(9,710)	(9,710)	(9,710)	(9,710)	(9,710)
Unspent TIF Reserve .....		9,710	9,710	9,710	9,710	9,710	9,710
Fund Balance Use .....	(129,128)	(165,015)	(165,015)	(591,642)			
Ending General Fund Balance .....	1,215,015	1,032,137	1,350,615	740,246	722,798	722,380	814,190
Composition of Fund Balance:							
Emergency Cash Reserve Balance (2 percent, formerly 4 percent) .....	163,091	179,930	83,126	84,622	86,145	100,516	102,325
Contingency Cash Reserve Balance (4 percent, formerly 3 percent) .....	122,318	124,520	166,251	169,244	172,290	201,032	204,651
Fund Balance not in Emergency & Contingency Reserves .....	929,606	727,687	1,101,238	486,381	464,363	420,832	507,214
Ending General Fund Balance .....	1,215,015	1,032,137	1,350,615	740,246	722,798	722,380	814,190

Senator BROWNBAC. Dr. Janey, it is good to see you again in this hearing and I look forward to your testimony.

**STATEMENT OF CLIFFORD JANEY, Ph.D., SUPERINTENDENT OF SCHOOLS, DISTRICT OF COLUMBIA PUBLIC SCHOOLS**

Dr. JANEY. Thank you very much.

I am going to make some adjustments in my testimony to observe the need for us to have some dialogue, but my brevity in no way should diminish I think some of the important issues that face us, not only as a school district but as the District of Columbia.

Thank you for providing me the opportunity, Chairman Brownback and Senator Landrieu. I believe the fiscal year 2006 budget request reflects the collaborative spirit necessary for an educational agenda to be realized. I believe we must move aggressively to meet the needs of our students and our goal must be to regain our public credibility, improve student performance, raise our expectations, and establish a real system of accountability.

With this in mind, the fiscal year 2006 budget was designed to begin to address some of the malaise in our system by proposing new initiatives that address three key goals. They are: boosting and sustaining academic performance; improving our facilities; updating and upgrading our instructional technology.

To a certain extent, we will be able to accomplish this by investing our allocated money for fiscal year 2006 of \$775 million in quality academic programs and operational reforms. If we continue to stay focused on our common goal of improving the quality of education for D.C. students, we can accomplish even more. The support and leadership of the Board of Education and the fact that Mayor Williams, Chairperson Cropp, and Dr. Gandhi have been accessible and responsive to the children, families and communities as we have developed this budget process has been critical to the success of the process thus far.

Our base budget for fiscal year 2006 was \$775 million, but in the development of the budget we realized that there were some educational investments that would be unfulfilled but were critical to our ambitious academic agenda. However, the board and I agreed that we would live within the amount we were allocated for 2006, different from previous years.

However, the Council helped us secure an additional \$15 million to prevent a loss of 269 teaching positions. I thank Chairperson Cropp, her colleagues and others who were very helpful in that regard.

In addition, we received an interdistrict transfer of \$3.7 million for private special education out of State tuition payments. So our revised budget amount is \$794 million, with an additional \$21 million to support unmet needs in our budget. Thus our total appropriated amount for fiscal year 2006 is \$815 million in local funds.

The projected Federal grant revenues for fiscal year 2006 total \$145 million and we have other funding streams that brings our budget up to approximately \$1.1 billion.

Another area where we have received additional needed support from the Mayor and the Council on the operating side of the budget is in the area of facilities. We have received an additional \$6 million to open up schools this year. We have targeted a number of

schools for landscaping, painting, sprucing up, looking at our gymnasias and our cafeterias.

To give you a sense of the condition of our buildings, however, 86 of our 147 schools are more than 50 years old and another 41 are 75 years of age or older. Between 1982 and 2000, just a scant number of schools have been fully modernized. I cannot overstate the simple premise that every student needs and deserves a decent learning environment.

To meet our most urgent facility needs in the context of fiscal realities, we developed the transition capital improvement plan adopted by the Board of Education in March of this year. This plan allows for more effective and strategic use of funds. It allows us to expand opportunities to partner with charter schools through co-location.

I am going to start to wind up this presentation and this testimony, but I would like to highlight a couple of initiatives that have continued to be of importance to us in the school district, the first of which is the Tuition Assistance Grant program. This program has opened up college opportunities to many families for the first time and provided an additional incentive for middle class families to stay in the city. To build upon this, we have entered into a partnership with the College Board to promote development of the skills students need to succeed in college, and our high school guidance counselors have all been trained in the benefits of promoting the tuition assistance program.

Based on its value to the development of our students and the desirability of the city, we ask the committee to continue funding this important initiative.

Further, with respect to school improvement and the \$13 million appropriation coming from this subcommittee, I seek the continued funding for school improvement. These funds have enabled us to implement the Massachusetts learning standards for this coming school year. I would ask the subcommittee not to first insert special legislative language that might hamper the continued implementation of these standards. The continued funding is vital to the current academic reforms we have instituted.

Our use of school improvement funds will enable us to do—will enable us to continue to invest in the following key areas, ranging from the implementation of the learning standards, going fundamentally then with curriculum instruction, having a clear and rigorous assessment system, having the accountability that goes along with that, providing professional development of our staff, and looking at prevention through early intervention, that is establishing new opportunities for 3- and 4-year-olds to come to the District.

I believe, in conclusion, this operating budget will considerably advance our work at improving student achievement and assisting us in changing the institutional culture of the school system and make the necessary reforms so long needed.

#### PREPARED STATEMENT

This concludes my testimony and I, like my colleagues, will be here to remain part of the dialogue.

Senator BROWNBACK. Thank you, Dr. Janey.



[The statement follows:]

PREPARED STATEMENT OF DR. CLIFFORD B. JANEY

Good morning, Chairman Brownback, Senator Landrieu and Members of the Senate Appropriations Subcommittee on the District of Columbia. I am pleased to be here with Mayor Williams, Chair Cropp and Dr. Ghandi.

INTRODUCTION

I believe the fiscal year 2006 budget request act reflects the collaborative spirit necessary for our educational agenda to be realized. I believe we must move aggressively to meet the needs of our students. Our goal must be to regain our educational focus, improve student performance, raise student expectations and establish a system of accountability. With this in mind, our fiscal year 2006 budget was designed to begin to address the malaise in our system by proposing new initiatives that address three key goals. The goals inherent in the budget are to boost academic standards, improve facilities and update and upgrade our instructional technology.

FISCAL YEAR 2006 BUDGET

Under the leadership of the board of education, along with the support of those assembled here today, we began the budget process and had to accept the widespread feeling that our schools operate in an isolated and detached manner. We felt that addressing the public's concerns would go a long way to improve the overall environment of learning and boost student achievement. With this in mind, we began the process of building a budget to encompass the feelings of stakeholders and the desires of parents for more academic rigor.

To a certain extent, we were able to accomplish this by investing our allocated amount for fiscal year 2006 of \$775 million in quality academic programs and operational reforms.

If we continue to stay focused on our common goal of improving the quality of education for D.C. students, we can accomplish even more. The support and leadership of the board of education and the fact that Mayor Williams, Chair Cropp and Dr. Ghandi have been accessible and responsive to our children, families and communities as we developed our fiscal year 2006 budget has been critical to the success of this process thus far.

Our base budget for fiscal year 2006 was \$775 million, but in the development of the budget, we realized there were educational investments that would be unfulfilled but were critical to our ambitious academic agenda. However, the board and I agreed that we would live within the amount we were allocated for fiscal year 2006.

However, the council helped us secure an additional \$15 million to prevent the loss of 386 teaching positions. In addition, we received an intra-district transfer of \$3.7 million for private special education out of state tuition payments. So, our revised budget amount is \$794 million, with an additional \$21 million to support the "unmet" needs of our budget. Thus, our total appropriated amount for fiscal year 2006 is \$815 million in local funds. The projected federal grant revenues for fiscal year 2006 totals \$145 million and we have other funding streams that brings our budget up to \$1 billion.

Another area where we have received additional needed support from the mayor and council is in the area of facilities. We have received an additional \$6 million to open the schools this fall.

To give you a sense for the condition of our schools, eighty-six (86) of our 147 schools are more than 50 years old. Another 41 are 75 years or older. And, between 1982 and 2000, only four schools were added to or rebuilt.

I cannot overstate the simple premise that every student needs and deserves a decent learning environment. To meet our most urgent facilities needs in the context of fiscal realities, we developed the transition capital improvement plan adopted by the board of education in March 2005.

This plan allows for a more effective and strategic use of funds. This also will allow us to expand opportunities for co-locating to support charter schools. Most recently, we have identified ten schools as possible co-location sites for charter schools to co-locate for this fall one year. I envision there possibly will be greater opportunities to co-locate or for charters to occupy additional buildings upon completion of the master education plan. The rationale for the one-year lease is to allow time for the development of this master plan, which will guide both our academic and facilities plans for the coming years.

*Tuition Assistance Grant Program*

This program has opened up college opportunities to many families for the first time and provided an additional incentive for middle class families to stay in the city. To build on this, we have entered into a partnership with the College Board to promote development of the skills students need to succeed in college and our high school guidance counselors have all been trained in the benefits of promoting the tuition assistance program. Based on its value to the development of our students and the desirability of our city, we ask the committee to continue funding this important initiative.

*School Improvement*

Further, I seek the continued funding for school improvement. These funds have enabled us to implement the Massachusetts standards for this coming school year. I would ask the committee not to insert any legislative language that would hamper the continued implementation of these standards. The continued funding is vital to the current academic reforms I have instituted. Our use of school improvement funds will enable us to continue to invest in the following key areas:

- Curriculum and instruction.*—Develop grade-by-grade standards in science, social studies, and four electives. This process will incorporate the best standards from around the country. At the same time, English/language arts and mathematics curricula will be developed and linked to textbook adoption.
- Assessments.*—Implement periodic benchmark testing to monitor progress of students throughout the school year, identify students who need support so that help can be provided, and help tailor training for teachers and principals to meet students' needs.
- Accountability.*—Adopt an effective schools initiative that is more closely aligned with NCLB standards and will reach more schools with additional support and resources. The research-based approach, which is based on the successful performance improvement mapping (pim) model being used in Massachusetts, aligns more closely with federal standards in NCLB.
- Professional development.*—Work with our standards content consultants in an ongoing process to help teachers develop the knowledge, skills and tools they need to take ownership of the standards and curriculum.
- Prevention and early intervention.*—Renewing the emphasis and system wide mandate for early intervention in the context of general education, including academic and behavioral supports and other services for struggling students, will enable DCPS to meet the needs of more learners, improve student achievement, and reduce the number of inappropriate special education referrals.

I believe this operating budget will considerably advance our work at improving student achievement, assist us in changing the institutional culture of this school system, and make the necessary program and operational changes that will benefit the children in our classrooms and, ultimately, the citizens of the District of Columbia.

This concludes my testimony. I will now answer any questions you may have.

Senator BROWNBACK. We will run the time clock 5 minutes back and forth, so we will just try to ask some pretty good questions and very quick questions and then do a couple of rounds here if we can.

Dr. Janey, we held a hearing on education and both Senator Landrieu and I are very concerned about what is taking place in the D.C. system and the results or lack of results that have taken place for school children in the District of Columbia. I want to focus in on your physical plant issue if I could to start off with, because you have noted, Chairperson Cropp has noted, the dilapidated condition of your physical plant.

You have about 147 school facilities. What do you believe that total number should be? Where do you think that number should actually be, given what your enrollment is today and where your students are located?

Dr. JANEY. I cannot give you a precise number of schools because we are currently in the process of building this plan. By December of this year we will have a master education plan that will really frame how many facilities that we should have pre-K through 12, the types of uses for those facilities, so that we would be able to

have finally right-sized the District. So we are in that process right now, Senator.

Senator BROWNBAC. Could you give me any comparables in the country of student population, of what the D.C. area is, and what the number of school facilities would be in a comparable district? You do not have it determined here yet, but what would be a comparable in the United States?

Dr. JANEY. Boston might be comparable in enrollment, give or take 2,000 or 3,000, 4,000 students, and I believe their number of facilities is probably 15 or 20 less, I think. But I would not want to say factually for the record. But Boston is somewhat comparable to the District of Columbia in enrollment.

Senator BROWNBAC. I do not think you have closed any schools since 1999. This was an issue when I was chairing the authorizing committee before, that we need to get more resources into fewer physical plants. We need to upgrade these physical plants.

It is a similar thing that we are going through on military bases across the country, across the world, is we are trying to get into fewer buildings and get them upgraded so that they are better. I have been in a couple of your physical plants. They clearly need upgrading. There is just no question about it.

But there has a will to say, okay, we are going to take the dollars that we have and we are going to put them in the physical plants that we need, and the other ones, we are just going to have to close.

I know this was a tough issue back then. It is a tough issue now. I do not know if we need to provide assistance to be able to strengthen your hand to be able to move forward on that, but it strikes me this is going to be one of the fundamental issues we are going to have to face, is get more resources put into fewer physical plants for students.

Dr. JANEY. I think the technical aspect of the issue, meaning looking at the enrollment against the number of schools, that is not the big lift. Looking at the types of educational programs and services and then projecting over time what the enrollment will be, that is a second consideration.

But when you talk about consolidation, when you talk about closing schools, you talk about shared use of schools, often it comes down to political will and where will people stand once you make that decision.

Senator BROWNBAC. I understand all of that. I understand the difficulty.

Dr. JANEY. So that it rests more in that area than it does in the other two.

Senator BROWNBAC. When the statement was made by the former speaker about all politics is local, talk about schools and it is real local, and it is a very tough issue to deal with.

Dr. JANEY. I have heard Mr. O'Neil say that many times.

Senator BROWNBAC. Mayor Williams, thank you for your presentation here. I want to go at one area and then I want to come back to you, if I can, a little bit later. You talk about the level of taxation within the District, some of the highest taxation within the country. I think even Chairperson Cropp was talking about a punitive tax structure, I believe is the terms that I heard you use.

Do you have plans or should you or are you considering plans for reduction of that tax structure within the District of Columbia as a further effort and opportunity for growth for the District of Columbia, if your tax structure is so punitive and so high?

Mayor WILLIAMS. Well, I can ask Chairman Cropp to speak to the Tax Parity Act that the Council passed, what was it, in 1999 I believe, which provided for a series of reductions of income tax in the city. We have worked together where we could, certainly on a strategic basis, reducing taxes for business. I have worked with the Council in providing cap relief for property taxpayers, who are suffering from escalating housing prices and hence assessments and hence levies, on the basis of that.

In this year's budget there is \$88 million in tax relief. I think it is about \$40 million of that is the latest tranche of this Tax Parity Act, which I strongly support, because this latest stage of the Tax Parity Act actually is providing increasing tax relief to moderate and low income citizens. Then we have also added to that, with the strong support of the Council, additional tax relief that would total about \$88 million.

One of the things I am particularly proud of is we say to homeowners—there are two things, actually. Chairman Cropp can speak to the latter. One is, if you are a homeowner, a household making less than \$50,000 a year, you do not pay property taxes on your home until you sell it. I think that is going to provide great relief for the strain faced by middle income households, who are seeing their property values go up, but those assessments and those property levies can be onerous.

Then number two—and I give her full credit for this—Chairman Cropp, at her urging we have included in the budget relief for custodial grandparents who are taking care of these kids in many instances and should be supported. You talk about supporting families. This is something I really salute her for, providing hope for—providing help for these custodial grandparents in terms of tax relief to allow them to shoulder the burden of raising these children.

I do not know if you want to speak to any of those issues, Chairman Cropp.

Ms. CROPP. Thank you, Mr. Mayor.

The Mayor and Council have worked very hard to look at ways to reduce the burden for our citizens. We are challenged also by our own success with regard to real estate property. What we are finding in the District is that the housing costs have gone up, they have tripled or quadrupled, but the salaries have not matched it. The average cost of a house in the District is roughly around \$350,000, \$375,000, where the average salary is about \$70,000, \$75,000.

What we have now is we have some people, particularly seniors, who may be in a house that they bought 50, 60 years ago for \$40,000, whose house may be worth about \$500,000, \$600,000, \$700,000, \$800,000 now, but their annual income may only be \$25,000 to \$40,000 a year. So the taxes are getting at a level where either we force them to sell their house and leave the District, because if they sold their house it is nothing else they could buy in the District with that money.

So in the Mayor's budget, working with the Council, we have devised a way to work with these seniors that they do not have to pay the property taxes until after they sell their house.

However, there is another group who is impacted by this and why the city needs to look at it. Let us look at new college graduates, young professionals just starting out. The average median income in the District of Columbia has just risen to \$89,000 for a family of four. That is not enough money to be able to buy a house and deal with affordable living, housing.

So this budget is also dealing with that issue. We are looking and wrestling with tax packages that will actually reduce the rate that people pay on taxes and also we are looking at the cap again. The cap appears skewed in the sense that you say people who have a higher value house will get more money and that is true, but it does not mean in the District of Columbia that people who have a higher value house are rich people.

Senator BROWNBACK. In farm country we would say of a farmer, he lives poor and dies rich. Just the income off the farm is not that much, but he sits there for a number of years, works hard with his family, and at the end of life he has some value. But the income is not there. And so I really do applaud your efforts to try to deal with that situation.

We should not have a punitive tax structure within the District of Columbia. I am glad you are working to assess that.

Mayor WILLIAMS. Mr. Chairman, if I could just say one thing. I think one reason why the taxes are high, I would get back to our original testimony, is again because of this structural imbalance. The Federal Government basically tells me I only have access to half of my tax base. So you are trying to run an operation with only half of your tax base, and if you believe the GAO, which says that really there are costs beyond our control, you are going to end up overtaxing that limited base you have.

So while the relief that we have embarked on I think is important, we cannot miss the underlying really critical importance, I think, of addressing the structural deficit. I would personally think that the Fair Federal Compensation Act is one good way to do that.

Ms. CROPP. I was going to say the same thing, Senator. What the Mayor is saying is absolutely factual. The District, not unlike any other city, has a population that is older, sicker, and poorer. Most cities get the help from their surrounding areas to help offset that problem.

Ironically, the absolute reverse happens in the District of Columbia. We help subsidize our more affluent suburban areas. More than 56 percent of the people who work for the District of Columbia government—not the Federal Government, not the private sector, but the District of Columbia government—live outside of the District of Columbia. That is not through our control. That is through a Federal mandate that that occurs. So we cannot even tax that revenue at its source.

For every dollar earned in the District of Columbia, we can only keep 33 cents of it. The difference between other major cities and the suburban areas surrounding it, the State helps to offset that cost, that loss, and we have no offset for it.

Senator BROWNBACK. I have gone 10 minutes instead of 5 and I will give that to my colleague.

I do want to recognize Congresswoman Eleanor Holmes Norton, a dear friend of mine. Over the years I have worked with her. You were hiding behind the Mayor so I did not see or I would have recognized you at the very outset.

Senator Landrieu.

Senator LANDRIEU. Thank you, Mr. Chairman. I also want to acknowledge Congresswoman Norton who is here. I thank you for your work and your support. Your input has been invaluable to this subcommittee as we have worked through some of these issues and I really appreciate your help and support.

I wanted to, Mr. Mayor, go on the record as supporting your comments regarding the structural imbalance. As you know, the record-setting report by GAO actually requested by the Congresswoman and me was issued I believe 2 years ago now. We did have a quite lengthy hearing on the subject. That report basically in my mind put to rest the question as to whether a structural imbalance exists.

It is clear that it exists. It is clear that it is between \$400 million, I think, Dr. Gandhi, \$400 million and \$1 billion. It is clear from the exchange that we just had that as we move to address that one of the real results could be a lowering of very high tax rates in the District, which would be good for everyone and a real benefit for future development.

So I know that there are several proposals. The Congresswoman has a proposal. Several proposals have been put forward. But Mayor, would you take a minute, and perhaps Dr. Gandhi take a moment, to talk about some aspects of these that you think are particularly encouraging or a way that you would like us to try to think about approaching this? Would it be a rebate of taxes that the District residents pay from the Federal Government? Could the Federal Government look at some other ways that we could fill that structural imbalance? Because it is really a question as to what the Federal Government can do.

Do you want to put anything into the record, comments on that this morning?

Mayor WILLIAMS. Well, my own view, Senator Landrieu, is—and I have stated this publicly a number of times; I would just use this occasion again—is I really do believe that a promising vehicle for addressing this is the District of Columbia Fair Federal Compensation Act of 2005, which was introduced by Congresswoman Norton. I think there are two key provisions of this that I think are becoming in my mind in running the city day to day.

One is it is an annual Federal outlay on a formula basis, so you can resolve this matter once and for all and we do not have to revisit this over and over again. I think there is a lot to be said for settled expectations and everything else.

Number two, it would be dedicated to exactly the things that this subcommittee has addressed, the GAO report addressed, and we have heard today in testimony: the transportation projects, the extraordinary debt service that the city has to suffer because we do not have state support, public school facilities, information technology.

I believe that a real offset of all this—number one. Number two, a real offset of all this would be we would see then with these investments increasing relief, not only for individuals but also for businesses, because actually the GAO will tell you, our Federal City Council will tell you—I am getting now the councils mixed up—the Federal City Council will tell you that the real extraordinary burden in terms of taxation now is on our businesses.

So the Council has made progress and I salute them for reducing the burden on our individuals. But if you are a small business in the city or a business in the city, what you are paying versus Maryland and Virginia is clearly extraordinary. This would allow us to address that.

Senator Landrieu.

Senator BROWNBACK. Dr. Gandhi.

Dr. GANDHI. I think the Mayor has spoken quite well on this issue. I think what this chart shows, Mr. Chairman and Mrs. Landrieu, is that the District can manage itself very well financially. It is like we can manage a household very well. The question is what happens when the roof falls down, what happens if I have a flood in the basement? The larger infrastructure issue is the only puzzle that needs to be resolved, and that cannot be resolved locally.

I think Ms. Norton's proposed legislation is an excellent idea. That would provide us the kind of recurring annual, predictable budget relief that we need. But more important, what we have there is basically a capital fund, that money would be spent only on infrastructure, the buildings, transportation, technology, debt service.

So it is not that Congress gives that money to the city and we start five new programs and hire 1,000 new bureaucrats. No. The funds would basically be taking care of an infrastructure that needs to be repaired and should be worthy of the Nation's Capital.

Senator LANDRIEU. Thank you. I would like to agree that I think one of the strongest aspects of that proposal is that it creates a capital fund which would be able to be accountable and transparent. How the money was spent—it could be used at discretion, of course, of the city, but could be a real signal of strategic investments for the growth of the city and also provide some tax relief across the board.

On that, I want to mention that I am particularly pleased with the tax relief and the recognition of the rising value of homes in the District—the blessing of that, but the burden to people on fixed incomes, particularly seniors. I really want to commend you, Chairman Cropp, for looking at that area, and the Mayor, and trying to provide some relief in an innovative way, so the city is not giving up revenue. It may be postponing it, but it really allows those families to have some relief that is so necessary today.

Ms. CROPP. Senator, if I may, on the capital fund issue that you were talking with the Mayor and Dr. Gandhi about, to say how important it is. Legally, the city has a 17 percent ceiling on our budget that we cannot spend more in capital projects. But the reality is that Wall Street, the bond rating agencies, will not let us go over—Dr. Gandhi—probably about 8 or 9 percent?

Dr. GANDHI. Nine percent.

Ms. CROPP. Nine percent. We are fairly close to that level. So that even if we decided as a city that we wanted, or even if we had the money for the infusion for our schools, we could not do it because our bond rating would then drop down and we are just in a terrible position.

So this capital fund is just so very important for our schools, as we look at Metro. Metro, which has been the pride of the Nation, is now at an age where it needs to have a reinvestment. So for our capital budget it really is problematic. That capital fund will be very helpful.

Senator LANDRIEU. Well, I appreciate that. I would only say that this is not the only city that has limits to its capital expenditures. There are cities all over America that struggle with these limits, put on either by themselves or by agencies or by State governments or by necessity because of the finances, and it is a complicated issue.

You can also use cash when it becomes available and not increase your bonding capacity, and it is always good to use cash when you have got it and not increase borrowing, and your surpluses allow you to take that cash and use it wisely, which you have done in your proposal.

But I want to get to, in one moment—the chairman has been very gracious here. But I would like to get to you, Dr. Janey and the Mayor, about the facilities issue for our schools. There are a couple of solutions. I know these are difficult. But one, the overall budget for the school system is \$1.1 billion, which we are still trying to get a handle on exactly how that breaks down per student compared to other cities, which is the way I would like to compare it, not States, because I think comparing it to States is apples to oranges, but I think comparing it to cities accurately reflects the real costs.

This is the document that I have for the record. I am sorry, it is fiscal year 2003. I am sure it can be updated. I do not have it this morning. But based on this document that we had in fiscal year 2003, Orleans Parish, which is my home town, was spending \$6,500 per student, Baltimore was spending \$10,000 per student, Milwaukee was spending about \$11,000 per student, and the District of Columbia was spending \$13,000 per student.

Now, these numbers may have changed and if we can just get this updated then we will know and put that into the record.

[The information follows:]

City	Per Pupil Spending	Enrollment
Orleans Parish, LA .....	\$6,560	70,246
Alameda Co. (Oakland), CA .....	\$7,122	10,615
Houston, TX .....	\$7,236	212,099
Kansas City, KS .....	\$7,827	20,810
Baltimore, MD .....	\$9,639	96,230
Cincinnati, OH .....	\$9,677	42,715
Milwaukee, WI .....	\$10,352	97,293
Montgomery Co., MD .....	\$10,580	138,983
Alexandria, VA .....	\$12,736	10,971
Washington, DC .....	\$13,328	67,522
Arlington, VA .....	\$13,334	19,135

Source: U.S. Census F-33 Annual Survey of Local Government Finances for 2002-2003.



Senator LANDRIEU. But the point is that \$1 billion plus budget for the District schools is more than most cities of this size and demographics have. One way to capture funding for facilities is to have some savings or efficiencies, whether it comes through some savings through facilities or operations. If you had a 5 percent savings, which is \$50 million, you could take that money and bond it and create a bond issue to invest in schools.

Another way is to use the assets of the school system itself, which, Mr. Mayor, I understand that there are 39 schools on this list of surplus property. Fourteen have been either leased or sold as according to the city law for charter schools. But there are an additional 17 schools that could either be leased according to now the local law and the Federal law, to give a preference, a strong preference to charter schools.

The money generated from these transactions could go to the benefit of the school system. It could go to the benefit of the school system. It does not have to go to the benefit of the general fund of the city.

So there is a real win-win, Mr. Chairman, as we take steps to co-locate, to make these vacant in some cases and surplus facilities available to schools, to use the profits of that, if you will, for the school system itself.

In addition, some of these buildings have been available for housing under the control of the city through the control board. They have been very successful housing developments. I am aware of some of them. But again, the moneys that were generated by the sale of those buildings could have gone back to the school system. I do not think that happened. I think that went back to the city general fund.

So I would just ask that we look at the assets of the school system, how they can be better used to help the problem that we have, and to recognize that there are right now, without any additional Federal help, some real opportunities for enhancements of these facilities.

Senator BROWNBACK. As you can see, my colleague has dug into this pretty deep and is quite committed to it, and I look forward to working with her on some of these topics.

If I could turn quickly to a couple of things on another set of topics. When I was the authorizing chair we did a number of structural changes in the District of Columbia. This was in 1997. I think Connie Mack was one of the key individuals involved in the negotiations. A lot of structural changes were made at that time. That is when the homestead or the first time home buyers accounts were put in place, which I think have been very successful in the District of Columbia. We are trying to replicate them in other places across the country.

One of the things that we had looked at and considered is putting in place in the District of Columbia a flat tax making the Federal income tax a flat tax in the District of Columbia. It had pretty good support. I put in a bill along with Congressman Paul Ryan on the House side. Jack Kemp supported it.

One other item, though, I want to throw out for you. We did several years ago individual development accounts, trying to get people of low income to save. We had a Federal match of but \$2. For

every \$1 that the individual would save, we would match it with \$2, as an attempt to increase personal savings—and we called it an individual development account. Let us start building up this.

I was wondering, Mayor, in looking at the need to support families, if we should try to expand that concept on marriage development accounts, where a couple raising children but at a low income level, not necessarily at a poverty level but at a low income level, that we would try to use that same concept.

I put it out as something that we are looking at. I want to see if the concept has worked for the individual development accounts or not, if you look at it and say, well, it has worked some, not that great, or if it has really worked well. Is that something we could expand in this category to try to encourage and support that institution where generally children thrive the best? So I put that out for you.

We will look forward to working with you on this budget, and on other items. Again, I congratulate you on the many areas of improvement. We have got some possibilities and some things to work on. I look forward to working with my colleague, who is very knowledgeable and has been on this subcommittee for some period of time.

#### ADDITIONAL SUBMITTED STATEMENT

The subcommittee has received a statement from Paul Strauss, the shadow Senator for the District of Columbia which will be placed in the record at this point.

[The statement follows:]

#### PREPARED STATEMENT OF PAUL STRAUSS

Chairman Brownback, Ranking Member Landrieu and others on the subcommittee, as the elected United States Senator for the District of Columbia I would like to thank you for the opportunity to present this statement on behalf of the people of the District of Columbia.

I fully support the fiscal year 2006 Budget Request for the District of Columbia. It is vital for my constituents that the Budget Request is met in full. As the elected U.S. Senator for the District of Columbia, I myself cannot vote on this appropriation. I am limited to merely asking you to support their requests. Unlike citizens of any other jurisdiction, we lack the legal rights to make these funding decisions on our own. This is not just an issue of simply allocating appropriations but, for the residents of our Nation's Capital, an issue of fundamental justice.

The District of Columbia should not have to look to Congress for financial determinations. Congress appropriates the money of local tax-payers, which rightly should be appropriated by local government. The money at issue is raised by taxing the local citizenry, and Congress should have no authority to interfere. This is again a case where the many restrictions on the District of Columbia's ability to self-govern adversely impact the taxpayers of your own states. Today's hearing, an exercise in bureaucracy, would be unnecessary if the District was free to conduct its own budget. I have made this argument many times before many committees of this body, and I will continue making it until the District of Columbia becomes a state. Most importantly, as long as Congress continues to control the District's budget, which should be operated by the District, Congress has an obligation to fully fund the budget request without hesitation.

Due to our lack of self-determination, we are unable to provide certain government services on a local level. As long as Congress continues to utilize city services, it has an obligation to fully fund city services. It is essential to the District that Congress pass this budget in time for the new fiscal year and avoid being held up in continuing resolutions. If the District's Budget is held up, vital spending adjustments are not allowed to be implemented and the cost of debt services increases. Each day the budget is delayed is a further impediment in our efforts to provide vital local services to the loyal tax paying residents of the District of Columbia.

The predicament and unneeded bureaucracy of our budget being held up every year can be resolved through Budget Autonomy. Our local budget has no relevance to Congress or any of your constituents, and is an unnecessary obligation on the national taxpayer and the national legislature. Since fiscal year 1996, the District of Columbia has unfailingly provided Congress with a balanced budget, consistently demonstrating that it is a competent governing body. It therefore seems extraordinary that such a proficient and capable body should not be given the rights to pass its own budget without policy interference and social riders regulating the government within the District. It should be within the legislative remit of the District of Columbia to make its own economic decisions, and not Congress.

The District of Columbia has submitted a budget that has called for significant, increased investment in public services and education. Mayor Williams, Chairman Cropp, and Chief Financial Officer Gandhi have explained the specifics and I support their efforts. The budget request is balanced, thorough, and accounts for the needs of the residents of the District of Columbia. It will provide more money to be spent adequately on education and family services on a per capita basis than ever before. The money to be invested in education is crucial if we are to be able to meet our aims of improving education for all who live in the District.

I am the only elected official whose children attend D.C. public schools. Our public schools have been making good progress, but we still face huge barriers in our ability to provide a holistic educational experience. For example, in 2005, 49 of the District's 167 public schools had no music teachers and 44 had no art teachers. My own child's school, Stoddet Elementary, lacked a second grade teacher, and the first and second grades had to be combined. Without the proper funding, the District will never be able to break such barriers, and the children who live in the District will always be at a disadvantage.

The District should be able to provide the type of education every child in this country deserves. The budget request includes \$1 billion to fund our public schools. Of this, \$779.3 million will be dedicated to the District of Columbia's Public Schools; \$234.4 million for the District of Columbia's Public Charter Schools; and \$25.2 million for the Educational Investment Fund. The request also includes \$147 million in capital funding to support improvements to public school buildings in the District. The request represents an increase of \$81.6 million on the fiscal year 2005. The additional request will be spent on improving 11 new charter schools and will create an Educational Investment Fund to help improve student and school attainment. These investments will help provide essential facilities that will help provide an appropriate educational environment.

The public school administration has worked hard to build a budget that will sustain the public school system. To avoid losing 386 teaching positions, \$15 million was secured for the school budget. An additional \$6 million was secured to help open schools this fall. The administration accepted this budget, and was confident that it could operate within the amount allocated. In other words, there should be no need to close any facilities. It is outrageous that D.C. schools should be shut down to compensate, not for a deficit within the District's budget, but rather for a deficit in the national budget. Students of the District of Columbia should not be penalized for Congress's inability to balance the budget.

In addition to allocation to public schools, the budget request also includes monies dedicated to improving Higher Education and lifelong learning in the District of Columbia. Higher Education is a crucial part of our aim of improving education in the District. It is essential that those who want to learn be given the opportunity to do so regardless of their age or economic situation. The main focus of our efforts will be improving the availability of programs and facilities at the University of the District of Columbia. This includes an allocation of \$8.3 million to expand programs in sectors such as nursing, social work, and teacher education; \$8.2 million to extend opening hours for libraries and to invest in additional facilities; and \$700,000 in financial aid to support a further 474 students from low-income backgrounds. The budget request would help address some of the problems faced by the District's Education Services, who continue to achieve remarkable results in less than favorable conditions, by providing funds for vital programs, facilities, and resources.

Besides money allotted to the education sector, the budget request includes a significant allocation to children and family services, namely the Children and Youth Trust Corporation, the Department of Youth Rehabilitation Services, the Child and Family Services Agency, and the Department of Human Services. The District of Columbia has made great strides in tackling the problem of juvenile crime over the last year, as the falling rate of crimes committed by juveniles illustrates. However, we continue to strive to make further progress in this area and to tackle the underlying causes of these problems. The Budget request provides sufficient resources to

be able to attack the causes of many of the problems the district faces, and should therefore be supported in full.

Included in the budget request is a \$14 million allocation to construct or improve 7 recreation centers; \$6.5 million for child services; and \$13.5 million for juvenile intervention initiatives. These improvements are crucial to the lives of thousands of juveniles in the District who are striving to improve their lives, and who deserve the opportunity to fulfill their potential. The budget request would help fund these programs that would subsequently help address problems such as crime and drug use, which continue to plague the District of Columbia. Subsequently, this would reduce the burden on your constituents whose taxes are being spent on the problems in the District.

As well as the investment in youth, the budget request also allocates significant investment in Health and Welfare services. This includes an allocation of \$9 million to expand healthcare services, including dental and primary healthcare services; \$8 million to provide school nursing services; \$14 million to help address the problem of homelessness in accordance with the Districts 10 year plan; and to begin the construction of Wellness Centers in Wards 4 & 6. Health and welfare are key areas we need further investment if we are to be successful in decreasing, and eventually eliminating, poverty in the District. It is, therefore, imperative that the budget request should be met in full in order for the District Health and Welfare Services to continue their good work.

Congress should focus on the District of Columbia's budget in respect to resolving the structural imbalance of the budget. The gap between the District's ability to raise revenue at reasonable tax rates, and the ability to provide services of reasonable quality to its residents, jeopardizes the District's ability to retain residents. Instead of being penalized for residing in the District, citizens should receive same the constitutional rights as all Americans. I would go as far as to suggest that it is fundamentally un-American that the population of the District of Columbia is not allowed to spend their own taxes.

The government of the District of Columbia needs to be fairly compensated by Congress for the services it provides to federal agencies. This would serve as a solution to the structural imbalance within the District budget. The District's budget represents the citizens of the most unique city in the Nation. The District has repeatedly provided Congress with a budget that has proven sensible and attainable. The outlook for the current fiscal year 2006 is projected as balanced with a surplus. The District Government itself is the best evaluator of local expenditures. The reoccurring record of balanced and responsible budget management during times of economic hardships and declining revenues is yet another fact that proves the District's elected officials can govern the district.

The elected officials are persistent in attaining locally raised revenue needed to fund various local interests such as public service and education. The city should be allowed to utilize tax dollars in a more flexible manner. This would subsequently give the District government the ability to provide the community greater benefit from the revenue. Flexible use of revenue specifically secures and stabilizes public service departments within the city. My constituents have the right to receive the needed revenue to meet their children's educational needs. I urge you to approve the proposed budget, as it is deemed necessary to aid the District. The District of Columbia has submitted a timely budget so Congress has appropriate time to approve it.

In closing, I wish to sincerely thank the subcommittee for holding this hearing. I know that this subcommittee has been firmly committed to meeting its fiduciary obligations. On behalf of my constituents, I thank you for all your hard work and dedication and I look forward to working with you in the future. In closing let me thank a member of my legislative staff, Marta Mudri, for her assistance in preparing my testimony.

#### ADDITIONAL COMMITTEE QUESTIONS

Senator BROWNBACK. If there are any additional questions, they will be submitted to each of the witnesses for their response.

[The following questions were not asked at the hearing, but were submitted to the District for response subsequent to the hearing:]

## QUESTIONS SUBMITTED TO ANTHONY A. WILLIAMS

## QUESTIONS SUBMITTED BY SENATOR SAM BROWNBACK

*Question.* Your fiscal year 2006 budget includes a total of \$1.1 billion in local funds to educate approximately 80,000 students within the District of Columbia Public Schools and public charter schools. This funding level is a 10.5 percent increase over the fiscal year 2005 budget. Why do you continue to increase funding for schools while enrollment declines?

Total enrollment for the D.C. Public Schools (DCPS) and the public charter schools has in fact been quite stable. In 1997–1998, total enrollment was 77,361 students, comprised of 77,111 DCPS students and 250 charter school students. In 2004–2005, total enrollment of 78,145 is slightly above the 1997–98 level, with 62,306 students in the D.C. public schools and 15,839 students attending public charter schools.

The increased funding for schools in fiscal year 2006 reflects a number of factors. First, the uniform per-student funding formula increased by 3.07 percent this year to reflect inflation, but did not cover the automatic pay increases provided to school staff that exceed the inflation rate and are needed to keep D.C. schools competitive with suburban jurisdictions. (At least three of the five surrounding suburban jurisdictions offer higher entry-level salaries for teachers, and all five have a higher top salary level). Therefore, the Council added \$14.9 million to the D.C. Public Schools budget to provide schools with enough funding to cover these pay increases and avoid layoffs, as well as a corresponding increase of \$4.9 million to the public charter schools to maintain equitable funding through the uniform per-student funding formula.

Second, Mayor Williams proposed and the Council approved funding of \$21 million to support the reform initiatives of DCPS' new leadership, which are squarely focused on academic achievement. Those include:

- development of standards for all subject areas and professional development for teachers centered around the new content standards;
- new textbooks aligned to the content standards;
- art and music programs for all schools that presently lack such instruction;
- after-school reading and math programs;
- expansion of Advanced Placement and International Baccalaureate programs;
- a “Summer Bridge” program for students entering high school with low achievement scores;
- the creation of a principal leadership academy; and
- the opening of parent and family resource centers.

Charter schools also received a corresponding sum of \$4.2 million to institute programs to improve student achievement.

Special education is the other major area in which the budget has grown. DCPS' fiscal year 2006 budget reflects an increase of \$20.7 million in non-public tuition payments for students receiving special education services at non-public institutions (much of which reflects higher costs of tuition), as well as \$6.8 million in tuition payments for special education students in foster care (\$3.8 million of which reflects a budgetary transfer from the State Education Office rather than a net increase). DCPS also received a \$2.6 million increase to provide educational services at a newly opened intake and assessment center for youth in the juvenile justice system.

*Question.* I understand that only 50 cents of every operational dollar spent by DCPS actually goes to directly educate children. The national average is 61 percent. Why is this average so low and how have city leaders proposed to change this?

*Answer.* The statistics cited above are from state-level data published by the National Center for Education Statistics (NCES), which defines “classroom instruction” as the amount of money spent on teachers, aides, textbooks, and classroom supplies. Although DCPS is below the national average in this category, it spends more than the national average on “student support” (legally mandated special education services such as assessments, speech therapy, occupational therapy, and physical therapy, as well as counselors and social workers), as well as “instructional support” (librarians, instructional technology, standards, curriculum, assessments, and teacher training, much of which is funded by federal grants that are restricted to certain purposes).

According to the NCES data, DCPS' spending on classroom instruction, student support, and instructional support totals 70 percent of its budget, which is almost identical to the national average of 72 percent and is identical to the 70 percent figure for 20 urban school systems of similar size. The comparison group includes such cities as Oakland, Atlanta, Boston, Baltimore, New Orleans, San Antonio, and Milwaukee. Therefore, DCPS' spending on classroom and instructional activities seems

close to the national average and similar to the spending patterns in other mid-sized cities, and its spending for central administration appears to be just below the national average.

Reducing special education costs through early intervention and increasing the capacity of local schools to serve all children is key to ensuring that more of the District's educational dollars flow to direct instruction. DCPS' expenditures for special education tuition payments at non-public schools and the transportation of special education students are particularly high, as are costs for litigation related to special education.

A number of initiatives are underway to control special education costs and ensure that children can be properly served by the public school system. The Prospect Learning Center, which serves elementary and middle school students with learning disabilities, is newly renovated and can now serve 120 students in a state-of-the-art facility. DCPS has increased its internal capacity to educate students with severe disabilities by creating more than 600 new seats for autistic children; students who are hearing or vision-impaired; children who are mentally retarded, learning disabled, or emotionally disabled; and early childhood special education students. More than 75 percent of those seats have been filled. DCPS' data also shows that 200 students have returned from private placements to DCPS and that DCPS has stabilized the number of students going out to private placements. Overall, DCPS reports that it has established more than 400 new special education seats in local schools for 2004–2005, bringing the number of slots created in the past three years to nearly 1,800, and that capacity will increase by another 600 seats in 2005–2006.

Expanding capacity within the school system and reducing the number of private placements will in turn enable DCPS to reduce the large costs it incurs to transport special education students to school. Presently, the transportation office is run by a court-appointed administrator. The cost of operating 600 bus routes to serve 4,000 children is approaching an annual rate of \$75 million per year, and must be reduced. One important step to reduce transportation costs is under consideration by the Board of Education: purchasing buses to reduce the cost of operating a fleet presently comprised of leased buses. The District's Chief Financial Officer has projected the savings at \$5.6 million in fiscal year 2006 and \$24.1 million between fiscal year 2006 and fiscal year 2010.

The Mayor, Council, and Chief Financial Officer have also implemented a system of performance-based budgeting that shows the funding provided to particular programs or activities, rather than budgeting only by "object classes" (such as personnel, fringe benefits, and supplies) or organizational units. The fiscal year 2006 budget is the first that DCPS has prepared in the performance-based format. The performance-based budget gives policymakers increased ability to track where resources are going and will support the efforts of the Mayor, Council, and Board of Education to maximize the funding allocated to classroom instruction.

For example, the performance-based budget presents the budgets for all of the central administrative or management functions (personnel, procurement, information technology, financial support, policy development, oversight, etc.), showing that central administrative functions will cost \$36.1 million in local funds in fiscal year 2006. This amounts to just over 4 percent of DCPS' local funds budget. Policymakers will now be able to budget explicitly for central administrative and other functions to make sure that administrative costs are controlled and that classroom spending is maximized.

The strong commitment of the Mayor and Council to focus resources on academic achievement and classroom instruction was reflected in the fiscal year 2006 budget cycle. As described in the answer to question #1, Mayor Williams proposed \$25.2 million in additional funding to support academic improvement initiatives at DCPS and the public charter schools. The Council approved the additional funding proposed by the Mayor, and also added \$19.8 million to the uniform per-student funding formula that finances school-based instruction.

*Question.* Do you believe that Dr. Gandhi—your CFO—has sufficient control over the D.C. Public Schools' expenditures? School spending seems to increase every year with no improvement in student performance.

*Answer.* As provided by the Financial Responsibility and Management Assistance Authority (FRMAA) Act of 1995 (Public Law 104–8), the Chief Financial Officer (CFO) has sufficient authority and control over DCPS expenditures. The broad authority provided by FRMAA includes:

- implementing appropriate procedures and instituting such programs, systems, and personnel policies to ensure effective budget, accounting, and personnel control systems are in place;

- supervising and assuming responsibility for financial transactions to ensure adequate control of revenues and resources, and that appropriations are not exceeded;
- ensuring reliable accounting results to serve as the basis for preparing agency budget requests and controlling the execution of the budget;
- maintaining custody of all public funds belonging to or under the control of the District government;
- apportioning all appropriations and funds made available during the year for obligation in order to prevent obligations or expenditures that would result in a deficiency;
- certifying all contracts prior to execution as to the availability of funds;
- certifying and approving prior to payment all bills, invoices, payrolls, and other claims, demands, or charges; and
- preparing monthly financial reports on DCPS' revenue and expenditures.

The Office of the Chief Financial Officer (OCFO) has effectively used this authority to monitor and control spending, identifying potential over-spending and developing and recommending gap-closing plans for approval by the Board of Education and the superintendent of schools. The DCPS CFO has also played an important role in monitoring the implementation and expenditure of federal grants, reducing the total of lapsed grants from \$687,000 in fiscal year 2003 to \$165,000 in fiscal year 2004.

For fiscal year 2006, the DCPS CFO will receive additional budget authority of \$300,000 and three full-time positions to create a special education financial accountability unit within his office. This unit will work with DCPS' Office of Special Education to implement rate-setting agreements with special education providers, to document information about the placement of children and the duration of these placements, and to monitor and control costs.

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QUESTION SUBMITTED BY SENATOR MIKE DEWINE

BIOTERRORISM AND FORENSICS LABORATORY

*Question.* In the fiscal year 2005 appropriations bill, we included \$8 million for the architectural design and planning costs associated with the construction of a new bioterrorism and forensics laboratory in the District of Columbia. I am pleased that the President's budget request for fiscal year 2006 built on that appropriation and included \$7 million for the laboratory.

How are you using the \$8 million we provided in fiscal year 2005? Please give me an outline of your timeline for completion of the construction of the lab, and I would also like you to discuss the operational costs for the lab once it is up and running.

*Answer.* In fiscal year 2005, the subcommittee provided \$8 million in funding for design, planning and procurement costs associated with the construction of a new consolidated laboratory facility. We will have obligated the entire amount by the end of the fiscal year. We have been working on programming the services and facility needs for and have spent \$1 to \$2 million to date. We plan to spend the balance to conduct the procurement for design services this summer. Starting in fiscal year 2006, we will begin the bidding and early construction phases of the project and we plan to complete the project by fiscal year 2009. We have reviewed more than a dozen sites for the lab and have narrowed our choices to two. We expect to make a final decision this summer.

The District plans to incorporate public health, forensics, medical examiner, and bio-agent analysis capacity. We will also consider options for adding additional local functions to the facility, which may result in additional project costs up to as much as \$250 million. Once the facility is completed, we plan to fund the operational costs for the lab with local resources. The District is currently expending approximately \$21.5 million on the functions to be relocated to the lab (excluding detective costs) and once the lab is up and running, costs are certain to increase as we have the capacity to provide services that were previously beyond our capacity. These costs may rise to as much as twice our current expenditures and we plan to fund these at the local level.

## QUESTIONS SUBMITTED TO LINDA W. CROPP

## QUESTIONS SUBMITTED BY SENATOR SAM BROWNBACK

*Question.* Nationally, 34 percent of babies are born to single mothers. In the District, 57 percent of babies are born to single mothers. Research shows that 80 percent of long term child poverty occurs in broken or never-married families. The beneficial effects of marriage on individuals and society are beyond reasonable dispute. What is the District doing to promote healthy marriage and reduce out-of-wedlock births?

*Answer.* The District of Columbia provides a comprehensive network of services available to families.

Within the Department of Human Services, the District initiated the Strong Families Program (SFP) in October 2002 to provide comprehensive case management services and family preservation support services to vulnerable families in the District that present multiple, complex challenges which place them at high risk for family separation and/or disintegration. This program was created to serve as a "safety net" for TANF dependent/eligible families experiencing acute social, emotional or familial distress. The program is structured to provide prevention and early intervention services to families who would otherwise become known to the District's child welfare, juvenile justice, homeless, mental health or criminal justice systems.

Since its inception, the Strong Families Program has achieved the following outcomes:

- Served 547 families in fiscal year 2005, and 434 families in fiscal year 2004.
- Established satellite case management program offices at 13 underperforming schools in the District.
- Provided on-site, in home case management and family support services to two (2) public housing sites.
- Formed partnerships with faith-based institutions and the District of Columbia Public Schools (DCPS) to open Family Resource Centers at select schools.
- Sponsored the District's first weekend Family Retreat to promote positive family interactions, communications, parent respite services and family development activities, for families served by the program.
- Sponsored a range of school-based, family development activities such as mother/daughter luncheons and teas, father/son barbecues and family fun days, in partnership with DCPS. These events are specifically designed to foster parent/child bonding experiences, social skill development and parent to parent socialization.

Within the Child and Family Services Agency, the District has leveraged federal funding to jumpstart the Family Team Meetings (FTM) program. This initiative is a strengths-based early intervention family engagement model that brings families, community members, and child welfare professionals together to discuss the safety concerns and the needs of the child and his family. Occurring at the critical moment of concern, the FTM process increases the opportunity for family participation, identifies supports and resources in the extended family and community, speeds the process for permanency, and ensures that social workers base decisions on the best information available. Family team meetings are being held for all children at-risk of removal and for placement changes for children in foster care.

Since its inception on September 15, 2004, the Family Team Meeting initiative has the following outcomes: 171 FTMs have been held; 326 children have been served; the average number of participants per FTM is 11; and total number of family member participants is 732.

We expect that our focus on reunification through FTMs will result in children returning home sooner. In addition, we are just beginning to using FTMs for placement changes involving children, so families can participate in placement changes and perhaps serve as resources for children.

*Question.* You have requested a 30 percent increase in the Resident Tuition Grant Program. Last year, the Congress provided an increase of almost 50 percent over the fiscal year 2004 level. I understand that enrollment continues to increase for this popular program. Do you believe that this rate of increase will continue?

*Answer.* Cost increases for the Tuition Assistance Grant Program over the last two years have been driven a rise in program participation, nationwide increases in tuition costs, the phase-in of the program to a full five cohorts, and our efforts to expand eligibility. The District has also required rapidly rising appropriations over the last two years because we no longer have a balance of funding from prior years to help offset our rising costs.



Costs in the future will continue to rise, but will slow considerably from the growth rates of recent years. We are no longer in the program's phase-in stage and growth in tuition nationwide may slow as states' budget crises ameliorate. Over the next several years, we expect program costs to be driven by tuition cost increases and moderately growing program participation, albeit at dramatically lower levels than in recent years. (One area where we may see additional program growth is within the District's Latino community).

Although we expect growth to slow, we still expect costs to rise steadily over time at a rate that may be difficult for the federal government to fund, given limitations on resources. Therefore, the District is pursuing authorization for selected cost containment measures that will allow us to take administrative measures to contain the future growth of program costs.

*Question.* As I noted in my opening statement, the city is creating jobs at a rate that is twice the national average, but only one-third of the jobs that the District is creating are going to city residents. Why is this and what is the District doing to change this?

*Answer.* During the last six years, we have added more than 60,000 jobs in the District, yet we still face employment challenges. Last year, the unemployment rate in the District increased from 7.2 percent to 8.2 percent. And broad citywide figures mask the reality that in many communities unemployment is concentrated at much higher levels.

The District's budget this year included a package of legislative proposals and funding initiatives to combat these disparities. These initiatives aimed to lower the unemployment rate across the District, but especially in communities east of the river, and ensure that residents benefit from the city's significant increase in number of jobs.

These proposals will help the District's hard to employ residents overcome their barriers to unemployment, successfully compete in today's labor market, and achieve economic self-sufficiency by dedicating substantial resources to job preparedness, life skills, leadership, and pre-apprenticeship training for adults and youth. In order to complement these efforts, the District is also working to secure cooperation and participation of private sector employers in helping employ District residents to the fullest extent possible. These proposals include the following:

- Invests an additional \$6.4 million to train and provides summer employment for 10,000 District youth between ages of 14 to 21.
- Invests \$4.9 million in the Youth Leadership Institute and year-round education and training for 465 hard-to-reach youth between ages of 16 to 24.
- Invests \$8.9 million in transitional employment and pre-apprenticeship training assistance for 800 chronically unemployed residents.
- Invests \$150,000 to increase enforcement and monitoring of current First Source hiring requirements and provide the Mayor additional authority to increase First Source requirements in certain industries.

In addition to these funding proposals, the District is also considering legislation at the local level that will accomplish the following:

- Creates a job opportunity bank, funded by District businesses remitting one-half of one percent of the economic assistance received from the District, to provide job training grants and assistance to low-income District residents.
- Requires District-assisted employers to pay a living wage of \$10.50 per hour or \$9.25 per hour if health insurance benefits are offered to employees.

*Question.* You are requesting \$5 million to provide incentives to developers and organizations to construct housing specifically for the ex-felon community. Could you elaborate on this proposal? How will it be implemented? How many ex-offenders are returning to the District every year? What is the recidivism rate in the District?

*Answer.* The District is proposing federal funding for a new initiative that would provide incentives to encourage developers and non-profit organizations to rehabilitate or construct new housing for reentrants in order to increase the pool of available housing for those exiting the criminal justice system. We have identified access to housing as one of the most important risks to recidivism for individuals making the transition from prisons back into society. We expect as many as 2,500 offenders to return to the District on an annual basis in the years ahead, making efforts to combat recidivism as important as ever.

Recidivism rates in the District are calculated by CSOSA. In fiscal year 2004, the parole rearrest rate was approximately 13 percent; for probationers, approximately 20 percent. Approximately 6 percent of the total supervised population was convicted of a new offense in fiscal year 2004, and approximately 2 percent were incarcerated as a result of that conviction. In fiscal year 2004, approximately 11 percent of the supervised population was revoked for violations of release conditions (includ-

ing arrest). The majority of revocations result in reincarceration; approximately 10 percent of the supervised population were incarcerated as a result of revocation.

Our ex-felon housing program will be integrated with the District's ten-year plan to combat homelessness and individuals occupying this housing will have access to the full range of social services provided by the District of Columbia to at-risk populations, including job training, substance abuse and mental health counseling. Integrating housing solutions with social services is critical because almost 70 percent of returning offenders have a history of substance abuse and face job placement barriers along with educational challenges.

We will administer the initiative within the Department of Housing and Community Development (DHCD), which has the infrastructure in place to monitor housing construction incentives as part of the Housing Production Trust Fund. DHCD will issue a special Notice of Funding Availability (NOFA) to solicit developers of these housing units. The NOFA will include restrictions on developers using the funds: developers must derive reentrant tenants from designated non-profit support service agency; units must be dedicated to reentrants for a period of at least five years; and operating funds for the first six months of tenancy are eligible project expenses. This will allow us to providing targeted funding that encourages the development of cost-effective housing options for our ex-felons.

We will coordinate services for individuals residing in this housing through the D.C. Re-entry Initiative. Services provided by the initiative will include employment services and job-readiness training are provided in partnership with the Department of Employment Services; Unity Health Care provides health care delivery and is about to open a new clinic for this purpose; UDC provides a GED program, as well as college courses. Supportive services will also be provided by the Department of Mental Health when needed.

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#### QUESTIONS SUBMITTED TO NATWAR M. GANDHI

##### QUESTIONS SUBMITTED BY SENATOR SAM BROWNBACK

*Question.* According to GAO, the District of Columbia Public Schools have had significant management problems. What are the critical problems that have led to DCPS' inability to even account for the number of employees on its payroll?

*Answer.* Prior to fiscal year 2004, the DCPS Office of Human Resources (OHR) managed the employee roster (Schedule A) for the agency. Recognizing that the OHR lacked the capacity and systems to accurately manage this function, the new DCPS CFO assumed this responsibility in order to accomplish accurate budgeting and achieving a balanced budget. Even with the lack of an automated and integrated Human Resources and Payroll system, the OCFO manually maintains the Schedule A and has brought it to the point where the document is current and portrays the correct number of employees, their salaries, and their location in the agency. This document is critical in tracking current and historic vacancies. A Human Resources and Payroll management system is critical to sound management practices. The current system is responsible for employees not being paid accurately or receiving their salary increases or step movement on time. The DCPS OCFO has invested significant resources into cleaning up this problem. To date, all DCPS employees are receiving their correct salaries. The DCPS OCFO maintains this manual process, but it is critical that the system move forward with a more automated and integrated system.

*Question.* Why don't the D.C. Public Schools use the same administrative and personnel management system as the rest of the District government?

*Answer.* Several years ago, the DCPS began to develop and implement an administrative personnel management system independent from the District's systems. However, these systems did not develop to the operational stage. The School Board and Superintendent partnered with the District's Office of the Chief Technology Officer to move DCPS into the District's personnel and procurement management systems. In addition to partnering on these systems, the DCPS is also participating in the District's budget system with other city agencies. In addition, the DCPS will begin participating in the District's human resource and payroll systems.

*Question.* As CFO, what authority do you have to control escalating costs within the D.C. Public School System? What recommendations would you make to help DCPS get its financial house in order?

*Answer.* With respect to the annual budget for the Board of Education in the District of Columbia, the Home Rule Act allows the District to establish the maximum amount of funds which will be allocated to the Board, but does not allow the District to specify the purposes for which such funds may be expended or the amount of such

funds which may be expended for the various programs under the jurisdiction of the Board of Education. The primary control that the CFO has with respect to the DCPS budget is to ensure that DCPS does not overspend its annual appropriation. While the CFO has the authority to require DCPS to curtail spending in the event a potential deficit is identified, the specific strategies to implement this requirement falls under the purview of the Superintendent and the Board. Over the past several fiscal years, the OCFO has worked with the Superintendent and the Board to identify potential overspending of the DCPS total budget and develop viable and realistic strategies to curtail spending in a manner that does not severely impact the main mission of the DCPS, which is to educate the District's children. The success of this close collaboration is evident in the fact that the DCPS has managed to close its last two budgets in balance. For fiscal year 2005, it appears that the DCPS budget will once again close in balance.

With regard to recommendations on strengthening the financial position of the DCPS, the most important recommendation is to continue the strong collaboration between the Superintendent, the School Board and the OCFO in supporting the mission of the Superintendent and DCPS strategic plans. It is my opinion that vital, stable and collaborative DCPS leadership is the critical element in ensuring DCPS will continue to manage its resources in a wise and prudent manner. The OCFO will continue to support the DCPS leadership in this regard.

*Question.* What, if any, additional authority do you need as CFO to focus on and correct the fiscal management problems facing the District?

Answer. The OCFO is required to estimate revenues far in advance of the fiscal year in order for the District to participate in the congressional budget cycle. Granting the District budget autonomy would allow the District to build a budget closer to the start of a fiscal year and would allow the OCFO to provide more appropriately timed and therefore more informed revenue estimates.

*Question.* One criticism of the GAO report on structural imbalance is that the District has significant Medicaid billing and claims management problems. How are you working to address this problem?

Answer. In 1999, recognizing that there were significant issues with Medicaid billing and claims management, the District hired an outside contractor to work with two of the public provider agencies, the D.C. Public Schools (DCPS) and the Child and Family Services Agency (CFSA), to increase Medicaid revenue for services provided by these agencies. Concurrently, key issues relating to Medicaid billing and claims management were identified, specifically:

- Maintaining appropriate documentation supporting Medicaid billing,
- Developing a clear comprehensive strategy to optimize Medicaid revenues among the public provider agencies; and,
- Establishing standard business practices leading to the identification of appropriate Medicaid-eligible programs and services.

Since that time, improvements have been realized in the Medicaid billing and accountability system within the public provider agencies. Although the OCFO is not directly involved in the development or modification of agency programs, the OCFO has been working with the District's Office of Medicaid Operations Reform to address the key issues noted above and establish a system of ongoing and routine reports that will demonstrate improvements in the process for calculating the Medicaid revenue each fiscal year and monitor Medicaid revenues and expenditures.

*Question.* I understand that the District has made great strides to get its financial house in order, but what are the remaining problematic areas in the D.C. government in terms of financial mismanagement? How are you addressing those areas?

Answer. The 2004 Annual Audit noted that there are no material weaknesses to report (compared to three in fiscal year 2001 and two in each of fiscal year 2002 and fiscal year 2003) and there were two reportable conditions to be addressed (the same number as fiscal year 2003 but down from six in fiscal year 2001 and three in fiscal year 2002). Specifically, the areas to be addressed are (1) Management of Disability Compensation Program and (2) Unemployment Compensation Claimant File Management. A copy of the Management Letter and its appendix are being submitted for the record. These documents provide a robust explanation of the issues to be addressed as well as the OCFO's response to these issues. As the documents will detail, both issues are being appropriately addressed.

GOVERNMENT OF THE DISTRICT OF COLUMBIA, OFFICE OF THE INSPECTOR GENERAL  
MANAGEMENT LETTER

APRIL 8, 2005.

The Honorable ANTHONY A. WILLIAMS,  
*Mayor, District of Columbia, John A. Wilson Building, Suite 600, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.*

The Honorable LINDA W. CROPP,  
*Chairman, Council of the District of Columbia, John A. Wilson Building, Suite 504, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.*

DEAR MAYOR WILLIAMS AND CHAIRMAN CROPP: In connection with the audit of the District of Columbia's general purpose financial statements for fiscal year 2004, KPMG LLP submitted the enclosed final Management Letter. We are pleased to report, as noted by KPMG LLP, that over the last 5 fiscal years there has been a marked improvement in the management of the District's financial affairs. This Management Letter details certain matters involving internal control and other operational matters that require continued management attention which is presented as follows:

—Appendix A—Reportable Conditions in Internal Control Over Financial Reporting; and

—Appendix B—Other Observations and Recommendations on Internal Control and Financial Operations.

KPMG set forth recommendations for correcting reportable conditions and other deficiencies. While the Office of the Inspector General will continue to assess the District agencies' implementation of recommendations, it is the responsibility of District government management to ensure that agencies correct the deficiencies noted in audit reports. This Office will work with managers, as appropriate, to help them monitor the implementation of recommendations.

If you have questions or need additional information, please contact William J. DiVello, Assistant Inspector General for Audits, or me at (202) 727-2540.

Sincerely,

AUSTIN A. ANDERSEN,  
*Interim Inspector General.*

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KPMG LLP,  
Washington, DC 20036, March 24, 2005.

GOVERNMENT OF THE DISTRICT OF COLUMBIA LETTER TO MANAGEMENT ON INTERNAL  
CONTROL—SEPTEMBER 30, 2004

To the Mayor and Council of the Government of the District of Columbia Inspector General of the Government of the District of Columbia

LADIES AND GENTLEMEN: We have audited the basic financial statements of the Government of the District of Columbia (District), for the year ended September 30, 2004, and have issued our report thereon dated January 24, 2005. In planning and performing our audit of the basic financial statements of the District, we considered internal control in order to determine our auditing procedures for the purpose of expressing our opinion on the basic financial statements. An audit does not include examining the effectiveness of internal control and does not provide assurance on internal control. We have not considered internal control since the date of our report.

During our audit we noted certain matters involving internal control and other operational matters that are presented in the appendices for your consideration. These comments and recommendations, all of which have been discussed with the appropriate members of management, are intended to improve internal control or result in other operating efficiencies.

Our audit procedures are designed primarily to enable us to form an opinion on the basic financial statements, and therefore may not bring to light all weaknesses in policies or procedures that may exist. We aim, however, to use our knowledge of the District's organization gained during our audit work to make comments and suggestions that we hope will be useful to you. We would be pleased to discuss these comments and recommendations with you at any time.

This report is intended solely for the information and use of the Mayor and Council of the District, the Inspector General of the District, District management, and others within the District government and is not intended to be and should not be used by anyone other than these specified parties.

Very truly yours,

KPMG LLP.

*Executive Summary*

Over the last five fiscal years, as the District's independent auditors, we have witnessed marked improvement in the management of the District's financial affairs. Important milestones that the District is understandably proud to report to the Council and its citizenry are:

—Removal of Control Board oversight;

- Eight consecutive years of unqualified opinions on the District's basic financial statements included in its Comprehensive Annual Financial Report (CAFR);
- Return of operations that had been placed in receivership by the District courts;
- Successful implementation of Governmental Accounting Standards Board's Statement No. 34, the most far reaching change in governmental accounting and financial reporting to date;
- Implementation of a District-wide financial and compliance audit of its federal awards programs;
- Continuous improvement in General Obligation bond ratings from BBB to A;
- Continuous acknowledgement of excellence in financial reporting from the Government Finance Officer's Association (for its CAFR, Budget Document, and most recently for its Popular Annual Financial Report); and
- Continuous improvement in internal control, evidenced by the reduction in the number of reported material weaknesses three and reportable conditions six in fiscal year 2000, to zero and two, respectively in fiscal year 2004.

#### *Address Reportable Conditions*

As noted above, the District has taken corrective actions to address and eliminate a number of reportable conditions in internal control, some of which were material weaknesses. The next step in continuing to improve the District's financial reporting infrastructure is to address the remaining reportable conditions highlighted in our Report on Compliance and on Internal Control over Financial Reporting Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards (Yellow Book Report), and to implement a process to continuously monitor compliance with established internal control policies and procedures.

Reportable conditions relate to significant deficiencies in the design or operation of internal control over financial reporting that could adversely affect the District's ability to record, process, summarize, and report financial data consistent with the assertions of management. These reportable conditions, while not as serious as material weaknesses, warrant District management attention. Matters currently classified as reportable conditions that are not considered to be material weaknesses are as follows: Management of Disability Compensation Program; and Unemployment Compensation Claimant File Management.

These current year reportable conditions and our recommendations are repeated in Appendix A. Our management letter comments, presented in Appendix B, highlight other internal control and financial management observations made during our audit, and what actions we believe the District should take to ensure its financial management infrastructure continues to improve. Management responses to our observations and recommendations are included in Appendices A and B. We have carefully considered those responses where management indicates that it disagrees with either our observations or recommendations. We continue to believe our comments are valid and that implementation of our recommendations will result in stronger internal controls or operational and financial management improvements.

#### *New Accounting Pronouncements*

Although there are no significant new accounting pronouncements that will need to be implemented during fiscal year 2005, there were two significant accounting pronouncements issued during fiscal year 2004 as Governmental Accounting Standards Board (GASB) Statements that will significantly impact the District's future government-wide financial position.

GASB Statement No. 43, Financial Reporting for Postemployment Benefit Plans Other Than Pension Plans, an amendment to GASB Statement No. 34, and GASB Statement No. 45, Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions addresses accounting and financial reporting of post-employment benefits other than pension benefits (OPEB) by employers and plans or other entities that administer them. The principal impact of this Statement on the District relates to post-employment healthcare benefits that the District currently reports on a pay-as-you-go basis. GASB Statement No. 45 will require the District to accrue for post-employment benefits to be provided to employees and retirees, thus adding a significant liability not currently recorded in the District's government-wide financial statements.

#### APPENDIX A.—REPORTABLE CONDITIONS IN INTERNAL CONTROL OVER FINANCIAL REPORTING

##### *I. Management of Disability Compensation Program*

The District, through the Office of Risk Management (ORM), administers a disability compensation program under Title XXIII of the District of Columbia Comprehensive Merit Personnel Act of 1978. The most recent actuarial loss reserve anal-

ysis was performed in fiscal year 2002. For fiscal years 2003 and 2004, ORM has performed roll-forward procedures, using underlying assumptions included in the last actuarial report, in order to estimate the District's disability compensation liability at each year-end. We recommended that an actuarial analysis be performed for fiscal year 2004, however this recommendation was not implemented. We believe that the use of data that is more than one year old as a basis for these roll-forwards could lead to significant differences between the estimated liability and actual results for individual cases when complete data is available. Further, the accuracy of the underlying data used in the District's analysis has always been difficult to assess due to weaknesses in the maintenance of supporting claims files.

The ORM does not perform a timely review of past claims to determine whether the established reserves remain sufficient. In addition, we determined through claims test work that certain reserves were not removed timely from the tracking system, once a claim is determined to be closed. These conditions increase the risk that the underlying data, which is utilized for the District's roll-forward procedures, may be over- or understated. Additionally, seven out of 81 disability claim case files selected for test work could not be located for our review, and many of those that were provided for our review required extraordinary effort on the part of ORM personnel to locate. This is a similar result as noted in prior years.

We again recommend that ORM contract for an actuarial loss reserve analysis to be performed during fiscal year 2005, and each year thereafter. Additionally, we recommend that ORM:

- Review all active claim files on a periodic basis to determine if the recorded reserve is sufficient or if the reserve needs to be increased or decreased. The review of all active claim files is imperative before each actuarial analysis is performed, since an actuary would be utilizing such information in their analysis.
- Develop an effective managerial system to file and maintain both open and closed case files.

#### *Management Response*

ORM has requested monies for an actuarial report in its current budget. It is expected that the actuarial report will take place within the next fiscal year.

All Disability Compensation Program (DCP) files, both active and archived, were housed by the Third Party Administrator (TPA), CLW/CDM, Inc. in fiscal year 2004. CLW/CDM was responsible for maintaining all supporting documentation in each claim file. ORM acquired these files at the conclusion of the contract between the city and CLW/CDM in November 2004. The contract expired pursuant to court order on Friday, October 29, 2004. The archived files were subsequently moved and placed in storage at the District of Columbia General Hospital (DCGH). The active files were moved to 441 4th Street, NW, Suite 800 South. It is assumed that all files were turned over to ORM; however, at this time, it is difficult to verify this assumption. In addition, a number of active claim files were erroneously placed in storage when they should have been forwarded directly to ORM.

The Claims Supervisor of CLW/CDM, Inc. was charged with performing timely reviews of the adjusters' decisions establishing reserves. ORM was responsible for conducting periodic reviews of randomly selected claim files to determine if appropriate reserves had been established and/or removed. The previous database system did not allow ORM access to all of the data maintained by CLW/CDM with regard to this aspect of the claims. With the movement of the Third Party Administrator in-house, and obtaining its own Riskmaster database, ORM now has the ability to easily determine whether established reserves are sufficient.

ORM has entered into a contract for services, which entails capturing basic information on all claim files currently in storage into an Excel spreadsheet. This electronic database will allow ORM to effectively manage its closed case files. The new Riskmaster system, which went into operation in November 2004, will allow ORM to effectively manage all open claims files, and those, which are subsequently closed.

ORM expects to hire additional staff to provide more hands on file/reserve reviews and to conduct periodic audits.

## *II. Unemployment Compensation Claimant File Management*

The District's Department of Employment Services (DOES) is responsible for the administration of the Unemployment Compensation Program. In fiscal year 2004, the District made approximately \$114 million in unemployment benefit payments to unemployed former employees of private employers in the District and of the District and federal governments.

While testing internal controls over benefit payments, we observed that DOES was unable to locate 8 out of 30 claimant files supporting these payments. Federal regulations require that DOES maintain documentation supporting all payments of

unemployment claims. We noted that DOES has established policies and procedures requiring such documentation be maintained. However, DOES has not created a system of tracking the location of all claimant files and requiring such files to be checked in and out by DOES personnel using the files. We recommend that DOES create a database tracking the location of all claimant files and require that this database be updated each time a file is moved to a new location.

*Management Response*

Management concurs with the finding. If funding is available, DOES will implement an imaging and retrieval system for Unemployment Insurance documents. A pilot project is to commence within the next three months for imaging and indexing quarterly contribution reports. The imaging will be done by the contractor who currently enters data from these reports.

*Question.* In his fiscal year 2006 budget request, the President recommended that the Federal Government consider transferring ownership of some of its property in the City to the District. Have you estimated what kinds of revenues would accrue to the city if these transfers occurred?

*Answer.* The President has not yet released a specific plan for transferring ownership. Absent a plan that details the property and the method and conditions for the transfer of such land, the OCFO cannot at this time estimate revenues.

QUESTIONS SUBMITTED TO DR. CLIFFORD B. JANEY

QUESTIONS SUBMITTED BY SENATOR SAM BROWNBACK

*Question.* What has been the historic rate of growth in the Special Education budget for the D.C. Public Schools?

*Answer.* Special education spending (which includes funds allocated to local schools for special education, special education central office functions, related service providers, nonpublic tuition, transportation, attorney fees and special education hearings and appeals) across all funds has increase by 33 percent between fiscal year 2000 and projected spending for fiscal year 2005. The compounded annual growth rate (CAGR) between fiscal year 2000 and fiscal year 2005 is 4.88 percent and the average growth across the six fiscal years is 6 percent.

*Question.* I understand that about 20 percent of the children in the District have been identified as “Special Education.” How does this compare to other cities? How does this compare to previous years?

*Answer.* Using enrollment figures from the October 2004 audit, special education enrollment in DCPS was 18 percent; when the total D.C. public enrollment (charter and DCPS) is used, the percentage of students in special education drops to 16 percent. Special education enrollment has remained relatively static during the last five years, however, as DPCS enrollment decreases, the percentage that are special education increases.

*Question.* Are you concerned that students are being inappropriately identified as “Special Education?”

*Answer.* In a comparative analysis of DCPS’ Special Education enrollment to other urban districts, we have found that DCPS has similar levels of special education enrollment:

District	Special Education Enrollment	Total Enrollment	Percent Special Education
Baltimore City .....	14,012	108,015	13
Boston .....	11,433	58,310	20
Milwaukee .....	16,518	101,000	16
Oakland, CA .....	5,279	49,214	11

What makes DCPS extraordinary different from nearly every other school district in the country is the number of students attending nonpublic schools. Twenty-four percent of DCPS special education students are in nonpublic day programs, residential treatment facilities or are wards of the District placed in foster homes and attending public schools in surrounding counties. When students in surrounding counties are moved to the “public” side of the count—that is, they are served in public schools—the percentage of students in nonpublic programs decreases to 21 percent of DCPS special education enrollment and 19 percent of all D.C. public school (DCPS and charters) special education enrollment.



For comparison, the percentage of special education students in nonpublic placements is 4.5 percent in Boston and 5 percent in Baltimore.

*Question.* What percent of DCPS' budget is being spent on special education tuition and transportation?

Answer. Of the \$1 billion DCPS budget for fiscal year 2005, approximately 12 percent (\$120 million) will be spent on special education tuition and 8 percent (\$75 million) on transportation.

*Question.* Why do DCPS budgets continue to rise every year, even though enrollment is declining?

Answer. While enrollment at DCPS has declined over time, the number of students for whom DCPS pays tuition at private institutions and suburban schools has risen from 1,400 (SY 1999–2000) to 3,067 (SY 2004–2005). These increases have resulted in higher costs for the provision of mandated services.

The Local budget for DCPS has only grown at an average rate of one percent since fiscal year 2002 when a budget reduction of five percent that occurred in fiscal year 2003 is taken into account.

	Fiscal year—				
	2002	2003	2004	2005	2006
Local Budget .....	\$749.2	\$713.4	\$753	\$767.3	\$815.2
Growth From Previous Fiscal Year (percent) .....	N/A	094.78	5.55	1.90	6.24

Even though DCPS has experienced a modest growth in budget, DCPS has not had the ability to leverage these increases to support programmatic expansion. In fact, the increases have not kept pace with rising labor and mandated costs. As a result, DCPS has had to eliminate and curtail viable academic programs.

Recent budget increases have been used to support previously approved negotiated pay raises. Surrounding suburban districts, our primary competition for teachers and principals, have been raising salaries substantially beyond inflation, and as of next year, at least three of the five are offering higher entering salaries than DCPS. All offer higher maximum salaries than DCPS.

Additionally, DCPS has incurred higher costs associated with payments in tuition for D.C. students in private special education and suburban foster care placements, special education transportation, and a few state agency costs such as educational services at juvenile justice facilities; amounts that have grown enormously in recent years.

[In millions of dollars]

	Fiscal year—		
	1995	2005	2006
Negotiated Pay <sup>1</sup> Raises .....	.....	40.4	.....
Tuition-private placement <sup>2</sup> .....	12.5	76.0	86.4
Tuition-foster care & DMH wards .....	( <sup>3</sup> )	20.0	20.0
Transportation-special education <sup>2</sup> .....	12.7	62.0	62.0
Attorneys' fees (winning parties) .....	.....	9.8	6.8
Total .....	25.2	208.2	175.2

<sup>1</sup> Reflects incremental costs associated with fiscal year 2004 entitlement that permanently affected the base in fiscal year 2005.

<sup>2</sup> Will be higher than budgeted in fiscal year 2005 and fiscal year 2006 due to cost overruns incurred by court-appointed transportation administrator (\$75 million).

<sup>3</sup> Not in DCPS budget.

Recognizing the shortfalls in DCPS' academic program, Superintendent Janey presented \$38.5 million worth of unmet initiatives in an effort to move the system towards adequacy in programming. DCPS identified \$4.5 million in internal resources to be re-directed to support this program and the City has proposed an additional \$21 million. The remaining balance will be offset by the \$13 million in Federal Payment funding that is being requested as part of the Federal Appropriation. This funding will support important programming such as: their development of a comprehensive Art & Music program, and intensive reading and math program for at-risk students, establishment of Parent Resource Centers and continuation our School Accountability Model.

*Question.* It appears that, because of declining enrollment, it is imperative that some schools be closed or co-located. What are your plans to do that?

Answer. DCPS has developed a plan that serves as a bridge through this transition period while the Superintendent's Master Education Plan (MEP) is being devel-

oped. The MEP will provide recommendations regarding academic program offerings, grade configurations, neighborhood or cluster delivery models, Special Education Instructional models as well as address issues relative to school closures and co-locations. In line with this transition plan and as required by law, the Board of Education has already approved the Superintendent's plan for co-location in DCPS facilities. We are currently reviewing responses to invitations to co-location for the 10 potential sites. This transition plan calls for the co-location of ten schools that have been identified as potential co-location sites. Upon completion of the Superintendent's Master Education Plan, this transitional plan would be revised to specifically address issues such as declining enrollment and/or requirements for closing schools.

*Question.* I understand that about one-third of DCPS teachers are not certified. What progress are you making to ensure that all DCPS teachers have the proper teaching credentials for the 2005–2006 school year?

*Answer.* In March of 2005, we estimated that approximately 1,400 teachers did not have a current license. After requesting that these individuals update their credential, as of June 20, 2005, DCPS has identified 455 teachers with expired licenses and 533 teachers with no record of licensure or slightly less than 20 percent (988) of the teacher workforce. These teachers will be placed on a structured program that will facilitate licensure update by June 2006. Those who do not meet the respective milestones of this plan will be terminated at the end of the 2005–2006 school year. To enhance compliance with actions required to obtain licensure, DCPS has created the position of Licensure Specialist that will oversee and monitor licensure status. The position is expected to be filled by July 11, 2005. Additionally, we are ensuring that all newly hired teachers have the proper credentials prior to hire.

The State Education Office of Academic Credentials and Standards (SEA–OACS) have collaborated with the DCPS–LEA Office of Human Resources (HR) in identifying those individuals who hold a state teaching license. The SEA–OACS is prepared to handle the large volume of applications for license renewal that will occur as a result of the DCPS Office of Human Resources' notification efforts. Our goal is to maintain an application processing time of less than two weeks, therefore ensuring that all applications received prior to August 19, 2005 are processed and licenses sent out before the beginning of school.

*Question.* I understand that only 50 cents of every operational dollar spent by DCPS actually goes to directly educate children. The national average is 61 percent. Why is this average so low and how have city leaders proposed to change this?

*Answer.* The source of the 50 percent figure is the U.S. Department of Education's Fiscal Year 2002 Common Core of Data, by a definition that includes only teachers, aides, texts and classroom supplies and excludes such direct educational services as speech therapy, librarians, library books, computer labs, guidance counselors and school nurses. In that year:

- The District of Columbia reported spending for teachers, aides, texts and classroom supplies was 50 percent.
- The District of Columbia was very high on the “non-instruction” category of “student support,” which means legally mandated special education services (such as assessments, speech therapy, OT/PT, psychological counseling), counselors, social workers, attendance counselors, health services and the like.
- The District of Columbia was also very high on spending for “instruction support,” which means librarians; instructional technology; and standards, curriculum, testing, teacher training and testing.
- The District of Columbia was comparatively high on “operations and maintenance,” which means custodians, utilities, repairs, security, as well as on transportation, which is court-ordered.
- The District of Columbia was comparatively low on school administration and food service, and average on central administration/business services.
- Many of the “non-classroom” expenditures were funded by restricted federal grants, including food service, anti-drug and violence grants and No Child Left Behind grants for standards, curriculum, testing and professional development. Others are required by federal law and court mandates, including special education assessments, special education related services, and special education transportation.

In our own valuation of what is allocated to supporting students in the classrooms, we expend nearly 60 percent of our resources to do so. What worries me is that the definition of “classroom,” taken from the National Center for Education Statistics (NCES), does not take into account expenditures for critical services such as librarians, counselors, nurses, attendance officers, and assessments, therapy and transportation for special education students. We have high costs in these areas because of high enrollment in special education.

The issue with the NCES definition is that DCPS funds much more than teacher salaries and bureaucracy. According to NCES, we spend only 2.7 percent on general administration and 3.0 percent on business services such as payroll, human services, and procurement. The rest covers principals, libraries, counseling, special education related services (e.g., speech therapy, OT/PT, social workers, psychologists), teacher training, curriculum, testing, facilities, utilities, security, transportation, and the free lunch program.

Further when you factor in our unique role as both a State and Local Education Agency, we experience high expenditures in other categories. For example, 11 percent of our work force is engaged in transporting special education students to public, charter and private schools, under the direction of a court-appointed administrator. This translates into higher expenditure levels on the “non-instruction” category of “support,” which is required as part of court orders and Individuals with Disabilities Education Act.

We do believe more classroom support is needed but not by sacrificing librarians and counselors and elements of the accountability system such as curriculum and standards, teacher training, testing and other measures needed to comply with No Child Left Behind. Moreover, it cannot come at the expense of disobeying mandated special education requirements and health/safety issues DCPS must face.

DCPS is aggressively pursuing strategies to ensure that as much resources as possible can be directed towards the classroom. In fact, the Superintendent has commissioned the Council of Great City Schools to conduct an adequacy study to determine system needs, if any. It is hopeful that the findings from this study will provide District Stakeholders with the total investments needed to fully support the implementation of Statewide Standards and provide a better prescription of how to allocate resources.

*Question.* What additional tools do you need to better manage the D.C. Public Schools?

*Answer.* As I begin to implement the goals outlined in our Declaration of Education, the strategic plan for the District of Columbia Public Schools, I am cognizant that the managerial tools needed to reform a school system are different from those needed to sustain routine operations. In order to better align our educational program objectives and priorities with our fiscal resources as we plan long-term school improvements, it would be highly advantageous to have an independent Financial Officer that reports to the Board of Education and School Superintendent. While the school district would continue to be governed by all applicable fiscal regulations, the perspective of an independent CFO would be consistent with the mission of the school district in service to children, rather than the mission of a financial agency.

Also, because we have established new standards and will completely overhaul our educational infrastructure, multi-year budgeting would enable us to implement scheduled reforms without the threat of funding uncertainties from year to year. In short, an independent Chief Financial Officer and multi-year budgeting would anchor a long-term strategic framework and afford the long-range planning and implementation necessary to implement and sustain school improvements.

*Question.* How do you plan to use the \$13 million that this subcommittee provided in fiscal year 2005 and how do you plan to use the \$13 million that is being requested for fiscal year 2006?

*Answer.* I intend to use these funds appropriated in fiscal years 2004, 2005 and 2006 to specifically to accelerate the quality of teaching in preparation for the implementation of the new academic standards, curriculum, and aligned assessments. This will serve as the basis for a carefully structured framework for accountability.

It is important to point out that all the improvement programs must focus directly on teaching and learning. Research clearly shows that for reform efforts to have a measurable impact, they must dramatically change what occurs in the classroom. I believe by implementing new standards, developing curriculum and school- and system-level assessments, training administrators and teachers, securing high quality curriculum materials, and providing the means to hold schools accountable for results—all are critical elements that must come together to achieve significant and sustainable improvements in teaching and learning.

Through the plan, all of these elements will be optimized as part of a coherent and mutually reinforcing whole. We will be able to provide all District of Columbia Public Schools students with the kind of high-quality classrooms they deserve:

- Classrooms where standards, curriculum, instruction, and assessments are carefully aligned.
- Classrooms where every teacher clearly understands what is to be taught and assessed.
- Classrooms where all students learn.

*Question.* Dr. Janey, in your written testimony, you mention school improvement funds to be used to continue your investment in professional development. I am aware of the statistic that some 30 percent of the teachers in the D.C. Public School system are not certified. I believe that teachers are the most fundamental aspect of a child's education and this fact concerns me greatly. What have you been doing, and what are you planning to do, specifically, to ensure that the teachers in your classrooms are qualified to provide a good education?

*Answer.* To ensure our teachers are qualified to provide a good quality education, we've developed a Professional Development Master Plan that is intended to provide direction, guidance, and resources to educators as they develop their Individual Professional Development Plan (IPDP). We believe that effective professional development is on-going, school-based (job embedded) and organized around collaborative problem solving. The focus of our Professional Development Master Plan is as follows:

- Develop knowledge and skills in teachers in order to impact student achievement.
- Prioritization of goals based upon best practices with decisions based upon objective evidence gathered over time.
- Linkage to district goals to support the improvement of the whole system.
- Focused on enhancing the individual's knowledge of their field and knowledge of learners and learning. To this end, there must be an on-going assessment process, including self-evaluation and feedback from others, to guide further development.

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#### QUESTIONS SUBMITTED BY SENATOR MARY L. LANDRIEU

##### SCHOOL CONSTRUCTION

*Question.* Chairman Cropp and Dr. Janey, what mechanisms are you considering to manage the \$150 million bond proposal for school construction? Would a venture capital entity work?

*Answer.* Project and capital program management for the D.C. Public Schools is under the purview of the Board of Education and Superintendent. A third-party entity, such as a venture capital entity could work, and has been considered. The Superintendent has made clear that he intends to transform his Office of Facilities Management to better manage its projects and more efficiently use its capital resources. The Superintendent has also stated that he is creating an office of strategic partnerships that would leverage DCPS resources with public and private entities to create alternative financing mechanisms for the DCPS capital program. Additionally, the Office of the City Administrator, Council staff, and DCPS staff are working collaboratively to identify partnership opportunities and other means to share and maximize resources through joint capital planning and coordination.

*Question.* Can we finance some of the debt service from rent paid by charter schools in co-location?

*Answer.* No. District law mandates that rent paid by charter schools through co-location/lease arrangements must stay with the local school—D.C. Code, Section 38–1831.01(b)(2).

*Question.* Dr. Janey, you have provided a list of 10 school properties, which will be offered for co-location. When will a request for proposals be issued to charter schools and what time frame will you be signing leases for the fall semester?

*Answer.* Requests for Letters of Interest were posted on the DCPS website from mid-May to mid-June. They are being reviewed now by Co-location Review Committees (one for each school that received a Letter of Interest). A public hearing is scheduled for June 29th, 2005 from 6–8 p.m. at 825 N. Capitol St. The Superintendent will present his recommendation for specific co-locations in July. It is anticipated that the Board of Education will approve or disapprove any co-location recommendations in July, and then for approved recommendations, direct the Superintendent to execute leases on its behalf in July.

*Question.* Dr. Janey, for the record, please provide the per pupil spending in DCPS and the components of that allotment (local, Federal, other)? Please provide a comparison with per pupil spending in other cities of similar size.

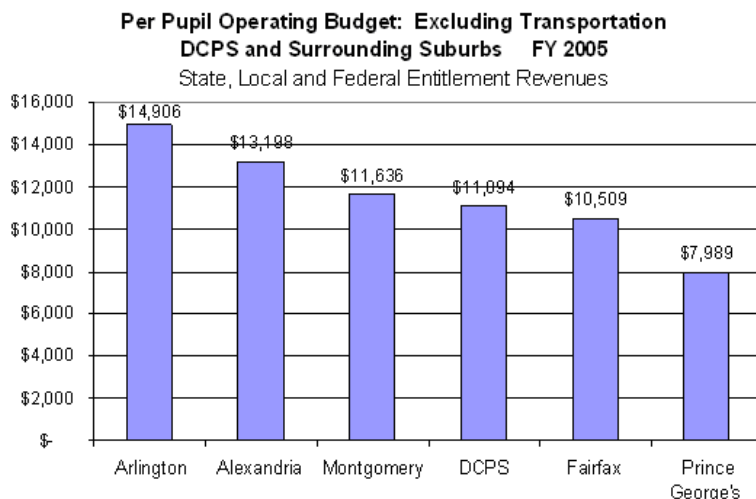
*Answer.* The referenced chart reflects the updated report conducted by the NCES and the Census Bureau. Fiscal year 2003 is the most recent year for which expenditure data are available, and if it follows previous timing, the Census Bureau will put out fiscal year 2004 data next March. That's as soon as an update could be provided. The only national data for school districts that's collected using comparable definitions are the NCES/Census data.

However, the following represents a regional comparison of Per Pupil Expenditures conducted by an independent watch organization in the D.C. area. We believe that regional comparisons are more useful tools as they provide insight to the competitive landscape in the Washington area and it accounts for regional cost differences that national comparisons fail to incorporate.

*Comparison with Suburban District Budgets*

The chart below depicts the fiscal year 2005 per pupil budgets of DCPS and its surrounding school districts. The Washington Area Boards of Education (WABE) calculates the suburban numbers by a standardized methodology that meets all the criteria above. We have applied the same methodology to the DCPS budget and enrollment, but subtracted transportation for all districts, since the transportation systems are not comparable.

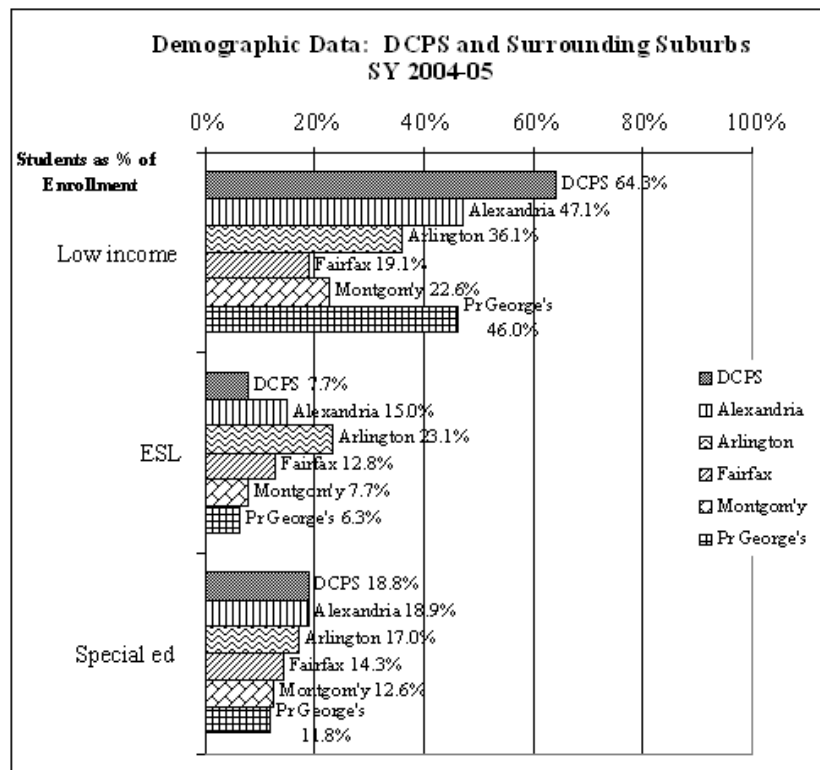
The WABE methodology as applied to DCPS includes most federal grant funds and teacher retirement, which we added from the city budget. In fiscal year 2005 DCPS has about \$3,800 less per pupil than Arlington County, about \$2,100 less than Alexandria, and roughly the same as Montgomery and Fairfax Counties. Prince George's County is far behind all the others.



The WABE methodology includes all local and federal funding in the districts' budgets except: Food service; Construction/capital; Debt service; Summer school; Adult education; Special ed tuition and transportation; Other state level costs (DCPS only): state agency functions, charter school oversight; Federal funding for state agency functions, private & charter schools, and short-term restricted programs; and Private grants and intra-District transfers.

WABE figures include: Teacher retirement; Federal 2005 funding for DCPS LEA: Titles I, II, IV, VI, VII, Vocational education, Special education, Impact Aid, Indirect Cost, Head Start, Reading First, Tech Literacy Challenge Fund, Comprehensive School Reform, State Assessments.

What the chart above does not reflect is any factor for student needs. As the chart below illustrates, DCPS has by far the highest percentage of low-income students in the area, and a much higher percentage of special education students, who receive higher cost services, than do Fairfax and Montgomery Counties. Based on student characteristics, DCPS should spend significantly more per pupil on average than any of its suburbs.



Because Fairfax County Public Schools use the WABE overall per pupil number and issue breakouts with per student budget allocation figures for general education, special education and ESL education, we have applied the WABE definitions and calculated DCPS budget allocations for fiscal year 2005 for these three categories to compare with Fairfax County allocations. Although the chart and figures are in the same format as the chart above for Basis 2, the numbers are different: those below include federal funds as well as local funds, add Teacher Retirement, and eliminate a few local budget lines not included in the WABE methodology.<sup>1</sup>

#### CONCLUSION OF HEARINGS

Senator BROWNBACK. Thank you for being here. Thank you for your hearts and your commitments that are making lives better for all people here and the people that come here.

With that, the hearing is recessed.

[Whereupon, at 11:43 a.m., Wednesday, June 15, the hearings were concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]

<sup>1</sup> Food service \$2.8 million, summer school \$2.4 million, capital planning \$0.3 million.

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