

The third category of problem disbursements are NULO's.

With a NULO, you get a quick match, but there is not enough money in the account to cover the check. It is overdrawn.

That could be a violation of the Anti-Deficiency Act, and that's a felony.

There is a fourth category of problem disbursements that DOD doesn't report. I did not mention it up front because it is not official. It was invented by the Senator from Iowa.

I call it mismatched disbursements.

I have spoken about Mr. Hamre's illegal progress payment policy several times this year.

Under the Hamre policy, checks are deliberately charged to the wrong accounts. That creates a mismatch.

It is a mismatched disbursement.

A mismatched disbursement is the flip side of an unmatched disbursement. It is a problem disbursement, for sure.

Mr. Hamre's progress payment scheme is producing a whole new category of problem disbursements.

And he doesn't even know it.

DOD makes over \$20 billion a year in progress payments.

If most are mismatched—as I suspect—then DOD's problem disbursements exceed the \$45 billion figure cited by the GAO.

If this were a \$1 million problem, I might not worry so much.

Unfortunately, billions of dollars of public money could be at risk. We just don't know—until DOD gets a good match.

When you have billions of dollars in checks with no documentation and you're writing them off right and left, your accounts are vulnerable to theft.

As CFO, Mr. Hamre is accountable for this mess.

Mr. President, Mr. Hamre has been selected by Secretary Cohen to fill the No. 2 spot at the Pentagon.

He would become the Deputy Secretary of Defense. That's a big job.

I am opposed to this nomination.

I will have much more to say about Mr. Hamre in the weeks ahead.

Mr. President, I want to be sure my colleagues understand where I am coming from.

#### CHIEF JUDGE KAZEN, U.S. DISTRICT COURT

Mr. GRASSLEY. Mr. President, I would like to briefly address an issue I talked about already on June 5. I want to clarify the record regarding an inaccurate Washington Post front-page story on Chief U.S. District Judge George P. Kazen of the southern district of Texas.

To refresh your memory, the Post reported on May 15 of this year that Judge Kazen had stated he was overworked, couldn't manage his caseload and needed more judges. The article then more than implied there was a backlog in his district and there was a crisis across the Nation which was cre-

ated by the Judiciary Committee playing politics at the cost of justice.

I had hoped we were done talking about that example of inaccurate and misleading reporting, but judging by a remark made Monday here on the floor, I must reiterate what I already said on June 5: there is no backlog in the southern district of Texas, the article III judges of that district, and of most districts of the country, for that matter, assure me that they can handle their caseloads just fine.

I noticed my colleague Senator LEAHY used this article Monday to once again complain about the pace of confirmations. Unfortunately, he has also become a victim of that misguided article.

As chairman of the Judiciary Subcommittee on Administrative Oversight and the Courts, I felt compelled to come before my colleagues and set the record straight on the southern district of Texas. Therefore, on June 5, I gave you the applicable statistics for the district and I gave you the responses my 1996 survey produced for that district. As you might recall, in an effort to keep the lines of communication open between this Congress and the judicial branch, I sent a comprehensive survey to all article III judges last year. Some of the questions in the survey addressed precisely this issue of a backlog. I said on June 5 and I'll repeat it today, both my survey and my communications with our Federal judges clearly show that there is no backlog and that a vast majority of the judges in the southern district of Texas, one of the largest and busiest in the Nation, can more than aptly manage their caseload. By the way, the same holds true for the Nation in general.

When I spoke to you on June 5, I wondered how come Judge Kazen would turn to the Washington Post and create such a different impression from what my research, my figures, and, most importantly, my communications with our Federal judges indicated. Well, it turns out that Judge Kazen was as surprised by the article as I was. You see, I just received a letter from Judge Kazen on June 6 and it has now become clear that Judge Kazen is as much a victim of inaccurate reporting as everyone who ended up reading that article is. According to Judge Kazen, he only talked to the reporter regarding his district's contemplation to move the home seat of a judicial vacancy from Houston to either Laredo or McAllen.

Incidentally, the vacancy Judge Kazen was talking about has been around since 1990. It therefore appears that my Democratic colleagues, who are so quick to cry "politics" when the Judiciary Committee dares to scrutinize a Clinton nominee, had ample opportunity to fill that seat and for one reason or another they chose not to do so.

Judge Kazen insists in his letter that while the article ultimately quoted him as speaking about judicial vacan-

cies, the conversation he had with the reporter was solely on the proposed move of the future judge's home seat. Judge Kazen further states that the article's focus on filling vacancies was never the focus of his conversation with the Post reporter. If mentioned at all, it was nothing more than a passing reference. Judge Kazen, in his letter to me, is adamant that he never described "any caseload as being unmanageable."

Therefore, not Judge Kazen, but the Washington Post used this one example to complain of backlog and unmanageable caseloads. Mr. President, the vast majority of the judges who have responded to my survey, who have written me letters, who have called my offices, or who have come before the Judiciary Committee or my subcommittee are not backlogged and are quite able to manage their caseloads. Judge Kazen's letter to me underscores that fact, and I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DISTRICT COURT,  
SOUTHERN DISTRICT OF TEXAS,  
June 6, 1997.

Hon. CHARLES E. GRASSLEY,  
*Chairman, Subcommittee on Administrative Oversight and the Courts, Senate Hart Building, Washington, DC.*

DEAR SENATOR GRASSLEY: Your letter of May 30, 1997, prompts me to seek clarification of what issues you believe that I raised in the Washington Post article of May 15. That article was the result of a telephone call in April from a Texas reporter working for the Post. She inquired about a letter I had written in February to the Democratic members of Congress from southern Texas. The letter had apparently been released to the media by one or more of the recipients, as it had already been the subject of press reports in Texas.

The purpose of my letter was to advise the Representatives that our Court was contemplating a request to the Judicial Council of the Fifth Circuit that the home seat of the judge who would eventually succeed former Chief Judge Norman Black be moved from Houston to either Laredo or McAllen. The possibility of such a move had been discussed off and on during 1996, but no action had been taken. We knew that this position would not be filled immediately, and we could have deferred action until later. However, we learned in February that the Representatives were meeting soon to recommend a nominee to the White House. They were doing so under the natural assumption that the person would sit in Houston. We decided that basic fairness required us to at least alert the Representatives to our plan.

The letter advised that the Court would "probably" request the move and that our final decision would be made at a meeting of the full Court in May. The letter stated in general terms why we were taking this step. This included the fact that the four "border" divisions of our Court have long borne the burden of one of the heaviest criminal dockets in this country. We advised that scores of new Border Patrol agents are scheduled for assignment to Laredo and the Rio Grande Valley this year, along with projected increases of other law enforcement agents. We concluded that many more agents inevitably will lead to more arrests and more prosecutions in our southern divisions. At least, this

should be the result if the agents do what they are hired to do.

The letter also advised that, for the first time in over twenty years, the chief judgeship of the Court had moved outside Houston. Under our seniority system, it will remain outside Houston for at least the next twenty years. The chief judge has typically been required to take a reduced docket to attend to the administration of this vast district, which consists of seven divisions spread over some 44,000 square miles.

The *Post* reporter had called to ask about the status of this matter. I told her that our plan was still on course. I never described any caseload as being "unmanageable." In response to her questions about the reason for our decision, however, I did try to explain the special pressures caused by an unrelenting criminal docket and why our judges felt the move was appropriate.

I realize that the *Post* article ultimately focused on filling vacancies, but that was not the focus of our conversation. If that topic was mentioned at all, which I cannot recall, it would have been a passing reference to the fact that we have a very old vacancy which we hope can be filled this year. The portions of the article actually quoting me are addressed to the issue of why our Court is seeking to move a judgeship away from Houston. It is our belief that this move is an internal judicial issue, governed by 28 U.S.C. §134(c). If I am mistaken in this regard, or if your subcommittee has concerns about it, I will try to assemble whatever data might be relevant, although this proposal is based to some extent on our best estimate as to the situation as we expect it to be whenever that new judge would be confirmed.

It does not surprise me that some of my colleagues reported to you that their dockets were manageable. It is precisely for this reason that the Houston judges have supported me in the effort described above. Their support is based on certain assumptions. First, we are assuming that Senior Judge Norman Black will be able and willing to carry at least a fifty percent caseload in Houston for the next several years. From June 1992 until December 1996, we had only one senior judge. That was Judge Hugh Gibson, who was helping with Judge Sam Kent's unusually large civil docket in Galveston. Judge Gibson became seriously ill last year and is only now beginning to attempt a comeback. Second, Judge John Rainey has currently been working in three divisions—Houston, Laredo and Victoria. Whenever the new judge arrives, Judge Rainey would drop Laredo and take a larger portion of the Houston docket. We think this is a positive step. Travelling between two divisions is not efficient; travel-

ling among three divisions is grossly inefficient, especially when those three divisions stretch over 300 miles. Third, we are hoping that the Houston filings will not drastically increase during the next several years. If any of these assumptions prove untrue, we may well have to go back to the proverbial drawing board.

I am attaching a newspaper report that a "record-setting number of U.S. Border Patrol recruits" are currently undergoing basic training, to be assigned along the Mexican border. Forty-two of these persons are scheduled for the Laredo Sector and 133 for the McAllen Sector. We understand that increases in other law enforcement agencies, together with United States Attorneys, are also planned.

In 1996, the criminal filings in the four "border" divisions (Laredo, McAllen, Brownsville, Corpus Christi) were 1239, compared with 1069 in 1995, a 16% increase. As of May 31, the 1997 criminal filings in these divisions are 206 in Brownsville, 130 in Corpus Christi, 175 in Laredo, and 158 in McAllen. These are the results of five months of grand jury work. Projecting those figures over 12 months would yield filings of 494, 312, 420 and 379 respectively. This would make a total of 1605, a 29% increase over 1996. These projections do not consider that, as far as I know, few if any of the new law enforcement agents are actually in place yet. Also, these statistics refer to cases, not defendants. Many of these criminal cases, especially narcotics cases, involve multiple defendants. For example, the 1239 cases filed in the four divisions in 1996 involved 1884 defendants. I am currently processing a single case with 22 defendants. These projections also do not consider any civil filings.

The step our court is proposing is, in my opinion, sound management and would increase organizational efficiency. I would hope that you would applaud our effort to place our resources where the demand is, since I believe that you have previously encouraged the Judiciary to consider precisely this type of move.

Despite the fact that I was not discussing the issue of vacancies with the *Post* reporter, I do not wish to imply that I am disinterested in that issue. Chief Justice Rehnquist and many others more eloquent and prominent than I have spoken often on the subject. In addition to the new vacancy created by Judge Black, we have a vacancy that has existed since 1990. The nominee currently before the Senate is the third person either nominated or recommended for this position, going back to President Bush. The current candidate was first nominated in late 1995, if I am not mistaken. She was re-

nominated earlier this year. This person is scheduled to sit in Brownsville. As you can see, we are conservatively projecting almost 500 criminal filings in that division this year, apart from any civil filings. The new judge and the incumbent, Filemon Vela, were also due to help Judge Ricardo Hinojosa, who sits alone in McAllen. As far as I know, no one has ever advised our Court that there was any doubt about the need for this position. In fact, based on our statistics, the Judicial Conference of the United States recently recommended that still another judge be added to our Court. The 1996 Biennial Judgeship Survey supporting this request is attached. I am also attaching our latest Magistrate Judge Survey, dated December 1994, prepared by the Administrative Office of the United States Courts, and the 1996 statistics showing the significant amount of work done by our magistrate judges.

Ours is a hard-working, very productive Court, which closed almost 13,000 cases last year, in addition to almost 4500 petty criminal cases closed by our magistrate judges. We realize that we will not get Judge Black's successor, much less a new position, anytime soon. However, we believe it is critical that at least our 1990 vacancy be filled in the reasonably near future. Judge Vela will be taking senior status within three years, and we must have a judge with some judicial experience in Brownsville before the vacancy cycle begins anew.

I hope this letter is helpful. I would be happy to discuss this situation with you at your convenience.

Sincerely yours,

GEORGE P. KAZEN.

#### ADJOURNMENT UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER (Ms. COLLINS). Under the previous order, the Senate stands adjourned until 10 a.m., Thursday, June 19, 1997.

Thereupon, the Senate, at 6:24 p.m., adjourned until Thursday, June 19, 1997, at 10 a.m.

#### NOMINATIONS

Executive nominations received by the Senate June 18, 1997:

##### THE JUDICIARY

FRANK M. HULL, OF GEORGIA, TO BE U.S. CIRCUIT JUDGE FOR THE ELEVENTH CIRCUIT, VICE PHYLLIS A. KRAVITCH, RESIGNED.