INFORMATION HEARING ON THE CLOSING OF PENNSYLVANIA AVENUE

HEARING

BEFORE THE

SUBCOMMITTEE ON THE
DISTRICT OF COLUMBIA

OF THE

COMMITTEE ON GOVERNMENT
REFORM AND OVERSIGHT
HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

JUNE 30, 1995

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INFORMATION HEARING ON THE CLOSING OF PENNSYLVANIA AVENUE

FRIDAY, JUNE 30, 1995

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA,
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT,
Washington, DC.

The subcommittee met, pursuant to notice, at 12:10 p.m., in room 2154, Rayburn House Office Building, Hon. Tom Davis (chairman of the subcommittee) presiding.

Present: Representatives Davis, Gutknecht, McHugh, and Delegate Norton.

Ex-Officio present: Representative Clinger.

Staff present: Ron Hamm, staff director; Anne Mack and Roland Gunn, professional staff members; Howard Denis, counsel; Cedric Hendricks, minority professional staff; and Jean Gosa, minority staff assistant.

Mr. DAVIS. Good afternoon and welcome to our informational hearing on the closing of Pennsylvania Avenue.

Pennsylvania Avenue is a major arterial road for the District of Columbia. It was part of the L'Enfant plan for the development of Washington, DC. Pennsylvania Avenue connects the Capitol to the White House and has been called "America's Main Street." Any closing of this historic street has enormous symbolic impact, whether the closure is temporary or permanent.

On May 19, 1995, Secretary of the Treasury Robert E. Rubin signed an order prohibiting vehicular traffic on Pennsylvania Avenue and on certain other streets adjacent to the White House. The Secretary delegated to the director of the U.S. Secret Service "all necessary authority to carry out such street closings."

The need for Presidential security and for temporary arrangements to effect that security is not questioned. Rather, this hearing will inquire into the authority to effect permanent changes to city streets in the District of Columbia and to assess the consequences of the actions taken regarding Pennsylvania Avenue.

It is essential for Congress to be certain that proper procedures were followed. An important distinction must be drawn between temporary and permanent changes to city streets. The law provides that both the District of Columbia government and Congress have a key role to play in any street closings.

Commuters and other motorists entering the District have a vital stake in the orderly flow of traffic. The impact of any change to a major city street such as Pennsylvania Avenue must be carefully evaluated with this in mind.

There are also fiscal issues for Congress to review. The changes made will affect many more streets than just those referred to in the Treasury order. Revenues from parking meters, loading zones, and vending spaces for adjacent streets must be analyzed as to any adverse impact on the city.

The subcommittee has initiated correspondence with the city and the Treasury Department on this issue. Those letters and correspondence will be put into the record of this hearing. Many city officials are here to testify today. The subcommittee and the Treasury Department mutually concluded that testimony, in addition to previously available written remarks, would not move us significantly forward today.

However, I intend to continue the correspondence with Secretary Rubin, and, at an appropriate time this summer, the subcommittee will conduct another hearing to address the long-term situation regarding Pennsylvania Avenue. It is vital that information on this issue be put into the record in order for this subcommittee to determine if further action is warranted.

I would yield now to the ranking member of the subcommittee, Ms. Norton, for an opening statement.

Ms. NORTON. Thank you very much, Mr. Chairman.

I would like to thank Chairman Davis for his quick response to my request for this hearing. The residents, businesses, and officials of the District of Columbia deserve their day in court. We need to know the effect of the critical decision to close Pennsylvania Avenue, a major thoroughfare of this city, on those who have personally to live with it.

I do not intend "day in court" to imply a challenge to the decision to take steps to protect the President and the White House complex. Following the Oklahoma City tragedy, most residents and commuters have accepted the need for further action. What we do not accept are any further unilateral steps without thorough consultation and agreement.

Interior Secretary Bruce Babbitt and Eljay Bowron, Director of the Secret Service, have personally assured me that full collaboration with District officials, Members of Congress, and others will now take place. With such cooperation, we can perhaps mitigate further damage to the District while maintaining strong security for the President.

We must accept the present closure, but I do not accept the notion that historic Pennsylvania Avenue must be closed forever. The case simply has not been made for a permanent closing. Will advances in technology, for example, make such heavy-handed, garrison-state security measures unnecessary in the future? The burden is on the Secret Service and others who are responsible for the closure. That burden has not yet been met.

My major concern now is to mitigate the harmful effect of the present closing on residents, businesses, commuters, tourists, and the city itself. In closing down a major artery of this city, the Federal Government has affected the life blood of our fragile economy. We have few enough residents and businesses in the city without making life harder for those hardy enough to remain. Every action we take must be done not only for the convenience of the govern-

ment but also the convenience of the taxpayers. The President must be protected; so must the average resident.

The closing could not have occurred at a worse time. The District does not have sufficient funds to keep its government going. Last night's action blocking a waiver of matching funds may mean a loss of $82 million to repair our streets. Residents and businesses are holding on for dear life.

Now, with the closing of Pennsylvania Avenue, what is to happen to those who have offices and businesses that have been made more inaccessible? What is the effect on property values? What effect does this have on the dwindling treasury of the District of Columbia? How are residents who live in the surrounding community affected? What has been the impact on traffic? In short, what has been the damage, and what can be done about it?

Respect for D.C. residents is also shown by respecting our local government, our local officials, and our local processes. We are told that security made respect for the normal procedures impossible. That cannot be said of any further actions that may be taken.

I will not support any further action in the affected area that does not have full public participation and support. This includes tearing up Pennsylvania Avenue to construct a mall, disturbing Lafayette Park, or in any way changing the area in front or behind the White House. I do not support a nationwide competition to prepare for any further changes. There will be time to determine whether these are appropriate steps. There is too little information available to make any further precipitous changes.

This hearing begins the Federal Government's attempt to begin to get that kind of information. Hopefully, this hearing will also result in the establishment of a collegial process that will bring satisfactory results all concerned can support.

Thank you very much, Mr. Chairman.

Mr. DAVIS. Ms. Norton, thank you very much.

Let me recognize the chairman of our full committee, Mr. Clinger, who has been a friend of the District of Columbia, and ask if he would like to make any comment.

Mr. CLINGER. I do not have an opening statement, Mr. Chairman. I commend you and Ms. Norton for holding this hearing.

I think it's time that we do get a full explication of the need for what has happened and, also, I am interested in finding out what the implications have been for the city thus far; what impact it has had; what are the long-term implications of the closing; and how long and so forth.

I think Ms. Norton has raised a number of the critical questions that we hope we will begin to get some information about in this hearing. So I, again, commend you both for holding the hearing.

Mr. DAVIS. Thank you.

Let me ask the majority member of this committee, Mr. McHugh, if he has any comments he would like to make at this time.

The gentleman from New York.

Mr. MCHUGH. Thank you, Mr. Chairman.

Like the full committee, I don't have a prepared statement, but I certainly want to add my words of appreciation to you for providing the continued leadership on not just this but so many matters affecting this very important place in our Nation. I commend Ms.

Norton, as well, for her continuing concerns in relation to the very special place in this country that she has the honor of representing.

This is, as Chairman Clinger just noted, a very important situation, one that affects not just the residents of the District of Columbia, although certainly it does affect them in very real and palpable ways, but every American citizen. And I think it is extremely important that we begin to take a very careful look at this process and ensure that whatever may happen in the future is in the best interest of every concerned party.

Last, let me say my words of welcome to the distinguished panel members who have come here today to share their insights and perspectives with us.

Thank you, Mr. Chairman.

Mr. DAVIS. Thank you very much, Mr. McHugh.

I am now pleased to introduce and welcome our distinguished witnesses. I am advised that District Council Chairman Dave Clarke, who is listed on our first panel, is en route from a hearing he has been chairing about the arena project. I will certainly entertain Chairman Clarke's testimony upon his arrival.

Our two other representatives of the District government are present: Mr. Michael Rogers, the city administrator; and Councilman Frank Smith, Jr., who chairs the relevant council committee. Mr. Rogers will testify as a representative of the Barry administration, and he will be accompanied by Mr. Larry King, director of public works for the District of Columbia.

Gentlemen, as you know, it is the policy of this committee that all witnesses be sworn in before they may testify. Would you each please rise with me and raise your right hand.

[Witnesses sworn.]

Mr. DAVIS. You may be seated.

The subcommittee will carefully review any written statements you care to submit. I respectfully ask that oral testimony be limited to 5 minutes each. At this time, I am going to ask Mr. Rogers for his statement, followed by Councilman Smith. Thank you.

STATEMENTS OF MICHAEL C. ROGERS, CITY ADMINISTRATOR AND DEPUTY MAYOR FOR OPERATIONS, DISTRICT OF COLUMBIA, ACCOMPANIED BY LARRY KING, DIRECTOR OF PUBLIC WORKS; FRANK SMITH, CHAIRMAN, COMMITTEE ON HOUSING AND URBAN AFFAIRS, COUNCIL OF THE DISTRICT OF COLUMBIA; AND DAVID A. CLARKE, CHAIRMAN OF THE COUNCIL OF THE DISTRICT OF COLUMBIA

Mr. ROGERS. Thank you, Mr. Chairman. Good afternoon, Ms. Norton, Mr. McHugh.

I am Michael Rogers, city administrator of the District of Columbia. Thank you for inviting me to address you regarding the closure of Pennsylvania Avenue and the impact of this closure on the District of Columbia, its residents, and its business community. For your information and to give you a frame of reference for these recent events, I would like to recap the activities of the past few months.

In early April 1995, the District of Columbia Department of Public Works and the Metropolitan Police Department became aware that the Department of the Treasury was considering a closure of

portions of Pennsylvania Avenue and E Street. However, these initial contacts were in the form of consultations. The District initially advised against the closures. However, after the Oklahoma City bombing, we were informed that the closures would occur.

When it became clear that the closures were to be made, DPW and MPD took the following immediate steps: First, parking was restricted on certain streets surrounding the closure, including H Street, I Street, 15th Street, and 17th Street. Numerous intersections were identified which would require special management as a result of the closure, and MPD took control of these intersections to assist in traffic management.

Second, in response to concerns expressed by the District and the Washington Metropolitan Transportation Authority, Madison Place, Northwest, from H to Pennsylvania Avenue remained open in the southbound direction, for Metro buses only. Pennsylvania Avenue, from Madison Place to 15th Street, was similarly open in the eastbound direction, for Metro buses only.

Third, a long-term traffic management plan was devised which has been implemented as of this week. Beginning Monday, June 26, 1995, the following changes were made: Designation of H Street, Northwest, from New York Avenue to Pennsylvania Avenue as one-way eastbound. The street was previously, of course, two-way. Designation of I Street, Northwest, from New York Avenue to Pennsylvania Avenue, as one-way westbound. The street was previously one-way eastbound. Designation of 15th Street, Northwest, from New York Avenue to K Street, as one-way northbound. The street was previously two-way.

Mr. Chairman and members, as you know, the District has incurred substantial cost as a result of the closings. For example, the cost incurred by the Department of Public Works for conversion of the streets in the vicinity of the closure has been budgeted at approximately $165,000. A special account has been established by the Federal Highway Administration to fully fund this effort.

With regard to the Metropolitan Police Department, officers have been operating traffic posts around the White House since May 22. These duties are being performed by off-duty police officers, who are working from 6:30 a.m. to 8:30 p.m. during weekdays. The detail is composed of a maximum of 23 traffic posts, 3 traffic enforcement scooter officers, three sergeants for supervision, and 1 lieutenant to direct the operation. However, since this is a voluntary detail, not all posts are always filled.

According to an agreement between MPD and the Department of the Treasury, the department will be reimbursed at a rate of $33.29 per hour. We have the listing of the number of officers and the hours and the reimbursements and the dates. For these dates, the costs total about $134,000. With the new traffic patterns, the number of traffic posts has dropped to 18, and MPD anticipates that the detail will be necessary through July 14.

With regard to parking meter revenue, we estimate that, to date, about $62,000 has been lost as a result of the initial actions taken following the closures. It should be noted, that after a few days, most of the parking restrictions were relaxed, and the loss of revenue decreased greatly.

The Washington Metropolitan Transportation Authority estimates that the change in bus routes, increase in driver time, increase in supervision, and notification of changes to the public has cost about $45,000. In addition, the Office of Mass Transit at DPW incurred $23,000 in costs in relocating bus shelters to new locations.

Mr. Chairman, it is the opinion of the District of Columbia that, clearly, any costs or loss from the closure of Pennsylvania Avenue and E Street should be reimbursed by the Federal Government. To date, the Federal Government has reimbursed the District appropriately.

As a part of the long-term evaluation of the closures, economic impacts will be identified, including the loss of business to enterprises in the area of the closure and the impact of tourism. This study will require some additional time for completion. In addition, the responsibility for emergency response and security on the 1600 block of Pennsylvania Avenue must be determined.

It is our opinion that MPD continues to have jurisdiction over the street. Under the previous arrangement, the Park Police had jurisdiction over Lafayette Park, the sidewalk near Lafayette Park, and the sidewalk next to the White House fence. While MPD had formal jurisdiction over the street, it allowed the Park Service to do the day-to-day enforcement on the street. MPD took over when there were demonstrations on the street segment.

We recommend that if and when any architectural changes are made to the area, further discussions are needed between MPD, the Park Police, the Secret Service, the FBI, et cetera.

In closing—and I will wrap up quickly—we in the District are also concerned about the long-term and proposed architectural changes for the Pennsylvania Avenue and E Street area.

If the Federal Government decides to make the closure permanent, it should request a formal closing. This process, when completed, will result in freeing the District of any maintenance responsibilities for the streets. If the architectural changes are expected prior to the formal closures and change of jurisdiction, the District of Columbia would expect to participate in the evaluations of such studies.

I appreciate the opportunity to testify before you. After hearing Councilmember Smith, Mr. King and I would answer your questions.

[The prepared statement of Mr. Rogers follows:]

U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA

PENNSYLVANIA AVENUE CLOSURE HEARING

FRIDAY, JUNE 30, 1995

TESTIMONY OF MICHAEL C. ROGERS

CITY ADMINISTRATOR/DEPUTY MAYOR FOR OPERATIONS FOR THE DISTRICT OF COLUMBIA

GOOD AFTERNOON, CONGRESSMAN DAVIS AND MEMBERS OF THE SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA.

THANK YOU FOR INVITING ME TO ADDRESS YOU REGARDING THE CLOSURE OF PENNSYLVANIA AVENUE AND THE IMPACT OF THIS CLOSURE ON THE DISTRICT OF COLUMBIA, ITS RESIDENTS, AND ITS BUSINESS COMMUNITY.

FOR YOUR INFORMATION AND TO GIVE YOU A FRAME OF REFERENCE FOR THESE RECENT EVENTS, I WOULD LIKE TO RECAP THE ACTIVITIES OF THE PAST FEW MONTHS.

IN EARLY APRIL, 1995, THE DISTRICT OF COLUMBIA DEPARTMENT OF PUBLIC WORKS (DPW) AND THE METROPOLITAN POLICE DEPARTMENT (MPD) BECAME AWARE THAT THE DEPARTMENT OF THE TREASURY WAS CONSIDERING A CLOSURE OF PORTIONS OF PENNSYLVANIA AND E STREET. HOWEVER, THESE INITIAL CONTACTS WERE IN THE FORM OF CONSULTATIONS. THE DISTRICT INITIALLY ADVISED AGAINST THE CLOSURES. HOWEVER, AFTER THE OKLAHOMA CITY BOMBING, WE WERE INFORMED THAT THE CLOSURES WOULD OCCUR.

WHEN IT BECAME CLEAR THAT THE CLOSURES WERE TO BE MADE, DPW AND MPD TOOK THE FOLLOWING IMMEDIATE STEPS:

1) PARKING WAS RESTRICTED ON CERTAIN STREETS SURROUNDING THE CLOSURE, INCLUDING H STREET, I STREET, 15TH STREET, AND 17TH STREET. NUMEROUS INTERSECTIONS WERE IDENTIFIED WHICH WOULD REQUIRE SPECIAL MANAGEMENT AS A RESULT OF THE CLOSURE, AND MPD TOOK CONTROL OF THESE INTERSECTIONS TO ASSIST IN TRAFFIC MANAGEMENT;

2) IN RESPONSE TO CONCERNS EXPRESSED BY THE DISTRICT AND THE WASHINGTON METROPOLITAN TRANSPORTATION AUTHORITY (WMATA), MADISON PLACE, N.W. FROM H STREET TO PENNSYLVANIA AVENUE REMAINED OPEN, IN THE SOUTHBOUND DIRECTION, FOR METRO BUSES ONLY. PENNSYLVANIA AVENUE, FROM MADISON PLACE TO 15TH STREET, WAS SIMILARLY OPEN, IN THE EAST BOUND DIRECTION, FOR METRO BUSES ONLY.

3) A LONG-TERM TRAFFIC MANAGEMENT PLAN WAS DEVISED WHICH HAS BEEN IMPLEMENTED AS OF THIS WEEK. BEGINNING MONDAY, JUNE 26, 1995, THE FOLLOWING CHANGES WERE MADE:

A. DESIGNATION OF H STREET, N.W. FROM NEW YORK AVENUE TO PENNSYLVANIA AVENUE AS ONE-WAY EAST BOUND (THE STREET WAS PREVIOUSLY TWO-WAY);

B. DESIGNATION OF I STREET, N.W. FROM NEW YORK AVENUE TO PENNSYLVANIA AVENUE, AS ONE-WAY WEST BOUND (THE STREET WAS PREVIOUSLY ONE-WAY EAST BOUND);

C. DESIGNATION OF 15TH STREET, N.W. FROM NEW YORK AVENUE TO K STREET, AS ONE-WAY NORTH BOUND (THE STREET WAS PREVIOUSLY TWO-WAY).

MR. CHAIRMAN AND MEMBERS, AS YOU KNOW, THE DISTRICT HAS INCURRED SUBSTANTIAL COSTS AS A RESULT OF THE CLOSINGS. FOR EXAMPLE:

1) THE COSTS INCURRED BY THE DEPARTMENT OF PUBLIC WORKS FOR CONVERSION OF THE STREETS IN THE VICINITY OF THE CLOSURE HAS BEEN BUDGETED AT APPROXIMATELY $165,000. A SPECIAL ACCOUNT HAS BEEN ESTABLISHED BY THE FEDERAL HIGHWAY ADMINISTRATION TO FULLY FUND THIS EFFORT.

2) WITH REGARD TO THE METROPOLITAN POLICE DEPARTMENT, OFFICERS HAVE BEEN OPERATING TRAFFIC POSTS AROUND THE WHITE HOUSE SINCE MAY 22, 1995. THESE DUTIES ARE BEING PERFORMED BY OFF-DUTY OFFICERS ARE WORKING FROM 6:30 A.M. TO 8:30 P.M. DURING WEEK DAYS. THE DETAIL IS COMPOSED OF A MAXIMUM OF 23 TRAFFIC POSTS, THREE TRAFFIC ENFORCEMENT SCOOTER OFFICERS, THREE

SERGEANTS FOR SUPERVISION, AND ONE LIEUTENANT TO DIRECT THE OPERATION. HOWEVER, SINCE THIS IS A VOLUNTARY DETAIL, NOT ALL OF THE POSTS ARE ALWAYS FILLED. ACCORDING TO AN AGREEMENT BETWEEN MPD AND THE DEPARTMENT OF THE TREASURY, THE DEPARTMENT WILL BE REIMBURSED AT A RATE OF $33.29 PER HOUR AS FOLLOWS:

DATE	OFFICERS WORKING	HOURS
5/22	44	289
5/23	50	351.5
5/24	36	243
5/25	33	221
5/26	40	285.5
5/30	35	238.5
5/31	32	253.5
6/1	41	303
6/2	42	359.5
6/5	29	268
6/6	48	294

6/7	46	231
6/8	53	373
6/9	37	303.5

FOR THESE DATES, THE COSTS TOTAL ABOUT $134,000. WITH THE NEW TRAFFIC PATTERNS, THE NUMBER OF TRAFFIC POSTS HAS DROPPED TO 18 AND MPD ANTICIPATES THAT THE DETAIL WILL BE NECESSARY THROUGH JULY 14, 1995.

3) WITH REGARD TO PARKING METER REVENUE, WE ESTIMATE THAT TO DATE, ABOUT $62,000 HAS BEEN LOST AS A RESULT OF THE INITIAL ACTIONS TAKEN FOLLOWING THE CLOSURES. IT SHOULD BE NOTED THAT AFTER A FEW DAYS, MOST OF THE PARKING RESTRICTIONS WERE RELAXED AND THE LOSS OF REVENUE DECREASED GREATLY.

4) THE WASHINGTON METROPOLITAN TRANSPORTATION AUTHORITY ESTIMATES THAT THE CHANGE IN BUS ROUTES;

INCREASE IN DRIVER TIME; INCREASED SUPERVISION; AND NOTIFICATION OF CHANGES TO THE PUBLIC HAS COST APPROXIMATELY $45,000. IN ADDITION, THE OFFICE OF MASS TRANSIT AT DPW INCURRED $23,000 IN COSTS IN RELOCATING BUS SHELTERS TO NEW LOCATIONS.

MR. CHAIRMAN, IT IS THE OPINION OF THE DISTRICT GOVERNMENT THAT, CLEARLY, ANY COSTS OR LOSS OF REVENUE WHICH HAVE DIRECTLY RESULTED FROM THE CLOSURES OF PENNSYLVANIA AVENUE AND E STREET SHOULD BE REIMBURSED BY THE FEDERAL GOVERNMENT. TO DATE, THE FEDERAL GOVERNMENT HAS REIMBURSED THE DISTRICT APPROPRIATELY.

AS PART OF A LONG-TERM EVALUATION OF THE CLOSURES, ECONOMIC IMPACTS WILL BE IDENTIFIED, INCLUDING LOSS OF BUSINESS TO ENTERPRISES IN THE AREA OF THE CLOSURE, AND IMPACTS ON TOURISM. THIS STUDY WILL REQUIRE SOME

ADDITIONAL TIME FOR COMPLETION.

IN ADDITION, THE RESPONSIBILITY FOR EMERGENCY RESPONSE AND SECURITY ON THE 1600 BLOCK OF PENNSYLVANIA AVENUE MUST BE DETERMINED. IT IS OUR OPINION THAT MPD CONTINUES TO HAVE JURISDICTION OVER THE STREET. UNDER OUR PREVIOUS ARRANGEMENT, THE PARK POLICE HAD JURISDICTION OVER LAFAYETTE PARK, THE SIDEWALK NEAR LAFAYETTE PARK, AND THE SIDEWALK NEXT TO THE WHITE HOUSE FENCE. WHILE MPD HAD FORMAL JURISDICTION OVER THE STREET, IT ALLOWED THE PARK POLICE TO DO THE DAY TO DAY ENFORCEMENT ON THE STREET. MPD TOOK OVER WHEN THERE WERE DEMONSTRATIONS ON THE STREET SEGMENT. WE WOULD RECOMMEND THAT, IF AND WHEN ANY ARCHITECTURAL CHANGES ARE MADE TO THE AREA, FURTHER DISCUSSIONS ARE NEEDED BETWEEN MPD, PARK POLICE, SECRET SERVICE, AND THE FBI TO DETERMINE THESE JURISDICTIONAL AND SECURITY QUESTIONS.

IN CLOSING, WE IN THE DISTRICT GOVERNMENT ARE ALSO CONCERNED ABOUT THE LONG-TERM AND PROPOSED ARCHITECTURAL CHANGES FOR THE PENNSYLVANIA AVENUE AND E STREET AREA. IF THE FEDERAL GOVERNMENT DECIDES TO MAKE THE CLOSURE PERMANENT, IT SHOULD REQUEST A FORMAL CLOSING. THIS PROCESS, WHEN COMPLETED, WILL RESULT IN FREEING THE DISTRICT OF ANY MAINTENANCE RESPONSIBILITIES FOR THESE STREETS. IF ARCHITECTURAL CHANGES ARE EXPECTED PRIOR TO THE FORMAL CLOSURES AND CHANGE OF JURISDICTION, THE DISTRICT OF COLUMBIA WOULD EXPECT TO PARTICIPATE IN EVALUATIONS OF SUCH STUDIES.

I APPRECIATE THE OPPORTUNITY TO TESTIFY BEFORE YOU TODAY-I WILL BE HAPPY TO ANSWER ANY QUESTIONS YOU MAY HAVE.

Mr. DAVIS. Thank you very much.

Councilman Frank Smith. It's good to have you here today. Thank you.

Mr. SMITH. Thank you, Chairman Davis, and to my own Congresswoman, Ms. Norton, Mr. McHugh, and other Members of the Congress.

I am pleased to be here today on behalf of the council and our government. As you already indicated, Chairman Clarke is holding a hearing on the arena tax this morning. He is, hopefully, wrapping that up soon enough to get here today. But he did ask me to convey to you his reason for being late.

It is a pleasure to testify today on the recent "temporary restriction of vehicular traffic access" on Pennsylvania Avenue and nearby streets, which, as I will explain shortly, is the preferred characterization of this action on the part of the Treasury Department.

In addition to responsibility in the area of housing, planning, and zoning, the Council Committee on Housing and Urban Affairs, the committee which I chair, is responsible for street and alley closing legislation that comes before the council.

On May 26, less than a week after the Treasury Department's restrictions, our committee held a roundtable. On June 22, the committee marked up its report and a proposed resolution. The resolution was introduced originally by myself and by Chairman Clarke, and we expect that it will come before the full council on July 11 for markup at our next session. The committee report and proposed resolution are attached to my testimony.

Let me say at the outset that the council, like all people of goodwill, is deeply concerned about the President's security and would not want in any way to impede the appropriate efforts, within the law, to improve security for the President of the United States. I do, however, want to address some issues deserving of our further attention.

Through the public hearing, we wanted to explore the implications of this restriction, not only on costs for the city and revenues foregone, about which you will be hearing further from other people in the city, but on other issues, as well.

We reviewed the restrictions as they related to future planning, local businesses, and the preservation of the integrity of what I call the President's plan for Washington; namely, the early plans generated and approved by the Congress of the United States under the sponsorship of President George Washington.

We put together evidence about the jurisdiction, and I don't intend to dwell on all of the points about that, except I want to summarize a few of them. A major issue is the jurisdiction of the various streets affected by the Treasury Department's closure. It is the view of the committee, based on the law and evidence submitted at the hearing and in the report, that the District has jurisdiction, as distinguished from ownership, over much of the area entailed by the Treasury Department's vehicular restriction.

By reference to the report, you will find that the city's jurisdiction rests on two pillars. The first of these pillars has to do with the city's charter of 1802 and whether Pennsylvania Avenue between 15th Street and 17th Street, Northwest, along with other

presently restricted streets, existed or were planned in 1802, and were therefore automatically covered by the charter.

The original planned public streets and alleys of the city of Washington were cited in a congressionally granted charter of 1802 as being under the jurisdiction, as distinguished from the ownership, of the local government. While the charter was amended subsequently and additional street and alley closing legislation was enacted, this fundamental jurisdiction was never changed.

The second pillar has to do with evidence of the existence of these streets and their maintenance by the District or of changed jurisdiction under applicable law. While there is some uncertainty about the planning of Pennsylvania Avenue before 1820, there is evidence of its existence and its maintenance by the local government from the early 1820's. You can see, attached to my testimony, testimony from Mr. Hawkins.

In this century, the Street Readjustment Act of 1932 was enacted by Congress to provide a way to formalize the transfer of streets not already covered by the 1802 act. Finally, the Street and Alley Closing and Acquisition Procedures Act of 1982 was enacted by the District of Columbia Council, which is currently the law with which we deal now.

These early actions and subsequent legislative acts all give the District of Columbia the jurisdictional authority over these streets and alleys not otherwise retained by the Federal Government or which are under completely private ownership, without easements for the District government's use.

The second issue has to do with properly characterizing the Treasury Department's action. It is our view that the Treasury Department has the authority to effect certain temporary traffic restrictions under a provision cited in its Treasury Order 170–09, but that permanent, complete street closings remain, at least under current law, within the purview of the District government.

The Council Committee on Housing and Urban Affairs decided to characterize the Treasury's action as "a temporary restriction of vehicular access" rather than a street closing. Pedestrian access will be allowed. Buses will turn onto the Avenue from Madison Place. If Pennsylvania Avenue is left largely open, perhaps at least buses will be allowed in the future.

If the streets were closed permanently and completely to both pedestrian and vehicular traffic, and if those streets were to qualify as falling under the District's jurisdiction, it is our contention that such closings would be subject to the District Street and Alley Closing and Acquisition Procedures Act of 1982.

I see my light has come on here, so I had better start to summarize.

Mr. DAVIS. Let me just say, your whole statement is in the record.

Mr. SMITH. The whole statement.

Mr. DAVIS. We're reading your whole statement up here, so questions will be based on your whole statement.

Mr. SMITH. Let me just say, in view of these conclusions about the jurisdiction, the council is concerned, not only about the District's immediate problems related to this restriction, but also about whether there will be any brakes on the Federal Govern-

ment's actions in the future, regarding possible other restrictions or other jurisdictional issues having to do with the District's streets.

In general, it does not seem to me to be good public policy to skirt on the edge of the law or to allow such latitude of interpretation that absolute discretion can be exercised without clear standards and clear scrutiny.

I won't go into the issues of cost and related issues. You have heard of these from our deputy mayor, and you will hear more from the public works department. I will just summarize by saying that you do have my written statement, and I stand ready to answer any questions that you might have regarding these matters.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Smith follows:]

STATEMENT OF COUNCILMEMBER FRANK SMITH, JR., CHAIRMAN
COMMITTEE ON HOUSING AND URBAN AFFAIRS
COUNCIL OF THE DISTRICT OF COLUMBIA
WASHINGTON, D.C.

BEFORE THE
SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

REPRESENTATIVE THOMAS M. DAVIS, CHAIRMAN

June 30, 1995

It is a pleasure to testify today on the recent "temporary restriction of vehicular access" on Pennsylvania Avenue and nearby streets, which, as I will explain shortly, is the preferred characterization of this action on the part of the Treasury Department. In addition to responsibility in the areas of housing, planning and zoning, the Council Committee on Housing and Urban Affairs, the committee I chair, is responsible for street and alley closing legislation that comes before the Council. On May 26th, less than a week after the Treasury Department's "restriction", our committee held a roundtable. On June 22nd the committee marked up its report and a proposed resolution. The proposed resolution was introduced originally to the Council jointly by Chairman Clarke and me and referred to the Committee on Housing and Urban Affairs by Chairman Clarke for review and markup. The proposed resolution will go before the full Council on July 11th, its next session. The

committee's report and proposed resolution (attachment 1 of the committee's report) are attached with this testimony.

Let me say at the outset that the Council, like all people of good will, is deeply concerned about the President's security and would not want in any way to impede appropriate efforts within the law to improve security for the President of the United States. I do, however, want to address some issues deserving of further attention. Through the public hearing, we wanted to explore the implications of this restriction, not only on costs for the city and revenues foregone--about which you will be hearing further from the city's administration and from the Council Chairman--but on other issues as well. We reviewed the "restriction" as it relates to future planning, local businesses, and the preservation of the integrity of what I call the President's plan for Washington (namely the early plans generated and approved by the Congress of the United States under the sponsorship of George Washington). We put together evidence about jurisdiction. I do not intend to dwell on all these points but rather to summarize a few of them, and to urge you to review the committee's report for a more thorough treatment of these and other issues.

Ownership and Jurisdiction of Streets

A major issue is that of jurisdiction of the various streets affected by the Treasury Department's "restriction". It is the view of the committee, based on law

and evidence submitted at the hearing and in the report, that the District has jurisdiction, as distinguished from ownership, over much of the area entailed by the Treasury Department's "vehicular restriction". By reference to the report you will find that the city's jurisdiction rests on two pillars.

The first of these pillars has to do with the city's Charter of 1802[1] and whether Pennsylvania Avenue between 15th Street and 17th Street, N.W., along with the other presently "restricted" streets, existed or were planned in 1802 and were therefore automatically covered by the Charter. The original planned public streets and alleys of the city of Washington were cited in the Congressionally granted charter of 1802 as being under the jurisdiction--as distinguished from ownership--of the local government. While the Charter was amended subsequently, and additional street and alley closing legislation was enacted, this fundamental jurisdiction was never changed.

The second pillar has to do with evidence of the existence of these streets and their maintenance by the District, or of changed jurisdiction under applicable law. While there is some uncertainty about the planning of Pennsylvania Avenue before

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[1]Section 7 of the charter, "An Act to Incorporate the Inhabitants of the City of Washington, in the District of Columbia", afforded this jurisdiction: "The Corporation shall have the full power and authority to pass all by-laws and ordinances to keep in repair all necessary streets, avenues, drains and sewers, and to pass regulations necessary for the preservation of the same, agreeably to the plan of the said city."

1820, there is evidence of its existence and its maintenance by the local government from the early 1820's (see the testimony of Mr. Hawkins, historical cartographer, in the committee report). In this century, the Street Readjustment Act of 1932 was enacted by Congress to provide a way to formalize the transfer of streets not already covered by the 1802 Act. Finally, the Street and Alley Closing and Acquisition Procedures Act of 1982 was enacted by the city, which is the law we deal with now. These early actions and subsequent legislative acts all give the District of Columbia the jurisdictional authority over those streets and alleys not otherwise retained by the federal government or which are under completely private ownership without easements for the District government's use. (The United States Congress, incidentally , has reserved certain streets in its vicinity for its jurisdiction under the Architect of the Capitol exclusively, with only some of these streets to be maintained and improved by the District of Columbia.)

Characterization of the Treasury Department's Action

The second issue has to do with properly characterizing the Treasury Department's action. It is our view that the Treasury Department has the authority to effect certain temporary traffic restrictions under the provisions cited in its Treasury Order 170-09, but that permanent, complete street closings remain--at least under current law--within the purview of the District government.

The Council's Committee on Housing and Urban Affairs decided to characterize the Treasury Department's action as a "temporary restriction of vehicular access" rather than a street closing. Pedestrian access will be allowed, buses will turn onto the avenue from Madison Place, and if Pennsylvania Avenue is left largely open, perhaps at least buses will be allowed in the future. If the streets were closed permanently and completely to both pedestrian and vehicular traffic, and if those streets were to qualify as falling under the District's jurisdiction, it is our contention that such closings would be subject to the District's "Street and Alley Closing and Acquisition Procedures Act of 1982". This is a somewhat strained interpretation, for it can be argued that any proposed infringement on the use of these streets should trigger the applicability of the city's alley and street closing act. [Related thereto, incidentally, is our view that the federal government should comply with its own requirements, such as are embodied in the National Environmental Protection Act of 1969 and its regulations ("EIS") and the National Historic Preservation Act of 1966 as amended ("NHPA") when it undertakes actions such as these restrictions.] In the attached report, you will find a description of our street and alley closing law and the manner in which it works in the summary of testimony afforded by Mr. Lantz, the District's Surveyor.

For your information, we have concluded that Pennsylvania Avenue, N.W.,

between 15th and 17th Streets, N.W., is under the District of Columbia's jurisdiction, except for the sidewalk area on the South side. The sidewalk area along the perimeter of Lafayette Park was transferred de facto to the Department of Interior in 1963 by an agreement between the city and the Department of the Interior. Jackson Place and Madison Place (except for one small portion of Madison Place between the sidewalk and the property line at the H Street end of Madison Place on the east side transferred de facto to GSA in 1965) are also under the District's jurisdiction. E Street is under the Park Service's jurisdiction. It is my understanding that the streets proposed for closing on Capitol Hill, Delaware Avenue, N.E., and C Street, N.E., are not under the city's jurisdiction but are under the Architect of the Capitol's jurisdiction.

In view of these conclusions about jurisdiction, the Council is concerned not only about the District's immediate problems related to this "restriction", but also about whether there will be any brakes on the federal government's actions in the future regarding possible other "restrictions" or other jurisdictional issues having to do with the District's streets. In general, it does not seem to me to be good public policy to skirt on the edge of the law or to allow such latitude of interpretation that absolute discretion can be exercised without clear standards and public scrutiny.

Costs and Revenues

I am going to gloss over this issue because of testimony others will be giving. It is important to indicate for the record of your hearing that the District understands that it has a commitment for reimbursement of its immediate costs from the federal government which will not count against its FY 95 budget cap or, to be hoped, the federal payment. I urge you not to allow these costs to count in any way against our cap or the federal payment. In the case of the Department of Public Works, federal highway fund monies with no match will be used and carried under the city's capital budget. In the case of the Metropolitan Police, short-term costs will be handled through direct billing to the Department of Treasury, and these costs will be in the non-appropriated budget classification. I understand that a good number of the parking meters originally removed from service will be restored to service so that our long-term revenue loss in this respect can be reduced, as can the costs to local businesses. I am pleased that the interests of various of our businesses and churches have been addressed to the degree that they can be addressed by the administration. I worked, for example, with the administration in securing an arrangement for the Riggs Bank on Pennsylvania Avenue across from the Treasury Department to have a turn-around access and limited parking. Finally, in addition to the longterm concern about revenue loss, a major issue is that of the effect of the "restriction" on

our bus service, both for patrons who will have less satisfactory service, and for the city's increased costs through its formula with METRO.

Long term planning

The hearing testimony and the proposed resolution recommend long-term planning and studies which at the hearing we were told would be undertaken with the assistance of funding from the federal government. This planning should take cognizance not only of the problem of moving traffic in various places--and the District is fortunate that our forefathers planned a street plan system which facilitates traffic movement-- but should encourage use of mass transit and fully recognize the importance of the integrity of the city's grand plan. As for the design of the area in front of the White House, several witnesses expressed the view that whatever fancy design emerges should have open and uncluttered space as its basic feature so that perhaps the street will be available eventually for at least bus traffic.

In light of the Oklahoma bombing and increased concern about security of the federal establishment, the President issued an order recently about heightened security for federal buildings. While recognizing the importance of adequate security of the federal establishment, the Council is anxious to work out an orderly process whereby we can consider any future restrictions of our sidewalks and streets. The National Capitol must find a way to accommodate security interests of the federal

establishment while at the same time dealing with the day to day issues of traffic management, full use of our streets and our sidewalks by our citizens, visitors--some 18 million of whom come to this Capitol City each year, our businesses, and the integrity of the city's grand plans. I would hope that we can discourage a growing movement on the part of the federal government to close the city's streets and to barricade the sidewalks adjacent to federal buildings.

You will find the Committee's conclusions on page nine of the report, and the Committee's proposed resolution as the first attachment. Thank you for allowing me to present my views.

Mr. DAVIS. Thank you.

Let me just start the questioning, and I will start with you, Councilman Smith. The District law that would provide a process for closing streets, and so on, if the Secret Service and the Treasury Department wanted to follow that, could you explain to me what those procedures would be? Second, what concessions, if any, are normally requested or received from those who apply to close a local street or alley? I mean, what would be the general process, if they wanted to call this a street closing? What would be involved and the cost, in your judgment?

Mr. SMITH. The way our process works, it begins with the abutting property owner's making an application to the surveyor of the District of Columbia, Mr. Lance's office. In this case, the abutting property owners would be considered the U.S. Government, so it would file a request, and the surveyor would do his due diligence, so to speak, and then would forward his recommendation to the Mayor of the District of Columbia.

The Mayor of the District of Columbia would forward a resolution recommending the street and alley closing to the Council of the District of Columbia. The chairman referred the legislation to the committee which I chair. We would hold a public hearing, vote the matter out, and then it would come before the full council for enactment, go back to the Mayor for signing. That's how the legislation process works.

Mr. DAVIS. You would look at the costs involved, and that would all be factored in at that point?

Mr. SMITH. Absolutely. The surveyor's office has to do a series of things. His office must consult with the public works department about issues involving trash, access to trash collection and pickup. He would consult with the fire department, for example, about issues related to whether you could still fight the fires around there, because we have to leave access.

Then he would also clear up the title of the abutting property owners to make sure we had the parties at the table, and whatever issues they have between them, and he would make recommendations on those issues.

And he would also check, by the way, with the various utilities involved to make sure that, for example, water and sewer could have access to whatever water and sewer connections were there, that the various utilities, like the power company, had access to power lines, if there were any there, and if the phone company had any phone lines that it needed access to, and things like that.

Mr. DAVIS. Let me say this: In this case, with the financial ramifications that it has on the city, I hope that you have taken all of the costs into account. Generally, would you ask for a contribution to offset closure costs?

Mr. SMITH. What we would do is this: The city has various laws that relate to street and alley closing, one of which, for example, is that, if it were in the downtown area, as this is, in the DDD, as we call it in our comprehensive plan, it may be that, depending upon whether, for example, it enhanced the value of the abutting property owners, we may ask them to either build—depending upon what they were—if they were building an office building, for example, they may have to build some housing there.

There is a process by which they could get out of building housing by making a contribution to our housing production trust fund. So there are some amenities associated with it, depending upon how much it enhanced the value.

Also, if there were a loss of, for example, income, as is the case here, where you are losing parking meters and things like that, we would factor that into what we would require the property owners to pay the city as compensation.

Mr. DAVIS. What I would like to do now, if there is no objection, we are pleased to have the chairman of the City Council, David Clarke.

David, I need to swear you in. If you would, please stand up.

[Witness sworn.]

Mr. DAVIS. We are very pleased to have you here. I understand you were chairing a meeting on the arena prior to coming.

Mr. CLARKE. Yes.

Mr. DAVIS. You don't need to give us a report on that now. We can talk afterward, but that's of vital concern to all of us.

Mr. CLARKE. We consulted with your staff, and we were told that you wanted all that homework done before you went to your July 12 hearing. So we were trying to do that.

Mr. DAVIS. I am glad to hear you are working on it.

Mr. CLARKE. We had scheduled this hearing that we had today before we got the word.

Mr. DAVIS. That's fine. We're glad to have you here.

Mr. CLARKE. That's the reason I'm late.

Mr. DAVIS. Go ahead.

Mr. CLARKE. I'm not sure what my colleague, Mr. Smith, has covered. He is certainly familiar with it all. I have referred to his committee the legislation that he and I introduced, by way of resolution, into the council, to make a statement by the City Council with respect to the closure of Pennsylvania Avenue and its effect upon the city.

It is not a piece of legislation, although it is our general counsel's view and it is my view that, under the District of Columbia code, the council must be in an approval posture—or disapproval posture—of a permanent alley closing; i.e., a closure where the title to the land actually is conveyed.

We have two different kinds of uses of the word "closure," an alley or street closure; that is, the land kind of title that I've just spoken to, also the question of stopping some activities upon a street, which occurs frequently throughout the city for various purposes.

So what we are dealing with, with this resolution, is a statement. We will see in the future whether we have to deal with the issue of the permanent alley closure and what happens under that.

Not wanting to be repetitive, but if you will forgive me and interrupt me if I am wrong to be repetitive with my colleague, whose committee it is to oversee this matter, he and I have introduced this resolution, and on May 26, less than a week after the restriction was placed on us and our city, Mr. Smith's Committee on Housing and Urban Affairs had a hearing. On June 22, it marked up its report and proposed resolution. We are going to vote on that,

I think it's July 11. The proposed resolution will go before the council on, as I said, July 11.

The vehicular restrictions that have already resulted, and will continue to result, have significant adverse impacts upon the residents, the businesses, and the visitors in the District of Columbia, including adverse traffic impacts; that is, vehicular circulation, parking availability, and commercial loading and unloading; economic impacts, both direct and indirect impacts, upon existing and new businesses, and upon short-term and long-term costs and foregone revenues to be borne by the District of Columbia; and upon the historic preservation of our city and environment impacts.

It is our view that the Federal Government should immediately undertake and pay for the entire cost of both an environmental impact statement and study, as defined by the National Environmental Protection Act, and a historic resources study, as defined in the National Historic Preservation Act.

These Federal laws establish processes which would provide an opportunity for public and governmental, Federal and District participation in the identification, study, and cost of every short-term and long-term adverse impact resulting from the vehicular restrictions, and the identification, study, and cost of each action necessary to eliminate or mitigate every adverse impact.

The Federal Government should pay for the entire cost of eliminating or mitigating every adverse impact resulting from vehicular restrictions, with Federal funds which are not part of the annual Federal payment to the District government, nor part of any other Federal funds which would otherwise be provided to the District government, and without regard to any expenditure limitations to which the District government is subject.

When Councilmember Smith's Committee on Housing and Urban Development held a hearing 1 month ago on this issue, there was overwhelming consensus amongst our business and residential communities that a process needs to be established to both identify and pay for the mitigation of every adverse impact resulting from the Federal Government's vehicular restrictions in the economic and historic heart of our city.

It is my view that the Federal Government's own laws, the National Environmental Protection Act, and the National Historic Preservation Act, provide the best framework for these adverse impacts to be identified and mitigated. I applaud this committee for holding this hearing and encourage your support for the establishment of such a process.

Thank you again for the opportunity to testify here today.

[The prepared statement of Mr. Clarke follows:]

TESTIMONY OF D.C. COUNCIL CHAIRMAN DAVID A. CLARKE

BEFORE THE SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA OF THE

U.S. HOUSE COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

ON THE RESTRICTION OF VEHICULAR ACCESS

TO STREETS AROUND THE WHITE HOUSE

June 30, 1995

Good afternoon, Chairman Davis, Congresswoman Norton and Members of the Subcommittee on the District of Columbia. Thank you for inviting me to testify today on the federal government's restriction of vehicular access to streets around the White House and, I might add now, to certain streets around Congressional and other federal office buildings.

My concerns regarding this issue are set forth in a proposed resolution which I co-introduced in the Council a few weeks ago with Councilmember Frank Smith, and which the Council is scheduled to consider at its next legislative meeting on July 11th. Appended to my testimony is the full text of this resolution, from which I would like to summarize a few key points:

1. These vehicular restrictions have already resulted, and will continue to result, in significant adverse impacts upon residents, businesses and visitors in the District of Columbia, including adverse traffic impacts (i.e., vehicular circulation, parking availability, and commercial loading and unloading); economic impacts (both direct and indirect impacts upon existing and new businesses, and upon short-term and long-term costs and foregone revenues to be borne by the District government), and historic preservation and environmental impacts.

2. The federal government should immediately undertake and pay for the entire cost of both an environmental impact statement and study, as defined in the National Environmental Protection Act, and a historic resources study as defined in the National Historic Preservation Act. These federal laws establish processes which would provide an opportunity for public and governmental (federal and District) participation in the identification, study, and cost of every short-term and long-term adverse impact resulting from the vehicular restrictions, and the identification, study and cost of each action necessary to eliminate or mitigate every adverse impact.

Mr. MCHUGH [presiding]. Thank you, Mr. Clarke.

To state the obvious, the chairman has left to go cast his vote, as was indicated with the two-bell signal, the idea being to try to keep the hearing in session and proceed, and not take more of your valuable time than is absolutely necessary.

Mr. CLARKE. If I could have another second of your time.

Mr. MCHUGH. Absolutely, sir.

Mr. CLARKE. I just read you my prepared testimony. I had written it a couple days ago and sent it up here yesterday. I learned today that something that was discussed in my office within 72 hours of the closure, when the Under Secretary of the Department of the Treasury came to my office, the Director of the Highway Program of the Federal Government came to my office, the Director of the Secret Service came to my office, and it was said to us clearly, although we were not advised of this until about 17 hours before the closure, that the Federal Government was willing and able to address the impact of it.

During that discussion, it was said by the highway director that one possibility would be the problem that we were having during our financial crisis with making about a $16-million match on the highway funds. Not too long after that meeting, we were pleased to see that it was announced by the highway director and by Mayor Barry that that match would be excused, if you will, the result being that we could go ahead with $82 million worth of road programs in the District of Columbia and $90 million worth of programs next year.

In the middle of all the crisis that we have, that was welcome, very welcome. And I quipped that it took the closure of Pennsylvania Avenue to cause that to happen. But now it appears that that might not really happen. It appears that it might not really happen by a decision within or maybe of the Congress of the United States.

The people of the District of Columbia just can't take it anymore. I mean, our people are moving slowly to work. It is very difficult for any of our people who work in the downtown area to get to work. It is very difficult for all of our people to go home every day. We understand that. We want to defend the safety of the President of the United States. But we can't be expected to not only endure all that but to pay for the mitigation of that, as well.

So I have to come with a very strong word in addition to what I have written, and that strong word is, the Federal Government just can't keep doing it to us. They have done it to us with the pensions. They have legislated pensions that we have to pay now over $300 million a year for, a $5.3-billion unfunded liability for. They have impacted our tax base, in terms of the income tax.

I am not going to take this occasion to go into the commuter tax issue, but they haven't addressed any alternatives for regional financing of the core—they put upon us, and we agreed to it being put upon us—State functions. But now that we recognize that the Federal Government is sort of the state and we are sort of the city, there are no approaches to assuming those State functions.

They have said that we need some discipline, which we do, in terms of the administration, the expenditure of what we have, and we are cooperating with that. But then, wham, there goes $82 million; next year, $90 million—wham, wham—because the Federal

Government determines to close one street in our city. But that's the impact on us.

They were all well-meaning actions that the Federal Government took with those pensions and with all of those things. They were all well-meaning, but they wind up costing an awful lot of money, and we wind up having to pay for it.

Mr. MCHUGH. Well, Mr. Clarke, I can certainly understand your concerns. It's not my place to speak for the chairman of this subcommittee. But I do think it's fair to say, in the 6 months-plus that I have been a member of this subcommittee in the 104th Congress, I think the chairman of the full committee and Chairman Davis of the subcommittee, Ms. Norton, and others have worked very hard to try to come to grips with many of the issues and problems that you have very rightly stated here today.

As to the question of the matching funds, that is an issue that is being discussed within Congress. The question is one of process. Did that administrator have the right, in and of himself, to make that waiver? That judgment has not been made. I will say that, to my knowledge, both Mr. Davis and Ms. Norton are working on that issue, as well.

But that is the reason we are here today, to begin to try to assess the impact of this action on the District and on its residents and what we might do to be helpful.

With that, I would be honored to yield to Delegate Norton for any questions she might have.

Ms. NORTON. I know you have to go to vote, Mr. Chairman, I think probably we should let that happen. I wish I could accompany you.

Thank you very much. The majority is trusting the minority to continue at the moment. I want to make sure that no vote is missed.

First, let me just say that Mr. Clarke's concern could not be better placed. We have had considerable help from the Congress on revenue matters, but this one was especially important to us. We are getting tremendous help from the administration. We've gotten some help from the Speaker. We've gotten help from Mr. Davis. And we thought everybody was on board.

My good friend, Mr. Shuster, who has also been good to the District in his day, objected to the waiver. The reason had to do, he said, with the fact that he himself had voted against a waiver for Pennsylvania at some point in the past. Apparently, Pennsylvania was later able to work out a compromise that got it its funds, however.

So we are continuing to work. Tom Davis and I are working very hard, because this money will, for all intents and purposes, be lost to us. I mean, there's a way you could get it, but, in effect, you couldn't.

This is a union of States and the capital city. The notion that we could be in our financial need and have to give up $82 million for streets that are more used by tourists and commuters than they are by us is an irrational result. And you are right; we had thought this was all going very well.

I will say this, Mr. Shuster—I am on the committee, the full committee—Mr. Shuster has said to me, "My mind is not closed,"

and we are still working on that. But you are quite right to bring that up at this point, and I want to assure you that the matter has not been dropped. It means jobs; it means streets; it really means everything at the moment.

I wonder if any of you could compare the volume of traffic that was normally on the streets involved, 15th Street, 17th Street, Pennsylvania Avenue, with other streets. Was this square, under normal circumstances, before the closing, more busy, less busy or, on the average, simply as busy as other downtown streets?

Mr. KING. Ms. Norton, I'm Larry King, department of public works.

This street is a very busy street. It's one of our major east-west arteries. Prior to the closing, it carried some 23,000 vehicles per day. Directly after the closing, there was a significant drop-off in traffic in the area, as people scuttled to find alternate ways around. The traffic has now found its way back to H Street and I Street, because it just takes too long to find other ways around.

So I believe that the traffic——

Ms. NORTON. The reason I asked for the relative—because I really have only a guesstimate from my own experience as a Washingtonian, and I know I always avoid 15th Street—this is before the closing—I always avoided 15th Street and 17th Street. In non-rush hour or rush hour, I tried to find myself another street.

Pennsylvania Avenue, I suppose, if you could get there, because it was wide enough, might not be as bad. But 15th Street and 17th Street were two streets, when you are trying to figure out how to go, that I always avoided. Now, maybe that was simply an anecdotal perception. But I am trying to compare that square block with any comparable block, so that I will have—or perhaps you will have—some relative sense of what kind of traffic we were already dealing with there.

This is the kind of question we might have asked ourselves before this happened in the first place. Before they closed it in the first place, it might have helped us to know how to go about it.

Mr. MCHUGH. Ms. Norton, if I may interrupt, I do apologize. Neither Chairman Davis nor I are as young as we used to be. He is taking a bit longer to get back. I need a little bit longer to get over to the floor. As you know, we are on strict 17-minute votes. So I am going to have to call for what I hope will be a very short—well, he is getting better. So nice talking to you all.

Ms. NORTON. On que.

Mr. DAVIS [presiding]. [Microphone not on.]

Ms. NORTON. I understand that I can proceed.

Could you just give me some relative comparison? I know that's difficult, but I am trying to assess the relative difference, frankly.

Mr. KING. It's going to be difficult to state that right now, but we are, with the help of the Federal Highway Administration, conducting a study that would give us exactly that information.

Ms. NORTON. I appreciate that. If a study is going to make those comparisons, you are right, we should wait for that.

Mr. KING. And it will compare before and after, and not only just this square, but the whole downtown area, from Massachusetts Avenue on the north, to North Capitol to the east, and the Potomac River and Rock Creek Park in the other directions.

Ms. NORTON. Do you yet know how many parking places have been lost or how much parking revenue has been lost to the District?

Mr. KING. We have the parking revenue that we have lost to date, $62,000 in parking revenue. That includes meters as well as we also know how many tickets are generally given on each meter in town.

Mr. NORTON. I'll bet you do.

Mr. KING. That's factored in also.

Ms. NORTON. That money, I take it, is not being reimbursed?

Mr. KING. It's part of what we're asking for.

Mr. ROGERS. Yes, it's part of what we're asking for. We think it should be reimbursed. It has not been reimbursed yet.

Ms. NORTON. There were promises to reimburse the District for certain expenses. I would like to know—and they even named—the Federal Government, the Treasury Department named some of those expenses. Could you give me an idea of what expenses they have already said they would reimburse?

Mr. KING. Well, the Federal Highway Administration has given us $165,000 to ease the traffic and street problems that this caused. As Mr. Rogers indicated, Treasury has indicated it would reimburse us for the Metropolitan Police doing the traffic duty. And that is entered into the record, the amount for each intersection. The total we think is about $450,000.

Ms. NORTON. But they have not said that specifically they will reimburse us for lost parking meters?

Mr. KING. Not yet.

Ms. NORTON. Now, beyond the parking meters, you spoke in your testimony—I don't know whose, Mr. Rogers or Mr. Clarke—about the detail of police who are directing traffic. You also indicated that they are not there permanently.

Mr. ROGERS. Temporary assignment, off-duty police officers.

Ms. NORTON. By the way, why are they voluntarily there? You said it was a voluntary detail. Why aren't they simply assigned there and the city reimbursed, or somebody else assigned there?

Mr. ROGERS. Well, if they are off-duty, you know, it certainly has to be voluntary.

Ms. NORTON. I see. Oh, yes, I see. These are people who have already——

Mr. ROGERS. Right.

Ms. NORTON. I see. I understand.

Mr. KING. Done their tour of duty, and this is additional work.

Ms. NORTON. I see. The money to pay them, to pay the detail, comes up front rather than being reimbursed?

Mr. ROGERS. I don't know that specific detail. That is worked out between MPD and Treasury.

Ms. NORTON. For the record, I would like to know that. In light of the District's shortfalls, if there is going to be money involved, reimbursement does not seem to me to be the best way, during this period, to deal with it. I would appreciate that information within the next week.

If this detail were to be pulled back next week, what would be the effect on traffic?

Mr. KING. We believe that with the signs and the fact that we have had police officers out for the amount of time we have had them out, and the media letting people know about the change in the traffic patterns, that it would be minimal in the future. Also, we would just have to take a look at it. You don't know these things until you actually try them.

I know the first day of the switch-over of H and I, there were certain intersections that police—I went down and talked to a number of them—indicated that traffic flowed really well; they didn't have any problems. There were a number that they had tremendous problems with, in terms of people wanting to turn the wrong way and that kind of thing.

I think, by the time that they end the detail—I believe it's July 14—that traffic will know where to go, and we won't have to worry about people turning in the wrong direction.

Ms. NORTON. Well, they won't have to worry about that, but you testified that 15th and 17th Streets were among the busiest arteries.

Mr. KING. Exactly.

Ms. NORTON. You can't make the relative comparison, but you were willing to say they are among the busiest arteries. I have certainly been to those streets since.

Assuming everybody knows which way to turn, what does that have to do with the volume of cars that will be going up and down 15th and 17th Streets?

Mr. KING. The volume of cars is going to be pretty much the same. People are going to various places. As you know, 15th and 17th get you to Connecticut and to K Street, and to go north and east and west. So it's kind of major way that's always going to have a lot of traffic on it.

Ms. NORTON. As I think all of you perhaps know, in the morning when Congress and staff come, and in the evening when we leave, down at South Capitol and all around the Capitol, there are police men and women who direct traffic. And they do so because this is the Capitol complex and they want to keep the traffic going, and because they feel an obligation to keep traffic going in this Federal area.

Now, Pennsylvania Avenue has been closed off for exclusively Federal reasons. We just heard testimony that, while people may know which way to turn, the volume of traffic is not likely to change. Having been on those streets, the traffic cops seem to have kept the traffic moving fairly smoothly. If they are not there, considering the way in which H Street is shaped, considering that commuters use 15th Street to come up 17th Street and to go back, this non-traffic-expert sees real chaos and clogging of the arteries there.

I am wondering if you think it would be appropriate for some agency of the Federal Government to make policemen available around this closure that it has made available around the Capitol complex?

Mr. SMITH. Ms. Norton, could I just add one thing to that, please. That is, as you well know, the White House is one of the favorite points of contact for visitors who come here. This city not only has our own residents and our own commuters who come back and

forth to work every day, but we also have 18 million tourists, and the White House is a favorite location they come to visit.

Many of them have chosen to do it on tour buses and in their own automobiles. By driving they could get close enough to see it and make a photograph. They are going to be unable to do that now, and that traffic now is going to mix up with this traffic circulating around the White House.

That may be a reason there to think about some continued Federal involvement, if for no other reason than to move the tourist traffic along, as it mixes up with commuting traffic which now must use the one-way streets that have been designed primarily for the purpose of moving the commuter traffic, people who are moving back and forth to their places of work and home.

So that is something that we have to look at. I might add that tourists now will have to disembark from their automobiles and walk to get a view of the White House so they can make that photograph.

Ms. NORTON. With no place for their automobiles.

Mr. SMITH. And there's no place for that automobile to park. So that's something that I think the Federal Government and our local government ought to work together on, to try to find a way to offer some relief to the rest of America, for whom this is a destination—and not only the rest of America, I guess the rest of the world, too, which comes here to visit to Washington.

And these visitors wouldn't want to leave this city without getting a glimpse of the White House and one photograph of them standing close enough so they can say they have been here. They ought to have an opportunity to do that, and I think we ought to try to make it convenient for them to do that.

So that's a major issue for us, and it's something that we do have to work out as we go through this. That is a major consideration for this committee and also for our government.

Ms. NORTON. One wonders, again—it seems to me that we ought to simply let our minds float on all the options and possibilities, as they were not allowed to do beforehand, apparently for security reasons.

But, for example, are there any security reasons why tour buses shouldn't be allowed to go in the area? I mean, assuming that the same person comes every day, and you have his ID, and since you can open the area and let some people through, why should the 20 million tourists be punished, if there is an alternative that is viable?

Do you all know of any security reasons why, perhaps, a tour bus should be kept out of the area, or for other reasons other than security?

Mr. ROGERS. I think, Congressmember, I will leave that to the determination of the Secret Service and the Treasury people.

Ms. NORTON. Well, see, that's just the problem. If we leave it to the Secret Service, that's how we got where we are.

Mr. ROGERS. I understand that, but, you know, we did have a briefing. There are some issues; there are some concerns.

Ms. NORTON. I had a briefing, too, but, frankly, my briefing did not lead me to believe that tour buses were the problem or were likely to carry a car bomb or the rest. I mean, I really think the

problem we have is one of give-and-take, and everybody has been very rational, very grown-up. Nobody is going to endanger the President of the United States. That's all "give"—I mean, that's all "take," as far as they are concerned.

But at some point, when we consider the tourists and the effect on our own revenue, the fact that some people stay an extra day in this town just to get to go see the White House, that, as the councilmember just said, if they get out of their buses, their buses have no place to stay. We have a real problem here. One way is, just go on and get your bus through, and we won't let other folks through.

What is the street that comes off of H Street which is a Federal street?

Mr. KING. Madison?

Mr. ROGERS. Jefferson.

Ms. NORTON. The buses can go down there. Your Metro buses, they go down there, I guess, to wait.

Mr. KING. Madison, yes.

Ms. NORTON. Do they go down there to wait until they turn the route around?

Mr. KING. They wait on H, and then they turn down Madison to get back to 15th.

Ms. NORTON. And then they come back up?

Mr. KING. Yes, they come back up.

Ms. NORTON. So for the convenience of the Metro buses, they have done that. We have to think of—and those are buses. They could be carrying a car bomb, but they are not, because, you know, everybody knows who the bus driver is, or he has some identification, so they let them down there.

None of these things are obvious, and it will take will and determination to say, what is our loss, and how can we mitigate our loss? If the Metro buses can go down there, I don't see why the tour buses cannot go across Pennsylvania Avenue and retain some convenience for members of the public and others.

I want to ask you one more question and it's about emergency. Here we have, on one side, George Washington University Hospital, very close to this area. Do you know of any arrangements that have been made, or is an ambulance put in the same position of having to find a detour around very crowded streets to get to the emergency room of George Washington University Hospital?

Mr. KING. At this time, only emergency vehicles that need to access the White House or the residences along Jefferson or Madison or Pennsylvania Avenue, in the closed area, would be allowed in the barricaded area. So they would have to find a way around, unless they were providing some emergency service right in that block.

I would also like to say that we did broach the whole idea of allowing tour buses to do the same thing as the Metro buses. We told Secret Service that, and they did not think that was appropriate either.

Ms. NORTON. Did they give a reason?

Mr. KING. Security concerns is their normal reason.

Ms. NORTON. You know, that's like in the McCarthy era, if they said "national security," you weren't supposed to ask any more questions. We simply have to draw out the reason for that.

Chairman Clarke, I seem to recall that there are circumstances where alley closing results in a quid pro quo; is that routinely done when an alley closes?

Mr. CLARKE. Yes, it's routinely done. The council has set some standards for that, that when people come in and get an alley closed or a street closed, then we look at things like sprinkling for fire protection, and if they displace small businesses, they have to provide for relocation for that.

We have done that in legislative standards, and we have now legislated standards for a contribution to the development of housing in the city. It's a complicated formula as to whether that should be downtown, which can be market rate, or whether it is to be anywhere in the city at low and moderate income rates, moderate being a family of four with an income of $50,000 or less.

So we have done that, and we have said that if somebody gets the benefits of land, by virtue of the city's action of closing the alley or closing the street, there must be some amenities to the city for doing that.

That's what I was mentioning earlier. You were here, but Congressman Davis was not. I think I mentioned this in the early part of my statement. The testimony I gave in writing was with respect to a resolution we had before us, but we have not yielded on the point that we don't have the authority to actually close the street itself. Through the authority that the council has had since pre-home-rule days, it has been written that we close that, and the standards that I have just talked to are standards that we employ.

Congressman Davis, you were away, but I definitely wanted you to hear some of what I said, because you deal with our District of Columbia affairs in many respects, other than just transportation, and that is that this is going to hurt a lot. It has been hurting a lot. The executive branch officials are very diplomatic. I'm not always the most diplomatic person. Our people are really hurting out there.

The difficulty in traffic is not just I Street and H Street. I happen to live up 16th Street, on 17th Street, and the backup from downtown, getting downtown, is far up into the residential neighborhoods, up beyond Meridian Hill. I mean, you've got to be backed up, up beyond Meridian Hill, to get down to the White House. That's an effect of what is going on down there. Now, when they get down there, yes, police officers do direct them now. We're glad to have that, I understand until July 14.

I don't know whether you are reimbursing us now or paying directly, but I think you should look at the complications of reimbursement versus direct payment, because by reimbursement, we still pay that money as expenses, under the $3.2-billion cap. These are still expenses, reimbursed or not. It appears, the way our financial authority issues are working now, even if we get additional revenues, that doesn't help us, because we still cannot spend.

If you give us $100, and we go spend $100, we have still spent $100 against that cap. We happen right now to be projecting $3.3 billion worth of revenues. We are still capped at $3.2 billion.

Mr. DAVIS. Dave, I'll tell you what, if it's that $165,000, that breaks the $3.254-billion cap; if that's the difference, I'll go to bat for you up here. If that's the only difference we've got, I'm going to be a happy man.

Mr. CLARKE. It's $16 million on the matching, the cost of which to the city—and this I explained while you were gone—is $82 million.

Mr. DAVIS. I missed that. It's not the subject of this hearing, but I will address that. I had occasion to talk to the Speaker, Mr. Wolf, and Ms. Norton about it. As with everything that happens here, it's always very, very complicated trying to get anything through concerning the District. Members have diverse views on the District. You have the same problems with council meetings.

But the waiver is a major priority for us. Hopefully, the District will not have to reimburse any funds, at least not any time in the near future. I think we're going to be successful. I think this is a temporary setback. So don't give up on it. You've got a lot of people here who are working very hard on that and making that a priority.

I think we will get it taken care of. There are other vehicles, if we can't resolve it here. I want to tell you I feel confident that by the time we're through, you will get that waiver.

Mr. CLARKE. Well, you speak of reimbursement later, and I understand that's what they did do in Pennsylvania, but in Pennsylvania they didn't come and take the street in front of the Liberty Bell and make the Pennsylvanians pay for it. And we're looking at the long-range, too, now, as we look at all these financial problems. That's why we're pushing on pensions and everything else, because there are long-range issues as well as just short-term issues.

So if we say we have to reimburse that later——

Mr. DAVIS. I understand. Listen, you're preaching to the choir. One of the reasons we're holding this hearing is to make sure you understand that we are very strong advocates.

Mr. CLARKE. All right.

Mr. DAVIS. I would say, on the reimbursement issue, that I think we're going to resolve it favorably. The other issues we will work on as well. You, of course, have your hands full trying to comply with some of the other congressional mandates on spending.

I am going to ask Ms. Norton if she is through?

Ms. NORTON. I'm through, except I want to say this right here and now, that the council has, I think, justifiably required private businesses who do business in this city, paying considerably more taxes than they would pay if they chose to do business elsewhere, to pay a quid pro quo; again, justifiably, to get an alley closing.

It is unthinkable that the Federal Government would be allowed to close down not only a major thoroughfare but a thoroughfare that is an attraction for revenue for the District, because it is certainly the major tourist thoroughfare, without paying the same kind of quid pro quo for that closing as somebody who does business and pays taxes has to pay.

It is a virtual taking. It is uncompensated. And I appreciate the testimony, because it's on the basis of that testimony and understanding your general procedures and practices that it seems to me now perfectly plain that the District is owed compensation even for

the temporary restriction, as they would call it. It has cost us, temporarily—or I should say permanently—already millions of dollars.

Thank you, Mr. Chairman.

Mr. DAVIS. Ms. Norton, thank you very much.

Ms. NORTON. I think Mr. Rogers had something to say.

Mr. DAVIS. Mike, do you want to say anything?

Mr. ROGERS. Yes, I wanted to add that it's not just about Pennsylvania Avenue. We have requests, in the wake of Oklahoma City, from several other Federal agencies that would like parking restrictions in front of their buildings, that would like for us to take out parking meters. So I think that we're going to need to work together with the council and the Congress to have some way of handling this issue.

As the chairman points out, it's not just about reimbursement, but there is impact on the businesses in our community, as well. We want to work with you on a way to resolve this Federal Government/District government issue.

Mr. DAVIS. Mr. Rogers, let me say, I appreciate that. And Dave, I appreciate your comments, as well. As you know, this is an executive branch decision. Nobody called Ms. Norton and asked her what she thought about it. No one called me. No one called the Speaker. The executive branch is where the decision came from in this case, and we're trying to deal with it equitably.

This process starts with a formal oversight hearing. What follows will have to be seen. But we want to know what the effect of the closure is on the city. We want to know the unintended consequences of this action, so that we can deal with them effectively.

I would say, Mr. Rogers, that we must continue this dialog. We need to stay informed, so that we are aware of all the consequences of decisions made by the Secret Service and by other Federal agencies. The city must be treated fairly and as a partner in this process.

Because of the timing of this, there was really, I gather, no time to consider the District's opinion. In fact, I was not there the night before. I picked up a message the next morning. It said, "Dad, call Mr. Rubin," and had a phone number. I didn't know what it was about, and my son had just put it down next to the sports page. I happened to see it the next morning and called Mr. Rubin at 8 on a Saturday, and he was in his office, and explained that he had tried to contact me. But we were, of course, not consulted.

Hopefully, this hearing is part of the dialog with you and the executive branch, and we're going to continue our dialog at this level, as well.

We must continue this dialog. We are going to have differences, but I think we have more in common. We're trying to keep those common bonds uniting us as we go after the waiver on the matching money, and those kinds of things where we recognize it's not in the city's interest, but it's in the region's interest and the Nation's interest to waive some of these things, and not treat you like Pennsylvania. It is a city. If they want to make DC a State, then they can treat DC like Pennsylvania, as we move through this.

I appreciate your comments. I now recognize the vice chairman of the committee, the gentleman from Minnesota, Mr. Gutknecht.

Mr. GUTKNECHT. Thank you, Mr. Chairman. I apologize for being late. We've got two meetings going on at the same time and we've got votes on the floor. If you would indulge me, Mr. Chairman, I do want to make a comment that has nothing to do with Pennsylvania Avenue.

Mr. DAVIS. You won't be the first one to do that here today.

Mr. GUTKNECHT. I'm not giving an opening statement, but I do want to say publicly and on the record that there's an editorial this morning in the Wall Street Journal that talks about school choice. I want to congratulate Mayor Barry and School Superintendent Franklin Smith for something that they are embarking upon with the Washington, DC, schools, relative to privatizing some of the schools and offering, perhaps, some kind of a limited voucher plan.

Obviously, I think I would like to see them go even further with that. But when elephants fly, you don't criticize them for not staying up there very long. So I just wanted to say that for the record, Mr. Chairman.

Second, I would also say that I'm not convinced—and we've had several briefings about this issue and about security around the Capitol—I remain a healthy skeptic as to whether or not we should be going as far as we are. In fact, I think, of the two most serious security breaches that we've seen around the White House, neither one closing off Pennsylvania Avenue would have done anything about.

One gentleman flew an airplane into the White House, and another gentleman climbed a fence. It wouldn't have made any difference whether—you could close off all the streets, if somebody wants to use an airplane, it seems to me.

But I do want to get, finally, down to the specific subject area of this hearing today. I understand you've talked a little bit about this formula. Can you tell us a little more about how you are determining what these costs are, what kind of a formula you're going to use?

Mr. Rogers or Mr. Clarke.

Mr. ROGERS. I'll start. In each case, if we, for instance, have costs associated with changing street signs—I mean, that's labor; that's material—if we are having to remove parking meters or impose restrictions that are revenue generating, there's a record that is identifiable. There may be others.

Are there others?

Mr. KING. Yes. Also, we've estimated the cost for all the traffic mitigation measures, changing the streets and what have you, so we have estimated costs for that. And we have been drawing down from the Federal Highway Administration that put up a pot of money to take care of that.

On parking, as Mr. Rogers says, we have a record of how much each meter brings in, not only in just meter revenue, but also ticket revenue. Also, there is a specific number of hours that the Metropolitan Police officers are staffing intersections for traffic control, so we know how much that costs.

So this is not so much a formula as actually looking at historic—actual cost and then saying, this is what it's going to take.

Mr. CLARKE. That is correct, with respect to those costs. But there is a greater cost.

Part of what I testified to is the resolution that Mr. Smith and I introduced, which has been reported by his committee and we are going to vote on, in the way of requesting things, and that's an environmental impact statement, other than just the green grass and the ground around Lafayette Square, but the impact statement goes to the whole area, including particularly the businesses.

There are businesses at every level. There are major national, maybe international, corporations located in that area. There are medium level businesses, such as the tour buses that we talked about. Vendors, there are street vendors who are licensed businesses, paying taxes in the District of Columbia, completely wiped out, just wiped out.

There is a larger amount of impact on the city than just paying a police officer straight time—they are on voluntary service up until July 14—and then giving us the money and we put that into our payments. I was talking about that running up against the cap.

There are bigger impacts. We were talking earlier about the fact that the administration's suggestion that we be relieved of the $16-million match for the Federal match would not only save us that $16 million but would make available $82 million this year that might not otherwise be available, and $90 million next year, just because we weren't able to make those matches.

So it goes a little bit beyond just paying a police officer straight time when he is volunteering between now and 2 weeks from now. July 14, in the middle of the summer, when nobody is really here, that service stops, and September 6, the day you come back and the day everybody else comes back to Washington, we're going to have a major traffic jam again.

So we're looking at it, but it has to go beyond just the dollars the city administrator talked about. The Federal Government, as I said in my testimony, should finance an exhaustive economic study of what this means in the economy of our city. So that would be the cost.

And if I could take the fact that you went into an additional issue by virtue of answering your question—into a related issue that is not exactly there—the parking in the area was addressed before. We do have legislation that Ms. Norton has introduced down here to authorize us to go forward with a program that we have legislated in the council, for a parking authority in the District of Columbia, to create more parking down here.

That's one of three pieces, along with the convention center and the arena that I think you're going to hold a hearing on, on July 12. But if that could get in place, then we might have the capability to create some more parking.

Mr. GUTKNECHT. The reason I raised the issue of the formula—and I think it's going to be important—you will be much more persuasive, not only before this committee, but I think especially in front of Mr. Walsh's committee, if you can justify that.

Let me just say, if you talk about parking, I mean, my own assumption would be that if people don't park at one meter, they are going to have to park at another meter. I mean, it's not like they are not going to park somewhere. Everybody has to be somewhere, and everybody has to park somewhere. And the same would be true with the parking revenue.

I mean, I used to have this debate, particularly as it related to economic development, for example, when we brought the Super Bowl to Minnesota. We saw these incredible economic projections of how much that was worth to the State of Minnesota.

But one of the assumptions, I think, in the formula, was that, if they hadn't had it there, no one would be staying in the hotels and eating meals, you know, in the twin cities. Now, that's not really true. I think we all know that those hotels would have been 70 percent full, approximately, on any given night. So you're really talking about the margins. I would hope that you would get more specific about what formula you are going to use, if you are going to come up and tell us how much it's going to cost.

Second, though, and I think more to the point—or another point that I would like to raise, if I've got—oh, my red light is on. Can I have another minute here?

What is the status of your negotiations with the executive branch over these security issues and reimbursement for any potential expenses?

Mr. KING. We've had discussions with the executive branch to the tune of $165,000 for traffic-related issues. Federal Highway has already put money up for that, and we draw down against that. There are other costs which are reimbursable, which are for police officers, et cetera. Also, there is direct payment to Metro for the costs of Metro. There is additional cost for——

Mr. GUTKNECHT. What does it cost Metro?

Mr. KING. There is the relocation of bus shelters. There are changes in bus routes which increase the driver time. And we subsidize Metro for their costs when it goes above what we have agreed to, based on these changes. That's about $45,000 for the latter; $23,000 for relocating shelters.

Let me also speak about parking. You say, if someone doesn't park at one meter, they will park at another. There are 245,000 regulated parking spaces in the District of Columbia. On any given day, there are 1 million to 1.5 million cars in the District of Columbia. If you take parking away, they are not going to park at another meter, because there is not another meter for them at which to park. So that's our dilemma. When we take parking out, we definitely lose revenue, and I can verify that.

Mr. SMITH. Mr. Chairman, if I might just be allowed to add one thing to that.

Mr. DAVIS. Sure.

Mr. SMITH. I might just tell you that the person who took your place out in the county, Mrs. Hanley, when she and I served on the Metro board, told me a story about driving into the District of Columbia one day to do some shopping. She looked around and couldn't find a meter; tried to park at a hotel where she would have paid a lot of money to park, couldn't find a parking place, so she went back home.

So, you know, if you don't find a meter here, you may not stay here. I'm sure we lost—she's known as a big shopper. I'm sure she would have done a lot of shopping if she had been able to find a place to park.

Mr. DAVIS. Yes, that's true. That was a big loss for you that day. Please don't tell her I said that.

Mr. SMITH. I'm sure.

But let me also add one other thing about this issue of the impact of this. One of the things, as a result of this closing, was to negotiate an arrangement with Riggs Bank. You may remember that on the north side of Pennsylvania Avenue, between 15th Street and Madison Avenue, the Riggs Bank is actually the only privately owned business on that street. Now, there's Nations Bank there, too, but its entrance actually is on 15th Street.

Riggs—this is their original headquarters, I understand, of the bank. It's a historic property. Riggs has invested a tremendous amount of money into fixing up this property. When this street was closed, the president of Riggs Bank called me and said, basically, "You all put me out of business. I don't have any more customers. My customers can't drive in here anymore."

Actually, at that point they had already talked to the Treasury Department and said, "There's no security problem with people coming to my bank to deposit money." And the Treasury Department said that if we could get the public works department to agree, they could open it up and put a little cul de sac in there so that people could—and you may notice that there is a cul de sac in there now.

But my point is that the Riggs president described this to me as a taking, basically, that is we had just devalued their property; we had taken it from them; they had to get rid of it. Obviously, it would be worth a lot less because you couldn't get in there with any kind of vehicular traffic. They couldn't even get in there for their loading and unloading purposes.

So my point is that, in the light of hearing not only this example, but also the President's statement recently that there may be some other changes around these other Federal buildings around the city, obviously, the city has to be very concerned about this, because we're not only talking about just the question of reimbursing police officers and parking meters and trying to rearrange traffic, but we also may see tremendous impact here on our economic community, which is already suffering and needs relief rather than some other encumbrance.

Thank you, Mr. Chairman.

Mr. DAVIS. Thank you all very much.

Any other questions?

[No response.]

Mr. DAVIS. If not, we will excuse this panel and say to all of you, thank you very much. We appreciate your comments, and we hope this will be a continuing dialog. We're going to emphasize to the executive branch how important it is that they continue to work with you on this and other issues. Thank you.

As this panel leaves, we will move to our second panel. I call Gregory Fazakerley—who is the president of the District of Columbia Building and Industry Association; Dr. Henry Fernandez, who is the chairman of the Advisory Neighborhood Commission; Lawrence Reuter, who is the general manager of WMATA; Ms. Margaret Jeffers, the executive director of the District of Columbia Apartment and Office Building Association; and Mr. Millard Seay, the director of planning for the Washington Metropolitan—Millard Seay is going to be appearing in lieu of Lawrence Reuter—and Ken

Hoefer, the executive director of the D.C. Area Trucking Association.

I have to swear everybody in. Please stand and raise your right hands.

[Witnesses sworn.]

Mr. DAVIS. Thank you. You can be seated.

Any written statements that you have submitted will be made part of the record, and I would like you to proceed for 5-minute oral statements, commencing with Mr. Fazakerley.

I am advised we may have a vote about 10 minutes from now. What I would like to ask is, if I could go first, and turn the gavel over to Mr. Gutknecht. If I'm not back in 10 minutes, then you may recess the hearing briefly. That way we will lose as little time as possible and will be able to move ahead with testimony and a number of questions that I know we have for the panelists.

Mr. Fazakerley, please, welcome, and thank you for being here.

STATEMENTS OF GREGORY W. FAZAKERLEY, PRESIDENT, DISTRICT OF COLUMBIA BUILDING INDUSTRY ASSOCIATION; DR. HENRY L. FERNANDEZ, CHAIRMAN, ADVISORY NEIGHBORHOOD COMMISSION 2B; MILLARD SEAY, DIRECTOR OF PLANNING, WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY; MARGARET O. JEFFERS, ESQ., EXECUTIVE VICE PRESIDENT, APARTMENT AND OFFICE BUILDING ASSOCIATION OF METROPOLITAN WASHINGTON; AND KEN HOEFER, EXECUTIVE DIRECTOR, WASHINGTON D.C. AREA TRUCKING ASSOCIATION

Mr. FAZAKERLEY. Chairman Davis, members of this committee, I am Greg Fazakerley, chairman and CEO of DRI——

Mr. DAVIS. I was close. I mean, Fazakerley, that was close.

Mr. FAZAKERLEY. No, that was a gold star close. I mean, that was real close.

Mr. DAVIS. I apologize.

Mr. FAZAKERLEY. But I'm Greg. That's a lot easier.

Our company is a development company here in the District of Columbia. I'm also a resident of the city. As president of the District of Columbia Building Industry Association, I should like to take a few moments to express the views of our association as they relate to the closing of Pennsylvania Avenue.

In assembling those views, I have taken the opportunity to discuss the closing with as many people as I could doing business in the downtown area. My comments here today, therefore, are necessarily anecdotal, and I might suggest that we all think about a lot of the testimony today as being just that, anecdotal. We're trying to give our best shot. But I think these anecdotal comments do represent opinions and observations that are quite consistent.

The closing of Pennsylvania Avenue, in short, has had a negative impact on business in and around the immediate downtown area, which of course is no surprise, even from the testimony you have heard today. A major east-west traffic artery in the central business district of this city has been blocked.

Commuting times have gotten longer, parking more difficult. And for retailers, pedestrian traffic patterns have been disrupted, sales are off, and office tenants looking to relocate are now unsure about

where to go. In short, there have been dramatic impacts arising from essentially dividing the downtown.

I am sure you have heard a lot, and you will be hearing more this afternoon about those effects. At this point, however, I should like to comment on another observation consistently made in my discussions with the business community.

No one I have talked to is attempting to second-guess the decision that closing Pennsylvania Avenue was necessary to properly protect the President. The essential point, I feel, is that the closing and its impact dramatically illustrate the close and unique relationship that exists between the Federal Government and the District of Columbia.

Actions taken by the Federal Government can and do have a direct effect on the daily lives of the residents and businesses of this city. It is a relationship that very clearly calls for communication, coordination, and collaboration.

I understand that security considerations dictated the closing of Pennsylvania Avenue be done promptly. The public study of the issue before the fact might indeed have given rise to the kind of action the closing was intended to avert. Nevertheless, such public study is necessary, albeit after the fact, to formulate a response that minimizes the negative impacts of the closing and takes us from an anecdotal level to a more factual level.

I also understand that such a study is to be commissioned by the Federal Highway Administration. I hope that is, in fact, the case. We need a professional economic impact study and a sound, long-term traffic plan. That is just common sense. My own experience also strongly suggests that both the Federal and city governments—both the Federal and city governments—should participate in defining the scope of the study and in the active review of its findings and recommendations.

Departing from my testimony, what I'm trying to say there, clearly, is that the local government and the Federal Government be equal participants and owners of that study. I would also urge both governments to solicit the close participation of all of us in the business community in conducting the study; again, I think, a fairly commonsense recommendation.

Accordingly, the D.C. Building Industry Association is prepared to volunteer the experience and expertise of its members. This is not only an opportunity to address a particular problem, that is, to mitigate the long-term consequences of the closing of Pennsylvania Avenue, it is also a larger opportunity to demonstrate that the Federal Government, the city, and the Washington business community can work together. With that collaboration, we can better address other problems arising out of our unique relationship.

Thank you.

[The prepared statement of Mr. Fazakerley follows:]

Testimony of
Greg Fazakerley, President of
The District of Columbia Building Industry Association
"Pennsylvania Avenue Closing"
House of Representatives
Subcommittee on the District of Columbia
Friday, June 30, 1995

Good afternoon...

I'm Greg Fazakerley -- Chairman and CEO of DRI, a real estate development company here in Washington...

I'm also a resident of the city...

As president of the District of Columbia Building Industry Association, I should like to take just a few moments to express the views of our association -- as they relate to the recent closing of Pennsylvania Avenue...

In assembling those views, I've taken the opportunity to discuss the closing with a number of people doing business in downtown DC...

My comments here today, therefore, are necessarily anecdotal -- but they represent opinions and observations that are quite consistent...

The closing of Pennsylvania Avenue, in short, has had a negative impact on business in and around the immediate downtown area...

Which, of course, is no surprise -- a major east-west traffic artery in the central business district has been blocked...

Commuting times have gotten longer; parking, more difficult; and for retailers, pedestrian traffic patterns have been disrupted, sales are off, and office tenants looking to relocate are now unsure about where to go. In short, there have been dramatic impacts arising from essentially dividing the downtown.

I'm sure you'll be hearing more this afternoon about those effects...

At this point however, I should like to comment on another observation consistently made in my discussions with the business community...

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The essential point, I feel, is that the closing and its impact dramatically illustrate the close and unique relationship that exists between the federal government and the District of Columbia...

Actions taken by the federal government can and do have a direct effect on the daily lives of the residents of this city...

It is a relationship that very clearly calls for communication, coordination and collaboration...

I understand that security considerations dictated that the closing of Pennsylvania Avenue be done promptly -- that public study of the issue before the fact might, indeed give rise to the kind of action the closing was intended to avert...

Nevertheless, such public study is necessary, albeit after the fact, to formulate a response that minimizes the negative impacts of the closing...

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My own experience strongly suggests that both the federal and city governments should participate in defining the scope of the study and in the review of its findings and recommendations...

I would also urge both governments to solicit the close participation of the business community in conducting the study...

Accordingly, the DC Building Industry Association is prepared to volunteer the experience and expertise of its members...

This is not only an opportunity to address a particular problem -- to mitigate the long-term consequences of the closing of Pennsylvania Avenue...

It is also a larger opportunity to demonstrate that the federal government, the city and the Washington business community can work together -- and with that collaboration, we can better address other problems arising out of our unique relationship...

Thank you...

Mr. DAVIS. Thank you very much, Greg. I appreciate your comments.

Let us move to Dr. Henry Fernandez, chairman of the Advisory Neighborhood Commission 2B, and then to Millard Seay.

Mr. FERNANDEZ. Thank you, Mr. Chairman, and good afternoon to all the other members of the committee.

I am Henry Fernandez, a resident of Dupont Circle, and the chairman of the Dupont Circle Advisory Neighborhood Commission 2B. This ANC is located in ward 2, in the northwest section of the District. The southern end of the Dupont Circle ANC roughly covers the area bounded by 15th Street on the east, Pennsylvania Avenue on the south, and 20th Street on the west. The stretch of Pennsylvania Avenue closed off by the Secret Service is located along the southern end of the Dupont Circle ANC.

On May 10, 1995, at the regularly scheduled meeting of the ANC, the seven commissioners unanimously passed a motion opposing the closing of Pennsylvania Avenue in front of the White House. Commissioner Jonathan Heller, who introduced the motion before the ANC, is here today, also, with me.

In my opinion, Mr. Chairman, the closing of Pennsylvania Avenue appears to be unwarranted and capricious, and has caused unnecessary inconveniences and wasted money. Equally important, due notice was not given to those who live and work in the District. Before closing the Avenue, the public did not have the proper opportunity to comment and to provide alternative measures which may have enhanced security around the White House.

While not being privy to the alleged security concerns, if, in the opinion of experts, the alleged threats on the life of the President were to be valid, I would personally support the closing of Pennsylvania Avenue. But why just close Pennsylvania Avenue?

Obviously, we know that these readily available explosive materials which can cause severe damage to the White House had to be transported by a large truck. Why not simply ban trucks or delivery vans from the vicinity of the White House? Ms. Norton mentioned before, tour buses or Metro buses are also another possibility that could pass by.

Unfortunately, the President, other public officials, the White House, and all other government buildings will never be completely free from the possibility of a terrorist attack. Why did the Secret Service choose to close the Avenue? Is the probability of a terrorist attack on the President's life more likely to come from the front of the White House than from other places?

Does the Secret Service have any plans to close Hotel Washington across the street from the Treasury building, which has guest rooms and a rooftop restaurant overlooking the private quarters of the White House? I have eaten at the restaurant and have seen people, through the windows, inside the President's apartment.

Although the closing of Pennsylvania Avenue has been discussed for months, and probably years, the quick decision to block the Avenue came as a surprise. There was no advance notice to the residents of the District, to commuters, and to visitors. The closing of the Avenue forced people to seek other routes through the city, caused traffic jams, and is wasting people's time.

We know the tens of thousands of dollars it cost in police time and in routing the traffic patterns. It is not clear to me that the inconvenience and expense caused by the closing of Pennsylvania Avenue significantly increases the safety of the President.

I see the closing of the Avenue as something comparable to building, perhaps, a medieval moat, and filling it with water to protect a lord. Sure, this measure increases security around the White House, but it is unreasonable. There will always be security concerns around public figures and buildings; however, these are relative. Some concerns are more worrisome than others.

Again, given the information generally available to the public on the closing of the Avenue, and knowing that there are other security concerns, it seems to me that the closing of Pennsylvania Avenue was a capricious reaction to the Oklahoma City bombing. It doesn't seem to me, and to the ANC commissioners, that the permanent closing of Pennsylvania Avenue is warranted.

Thank you.

[The prepared statement of Mr. Fernandez follows:]

Testimony given by Hon. Henry L. Fernandez, Chairman of the DuPont Circle Advisory Neighborhood Commission 2B, before the Subcommittee on the District of Columbia (Committee on Government Reform and Oversight), U.S. House of Representatives, on June 30, 1995.

Chairman Davis,

I am Commissioner Henry Fernandez, Chairman of Advisory Neighborhood Commission 2B, known as the DuPont Circle ANC. This ANC is located in Ward 2, in the North West section of the District of Columbia. The southern end of the DuPont Circle ANC roughly covers the area bounded by 15 Street on the east, Pennsylvania Avenue on the south, and 20 Street on the west. The stretch of Pennsylvania Avenue closed-off by the Secret Service is located along the southern end of the DuPont Circle ANC.

On May 10, 1995, at the regularly scheduled meeting of the DuPont Circle ANC, the seven Commissioners unanimously passed a motion opposing the closing of Pennsylvania Avenue in front of the White House. Commissioner Jonathan Heller, who introduced the motion before the ANC, is here with me today.

In my opinion, Mr. Chairman, the closing of Pennsylvania Avenue appears to be unwarranted and capricious, has caused unnecessary inconveniences and wasted money. Equally important, due notice was not given to those who live and work in the District. Before the closing of the avenue, the public did not have the opportunity to comment and to provide alternative measures which may have enhanced the security around the White House.

While not being privy to the alleged security concerns, if, in the opinion of experts, the alleged threats on the life of the President were to be valid, I would personally support the closing of Pennsylvania Avenue.

Why just close Pennsylvania Avenue?

Given the information made available to the public, it seems to me that security risks, which could lead to a bombing similar to that which destroyed the Oklahoma City federal building, led to the closing of the avenue. Not being an explosives expert and acknowledging the distance between the White House door and the front gate, it seems inconceivable to me that a bomb made of readily-available materials, such as fertilizers and petroleum, and exploded on Pennsylvania Avenue, would significantly affect the structure of the White House.

Obviously, we know these readily-available explosive materials can cause severe damage if the quantity of the materials were large enough. A quantity large enough to possibly cause severe structural damage to the White House would have to be transported by a large truck. Why not simply ban trucks and/or delivery vans from the vicinity of White House?

If the availability of the materials are a contributing factor to the threat on the President's life, is there a way to control the distribution and sale of these readily-available products? Can the users of these products be licensed?

Unfortunately, the President, other public officials, the White House, and all other government buildings will never be completely free from the possibility a terrorist attack. Why did the Secret Service choose to close the avenue? Is the probability of a terrorist attack on the President's life more likely to come from the front of the White House than from other places?

Does the Secret Service have any plans to close the Hotel Washington (across the street from the Treasury building), which has guest rooms and a rooftop restaurant overlooking the private quarters of the White House? I have eaten on the rooftop restaurant and have seen people, through the windows, inside the President's apartment.

What is the likelihood of Marine-One (the President's helicopter) being shot down by a terrorist? Can the Department of Defense, the FBI or the National Security Agency account for all the surface-to-air missiles distributed in the United States? What are the odds? Will the President never again ride a helicopter?

What is the likelihood of the President's motorcade passing by or encountering a large truck? When the President delivers a speech at a major hotel, the streets to and from the hotel are fairly predictable. Is the Secret Service planning to tow all cars and trucks parked near a motorcade?

What is the probability of an attack on the President during a public appearance? I personally know of a recent breach of security. With Mr. Ken Palmer, I attended a gala for President Clinton on Wednesday night at a major hotel in Washington, DC. During dinner, Mr. Palmer, looking for a restroom, left the ballroom through the nearest exit, which shut closed behind him. When he returned, Mr. Palmer went through an opened a catering-service door into the ballroom and back to his table. He did not go through a metal detector when returning from the bathroom. Mr. Palmer later shook hands with the President. Is the Secret Service going to prohibit the President from making public appearances to decrease the odds of a terrorist attack?

Although the closing of Pennsylvania Avenue had been discussed for months and probably years, the actual decision to block the avenue came as a

surprise. There was no advanced notice to the residents of the District, to commuters and to visitors. The closing of the avenue forced people to seek other routes through the city, caused traffic jams, and is wasting people's time. We know the tens of thousands of dollars it cost the city in police time and in rerouting the traffic patterns. It is not clear to me that the inconvenience and expense caused by the closing of Pennsylvania Avenue significantly increases the safety of the President.

I see the closing of the avenue to vehicular traffic as something comparable to building a medieval moat and filling it with water to protect a feudal lord. Sure this measure increases security around the White House, but it is unreasonable.

There will always be security concerns around public figures and buildings. However, these are relative. Some concerns are more worrisome. Again, given the information generally available to the public on the closing of the avenue and knowing that there are other security concerns, it seems to me that the closing of Pennsylvania Avenue was a capricious knee-jerk reaction to the Oklahoma City bombing. It doesn't seem to me that the closing of Pennsylvania Avenue was warranted.

Mr. DAVIS. Thank you very much.

We will turn now to Millard Seay, the director of planning for WMATA.

Mr. SEAY. Thank you, Mr. Chairman, members of the subcommittee.

My name is Millard Seay. I am the director of planning for the Washington Metropolitan Area Transit Authority. Thank you for providing me the opportunity to speak about the impact of the closing of Pennsylvania Avenue on Metrobus service.

The closing of Pennsylvania Avenue on May 20 required the rerouting of 10 different Metrobus routes. Scheduled service on these 10 routes consists of 500 weekday trips, 300 Saturday trips, and 225 Sunday trips. Approximately 70,000 weekly riders use the service in the area affected by the closure of Pennsylvania Avenue. As a result, over 150,000 annual bus trips and 3.5 million annual passenger trips will be affected by the rerouting required by the closing of Pennsylvania Avenue.

The 10 affected routes were changed on May 20 to operate via H Street in place of their previous routing on Pennsylvania Avenue. The routing via H Street is slightly longer than the previous routing via Pennsylvania Avenue, and buses were required to make additional turning movements in order to travel through the affected area.

The impact of this new routing, in combination with the increase in traffic congestion experienced on H Street, has resulted in increased travel time for buses on the 10 adjusted routes. Since the rerouting of the service on May 20, many of the Metrobus trips operating through the affected area have experienced delays and increased travel times of 5 to 15 minutes during certain parts of the day.

Most of the increase in travel times has been experienced on weekdays between 8 a.m. and 8 p.m. This increase in travel time has disrupted scheduled service and had an adverse impact on service reliability.

In response to the traffic congestion problems that have been experienced in this area since the closing of Pennsylvania Avenue, the District of Columbia implemented a new one-way street pattern on June 25. To accommodate this new street pattern, 10 Metrobus routes that were initially rerouted to H Street, on May 20, have now been changed to operate via H and I Streets.

In addition to these 10 routes, 15 additional Metrobus routes that had been operating on H Street prior to the closing of Pennsylvania Avenue were also rerouted to utilize the new one-way street pattern. These new street changes are expected to reduce the traffic congestion and eliminate the increase in travel time that has been experienced by Metrobus service since the closure of Pennsylvania Avenue.

Based on the beneficial impact that this new street pattern is expected to have on current traffic congestion in the area, and the continued availability of Madison Place for use by Metro buses, we are hopeful that these changes will eliminate the additional travel time that has been experienced by Metrobus service since the closing of Pennsylvania Avenue. This will help minimize the increase

in operating cost, the potential reduction in passenger revenue, and any resulting increase in subsidy to the District of Columbia.

Now, concerning the cost impact on Metrobus of closing Pennsylvania Avenue, Metro has incurred, to date, approximately $40,000 to $50,000 in additional one-time cost in order to implement the two route changes on May 20 and June 25. This one-time increase in operating cost was for the staff time and resources required to process and implement the route changes, move and relocate bus stops, inform riders, and print new timetables.

With regard to the ongoing annual recurring cost for the operation of the buses, we believe that the ongoing annual operating cost of the new bus routes will increase by at least $30,000 over the previous annual cost. This assumes, of course, that the new street changes will improve current traffic congestion in the area, that Metro buses operating in the affected area will experience a reduction in current travel time, and that there will be no significant loss in bus ridership due to the rerouting.

I want to stress, however, that this projected cost impact is entirely dependent on the results of the new street pattern, which has been in place less than a week and has not really been fully evaluated and analyzed.

If the new street pattern does not eliminate the increase in travel time that we have experienced since May 20, bus schedules will need to be changed to accommodate this increase in travel time. This could have a significant adverse impact on operating cost and bus ridership. For example, a continuation of the current increase in travel time of 5 to 15 minutes could generate additional cost of $200,000 annually, if it has to be incorporated into the bus schedules on the affected routes.

In addition to this potential increase in operating cost, bus ridership is very sensitive to increases in travel time. As a result, any significant increase in running time could have an adverse impact on bus ridership. Given the large number of riders that are passing through the affected area, a small loss in riders could have a significant impact on revenue. For example, a 5 percent loss in ridership on the affected routes, due to increased travel time, would result in a $200,000 reduction in annual revenue.

Since the new street pattern in the affected area has been in place for less than a week, we are not able to really provide a clear determination on the long-term impact on Metrobus cost, revenue, and subsidy at this time. Once the new one-way street pattern has been in place for a couple of months, new traffic patterns have had a chance to stabilize, and traffic enforcement in the area returns to normal levels, we will then be able to determine the long-term impact of the closing of Pennsylvania Avenue on Metrobus service.

Mr. Chairman, that concludes my prepared testimony. Again, thank you for the opportunity to speak on this issue.

[The prepared statement of Mr. Seay follows:]

MR. CHAIRMAN, MEMBERS OF THE SUBCOMMITTEE, MY NAME IS MILLARD SEAY, AND I AM THE DIRECTOR OF PLANNING FOR THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY. THANK YOU FOR PROVIDING ME THE OPPORTUNITY TO SPEAK ABOUT THE IMPACT OF THE CLOSING OF PENNSYLVANIA AVENUE ON METROBUS SERVICE.

THE CLOSING OF PENNSYLVANIA AVENUE BETWEEN 15TH STREET N.W. AND 17TH STREET N.W. ON MAY 20, 1995 REQUIRED THE REROUTING OF TEN DIFFERENT METROBUS ROUTES. SCHEDULED SERVICE ON THESE TEN ROUTES CONSIST OF 500 WEEKDAY TRIPS, 300 SATURDAY TRIPS, AND 225 SUNDAY TRIPS. APPROXIMATELY 70,000 WEEKLY RIDERS USE THE SERVICE IN THE AREA AFFECTED BY THE CLOSURE OF PENNSYLVANIA AVENUE. AS A RESULT, OVER 150,000 ANNUAL BUS TRIPS AND 3.5 MILLION ANNUAL PASSENGER TRIPS WILL BE AFFECTED BY THE REROUTING REQUIRED BY THE CLOSING OF PENNSYLVANIA AVENUE.

THE TEN AFFECTED ROUTES WERE CHANGED ON MAY 20, 1995 TO OPERATE VIA H STREET N.W. IN PLACE OF THEIR PREVIOUS ROUTING ON PENNSYLVANIA AVENUE. THE ROUTING VIA H STREET IS SLIGHTLY LONGER THAN THE PREVIOUS ROUTING VIA PENNSYLVANIA AVENUE AND BUSES ARE REQUIRED TO MAKE ADDITIONAL TURNING MOVEMENTS IN ORDER TO TRAVEL THROUGH THE AFFECTED AREA. THE IMPACT OF THIS NEW

ROUTING IN COMBINATION WITH THE INCREASED TRAFFIC CONGESTION EXPERIENCED ON H STREET HAS RESULTED IN INCREASED TRAVEL TIME FOR BUSES ON THE TEN ADJUSTED ROUTES. SINCE THE REROUTING OF THE SERVICE ON MAY 20, 1995, MANY OF THE METROBUS TRIPS OPERATING THROUGH THE AFFECTED AREA HAVE EXPERIENCED DELAYS AND INCREASED TRAVEL TIME OF 5 TO 15 MINUTES DURING CERTAIN PERIODS OF THE DAY. MOST OF THE INCREASE IN TRAVEL TIME HAS BEEN EXPERIENCED ON WEEKDAYS BETWEEN 8AM AND 8PM. THIS INCREASE IN TRAVEL TIME HAS DISRUPTED SCHEDULED SERVICE AND HAD AN ADVERSE IMPACT ON SERVICE RELIABILITY.

IN RESPONSE TO THE TRAFFIC CONGESTION PROBLEMS THAT HAVE BEEN EXPERIENCED IN THE AFFECTED AREA SINCE THE CLOSING OF PENNSYLVANIA AVENUE, THE DISTRICT OF COLUMBIA IMPLEMENTED A NEW ONE WAY STREET PATTERN IN THE AREA ON JUNE 25, 1995. THIS NEW STREET PATTERN PROVIDES FOR THE OPERATION OF H STREET ONE WAY EASTBOUND BETWEEN PENNSYLVANIA AVENUE AND 15TH STREET, THE OPERATION OF I STREET ONE WAY WESTBOUND FROM NEW YORK AVENUE TO K STREET, AND THE OPERATION OF 15TH STREET ONE WAY NORTHBOUND BETWEEN FROM NEW YORK AVENUE TO K STREET. THE NEW STREET PATTERN ALSO PROVIDES FOR THE CONTINUED EXCLUSIVE USE OF MADISON PLACE AND THE SECTION OF PENNSYLVANIA AVENUE BETWEEN MADISON PLACE AND 15TH

STREET BY METROBUS SERVICE.

TO ACCOMMODATE THIS NEW STREET PATTERN, THE TEN METROBUS ROUTES THAT WERE INITIALLY REROUTED TO H STREET ON MAY 20, 1995 HAVE BEEN CHANGED TO OPERATE VIA H AND I STREETS. IN ADDITION TO THESE 10 ROUTES, 15 OTHER METROBUS ROUTES THAT HAD BEEN OPERATING ON H STREET PRIOR TO THE CLOSING OF PENNSYLVANIA AVENUE WERE ALSO REROUTED TO UTILIZE THE NEW ONE WAY STREET PATTERN. THE NEW STREET CHANGES ARE EXPECTED TO REDUCE TRAFFIC CONGESTION AND ELIMINATE THE INCREASE IN TRAVEL TIME THAT HAS BEEN EXPERIENCED BY METROBUS SERVICE SINCE THE CLOSURE OF PENNSYLVANIA AVENUE.

GIVEN THE EXPECTED BENEFICIAL IMPACT OF THE NEW STREET PATTERN ON THE CURRENT TRAFFIC CONGESTION BEING EXPERIENCED IN THE AREA AND THE CONTINUED AVAILABILITY OF THE USE OF MADISON PLACE BY METROBUSES, WE ARE HOPEFUL THAT THE NEW STREET PATTERN WILL ELIMINATE THE ADDITIONAL TRAVEL TIME THAT HAS BEEN EXPERIENCED BY METROBUSES SINCE THE CLOSING OF PENNSYLVANIA AVENUE AND MINIMIZE ANY POTENTIAL LOSS IN RIDERSHIP. THIS WILL HELP TO REDUCE THE INCREASE IN OPERATING COSTS, THE POTENTIAL REDUCTION IN PASSENGER REVENUE, AND ANY RESULTING INCREASE IN SUBSIDY TO THE DISTRICT OF COLUMBIA.

CONCERNING THE COST IMPACT ON METROBUS OF THE CLOSING OF PENNSYLVANIA AVENUE, METRO HAS INCURRED APPROXIMATELY $40,000 TO $50,000 IN ADDITIONAL ONE TIME COSTS IN ORDER TO IMPLEMENT THE ROUTE CHANGES THAT WERE MADE ON MAY 20 AND JUNE 25, 1995. THIS ONE TIME INCREASE IN OPERATING COSTS WAS FOR THE STAFF TIME AND RESOURCES REQUIRED TO PROCESS AND IMPLEMENT THE ROUTE CHANGES, MOVE AND RELOCATE BUS STOPS, INFORM RIDERS, AND PRINT NEW TIMETABLES.

WITH REGARD TO THE ONGOING COSTS RELATED TO THE ACTUAL OPERATION OF THE BUSES, WE BELIEVE THAT THE ONGOING ANNUAL OPERATING COSTS OF THE NEW BUS ROUTES WILL INCREASE BY APPROXIMATELY $30,000 OVER THE CURRENT ANNUAL COSTS. THIS IS BASED ON THE ASSUMPTION THAT THE NEW STREET PATTERN WILL IMPROVE CURRENT TRAFFIC CONGESTION IN THE AREA, THAT METROBUSES OPERATING IN THE AFFECTED AREA WILL EXPERIENCE A REDUCTION IN CURRENT TRAVEL TIME, AND THAT THERE WILL BE NO SIGNIFICANT LOSS IN BUS RIDERSHIP DUE TO THE REROUTING.

I WANT TO STRESS, HOWEVER, THAT THIS PROJECTED COST IMPACT IS ENTIRELY DEPENDENT ON THE RESULTS OF THE NEW STREET PATTERN THAT HAS NOT BEEN FULLY EVALUATED SINCE IT HAS BEEN IN PLACE FOR LESS THAN A WEEK. IF THE NEW STREET

PATTERN DOES NOT ELIMINATE THE INCREASE IN TRAVEL TIME THAT HAS BEEN EXPERIENCED SINCE MAY 20TH, BUS SCHEDULES WILL NEED TO BE CHANGED TO ACCOMMODATE THE INCREASE IN TRAVEL TIME.

THIS COULD HAVE A SIGNIFICANT ADVERSE IMPACT ON OPERATING COSTS AND BUS RIDERSHIP. FOR EXAMPLE, A CONTINUATION OF THE CURRENT INCREASE IN TRAVEL TIME OF 5 TO 15 MINUTES COULD GENERATE ADDITIONAL COSTS OF $200,000 ANNUALLY IF IT HAS TO BE INCORPORATED INTO THE BUS SCHEDULES ON THE AFFECTED ROUTES. IN ADDITION TO THIS POTENTIAL INCREASE IN OPERATING COSTS, BUS RIDERSHIP IS VERY SENSITIVE TO INCREASES IN TRAVEL TIME. AS A RESULT, ANY SIGNIFICANT INCREASE IN RUNNING TIME COULD HAVE AN ADVERSE IMPACT ON BUS RIDERSHIP. GIVEN THE LARGE NUMBER OF RIDERS THAT ARE PASSING THROUGH THE AFFECTED AREA, A SMALL LOSS IN RIDERS COULD HAVE A SIGNIFICANT IMPACT ON REVENUE. FOR EXAMPLE, A 5% LOSS IN RIDERSHIP ON THE AFFECTED ROUTES DUE TO INCREASED TRAVEL TIME WOULD RESULT IN A $200,000 REDUCTION IN ANNUAL REVENUE.

SINCE THE NEW STREET PATTERN IN THE AFFECTED AREA HAS BEEN IN PLACE FOR LESS THAN A WEEK, WE ARE NOT ABLE TO PROVIDE A CLEAR DETERMINATION OF THE LONG TERM IMPACT ON METROBUS COSTS, REVENUE, AND SUBSIDY AT THIS TIME. ONCE

THE NEW ONE WAY STREET PATTERN HAS BEEN IN PLACE FOR A COUPLE OF MONTHS, THE NEW TRAFFIC PATTERNS HAVE HAD A CHANCE TO STABILIZE, AND TRAFFIC ENFORCEMENT IN THE AREA RETURNS TO NORMAL LEVELS, WE WILL BE ABLE TO DETERMINE WHAT WILL BE THE LONG TERM IMPACT OF THE CLOSING OF PENNSYLVANIA AVENUE.

MR. CHAIRMAN, THAT CONCLUDES MY PREPARED TESTIMONY. AGAIN, THANK YOU FOR THE OPPORTUNITY TO SPEAK ON THIS ISSUE AND I WILL BE HAPPY TO ANSWER ANY QUESTIONS YOU MAY HAVE.

Mr. DAVIS. Thank you very much.

I turn now to Margaret Jeffers, the executive director of the District of Columbia Apartment and Office Building Association.

Margaret, welcome. Thank you for being here.

Ms. JEFFERS. Thank you, Mr. Chairman.

Good afternoon. My name is Peggy Jeffers, and I am executive vice president for the Apartment and Office Building Association of Metropolitan Washington. AOBA is a regional trade association, representing approximately 90 million square feet of office space, over half of which is located in the District of Columbia, and approximately 155,000 apartment homes, approximately 40,000 of which are located in the District of Columbia.

Like Mr. Fazakerley, we have taken this opportunity to solicit feedback from our members on the impact of the closing of Pennsylvania Avenue; specifically, property owners with buildings along the Pennsylvania Avenue corridor. While our informal survey was certainly not as extensive as we believe it should be, I will offer the following general comments on the real and/or perceived impact from the closure of Pennsylvania Avenue.

Our members tell us that, as a general rule, city planners and developers would never consider doing something like this if they were at all concerned with maintaining property values and keeping an area attractive to business and international tenants.

The closure, as expressed by several people we spoke with, has created two cities by severing the old central business district from the east end and the rest of downtown. By cutting off a major artery, commuters from the west are tremendously disadvantaged if their offices are located in the east end. Anecdotally, many property managers have heard that the commuter hardship created for some is significant, adding up to 30 minutes travel time for some individuals.

An employee of a member firm who works on the 1700 block of Pennsylvania Avenue, west of the White House, and who has to cut across town in peak hours to pick up her spouse, who works around the vicinity of Union Station, has stated that the closure and resulting traffic congestion initially added up to 45 minutes to her commute. Apparently, the one-way traffic on I Street now has helped that significantly. However, she is still talking about 20 additional minutes each way, during peak hours.

For those traveling from upper Northwest or Maryland to the east end, the added commute time is a major problem. For some, it is not their commute to the office that is affected but their access to Congress and government agencies that has been seriously impaired by the closure.

The building manager at 1701 Pennsylvania Avenue tells us that it is virtually impossible to get a taxi on that block. The lawyers, consultants, and lobbyists who are often the tenants in our buildings may be motivated, some fear, to relocate. On the other hand, some are concerned about the value of properties east of the White House because of the commuter problems caused by the closure and rerouting of the traffic.

In soliciting comments, the only positive response was the speculation that perhaps Pennsylvania Avenue offices with views over the new park that is being planned might enjoy a positive impact.

What we are hearing is that each building is and will be impacted somewhat differently, depending on its exact location and its tenant mix, where tenants commute from and what their mobility needs are during the business day.

In conclusion, those whom we were able to speak with have communicated that it is difficult to quantify the impact of the closure on the economic value of properties but that it is definitely unwelcome. These same individuals have indicated a willingness to work with this committee to study the impact of the closure, if such a study would be helpful to you and your committee, Mr. Chairman, in your deliberations.

Thank you.

[The prepared statement of Ms. Jeffers follows:]

Good Afternoon, my name is Peggy Jeffers and I am the Executive Vice President for the Apartment and Office Building Association of Metropolitan Washington, Inc. (AOBA)

AOBA is a regional trade association representing approximately 90 million square feet of office space, over half of which is located in the District of Columbia and approximately 155,230 apartment homes.

Upon receiving notice of this hearing Monday of this week, my staff began to solicit feedback on the closing of Pennsylvania Avenue from members with office buildings located within close proximity to the Pennsylvania Avenue corridor, east and west of the White House.

While our telephone survey was certainly not extensive I offer the following general comments on the real and/or perceived impact from the closure of Pennsylvania Avenue.

Our members tell us that as a general rule city planners and developers would never consider doing something like this if they were at all concerned with maintaining property values and keeping an area attractive to business and international tenants.

The closure, as expressed by several people we spoke with, has created "two cities" by severing the old Central Business District from the East End and rest of downtown. By cutting off a major artery , commuters from the west are tremendously disadvantaged if their offices are located in the East End. Anecdotally, many property managers have heard that the commuter hardship created for some is significant, adding up to 30 minutes travel time for some individuals. An employee of a member firm who works on the 1700 block of Pennsylvania Avenue, west of the White House and who has to cut across town in peak hours to pick up her spouse who works around the vicinity of Union Station has stated

that the closure and resulting traffic congestion has added up to 45 minutes to her commute.

For those traveling from upper northwest or Maryland to the East End, the added commute time is a major problem. For some it is not their commute to the office that is affected but their access to Congress and government agencies that has been seriously impaired by the closure. The building manager at 1701 Pennsylvania Avenue tells us that it is virtually impossible to get a taxi on that block. The lawyers, consultants and lobbyists who are often the tenants in our buildings may be motivated , some fear, to relocate . On the other hand some are concerned about the value of properties East of the White House because of the commuter problems caused by the closure and re-routing of the traffic.

In soliciting comments, the only positive response was the speculation that perhaps Pennsylvania Avenue offices with views

over the new "park" that is being planned might enjoy a positive impact.

What we are hearing is that each building is and will be impacted somewhat differently depending on its exact location and its tenant mix (i.e., where tenants commute from and what their mobility needs are during the business day).

In conclusion, those who we were able to speak with have communicated that it is difficult to quantify the impact of the closure; but that it is definitely unwelcome. These same individuals indicated a willingness to work with this committee to study the impact of the closure if such a study would be helpful to you and your committee, Mr. Chairman , in your deliberations.

Thank you for inviting us to participate today.

Mr. DAVIS. Peggy, thank you very much.

Let us finish with Ken Hoefer, the executive director of the Washington D.C. Area Trucking Association.

At the conclusion of your comments, we are probably going to take a brief recess to go over to the floor and vote.

Mr. HOEFER. Good afternoon, Mr. Chairman, and members of the committee.

My name is Ken Hoefer, and I am the executive director of the Washington D.C. Area Trucking Association. The D.C. Trucking Association is a trade association serving the motor carrier industry in the District of Columbia and the surrounding jurisdictions. We have approximately 110 members, and the association is the local affiliate of the American Trucking Association.

Ideally, the members of the association would have preferred if Pennsylvania Avenue had not been closed. As I am sure you are aware, the closing of Pennsylvania Avenue has increased the congestion on nearby streets, such as 17th, 14th, New York, and Rhode Island Avenues. As a result, members of the association, particularly the courier companies, are finding it increasingly difficult to conduct their businesses.

For example, much of the street parking that had been available on adjacent streets prior to the closing of Pennsylvania Avenue has now been eliminated. This has caused a scramble for the remaining available parking. If the courier companies cannot find parking, many of them are forced to double-park in order to deliver their packages. As a result, they incur additional cost in the form of tickets and fines.

If the reopening of Pennsylvania Avenue is not an option that we can seriously consider, then the D.C. Trucking Association would ask that the committee consider the following: First, providing additional commercial parking zones on adjacent streets; second, increasing the time allowed in these parking zones so that companies will have enough time to transact their business; and finally, to design new traffic patterns which impose restrictions, such as no left turn, in order to keep traffic moving in the area.

Environmentally, the closing of Pennsylvania Avenue is likely to reduce the air quality in the District. Trucking companies have been working very hard to reduce emissions by reducing the time that trucks spend on the road. With Pennsylvania Avenue closed, trucks and traffic, in general, will be spending more time on District streets. More time in traffic means more pollution in DC.

That concludes my comments, and I thank you for your time.

Mr. DAVIS. Thank you very much.

I would like to declare a brief recess while we go over to the floor. Then we will come back and have questions for all of you at that point. If there are no objections, I will recess the meeting. We will come back in about 15 or 20 minutes. Thank you.

[Recess.]

Mr. DAVIS. Thank you very much. That was the last vote for a couple of weeks. The vote was on whether we get a vacation next week. Excuse me, they call them, I think, district work periods. I've learned the euphemisms of Capitol Hill.

Let me start. Mr. Seay, do you know when you might have more specifics on what the closure could do to the Metro system?

Mr. SEAY. Well, we feel that about 3 or 4 weeks after this recent change we should begin to collect some data and begin to identify some impacts. I think, probably, sometime in September we will have a better handle on the long-term impact.

Mr. DAVIS. OK. Thank you very much. If you could forward that to the committee, I would be very interested in reading, as a suburban representative who recognizes that what happens in downtown Washington on Metro ridership affects what Fairfax and other jurisdictions pay. There really is a ripple effect on those things around the region.

Peggy, can I ask you a question? What ripple effect, if any, do you anticipate for property values and land uses as a result of the actions taken to date?

Ms. JEFFERS. Like I was saying in the testimony, some of the people we talked to said that they were concerned about potential diminution of value for certain properties. Yet, at the same time, they said it is a very difficult thing to quantify. It was something they were really reluctant to try to do. What they have said is that there's no question that the perception is that there are two cities, and how that translates into people's decisionmaking is really unclear at this point.

Mr. DAVIS. But if you are at Riggs Bank, it's going to have an effect, isn't it?

Ms. JEFFERS. Well, some of them were concerned about investors. Some people were concerned about the effect that it would have on properties specifically located around the White House, those on 15th Street, in the Metropolitan Square area. But, again, very difficult to quantify, and I would be reluctant to try to do so.

Mr. DAVIS. I was in local government for 15 years, and every land use decision, whether you put a drive-in at a bank or at a McDonald's, is perceived in the marketplace and among property owners as having ramifications on the sale price and value of those properties.

Ms. JEFFERS. Very definitely.

Mr. DAVIS. You are saying this is no different. In fact, I think you have all cited some specific examples.

Greg, did you want to add to that?

Mr. FAZAKERLEY. Mr. Chairman, one of the things that I said in my testimony was that so much of the information is anecdotal. I think we have a perfect situation that we in the development business never like to see, and that is uncertainty. Uncertainty is the worst of all worlds.

I think what I heard from a lot of the businesses was, uncertainty without participation, without participation in what we can do to look at, more factually, what are the real impacts, one; and two, what we do in our business all the time, when we look at the impacts and the potential of new development, street closings, doing a development of this size versus that size, we want to analyze the facts as best we can know them, and then we ask the question that we all should ask about this: What can we do to mitigate these impacts?

You know, we've been talking today about the closure of Pennsylvania Avenue, and all of us get focused, for the moment, on that avenue that runs in front of the White House. But there are a lot

of other streets to talk about, not the least of which is that western E Street, behind the White House, was a major connector for people getting out of the city in the evening, going from all the office buildings in the east end of Pennsylvania Avenue——

Mr. DAVIS. To northern Virginia.

Mr. FAZAKERLEY. To Northern Virginia and to Northwest Washington, vis-a-vis the Whitehurst Freeway. So what we need to do is, we need to collaborate together, be co-owners, local government and Federal Government, do a study quickly, get participation, find out what the facts are, and then get participants like the Secret Service in there and begin to ask the questions: Well, could you live with that being open? Here's how many of the impacts would be mitigated with that one circumstance alone.

So I would like to see this committee move quickly, at the end of today, to have a sense of, yes, we will have a study; yes, it will be collaborative between the city and the Federal Government. We need to begin to tell the business community that we're not going to just sit back; we're going to get some facts, and we're going to close uncertainty and have participation and make it better.

Mr. DAVIS. Frankly, I don't think that's unreasonable, in light of everything at stake. Something nobody mentioned, but that I was wondering about—do you think taxi fares are going to be affected by this?

Ms. JEFFERS. I took a taxi ride over here today, and I just said, "What do you think about the closing of Pennsylvania Avenue?" as I have asked all the cab drivers about town. And he started to say it was a terrible, awful—and I said, "You know, I'm going to a hearing right now." He said, "Can I come with you?"

And he said—this is what he told me—he said, "I have lost $40 a day in revenue because," he said, "we're on the zone system. I don't have—the meter is not ticking for me. And if I have to circumvent the Avenue," he said, "$40 a day."

Mr. DAVIS. In an economic impact study, Greg, like you talked about, that could be one of the impacts that we could look at.

I think we need to have a dialog. I think that was demonstrated here today by the city officials. We have one more person who is going to testify.

I have other questions, but I think I will hold them and pass the baton here to Ms. Norton and see if she has any questions.

Ms. NORTON. Thank you, Mr. Chairman.

First—I suppose I should ask this question of Ms. Jeffers and Mr. Fernandez—do you have any notion at the present time of the effect on property values? For example, any sense of whether you have heard indication from others that it will be harder to rent spaces or apartments in areas that adjoin or are affected? Mr. Fazakerley may also want to answer that question, but I would like the three of you to look at that issue.

Ms. JEFFERS. Again, while there has been some speculation about the east end maybe being adversely affected, office buildings, this is, there were others, when I raised that question, who said, "Well, it depends. For some who access Capitol Hill, have tenants that do that, it might be advantageous to move from the west end to the east end.

Ms. NORTON. I'm sorry. I don't understand what you mean.

Ms. JEFFERS. In other words, if the problem for the tenants in your building is a commuter issue, then that impacts, potentially, the value—perception of folks for where they want to be in the city. If the impact is really quantified based on what you do during the day—so, for example, if your building is filled with lobbyists and lawyers who want to access this body of Congress, and they are west of the White House, it makes their accessibility impaired somewhat to get up here.

So it really depends. Again, those who were speculating as to the effect of this didn't have any studies in front of them, couldn't really give us any statistics. There was no evidence, really, to support making a statement like, "There's a 5-percent diminution of value for properties on the east end." So I would be reluctant to say that on the record, but I do think that it is a concern.

Ms. NORTON. Mr. Fernandez.

Mr. FERNANDEZ. Yes, Ms. Norton, thank you.

I don't have any data, per se, but I can tell you that there is the perception that the closing of Pennsylvania Avenue has caused additional traffic jams, a loss of parking, and that is yet another inconvenience, on top of many other inconveniences which people go through to live here and also to do business in the city. Simply because there is the perception of the lack of parking and the traffic jams, I would say that, yes, it does have an effect on the property values.

Ms. NORTON. And on whether or not people decide to live in those adjacent areas?

Mr. FERNANDEZ. Correct. Or rent office space in the downtown area.

Ms. NORTON. Mr. Fazakerley.

Mr. FAZAKERLEY. The two answers that you just received, I think, are instructive that, again, what is all the data? And again, it's the feelings; it's the perceptions; it's the uncertainty. I think one overriding fact that we could subscribe to today is that anything that dislocates or divides the downtown can have a dampening effect on the very thing that we're trying to do in the downtown, which is to retain and attract more businesses for the future.

To the extent that we have decisions that have to be made, such as the one we're testifying about today, that we can go about our business, in a professional way, to quickly assess what the impacts are and then to mitigate those impacts, that's what we really need to do.

So it's hard for us to give you a clear-cut answer on that. The answer is "Yes; yes." On one side, yes; on the other side, yes. But the overriding factor is, I don't think it's a good feature to start to divide our downtown, in terms of dislocation. We need a free flow of commerce in the downtown. To the extent that this has interrupted this, maybe, on a certain level, unnecessarily, I think we need to get at the root of it and solve it.

Ms. NORTON. You said an important word, though. I think it was you, Mr. Fazakerley. You said "perception." Let's assume what seems unlikely, that there is no effect on travel and business.

Mr. FAZAKERLEY. That's unlikely.

Ms. NORTON. And yet, like the stock market, when people react to their perception of what this means—and seeing these huge

boulders downtown, knowing good and well that you're certainly not going to be able to get across downtown the same way you would if your address is 1750 Pennsylvania Avenue, or some such, or even the adjoining residential community, and you have choices, one wonders if you are drawn like a magnet to the choice you might have made before Pennsylvania Avenue was closed.

In order to change perceptions that may be harmful—leave aside actual injury—it takes very proactive action, something that is larger than life to say, "No, we are making room and time and effort for you, so this is not as bad as it seems." One of the things we will be searching for are ways in which to make that happen.

The east side is a critical part of downtown. You could not be more right. I don't know of a single downtown in the United States that is divided. There may be some, but I just don't know of any. The one part of town that is a composite whole is downtown. The rest of the city may be divided in different ways. It's an important issue.

Let me ask about—Mr. Seay and Mr. Hoefer—I want to ask about vehicular traffic. Mr. Seay, you have some one-time costs, $40,000 to $50,000, and then you speak about how there could be a loss of ridership—that makes us all tremble at this moment in Metro's history—which could be up to $200,000. You talk about ongoing costs of $30,000.

First, let me ask you about the one-time costs. Have these been reimbursed, or are they being reimbursed as they are incurred?

Mr. SEAY. Well, we believe that the District of Columbia is seeking reimbursement, but we have had no indication from anyone that it will be reimbursed to us directly.

Ms. NORTON. Do you know that among the issues that the highway department said they would reimburse is the $40,000 to $50,000 one-time cost to Metro? Has that been—has that come out of their mouths?

Mr. SEAY. I have heard the District talk about that, but I have not heard it from them directly.

Ms. NORTON. We will ascertain that, specifically, then, because this is obviously a one-time cost.

Let me move on to the $30,000 of apparent ongoing cost and ask you to give me examples of what kinds of ongoing costs would be involved.

Mr. SEAY. OK. Well, one of the ongoing costs is the fact that, even if the traffic congestion problem does not result in an increase in travel time, the routes, as they currently operate today, are longer than they were when they operated via Pennsylvania Avenue.

Now, under our allocation formula, which we charge jurisdictions for bus service, one of the components of that is a mileage charge. So jurisdictions get charged a certain amount of cost based upon the number of miles that buses operate. So in this particular case, since the routes are longer, and they are going to drive more miles, there would be an increase in cost to the District as a result.

Ms. NORTON. I see. And this is a cost to the District alone, because of mileage that is incurred for Federal purposes.

Mr. SEAY. The ongoing cost would be charged to the District; right.

Ms. NORTON. You talk about the pattern—you say you are not sure what the pattern of inconvenience is because of street pattern changes that are only a week old. I take it you are referring to the one-way streets.

Mr. SEAY. Right. That's correct.

Ms. NORTON. Do you believe that the one-way streets will significantly help Metro buses, in particular?

Mr. SEAY. Based on our discussions with the District staff, we think that it will eliminate a lot of the problem that we have experienced since May 20. But I think it would be very premature to say that it is going to eliminate the problem. I think we really don't know that until we've seen it.

As you heard before, there's a lot higher level of enforcement, traffic enforcement, in the area right now. We don't know what the long-term traffic enforcement will be. And we don't know what the impact of pulling that enforcement out will be.

So I don't really think, until August or September, when things have had a chance to settle down and get into more of a routine will we really be able to see the impact from a long-term standpoint.

Ms. NORTON. What, if any, effect has the presence of these detailed police had on Metro buses, in particular? Then I would like to ask Mr. Hoefer if he has seen any effect of the police who have been apparently temporarily placed around the area.

Mr. SEAY. Well, I think, certainly it's a beneficial impact. I think, as you noted earlier, with regard to the impact that they have on rush hour traffic in this area, I think they have helped. And I am concerned that when they are pulled out that it could have an adverse impact.

Ms. NORTON. Mr. Hoefer.

Mr. HOEFER. Yes, I would agree with that statement. One of the problems mentioned to me by some of my courier members is the fact that, with having removed some of the parking zones that were there before the closure of Pennsylvania Avenue, it has taken away some of the loading zones, and by that it causes some of the commuter traffic to occupy some of the space that had been there before the closing, left for commercial parking.

Now that space is no longer available, and it makes it more difficult for the drivers to get in and out to deliver their packages. And with the presence of the police there, as it stands now, a lot of the couriers feel that it keeps the traffic moving. Without the police presence there, their fear is that that traffic may stall, and that will make it even more difficult for them to make their deliveries.

Ms. NORTON. Well, I don't see how it can be argued there should be preferential treatment for the Capitol complex, when it comes to cops stationed out there to direct traffic, particularly since there have been no closings in the main arteries of the Capitol complex. Still we have these cops making sure that everybody keeps going.

There has been a closing here that affects businesses, residents, commuters. I don't see how this is going to be viable if those cops leave. And I can tell you who can't pay for them. Guess.

Ms. Jeffers, you indicated that any benefit might come from some park that might emerge—well, they are going to have to come by

me to come up with something that improves upon Lafayette Park and to tear up Pennsylvania Avenue. So I'm not sure that people are going to get that.

Ms. JEFFERS. As I said, it was just a bone that was thrown out as one possible positive. The overwhelming response was: this is not welcome; it has created two cities; it's a major disconnect. And that was just a stretch for what positive anything that could happen, and it would benefit very few.

Ms. NORTON. It's the kind of stretch that indicates that there may not be a lot of benefit. But I think it's only fair to ask, do you see any benefits that either are coming or could come from the closing of a main artery and its conversion into a pedestrian mall?

Do any of you see any benefit that could come or is coming from that?

[No response.]

Ms. NORTON. I hear silence. I know the sound of silence when I hear it.

I am a registered environmentalist and like the idea of malls. If you consider this mall, it has the exact opposite effect from what pedestrian malls are supposed to do, because it creates huge amounts of extra pollution on other streets, while removing, obviously, some pollution from a very wide street. So any environmental benefit that might otherwise obtain, I think is simply not here now.

I want to thank you all for testimony that I have found personally very useful.

Mr. Chairman, thank you very much.

Mr. DAVIS. Thank you very much.

Let me thank this panel. I think we have gotten some revealing testimony and some good ideas as we move forward. We look forward to a continued dialog. Thank you very much.

I would like to call our final witness, Mr. Robert Gresham, who is the deputy executive director of the National Capital Planning Commission. Mr. Gresham will be testifying in lieu of the executive director, Reginald Griffith.

Mr. Gresham, if you could stand up. As you have heard, it's the policy of the committee to swear in witnesses. If you would rise with me and raise your right hand.

[Witness sworn.]

Mr. DAVIS. Let me add that any written statement will be made a part of our record. Please proceed with your oral statement. If you can keep it within 5 minutes, it would be appreciated.

STATEMENT OF ROBERT GRESHAM, DEPUTY EXECUTIVE DIRECTOR, NATIONAL CAPITAL PLANNING COMMISSION

Mr. GRESHAM. Yes, sir, Mr. Chairman. Since you do have my written statement, if it's OK, I will just summarize by hitting a few highlights of that.

Just for the record, again, my name is Robert Gresham, deputy executive director of the National Planning Commission, filling in for our executive director, Mr. Griffith, who is out of town. We appreciate the opportunity to present an explanation of the statutory procedures for closing streets in the District and the role of our commission in that process.

As noted by a number of witnesses in the first panel early this afternoon, Congress has delegated to the District of Columbia government the authority to close streets within the District. Under D.C. law, before the council may consider a street closing, the Mayor must, among a number of other things, refer the application to the Planning Commission for its recommendations.

As several other witnesses have already noted, a statutory street closing refers to an action which transfers title to the property under the right-of-way from the public domain into public or private ownership, to be used for other than access purposes for pedestrians and/or vehicles. In such instances, the determination of the ultimate ownership of the former right-of-way rests with the D.C. Council.

If the procedures outlined above do not occur, there is no street closing in the statutory sense. As others have already pointed out this afternoon, under this definition, the relevant streets in the vicinity of the White House, as of this date, have not been closed. They have been restricted to vehicular traffic.

The task of preparing both an interim and long-term design for Pennsylvania Avenue has been given, by the White House, by the chief of staff, to the Secretary of the Interior. Our commission is 1 of 12 agencies that are involved in the ultimate design for this area.

In that connection, the National Capital Planning Act requires that all Federal and District agencies consult with the Planning Commission prior to and at all stages during the development of plans for proposed developments in the District of Columbia.

Therefore, whether or not the Avenue is closed according to statute, if the area encompassing Pennsylvania Avenue between 15th and 17th, as well as the other streets that have been referred to in the vicinity of the White House, if this area is redesigned, such development would require formal consultation with this commission, as provided in the Planning Act.

That concludes my testimony, Mr. Chairman. I will be happy to try to answer any questions of the subcommittee.

[The prepared statement of Mr. Gresham follows:]

NATIONAL CAPITAL PLANNING COMMISSION
801 PENNSYLVANIA AVENUE, N.W., SUITE 301
WASHINGTON, D.C. 20576

STATEMENT OF

THE NATIONAL CAPITAL PLANNING COMMISSION

before the

SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT
U.S. HOUSE OF REPRESENTATIVES

June 30, 1995

Mr. Chairman and members of the Committee. My name is Robert Gresham and I am the Deputy Executive Director of the National Capital Planning Commission. Thank you for the opportunity to present to this subcommittee an explanation of the statutory procedures for closing streets in the District of Columbia and the role of the National Capital Planning Commission in that process.

In 1932, Congress delegated to the District of Columbia government the authority to close streets within the District. This authority was continued in the Home Rule Act. Under D.C. law, before the District of Columbia Council may consider a street closing, the Mayor must, among other things, refer the application to the National Capital Planning Commission for its recommendations. D.C. Code §7-422(3). In addition, two other statutes give authority to the District of Columbia government to dispose of property, including streets, to be used for other than street purposes. See, D.C. Code §8-104(b)(2) and D.C. Code §8-111.

Notwithstanding these delegations of general street closing authority, Congress also made clear in the Home Rule Act that the federal government maintains a strong interest in federal property located

within the District of Columbia and in carrying out federal functions within the District of Columbia. Accordingly, the Home Rule Act prohibited the District of Columbia Council from enacting any act "which concerns the functions or property of the United States. . ." D.C. Code §1-233(a)(3). We understand that the Secretary of the Treasury excluded vehicular traffic from (1) Pennsylvania Avenue between 17th Street and Madison Place, (2) State Place, and (3) the segment of South Executive Avenue that connects to State Place, in order to protect the President and the inhabitants of the White House. We have been advised by the Department of Justice that protecting the President and the inhabitants of the White House is a federal function mandated by 18 U.S.C. §3056 and other relevant statutes.

A statutory street "closing" refers to an action which transfers title to the property under the right of way from the public domain into public or private ownership to be used for other than through access purposes for vehicles and/or pedestrians. In such instances, the determination of the ultimate ownership of the former right of way rests with the D.C. Council. If the procedures outlined above do not occur, there is no street "closing" in the statutory sense. Under this definition, the relevant streets in the vicinity of the White House, as of this date, have not been "closed"; they have been restricted to exclude vehicular traffic. There is no federal law which requires particular procedures prior to initiating such a restriction.

As mentioned above, we have been advised by the Department of the Treasury that restrictions were instituted for the areas in the vicinity of the White House for the protection of the President and the inhabitants of the White House. We understand that several agencies were briefed on this matter

prior to the restrictions. The Chairman and Executive Director of this Commission were among those briefed by the Undersecretary of the Treasury and Secret Service personnel. The task of preparing both an interim and long-term design for Pennsylvania Avenue has been given to the Secretary of the Interior. The Commission is one of 12 agencies that are involved in the ultimate design for the area.

The National Capital Planning Act, 40 U.S.C. §71d, requires all Federal and District Agencies to consult with the National Capital Planning Commission prior to and at all stages during the development of plans for proposed developments or projects in the District of Columbia. Therefore, whether or not Pennsylvania Avenue is "closed" as provided for in D.C. Code §7-421 above, if the area encompassing Pennsylvania Avenue between 15th and 17th Street, as well as the environs, is redesigned, such development would require formal consultation with this Commission as provided in the Planning Act.

This concludes my formal testimony. I would be happy to answer any questions.

Mr. DAVIS. Thank you very much.

Let me ask a question: From your perspective, if the Secret Service has the authority to restrict access to Pennsylvania Avenue, do they have the authority to keep those restrictions in place as long as necessary?

Mr. GRESHAM. Mr. Chairman, I'm not a legal authority, but I believe it is our sense, from our understanding of authorities that have been cited by the Department of the Treasury and concurred in by the Department of Justice, that they believe that is the case. But I think it would probably be best to confirm that with those agencies.

Mr. DAVIS. I think that squares with what you are saying. I appreciate your caveat. Let me ask you this: If the street is to be legally and permanently closed, and something else is done with the land, do you think the Treasury would have to follow the statutory procedures that exist?

Mr. GRESHAM. I really believe, at least based on other precedents that we have seen——

Mr. DAVIS. Don't worry. I mean, you are under oath, but I am not holding to any legal requirement that you have the I's dotted and T's crossed and precedents in place. I'm just asking for a gut reaction.

Mr. GRESHAM. Yes, sir. Well, based on my experience from several years with the commission, we have actually seen improvements take place in street rights-of-way, or former street rights-of-way, as the case may be, under both circumstances, either in cases where there have been statutory street closings, and in some cases where there have not been statutory street closings, but where the streets have been closed to vehicular traffic and permanent pedestrian improvements have been installed within those rights-of-way.

Mr. DAVIS. Do you know of any precedent for what has happened in this case, any other precedents where streets have been closed in this—I shouldn't say "closed," have vehicular access denied similar to this?

Mr. GRESHAM. Yes, sir. In fact, there are some cases where the restriction has taken place, and subsequent to that improvements have actually been put in place. The examples that come most quickly to mind involve one in the vicinity of the White House, East Executive Drive, between the White House—the north-south street between the White House and the Department of Treasury building was restricted to vehicular traffic back, I believe in 1983.

That action was followed up by the preparation of a design landscape development plan that was then reviewed through the public agencies process and, of course, was implemented, and is now in place.

Mr. DAVIS. I actually worked at the White House in 1970 and 1971, and I remember when it was open, when you could be dropped off there, and you could walk through. The tour started back there.

Mr. GRESHAM. That, I understand, was done without a closing.

A few examples in the more traditional, the older downtown part of Washington, a one-block section of G Street, in front of the Martin Luther King Library, two blocks of F Street, in front of the old Patent Office building, which is now the National Portrait Gallery,

and an intersecting one-block section of 8th Street, these streets were, again, restricted to vehicular traffic back in the 1970's. I believe it was the early 1970's, before 1975.

And pedestrian improvements were installed in those streets as pedestrian ways. It was part of a program that was called the "Streets for People" program at the time.

Mr. DAVIS. Thank you very much. That's good knowledge. I appreciate it.

I recognize the ranking member of the subcommittee, Ms. Norton.

Ms. NORTON. Thank you, Mr. Chairman.

Mr. Gresham.

Mr. GRESHAM. Yes, ma'am.

Ms. NORTON. Do you know of any—you cite streets that have been closed—do you know of any artery in the District of Columbia as major as Pennsylvania Avenue that has ever been closed down and incurred improvements as a result of its being closed down?

Mr. GRESHAM. The examples that I cited, Ms. Norton, I don't believe carried the level of traffic that the Pennsylvania Avenue section in front of the White House carried.

Ms. NORTON. Thank you. Are you aware of—what is your view of what was done, I believe it was in the 1960's, on F Street?

Mr. GRESHAM. The improvements—the "Streets for People" improvements, if they are the——

Ms. NORTON. The divided——

Mr. GRESHAM. There were two different developments in F Street. One was the median that was placed in, I think, two or three blocks of F Street.

Ms. NORTON. Yes, that's the one.

Mr. GRESHAM. I believe from 12th to 14th. That actually occurred before I began to work with the Planning Commission, although just a few years before. I was not involved in that. I was with the Commission when the "Streets for People" improvements took place a little further east on F Street.

I think, if you are talking about a personal opinion——

Ms. NORTON. I am.

Mr. GRESHAM [continuing]. The recent restoration of that street has, I think, been done very attractively. I think the median was somewhat ill-maintained over the years and did become a problem in that particular section of F Street.

Ms. NORTON. And, of course, it became a major traffic problem in F Street. On a cost-benefit analysis, I know of nobody with an interest either in the aesthetics or in the traffic effect who regarded that as an advance. It had something to do with the hubris of believing that we could improve upon the original plans, the L'Enfant plan.

I am wondering whether we continue with such hubris. Do you believe that we can improve upon the Lafayette Park environment in front of the White House?

Mr. GRESHAM. Well, I believe—again, it's—Ms. Norton, if you will bear with me for just a moment. Of course, I'm a staff person who is here on behalf of a 12-member commission. And the commission, of course, sets policy and would ultimately make a decision based upon a proposal put before it as to whether or not they

felt an improvement proposal for that section of Pennsylvania Avenue did have the potential for improving it.

So strictly speaking for myself, as a planner, not representing in any way that larger view of the commission, I think there is potential, from a design and open space continuity standpoint, for some improvement in that area.

Ms. NORTON. Would you elaborate on what kind of improvement you have in mind when you say that?

Mr. GRESHAM. Well, I was really speaking just with respect to the question of potential. My own sense is that the condition that has already been created has, to some extent, really facilitated the interaction of pedestrian movement in that area, between the sidewalk in front of the White House——

Ms. NORTON. Why would anybody need anything else? It's a wide avenue that you can interact with everybody out there. Why would anybody consider tearing up Pennsylvania Avenue or futzing around with Lafayette Park, on the theory that a further improvement could be made?

Mr. GRESHAM. Well, I think that that's—I think you would find designers and planners who would——

Ms. NORTON. Love to get ahold of it.

Mr. GRESHAM [continuing]. Who would feel that there is a great opportunity. I think you would probably find preservationists and other planners and designers who would feel that the cartway, because it does represent some historic value, should be retained.

And there is also, to my understanding, a school of thought that some design and landscape improvements could probably be achieved that would perhaps represent the best of both of those approaches, by still retaining some semblance of the cartway, but also making the area more pedestrian-friendly than it was when it was strictly a street cartway.

But, again, please——

Ms. NORTON. I understand.

Mr. GRESHAM. Please understand, these are really——

Ms. NORTON. I understand the position you're being put in. I tell you, it's awfully pedestrian-friendly now, because a pedestrian doesn't encounter anything but a wide open space.

The commission is known for being a guardian of the history, and particularly the architectural and landscape history, of Washington, especially when D.C. wants to do something. And I certainly hope it won't lose its mind because who happens to be involved now is the White House or a Federal entity.

We intend to hold the commission to the self-same standard. And I intend—I can tell you here, right now, that any changes that are going to go on are going to have to come through the Congress and are not going to come out of the commission or anybody else. It's going to have to be authorized. I have assurances that—and you can carry this back to the commission—that actions such as national contests to see who can do what best are inappropriate until this matter is thoroughly understood and its effects are thoroughly felt.

We believe that this area deserves the same kind of protection that the commission has believed should obtain in other circumstances. The notion of a rush to change, by those who will have

a very hard time coming up to the standards that the commission has usually established, it's just not going to happen.

Let me just ask your view on one other matter. If Pennsylvania Avenue were a piece of public property, and there was a big department store that had the idea that you could make a wonderful plaza there if you simply closed the street, and got permission to do so, I take it that you would agree that that action would be subject to the District of Columbia street closing and alley closing procedures?

Mr. GRESHAM. Yes, ma'am.

Ms. NORTON. The only reason it may not—and that is still an open legal question—is because the street, though under the "jurisdiction" of the District, was closed by Federal authorities.

Mr. GRESHAM. Right.

Ms. NORTON. This matter may or may not fall under the District's street and alley closing authority, but I can tell you this much, it's a "taking," as far as the District is concerned, on either side. It is impossible to believe that if you have an apartment building on either side, that you can rent for what you could rent the day before the closing. It's impossible to believe that people who have deliveries made have property values that are unaffected.

We won't know the real answer to that for some years to come. But that is why, as far as most of us are concerned, this is not the time to leap forward with plans for change. The dust has hardly settled on Pennsylvania Avenue. The testimony that has come before us is, if you take those cops away, the whole of downtown gets strangled.

So this has been a most unsettling occurrence, coming in the midst of the District's virtual insolvency. Most who have come before us today have not questioned the need. What we have questioned is the lack of give-and-take on how to proceed following the closing.

So as far as this member is concerned, the closing is a temporary—indeed, even the Secret Service calls it a "restriction." It will be some time, I can assure you, before the NCPC is going to have much to do about this.

Mr. Chairman.

Mr. DAVIS. Ms. Norton, thank you.

Thank you very much, Mr. Gresham, for being with us and sharing your very extensive knowledge of the history of this and other closings.

Mr. GRESHAM. Thank you, Mr. Chairman.

Mr. DAVIS. I would like to enter into the record a written statement submitted by the District of Columbia Chamber of Commerce and by the American Automobile Association, and a consultant's report and follow-up statement sent to the subcommittee by Mr. Robert Morris, who advised the Treasury Department on this matter.

[The information referred to follows:]

Testimony of John L. Green

Chairman, District of Columbia Chamber of Commerce Government Affairs Policy Committee

The District of Columbia Chamber of Commerce appreciates this opportunity to submit testimony regarding the closure of Pennsylvania Avenue in front of the White House.

As you know, the District of Columbia Chamber of Commerce represents the interests of businesses operating in the District. In that role, the Chamber is committed to promoting actions intended to create a more positive climate for the business community and an environment that will promote economic growth and financial stability for the District. These goals are of paramount importance, especially at a time when the District faces its most difficult challenges with respect to financial soundness.

The Chamber has chosen to testify on the Pennsylvania Avenue closure for two reasons. First, because we are a District-based organization, we are concerned about retaining fundamental aspects of home rule despite the need for federal intervention on certain local issues. Second, we are concerned about protecting the District from any adverse financial consequences the closure may have on the District government and business community.

It is our view that any efforts of Congressional representatives and other federal officials to assist in resolving the District's problems should not exclude the mayor or the

Council of the District of Columbia. Each should play an active role in every aspect of the planning and implementation of matters that have a direct impact upon District residents and businesses.

Although the closing of Pennsylvania Avenue was due to concern for the safety of the President, the nature, extent and circumstances surrounding the closing should not ultimately be resolved without substantial input from District officials. Such individuals are the only officials, other than Congresswoman Norton, who are directly responsible for and accountable to District residents and businesses. To exclude District officials from the decision-making process is to deprive residents and businesses of the opportunity to shape their future.

Some in the business community are concerned that the Pennsylvania Avenue closing has separated the District into two "downtowns." Without vehicular access to the portion of Pennsylvania near the White House, it is burdensome for drivers to travel from K Street and Connecticut Avenue on the west to the emerging commercial areas to the east. This is at a time when there is an attempt to establish continuity in business activity across the District.

A more specific example of how the closure has harmed businesses is in the taxi industry. The rerouting of traffic and the congestion in the area have forced taxi drivers to spend more time and travel greater distances to transport passengers. However, due to

the District's zone system cab drivers are not compensated for the increased travel time.

Finally, although the federal government has assured us that the District will not be liable for costs associated with the closure, the business community remains sensitive to this issue. The District government should not be forced to bear the financial obligation, not only because the closing is directly related to a matter that is a federal interest, but also because the District played no role in determining the circumstances under which the closing was implemented. Moreover, too often in the past an increased taxation of Chamber members has been the solution when the District faces a financial burden.

We hope that any further discussions regarding a permanent solution to the Pennsylvania Avenue reconfiguration will involve District government officials and address the concerns of the business community. The District of Columbia Chamber of Commerce stands ready to assist this Committee and the federal government in efforts to devise a long-term strategy for improving security around the White House in a way that is not an undue burden on District residents and businesses.

Mr. DAVIS. The subcommittee will continue to work with the District and the administration on this issue and intends to have a subsequent hearing on this matter.

At this point, I ask for unanimous consent to enter into the record letters from the subcommittee to the Secretary of the Treasury, the Mayor, and the council chairman, together with their respective responses.

Hearing no objection, it is so ordered.

[The information referred to follows:]

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

ASSISTANT SECRETARY

June 27, 1995

The Honorable Tom Davis
Chairman
District of Columbia Subcommittee
Government Reform and Oversight Committee
United States House of Representatives
Washington, D.C. 20515-6143

Dear Mr. Chairman:

Thank you for your letter of June 8, 1995, in which you requested information concerning the closing of a segment of Pennsylvania Avenue and State Place to vehicular traffic.

Enclosed are responses to the specific questions contained in your letter. Please do not hesitate to contact me if I may be of further assistance in this matter.

Sincerely,

Linda L. Robertson
Assistant Secretary
(Legislative Affairs and Public Liaison)

Enclosure

THE DEPARTMENT OF THE TREASURY'S RESPONSE TO CHAIRMAN DAVIS REGARDING THE CLOSING OF CERTAIN AREAS ADJACENT TO THE WHITE HOUSE.

(1) What specific authority did you rely upon to close a portion of at least 2 public streets adjacent to the White House and to ban public parking on sections of other public streets?

The Secretary of the Treasury directed the Secret Service to prohibit vehicular traffic on segments of Pennsylvania Avenue and South Executive Avenue, and on State Place, pursuant to his authority under 31 U.S.C. Section 321, 18 U.S.C. Section 3056, 3 U.S.C. Section 202. This security measure was deemed imperative to protect the President and the First Family while they are within the White House. Legal opinions that discuss the Secretary's authority under those statutes were provided by the General Counsel of the Department of the Treasury and the Office of Legal Counsel at the Department of Justice. Based upon the statutory provisions cited above, the findings and conclusions of the Department of the Treasury's White House Security Review, and the opinions of counsel described above, the Secretary directed the Secret Service to take this action.

Copies of the opinions of counsel are provided at Tab A.

(2) What authority do you believe you may have to make these changes permanent, and what plans do you have to make these actions permanent?

Please refer to the Department of the Treasury's response to Question (1) above.

The President has asked Secretary Babbitt and the Department of the Interior's National Park Service to develop a long term design for Pennsylvania Avenue in front of the White House. He has directed the National Park Service to work with a pre-existing group, the Comprehensive Design Plan for the White House. The Comprehensive Design Plan group will collaborate with other entities in this effort, including Congress, District of Columbia officials, the Department of Transportation and the Federal Highway Administration.

(3) Do you or the Administration have any plans for future actions of a similar nature?

No other actions of a similar nature are planned at this time.

(4) Are any similar or related actions of this type being actively investigated at this time?

No other similar or related actions of this type are being actively investigated at this time.

(5) Do you intend to request District of Columbia or Congressional input or approval of the actions taken or other related matters under review?

We have briefed Congressional leaders and District of Columbia officials prior to and since the closing of Pennsylvania Avenue and State Place to vehicular traffic. (See response to Question (8) below.)

We welcome and solicit the input of Congressional and District of Columbia officials at every stage of the process of developing responses to traffic and design issues.

(6) Do you intend to follow District and congressional procedures for any permanent actions on this matter? If not, why not and what authority do you have to take such permanent actions?

The Secretary of the Treasury directed the Secret Service to close those sections of the streets to vehicular traffic pursuant to his authority under 31 U.S.C. Section 321, 18 U.S.C. Section 3056, 3 U.S.C. Section 202. This security measure was deemed imperative to protect the President and the First Family while they are within the White House.

A copy of the Secretary of the Treasury's Order, dated May 19, 1995, is provided at Tab B.

(7) I understand that a consultant study may have been done for the Department on the impact of this action on traffic in the District of Columbia along with possible ameliorative actions and their impact. If so, please forward a copy for review. Would you object to any such consultant being invited to testify at an early initial hearing before this Subcommittee on the Pennsylvania Avenue closing issue? The Subcommittee anticipates other activity on this matter as more information becomes available on the long term situation.

A copy of the traffic impact study conducted by Robert L. Morris, Inc., consultant in traffic and transportation, is provided at Tab C. In addition, provided at Tab D, is a copy of a letter from Georges Jacquemart, a transportation planner and traffic engineer consulted by the White House Security Review.

The Department of the Treasury would not object to either consultant's participation in a Congressional hearing respecting the closing of Pennsylvania Avenue or State Place to vehicular traffic.

(8) **Please attach a comprehensive compilation of all congressional and District of Columbia government consultation on this matter prior to and since the time action was taken.**

The following individuals have been consulted on this matter prior to and since the time action was taken:

House of Representatives

Speaker Gingrich
Congressman Gephardt
Congressman Lightfoot
Congressman Hoyer
Congressman Clinger
Congresswoman Holmes Norton
Congressman Davis
Congressman Herr
Congressman Gutknecht

Senate

Senator Dole
Senator Lott
Senator Daschle
Senator Shelby
Senator Kerrey
Senator Specter
Senator Moynihan

District of Columbia Government

Mayor Barry
Mr. Rogers, City Administrator
Chairman Clarke
Councilmember Ray
Councilmember Mason
Councilmember Lightfoot
Councilmember Cropp
Councilmember Smith
Councilmember Evans
Councilmember Patterson
Councilmember Drew Jarvis
Councilmember Thomas
Councilmember Brazil
Councilmember Chavous

Metropolitan Police Department

Chief Thomas

District of Columbia Department of Public Works

Mr. Larry King
Mr. Gary Burch

Washington Metropolitan Area Transit Authority (WMATA-METRO)

Mr. Lawrence Reuter

BY ORDER OF THE
SECRETARY OF THE TREASURY

DATE May 19, 1995
TREASURY ORDER 170-09

Sunset Review:

SUBJECT: Direction to the Director, United States Secret Service, to Close Streets Necessary to Make the White House Perimeter Secure

As Secretary of the Treasury, I am authorized to direct the Secret Service to take any and all appropriate action to protect the President of the United States and other protectees as described in 18 U.S.C. 3056(a). In furtherance of these responsibilities, Secretary Bentsen commenced a review of the security arrangements at the White House (the Review). The Review is not able to identify any alternative to prohibiting vehicular traffic on Pennsylvania Avenue that would ensure the protection of the President and others in the White House Complex from explosive devices carried by vehicles near the perimeter.

Therefore, I have determined based upon the Review's work and conclusions that it is necessary to make secure the perimeter of the White House.

By virtue of the authority vested in me as Secretary of the Treasury, including, but not limited to, the authority vested by 31 U.S.C. 321, 18 U.S.C. 3056 and 3 U.S.C. 202, it is ordered that:

1. The Director, United States Secret Service, is directed to close to vehicular traffic the following streets in order to secure the perimeter of the White House: (i) the segment of Pennsylvania Avenue, Northwest, in front of the White House between Madison Place, Northwest, and 17th Street, Northwest; and (ii) State Place, Northwest, and the segment of South Executive Avenue, Northwest, that connects into State Place, Northwest (see attached map).

2. I hereby delegate to the Director, United States Secret Service, all necessary authority to carry out such street closings.

3. This Order shall take effect immediately.

Robert E. Rubin
Secretary of the Treasury

OPI: Under Secretary for Enforcement

Investigation into the Feasibility of Closing Streets in the Vicinity of The White House

15 May 1995

ROBERT L. MORRIS, INC.
CONSULTANT IN TRAFFIC AND TRANSPORTATION
P.O. BOX 34230, BETHESDA MARYLAND 20827-4230 (301) 299-6632

Investigation into the Feasibility
of Closing Streets in the Vicinity of
The White House

Investigation has been made into the feasibility, from a traffic engineering viewpoint, of the closing of the following streets.

Constitution Avenue between 15th & 17th Streets
E Street between 15th & 17th Streets
Pennsylvania Avenue between 15th & 17th Streets
H Street between 15th & 17th Streets
15th Street between Constitution Avenue and Pennsylvania Avenue
17th Street between Constitution Avenue and Pennsylvania Avenue

Using current peak hour traffic data furnished by the D.C. Department of Public Works, and the most logical diversion of traffic with each street closure, it was determined that:

* The closing of Constitution Avenue would result in unacceptable congestion.
* The closing of E Street would result in unacceptable congestion.
* Pennsylvania Avenue could be closed with traffic diverted to H and I Streets.
* H Street could be closed provided Pennsylvania Avenue remains open.
* The closing of 15th Street would result in unacceptable congestion.
* 17th Street could be closed, with traffic diverted to 18th and 19th Streets, but there would be heavy congestion on parts of 19th St.

ROBERT L. MORRIS, INC.

By way of explanation:

Constitution Avenue There is no logical street for diversion of this traffic; E Street is the nearest and most likely substitute. For E Street to handle the addition of Constitution Avenue traffic it would have to have five lanes eastbound and four lanes westbound - a total of nine lanes, compared with its current cross-section at the Ellipse of four lanes.

E Street If E Street were closed, the inbound traffic in the morning peak hour would probably divert to Constitution Avenue, requiring five lanes compared with the currently available four lanes. In the evening peak hour the diversion would likely be partly to Pennsylvania Avenue and partly to Constitution Avenue. These streets could theoretically handle the additional traffic, but there would be a severe back-up on Constitution Avenue at 23rd Street with four lanes merging into two lanes approaching the Theodore Roosevelt Bridge.

Pennsylvania Avenue H Street and I Street both have excess capacity and they would function efficiently as a one-way pair. The peak hour traffic volumes, combining Pennsylvania Avenue, H Street, and I Street, would require four lanes eastbound and three lanes westbound.* H Street has five lanes, operating two-way with three lanes westbound and two lanes eastbound. I Street operates one-way eastbound with four lanes, although it has adequate width for five lanes from 13th Street to midblock between 16th and 17th Streets. With H Street

* The combined H Street, I Street, and Pennsylvania Avenue carry approximately 2200 vehicles eastbound and 1600 vehicles westbound during the morning peak hour, and approximately 3100 vehicles eastbound and 2000 vehicles westbound during the evening peak hour.

one-way eastbound and I Street one-way westbound, there would be one more lane than needed in each direction to carry the peak hour volumes. Consideration might be given to providing a counter-flow lane on each street for Metrobuses only - a concept that has worked well in other cities. The connections of H and I Streets with Pennsylvania Avenue on the west and with New York Avenue on the east can easily be designed to handle these new traffic patterns.

H Street Peak hour volumes are well under 1000 vehicles in each direction, which volume could easily be absorbed by other east-west streets.

15th Street With the closure of 15th Street, the traffic would be expected to divert to 14th Street. This would require an eight-lane roadway, compared with the existing six lanes.

17th Street Both 18th and 19th Streets (an existing one-way pair) have adequate capacity to absorb 17th Street volumes, but there would be some problems. At the south end, the diversion of northbound traffic to 18th Street via Constitution Avenue and Virginia Avenue would work reasonably well. The problems arise principally with traffic from the north, moving south. This traffic, coming past Farragut Square from the intersection of Connecticut Avenue and K Street, would have to divert via H Street to 19th Street, at Pennsylvania Avenue. With Pennsylvania Avenue open, the intersection of Pennsylvania Avenue/H Street/19th Street would be more severely congested in the evening peak hour than at present, although there is probably adequate capacity. If Pennsylvania Avenue were closed, the diversion to 19th Street would be via I Street, operating one-way

westbound. In either event (Pennsylvania Avenue open or closed), it is likely that some of the traffic that now moves south on 17th Street would instead take 19th Street at Dupont Circle. The section of 19th Street between Dupont Circle and M Street is already congested and it has little, if any, excess capacity.

In conclusion, it appears that either Pennsylvania Avenue or H Street - but not both - could feasibly be closed. Constitution Avenue, E Street, and 15th Street should not be closed. The closure of 17th Street is feasible, but not recommended.

DEPARTMENT OF THE TREASURY
WASHINGTON

GENERAL COUNSEL

May 12, 1995

MEMORANDUM FOR SECRETARY RUBIN

FROM: EDWARD S. KNIGHT Edward S Knight

Subject: Legal Memorandum of the Secretary's Authority to Close Pennsylvania Avenue and other Streets Around the White House Perimeter

Summary

This memorandum discusses your legal authority, under 18 U.S.C. Section 3056 ("Section 3056"), to close Pennsylvania Avenue and other streets adjacent to the White House.

We conclude that Section 3056 provides you with broad legal authority to close these streets provided that you determine, as a factual matter, that such closure is necessary in order to protect the President.

Facts

In response to the September 12, 1994 plane crash on the South Grounds of the White House, then Secretary Bentsen established the White House Security Review ("Review") to examine White House security issues in light of this incident. The Review's scope was expanded to include a study of additional security issues raised by the subsequent incidents, including the shooting at the White House by Francisco Duran.

Among the recommendations made by the Review is to close to vehicular traffic Pennsylvania Avenue between Madison Place and 17th Street, State Place, and the segment of South Executive Avenue that connects into State Place. These streets are contained within the National Capital Service Area, a federal enclave consisting of the White House and other federal buildings and property.[1] Specifically, the Review concluded that there is no alternative to prohibiting vehicular traffic on those streets that would ensure the protection of the President and others in

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[1] 40 U.S.C. 136 establishes a federal area within the District of Columbia to include "the principal Federal monuments, the White House, the Capitol Building, the United States Supreme Court Building, and Federal executive, legislative and judicial office buildings located adjacent to the Mall and the Capitol Building..." and authorizes federal control over police protection and the maintenance of streets and highways in this area.

the White House complex from explosive devices carried by vehicles near the perimeter.

Analysis

The authority to protect the most significant Constitutional officer of the Federal government should be construed broadly. Indeed, courts have long recognized the paramount importance of protecting the President.[2] Even when Constitutional rights are implicated, such as First Amendment rights, courts have recognized the "substantiality" and "significance of America's interest in presidential security."[3] The "uniqueness and importance" of protecting the President has also persuaded courts to sanction "greater limitation than would be applicable generally" with respect to the use of public streets.[4]

Section 3056(a) provides in relevant part that

> "Under the direction of the Secretary of the Treasury, the United States Secret Service is authorized to protect the following persons: (1) the President, the Vice President...(2) the immediate families of those individuals listed in paragraph (1)...." 18 U.S.C. 3056(a)[5]

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[2]"The Nation undoubtedly has a valid, even overwhelming interest in protecting the safety of its Chief Executive...." Watts v. United States, 394 U.S. 705, 707 (April 22, 1969).

[3]White House Vigil for the ERA Committee v. Clark, 746 F.2d. 1518, 1528 (D.C. Cir. 1983). "At stake is not merely the safety of one man, but also the ability of the executive branch to function in an orderly fashion and the capacity of the United States to respond to threats and crises affecting the entire free world." Id. We note that closing streets to vehicular traffic would not violate any Constitutional rights.

[4]A Quaker Action Group v. Morton, 516 F.2d 717, 729 (D.C. Cir. 1975).

[5]A separate statutory section, 18 U.S.C. 1752(d), authorizes you to take certain actions necessary to protect the President while he is visiting or temporarily working or residing in a particular locale away from his permanent residence at the White House. The legislative history makes clear that the purpose of the statute is to clarify the Secret Service's authority to provide zones of protection for persons that it is authorized to protect under Section 3056.

The plain language of Section 3056 provides you with broad authority to do that which is necessary to protect the President and the other protectees listed in the statute. We have found nothing in the legislative history of Section 3056 that imposes limitations on your authority to protect the President. Nor have we found any case law restricting this authority.[6]

Although Section 3056 specifically lists certain law enforcement authorities of the Secret Service[7], the statute does not specifically mention closing streets to protect the President. Nonetheless, we believe that the provision provides you with broad legal authority to close the streets mentioned above should you determine that it is necessary to do so in order to protect the President. Moreover, we believe that you will continue to have authority to close these streets under Section 3056 so long as you continue to determine that, as a factual matter, doing so is necessary to protect the President. The Department of Justice concurs in these conclusions. (See Legal Opinion of Office of Legal Counsel, Department of Justice attacned at Tab A.)

In 1865, the Secret Service was created as a bureau under the Department of the Treasury to combat counterfeiting. In 1901, as result of the assassination of President William McKinley, Congress directed the Secret Service to protect the new President, Theodore Roosevelt. In 1906, Congress finally enacted legislation making presidential protection a permanent Secret Service responsibility, that authority which is now embodied in Section 3056. Protective responsibilities have expanded greatly since that time to include additional protectees under Section 3056, as well as a number of temporary protective duties, such as providing security for the Declaration of Independence and the U.S. Constitution.

Historically, the Secret Service has been involved in a wide range of actions to assure the safety of the President. These

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[6]My office, the Office of the Chief Counsel to the Secret Service, and the Office of Legal Counsel at the Justice Department have conducted exhaustive research with respect to Section 3056, its legislative history and any case law interpreting its provisions. Very little responsive material was discovered. The particular language in Section 3056 providing for the protection of the President was authorized by P.L. 82-79 enacted in 1951. Prior to 1951, the Secret Service's authority to protect the President was provided for in annual appropriations bills. With respect to each of these sources, there is no reference to any limitations imposed on the Secretary with respect to such authority.

[7]E.g., the authority to execute warrants, carry firearms, make arrests. See 18 U.S.C. 3056(c).

actions have included closing streets and portions of highways to protect the President while on travel, closing parking garages to safeguard against bomb threats, restricting airspace over the President and cordoning off areas in hotels in which the President is present.[6] On numerous occasions, certain streets around the perimeter of the White House, including Pennsylvania Avenue, have been closed on a temporary basis because the Secret Service viewed such temporary closures as necessary in connection with its protective mission. Although we are unaware of any such closure lasting beyond five days, we believe that you have authority to close the streets as long as you believe it necessary to do so to protect the President.

As discussed above, the Review concluded that "there is no alternative to prohibiting vehicular traffic on Pennsylvania Avenue and the other streets listed above, that would ensure the safety of the President and others in the White House complex from explosive devices carried by vehicles near its boundaries." We conclude that this finding provides sufficient factual support for you to exercise your authority to close these streets.

We believe that the most effective way to execute your authority pursuant to Section 3056 is to direct to the Director of the Secret Service to take this action and to delegate to him the authority necessary to effect the street closures contemplated by this memorandum.

Exercising your authority to close these streets under Section 3056, however, is not entirely free of litigation risk.[9] We believe, however, that we would likely defeat any challenges to your authority in this matter.

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[6]The Secret Service acts pursuant to its collective authority under Section 3056, 18 U.S.C. 1752 and 3 U.S.C. 202. The Secret Service also has typically taken such actions with the assistance of state and local law enforcement officials, and, in certain actions, such as restricting airspace, through federal authorities.

[9]A number of related legal issues are worth mentioning. Due to the likelihood that closing the streets will be viewed as a "major federal action significantly affecting the quality of the human environment" under the National Environmental Policy Act of 1969 ("NEPA"), the Department, at a minimum, is required to consult with the Council on Environmental Quality in connection with any street closure. Once the streets are actually closed, the Department will be required to undertake other actions under NEPA. Under the Administrative Procedures Act, notice to the public of the streets closures should be posted on site and subsequently in the Federal Register.

Finally, you may wish to seek permanent legislation as a prudential matter to manifest congressional support for yo action.

ATTACHMENTS

Tab A OLC Legal Opinion

cc: Under Secretary Noble

U. S. Department of Justice

Office of Legal Counsel

Office of the
Deputy Assistant Attorney General

Washington, D. C. 20530

May 12, 1995

MEMORANDUM FOR EDWARD S. KNIGHT
GENERAL COUNSEL
DEPARTMENT OF THE TREASURY

From: Richard Shiffrin
Teresa Wynn Roseborough
Deputy Assistant Attorneys General

Re: The Secretary of the Treasury's Authority to Order the Closing of Certain Streets Located Along the Perimeter of the White House Under 18 U.S.C. § 3056

This is in response to your request for a legal opinion from the Office of Legal Counsel ("OLC") on whether the Secretary of the Treasury ("Secretary") has the authority to order the closing to vehicular traffic of (1) Pennsylvania Avenue between 17th Street and Madison Avenue, (2) State Place, (3) and the segment of South Executive Avenue that connects into State Place in furtherance of his responsibility to protect the President under 18 U.S.C. § 3056. Based on a review of section 3056 and related statutes, their legislative histories, and relevant court and OLC opinions, we conclude that section 3056 grants the Secretary broad authority to take actions that are necessary and proper to protect the President. In light of the recommendations of the White House Security Review and the United States Secret Service's unique expertise and special responsibility in this matter, we agree with your conclusion that section 3056 authorizes the actions contemplated by the Secretary.

I. Background

The White House Security Review, which was recently established by former Treasury Secretary Bentsen to examine White House security issues, has determined that "there is no alternative to prohibiting vehicular traffic on Pennsylvania Avenue that would ensure the safety of the President and others in the White House complex from explosive devices carried by vehicles near its boundaries." Request for Legal Opinion from Edward S. Knight, General Counsel, U.S. Department of Treasury, to Walter E. Dellinger, III, Assistant Attorney General, Office of Legal Counsel, U.S. Department of Justice 1 (May 10, 1995). You have informed this Office that in light of the Secretary's responsibilities to protect the President under section 3056, he is considering ordering the closing to vehicular

traffic of portions of three streets that bound the grounds of the White House: (1) Pennsylvania Avenue between 17th Street and Madison Avenue, (2) State Place, and (3) the segment of South Executive Avenue that connects into State Place. Id. You have also informed this Office of your view that the conclusion of the White House Security Review provides sufficient factual support for the Secretary to exercise his authority to close the streets mentioned above. Id.

We have been informally advised that in the past, the Secret Service has taken, on a temporary basis, actions similar to those contemplated. These actions have included closing streets and portions of highways to protect the President while traveling, closing parking garages to safeguard him against bomb threats, restricting airspace over the President, and cordoning off areas in hotels in which the President was present.[1] The Secret Service has also, on occasion, temporarily closed certain streets around the perimeter of the White House, including Pennsylvania Avenue.[2]

II. Legal Analysis

A. Statutory Authority

1. Section 3056

Section 3056 provides, in pertinent part, that "[u]nder the direction of the Secretary of the Treasury, the United States Secret Service is authorized to protect . . . ."

> (1) The President, the Vice President (or other officer next in the order of succession to the Office of President), the President-elect, and the Vice President-elect [and]
> (2) The immediate families of those individuals listed in paragraph (1).

18 U.S.C. § 3056(a)(1)-(2).

In addition to that broadly-stated authority, officers and agents of the Secret Service are authorized, under the direction of the Secretary, to perform certain enumerated

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[1] We have been advised by the Department of the Treasury that the Secret Service has historically taken these steps pursuant to its authority under 18 U.S.C. §§ 3056 and 1752, and 3 U.S.C. § 202. We have also been informed that the Secret Service generally takes such actions with the assistance of state and local law enforcement officials.

[2] The Department of the Treasury has informed us that East Executive Drive was permanently closed to vehicular traffic by the National Park Service in 1985. According to the Department of the Treasury, when the Park Service closed East Executive Drive it consulted with the District of Columbia's Department of Transportation but did not file an application for street closing under the District of Columbia's street closing procedures.

functions,[3] and to "perform such other functions and duties as are authorized by law." 18 U.S.C. § 3056(c)(1)(F). Aside from expressly granting certain powers generally afforded federal law enforcement personnel, the statute does not attempt to enumerate the specific actions the Secret Service may take in fulfilling its responsibility to protect the President.

The legislative history of section 3056 also does not include any enumeration of the specific actions the Secretary may take to protect the President. Although the Secret Service has routinely protected the President since the assassination of President McKinley in 1901, see S. Rep. No. 467, 82d Cong., 1st Sess. 2-3 (1951), Congress did not provide explicit formal authority for this role until 1951. See Pub. L. No. 82-79, 65 Stat. 121, 122 (1951). Neither the congressional report language nor the floor debates concerning the authorizing legislation elaborate upon the activities and functions Secret Service officials may undertake in protecting the President. Moreover, subsequent amendments to section 3056 pertaining to the Secret Service's protection duties merely expanded the group of officials over which the Secret Service has protective responsibilities, without delineating how the protection is to be accomplished.

Although both the language of section 3056 and its legislative history are silent as to specific protective acts, the language and legislative history of 18 U.S.C. § 1752, which authorizes the Secretary to designate and regulate temporary residences of the President, provide some insight into the scope of the Secret Services' authority under section 3056 with respect to the environs of the White House. Section 1752 was apparently intended to provide the Secret Service with authority to provide the same degree of protection for the President outside the vicinity of the White House as Congress believed the Secret Service could exercise, under section 3056, within the vicinity of the White House. Section 1752 grants the Secretary the authority to "designate by regulations the buildings and grounds which constitute the temporary residences of the President." 18 U.S.C. § 1752(d)(1). It also allows the Secretary "to prescribe regulations governing ingress or egress to such buildings

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[3] Such functions include the ability to:

> (A) execute warrants issued under the laws of the United States;
> (B) carry firearms;
> (C) make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony;
> (D) offer and pay rewards for services and information leading to the apprehension of persons involved in the violation or potential violation of those provisions of law which the Secret Service is authorized to enforce;
> (E) pay expenses for unforeseen emergencies of a confidential nature under the direction of the Secretary of the Treasury and accounted for solely on the Secretary's certificate

18 U.S.C. § 3056(c)(1).

and grounds and to posted, cordoned off, or otherwise restricted areas where the President . . . is or will be temporarily visiting." 18 U.S.C. § 1752(d)(2).

The legislative history of the statute suggests that, when enacting section 1752, Congress believed the Secret Service already had similar or greater authority to control access to the environs of the White House. In 1969, Senator Hruska introduced S. 2896, stating that its purpose was "to provide more effective control over unauthorized entry into the temporary residence of the President, and any buildings which are being temporarily used as executive office buildings." 115 Cong. Rec. 25436 (1969) (statement of Sen. Hruska). The Senate Judiciary Committee report accompanying S. 2896 stated that the bill would "extend Federal protection to temporary residences and offices of the President." S. Rep. No. 1252, 91st Cong., 2d Sess. 6 (1970)(emphasis added). The report also mentioned that the bill was "designed to provide a uniform minimum of Federal jurisdiction for Presidential security when the President is on temporary visits," id., noting the testimony of the Director of the Secret Service that "[f]rom a security standpoint, the President is most vulnerable when he is outside the White House complex traveling or residing temporarily in some other section of the country" and "the enactment of . . . [the] legislation is necessary in order to guarantee the safety of the President when he is temporarily absent from the Executive residence." Id. at 6-7. Finally, reflecting the belief that federal law already was adequate to ensure protection of the President within the vicinity of the White House, the report opined that "[a]lthough the Secret Service is charged with protecting the person of the President . . . there is, at the present time, no Federal statute which specifically authorizes them to restrict entry to areas where the President maintains temporary residences or offices." Id. at 7.

Similar themes were expressed during floor debate on the bill. In describing the problems confronting the Secret Service when protecting the President outside of Washington, Senator McClellan stated:

> Protecting the President . . . is a formidable task for the Secret Service, which is charged with safeguarding the personal life of the President. As difficult as this task is, however, it is rendered even more difficult because the Secret Service's present powers are somewhat limited. Title 18, section 3056 of the United States Code authorizes the Secret Service to protect the life of the President, but does little more. Consequently, the Service must rely upon a patchwork of State laws and local ordinances and local officers to clear areas for security perimeters, to provide for free ingress and egress when the President is visiting, and to protect the President's private homes from trespassers.

116 Cong. Rec. 35651 (1970)(statement of Sen. McClellan).

Moreover, Senator Hruska, speaking in support of the legislation, declared:

> [Under S. 2896, the] Secretary of the Treasury would be authorized to designate by regulations buildings and grounds which are temporary residences of the President and temporary offices of the President and his staff. The Secretary also would be authorized to prescribe regulations for admission to such buildings and grounds and to post or cordon off restricted areas where the President is or will be temporarily visiting. . . . It would be unconscionable not to recognize the obvious fact that the President's vulnerability is maximized when he is traveling or residing temporarily in another section of the country. It would be unconscionable not to recognize the obvious fact that the Secret Service does not presently possess adequate Federal authority during these most vulnerable occasions. This body cannot ignore the obvious responsibility and duty it has at this moment to create the needed protection and authority.

116 Cong. Rec. 35653 (1970) (statement of Sen. Hruska).[4]

It is clear that Congress did not perceive that it was giving the Secretary greater power to protect the President when he was away from the White House than when he was within it. Rather, the language and legislative history of section 1752 reflect a belief that the authority afforded by section 1752 with respect to temporary residences already was available with respect to the President's permanent residence, the White House.

Section 1752 plainly grants the Secretary authority to limit ingress and egress to an area where the President will be visiting to create a security perimeter, even when creating such a perimeter will require the closing of a public street to vehicular traffic. Since congressional action did not reflect any intent to give the Secretary greater authority under section 1752 than exists under section 3056, it would be incongruous for us to conclude that the Secretary has such authority with respect to temporary presidential residences but lacks the authority to limit ingress and egress to an area to create an appropriate security perimeter around the White House.

Turning back to the language of section 3056, we note again that Congress painted the Secret Service's Presidential protection authority with a broad brush. That treatment seems reasonable, given the nature of Presidential protection services. Protecting the President requires a certain amount of flexibility to respond quickly to changing and often potentially dangerous situations. Too tight a rein on the authority of the Secret Service would compromise Presidential security. As we have stated in affirming the authority of the Secret Service, under section 3056, to cordon off the area in the vicinity of the White House as a protective measure in anticipation of large-scale demonstrations, "the Secret Service may not have unlimited powers in protecting the President but its powers are broader than routine

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[4] S. 2896 was passed by the Senate on October 8, 1970. see 116 Cong. Rec. 35654 (1970), and incorporated into the Omnibus Crime Control Act of 1970, Pub. L. No. 91-644, tit. V, § 18, 84 Stat. 1880, 1891 (1971).

public safety measures. The test to be applied, it seems, is whether, given the overwhelming interest in protecting the President and his performance of his duties, the measures taken are reasonable under the circumstances." Memorandum from William H. Rehnquist, Assistant Attorney General, Office of Legal Counsel, to Honorable Robert E. Jordan, III, General Counsel, Department of the Army 11 (Nov. 12, 1969).

Relevant case law confirms this broad view. The Supreme Court has recognized that "[t]he Nation undoubtedly has a valid, even an overwhelming, interest in protecting the safety of its Chief Executive and in allowing him to perform his duties without interference from threats of physical violence." Watts v. United States, 394 U.S. 705, 707 (1969). See also White House Vigil for the ERA Committee v. Clark, 746 F.2d 1518, 1528 (D.C. Cir. 1984) ("At stake is not merely the safety of one man, but also the ability of the executive branch to function in an orderly fashion and the capacity of the United States to respond to threats and crises affecting the entire free world"). Accordingly, courts have construed the Secretary's authority under Section 3056 broadly, even in the face of constitutional challenges. In fact, the only limitation the courts have recognized on the Secretary's authority has been the Constitution. Where, for example, first amendment rights have been implicated, courts have balanced the Secret Service's interest in protecting the President against the first amendment rights of those burdened by such actions.[5]

Even in the first amendment context, however, courts have been careful to allow the Secret Service latitude in acting to protect the President. In a decision concerning the Secret Service's denial of a White House press pass to a journalist, the D.C. Circuit required the Secret Service to publish the standards it uses to determine White House press pass eligibility. In delineating the requirements imposed on the Secret Service, however, it agreed with the Secret Service that the first amendment did not require "detailed articulation of narrow and specific standards or precise identification of all the factors which may be taken into account in applying [the] standard." Sherrill v. Knight, 569 F.2d 124, 130 (D.C. Cir. 1977). The court stated that "[i]t is enough that the Secret Service be guided solely by the principle of whether the applicant presents a potential source of danger to the President and/or his immediate family so serious as to justify his exclusion." Id. Arguing that this more flexible approach was appropriate given the mission of the Secret Service, the court declared that "[t]his standard is sufficiently circumspect so as to allow the Secret Service, exercising expert judgment which frequently must be subjective in nature, considerable leeway in denying press passes for security reasons." Id. The court also indicated its belief that courts should be "appropriately deferential to the Secret Service's determination of what

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[5] See A Quaker Action Group v. Hickel, 421 F.2d 1111, 1117-18 (D.C. Cir. 1969). See also Sherrill v. Knight, 569 F.2d 124, 128 n.14 (D.C. Cir. 1977), citing A Quaker Action Group, 421 F.2d at 1117 ("[t]he congressional grants of authority to the Secret Service to protect the President . . . and to control access to temporary presidential residences . . . cannot be said to authorize procedures or actions violative of the Constitution . . . [W]e cannot agree with the Government's argument that mere mention of the President's safety must be allowed to trump any First Amendment issue").

justifies the inference that an individual constitutes a potential risk to the physical security of the President or his family." Id.

Courts have allowed the Secret Service even more latitude outside of the first amendment context. In Scherer v. Brennan, 379 F.2d 609 (7th Cir.), cert. denied, 389 U.S. 1021 (1967), the court found within the scope of the Secret Service's duties to protect the President the barring of a federally-licensed firearms dealer from his own home and his constant surveillance even though he had voiced no direct threat to the President. The appellant argued that this invasion of privacy was illegal under the Supreme Court's analysis in Camara v. San Francisco, 387 U.S. 523 (1967) (holding that the fourth amendment requires a warrant for inspection of private premises by health inspectors unless the occupant consents thereto). In rejecting appellant's argument, the court stated, "Here, the need to protect the President of the United States from possible physical harm would justify measures that might not be considered appropriate in routine health inspections." Scherer, 379 F.2d at 612.

2. Section 202

In addition to the broad authority to protect the President granted in section 3056, 3 U.S.C. § 202 grants the "United States Secret Service Uniformed Division" authority to perform duties prescribed by the Secretary to protect the "White House in the District of Columbia" and "any building in which Presidential offices are located." This provision makes clear that the Secretary has authority to direct not only such action as is necessary to protect the person of the President but also the White House itself and the Old Executive Office Building, which is also bounded by the designated streets.

The language and legislative history of sections 3056 and 1752, the authority granted in section 202, the court decisions, and former opinions of this Office suggest that while the Secretary's authority to protect the President may not be unlimited, the Secretary may take such actions as are consistent with the Constitution, not prohibited by statute, and reasonable under the circumstances for the protection of the President in the performance of his duties. We perceive no constitutional impediment to the closing of the designated streets. Consequently, given the conclusions of the White House Security Review with respect to the vulnerability of the White House, the Secretary would appear to have the authority to expand the security perimeter of the White House by closing the designated streets if the Secretary concludes that such action is reasonably necessary to protect the President. We now turn to consideration of whether any other statutes prohibit or limit such action.

B. Other Relevant Statutes

Other congressional grants of authority that could arguably apply to the streets at issue do not diminish the Secretary's authority to close them to vehicular traffic. We will discuss each such congressional grant of authority in turn.

1. District of Columbia Street Closing Authority

The District of Columbia government has exercised the power to close streets and transfer title within the District of Columbia since 1932, when Congress, pursuant to its plenary powers over the District of Columbia,[6] granted it such authority. See Techworld Dev. Corp. v. D.C. Preservation League, 648 F. Supp. 106, 111 (1986), citing S. Rep. No. 688, 72d Cong., 1st Sess. 3 (1932). When Congress passed the District of Columbia Self-Government and Governmental Reorganization Act, Pub. L. No. 93-198, 87 Stat. 774 (1973) (codified at D.C. Code Ann. §§ 1-211 -- 1-299) ("Home Rule Act"), it delegated to the present District of Columbia government all powers that had been granted to the previous government, see D.C. Code Ann. § 1-227(a), including the power to close streets.

D.C. Code §§ 7-421 -- 7-428 authorize the District of Columbia City Council ("Council") to close streets within the District of Columbia. The street closing process established by the Council requires referral of street closing applications to the National Capital Planning Commission for review and recommendation, to the Advisory Neighborhood Commissions affected, and to abutting property owners. See D.C. Code Ann. at § 7-422.

We do not believe D.C. Code §§ 7-421 -- 7-428 or the Home Rule Act prevent the Secretary from closing the streets at issue. First, in passing the Home Rule Act, Congress provided that the Council shall have no authority to "[e]nact any act, or enact any act to amend or repeal any Act of Congress, which concerns the functions or property of the United States or which is not restricted in its application exclusively in or to the District." Id. at § 1-233(a)(3). Rejecting the United States' assertion that the Council's act of closing a government-owned street in Northwest Washington violated this provision, the court in Techworld stated:

> [T]he limitation of § 1-233 is included to ensure that the local government does not encroach on matters of national concern. It withholds authority over property used by the United States in connection with federal governmental functions, and over property of national significance. The Council may not concern itself with the Lincoln Memorial, or the White House, or with the United States Courthouse. The closing of a small street in Northwest Washington, however, is precisely the sort of local matter Congress wishes the D.C. Council to manage.

Techworld, 648 F. Supp. at 115. See also District of Columbia v. Greater Washington Cent. Labor Council, AFL-CIO, 442 A.2d 110, 116 (D.C. 1982), cert. denied, 460 U.S. 1016 (1983) (quoting legislative history of the Home Rule Act: "The functions reserved to the federal level would be those related to federal operations in the District, and to property held and used by the Federal Government for conduct of its administrative, judicial, and

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[6] See U.S. Const. art. I, § 8, cl. 17

legislative operations; and for the monuments pertaining to the nation's past"). See also id at 116 n.1, quoting Hearings on Self-Determination for the District of Columbia, Part 2, 93d Cong., 1st Sess. 52 (1973) (statement of John Nevius, former Chairman of the Council) ("For the purposes of identifying these Federal functions, we are speaking basically of three things: First, the function regarding Federal buildings and properties; second, the conduct of Federal business . . . and third, the function of international relations and matters concerning the diplomatic corps").

Here, unlike the situation in Techworld, Congress has delegated by statute to the Secret Service the indisputably federal function of protecting the President. In this context, we believe that D.C. Code § 1-233(a)(3) establishes that the Council may not assert its authority where doing so would interfere with the Secret Service's ability to carry out its congressionally-mandated function of protecting the President.

Second, the streets slated for closing are located within the National Capital Service Area, a geographic area comprising many of our national governmental buildings and monuments, the White House, the National Mall and other areas, over which Congress in the Home Rule Act reserved some federal administrative authority. Section 739 of the Home Rule Act, Pub. L. No. 93-198, tit. VII, § 739 (codified at 40 U.S.C. § 136), established the National Capital Service Area. It also established the position of a presidentially-appointed National Capital Service Director within the Executive Office of the President and charged that office with assuring "that there is provided . . . adequate police protection and maintenance of streets and highways" within the National Capital Service Area. 40 U.S.C. § 136(b).

The National Capital Service Area provision was added to the Home Rule Act as a floor amendment. Suggesting that the National Capital Service Area was an area of heightened federal interest within the District of Columbia, the chief sponsor of the amendment, Representative Green, stated that the National Capital Service Director "would have jurisdiction [within the area] over the police department, fire protection, over sanitation, the streets, the roads and accesses to them." 119 Cong. Rec. 33611 (1973) (statement of Representative Green). See also id. at 33645 (". . . the President would appoint a Director of Federal Area Services who would be responsible for police protection, fire protection, sanitation, the streets, and access to roads"). While the language and legislative history of the provision do not suggest that the District of Columbia has no jurisdiction over the National Capital Service Area, they do suggest that Congress considered the federal government's interest in areas within the National Capital Service Area to be greater and more important than its interest in areas outside the National Capital Service Area. We believe this reservation of federal governmental interest further supports the Secret Service's

authority to take unilateral action in closing streets within the National Capital Service Area in an effort to protect the President.[7]

2. Administrative Procedure Act

You have also raised the issue of whether the Secretary's action would constitute a "rule" as defined by the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 551-559, at § 551(4), thereby triggering the requirement to provide "interested persons" with notice and opportunity to comment as a part of the rulemaking process. We believe that the Secretary could successfully argue that the notice and comment requirements of the APA do not apply because his action in closing the streets at issue to provide protection for the President is not a "rule" within the meaning of section 551(4). Moreover, if the federal government owns the streets in question, any action to close them would be exempt from the APA pursuant to the "public property" exception in 5 U.S.C. § 553(a)(2).

The APA defines "rulemaking" as "agency process for formulating, amending, or repealing a rule." 5 U.S.C. § 551(5). In defining a "rule", the APA identifies several components: a rule may be "of general or particular applicability"; it must be of "future effect"; and must be "designed to implement, interpret, or prescribe law or policy" or must "describe[] the organization, procedure, or practice requirements of an agency." Id. at § 551(4).

We do not believe that closing the affected streets in order to protect the President is the sort of action that Congress intended to be subject to the APA's notice and comment process. A decision to close the streets would not be designed to "implement, interpret, or prescribe law or policy" so as to provide guidelines or procedures for parties to follow in the future. To the contrary, the Secretary's action in closing the streets would be an isolated agency action that does not affect or govern subsequent agency acts or decisions. Daingerfield Island Protective Society v. Babbitt, 823 F. Supp. 950, 957 (D.D.C. 1993) (National Park Service approval of design for interchange connecting George Washington Memorial Parkway and island in Potomac River was not a "rule" under 5 U.S.C. § 551(4)). The Secretary would be acting in a particular situation based on a unique set of facts, pursuant to a statute authorizing his agency personnel, the Secret Service, to protect the President. We do not believe that this unilateral action executing such a decision is the sort

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[7] We are aware of only one District of Columbia court decision discussing the National Capital Service Area. The limited analysis presented in that opinion supports our view that the federal government exercises greater administrative authority over areas within the National Capital Service Area than it exercises with respect to other areas within the District of Columbia. In rejecting a claim that Congress had not delegated to the District of Columbia the authority to tax personal property within the National Capital Service Area, the court in Itel Corp. v. District of Columbia, 448 A.2d 261, 267 n.10 (D.C.), cert. denied, 459 U.S. 1087 (1982), stated, "this part of the Home Rule Act serves to add some federal bureaucracy to the existing D.C. bureaucracy in order to ensure adequate services, not to authorize the provision of services by the District."

of government action that Congress contemplated in defining a "rule" for purposes of the APA.[8]

Moreover, even if the Secretary's contemplated action did constitute a "rule" under the APA, the APA provides an exception to its requirements for "[any] matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts." 5 U.S.C. § 553(a)(2) (emphasis added). The "public property" exception has been interpreted to exempt from APA coverage rules issued by any agency with respect to real or personal property owned by the United States or by any agency of the United States, including rules relating to the sale or management of such property. Story v. Marsh, 732 F.2d 1375, 1384 (8th Cir. 1984); Wilderness Public Rights Fund v. Kleppe, 608 F.2d 1250, 1253 (9th Cir. 1979), cert. denied, 446 U.S. 982 (1980); City of Santa Clara v. Andrus, 572 F.2d 660, 673-74 (9th Cir.), cert. denied, 439 U.S. 859 (1978). See also United States Dept. of Justice, Attorney General's Manual on the Administrative Procedure Act 27 (1947). Accordingly, if the streets sought to be closed to vehicular traffic are owned by the federal government, we believe that any action taken to close those streets would be exempt from the APA under section 553(a)(2).

3. National Historic Preservation Act

We do not believe that the National Historic Preservation Act ("NHPA"), 16 U.S.C. §§ 470-470w-6, and the regulations promulgated pursuant to it, 36 C.F.R. §§ 800.1-800.15, prohibit the Secretary from taking prompt action with respect to closing to vehicular traffic the contemplated streets. Section 106 of the NHPA provides that "prior to the approval of the expenditure of any Federal funds" on an "undertaking," the head of a federal agency must "take into account the effect of the undertaking on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register." 16 U.S.C. § 470f. It further provides that the agency head shall afford the Advisory Council on Historic Preservation ("Council") a "reasonable opportunity" to comment on the effect that such undertaking will have on a historic site. Id. Although consultation with the Council must be had "prior to approval of the undertaking," 36 C.F.R. § 800.1(a), the agency head is not bound by the Council's comments or recommendations. See 36 C.F.R. § 800.6.

The vast majority of the areas that the Secretary contemplates closing, including Pennsylvania Avenue between 17th Street and Madison Avenue, and State Place, appear to be part of the "Lafayette Square Historic District," which is included in the National Register

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[8] Even if a court were to find that the Secretary's action constituted a rule under 5 U.S.C. § 551(4), the Secretary could invoke the "good cause" exception provided under 5 U.S.C. § 553(b)(B). Under that section, the requirements of notice and opportunity for comment do not apply when the agency for good cause finds that the procedures are "impracticable, unnecessary, or contrary to the public interest." Id. We believe that in the instant case the Secretary's basis for invoking the good cause exemption would be upheld, as there is a clear public interest in providing the President thorough and prompt protection when necessary to meet security requirements.

of Historic Places and is therefore one of the sites covered by section 106. National Register of Historic Places Inventory: Nomination Form for Lafayette Square Historic District.

Whether the NHPA's consultation process for certain historic sites (section 106 process), 36 C.F.R. §§ 800.3-800.5, is triggered depends on whether the agency's action is an "undertaking" under the NHPA. By regulation, the Council has defined the term "undertaking" as "any project, activity, or program that can result in changes in the character or use of historic properties, if any such historic properties are located in the area of potential effects." 36 C.F.R. § 800.2(o).[9] (emphasis added). Courts have tended to construe the definition broadly. Historic Green Springs, Inc. v. Bergland, 497 F. Supp. 839, 853 (E.D. Va. 1980); National Indian Youth Council v. Andrus, 501 F. Supp. 649, 676 (D.N.M. 1980), aff'd, National Indian Youth Council v. Watt, 664 F.2d 220 (10th Cir. 1981). And we cannot deny that the Secretary's contemplated action appears to fit within the definition in section 800.2(o) in that the street closing would make a direct change in the use of the historic area because it will prohibit a significant use currently allowed, that is, vehicular traffic.

Even if the contemplated street closing were considered an "undertaking" pursuant to 16 U.S.C. § 470f, however, it is our conclusion that the consultation requirements of the Council's regulatory scheme do not prohibit the Secretary from taking the necessary and immediate action to protect the President of closing to vehicular traffic the aforementioned streets. The statutory and regulatory framework of the NHPA cannot reasonably be read to require strict compliance with the consultation requirements in the case of an emergency. For example, if a water main breaks in an urban historic area, maintenance crews must be able to promptly remedy the situation even if that entails physical destruction of roads and sidewalks in the historic area and closure to all traffic for an extended period of time; surely Congress would not expect consultation before the maintenance work commenced. Similarly, if a crime is committed in an historic area or in an historic building, law enforcement officials would be able to secure the area if necessary to apprehend the perpetrators, preserve evidence, and take necessary and reasonable steps to ensure the safety of members of the public, even if such measures change the use of the historic site by re-routing traffic, setting up roadblocks, or denying access to buildings and areas. Again, those law enforcement actions could be handled promptly without compliance with the NHPA consultation requirements.

We do not construe the section 106 process to preclude the Secretary, after having "tak[en] into account the effect of the undertaking," from authorizing the undertaking to go forward initially on a provisional basis, with no irreversible effects, and thereafter giving the Council a reasonable opportunity to comment on it before deciding to put the undertaking on

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[9] In addition, "the project, activity, or program must be under the direct or indirect jurisdiction of a Federal agency or licensed or assisted by a Federal agency. Undertakings include new and continuing projects, activities, or programs and any of their elements not previously considered under section 106." 36 C.F.R. § 800.2(o).

a final and permanent footing. In other words, as we construe the statute and regulation, the "undertaking" that requires prior consultation with the Council must be one that would effect a permanent change in the character and use of the site.

Common sense dictates that the NHPA could not require the Secretary to comply with the consultation and review procedures of the section 106 process in a manner which would compromise the Service's ability and mission to ensure the safety of the President and others in the White House complex. A contrary result would render the Service's broad authority under 18 U.S.C. § 3056 ineffective; it cannot be that Congress intended that the NHPA could mandate adherence to its procedural requirements when such adherence would directly interfere with the Secret Service's statutory duty to protect the President of the United States.

We believe that if the Secretary, as the exigencies permit, provides the Council with notice of the Service's protective actions and requests the Council's comments on the actions, the Secretary will be deemed to have complied with the NHPA's requirement that the agency head afford the Council a "reasonable opportunity" to comment. Of course, whether any given opportunity is reasonable depends on the particular circumstances at issue.

4. National Environmental Policy Act

You have also expressed concern about the possible impact of the National Environmental Policy Act of 1969, Pub. L. No. 91-190, 83 Stat. 852 (1970), as amended (codified at 42 U.S.C. §§ 4321-4370) ("NEPA"), and its related regulations concerning federal agency action, on the Secretary's ability to immediately close the identified streets. Without expressing a view as to whether or to what extent NEPA might apply to the street closings, we note that NEPA's emergency exception is broad enough to permit the Secretary to proceed after brief consultation with the Council on Environmental Quality. Section 1506.11 of title 40, Code of Federal Regulations, provides:

> Where emergency circumstances make it necessary to take an action with significant environmental impact without observing the [NEPA regulations,] . . . the Federal agency taking the action should consult with the [Council on Environmental Quality] about alternative arrangements. Agencies and the Council will limit such arrangements to actions necessary to control the immediate impacts of the emergency. Other actions remain subject to NEPA review.

We believe that the necessity revealed by the White House Security Review of enhancing the security perimeter around the White House is an "emergency" within the meaning of this regulation. Accordingly, we believe that the Secretary may close the designated streets without running afoul of NEPA. If possible, the Secretary should consult with the Council on Environmental Quality concerning alternative arrangements prior to closing the streets at issue.

park areas and plazas within a two-block radius. The economic benefits from this larger-scale pedestrianization will be more substantial because the downtown core will become known as an attractive pedestrian zone and will attract tourists in larger numbers.

Pedestrian precincts have been very successful in other downtown areas in the United States and especially in Europe. Some of the best examples in the USA include Santa Monica in California, the transit mall in Portland, Oregon and Boulder, Colorado. In Europe, good examples exist in the new commercial and tourist areas in Paris, the main street in Munich, Las Ramblas in Barcelona, Kings Garden in Stockholm, downtown Copenhagen and Amsterdam. Project For Public Spaces, a non-profit organization in New York specializes in the implementation of pedestrian areas and is a good resource for these examples. You may want to contact Ms. Kathy Madden or Shirley Secunda at 212-620 5660 if you require additional information.

Feel free to call me if you have any questions regarding these comments. From Thursday May 11 through Monday May 15 I can be reached in Luxembourg at 011-352-223182.

Sincerely,

Georges Jacquemart, P.E., AICP
Principal

BF&J Buckhurst Fish & Jacquemart Inc. 72 Fifth Avenue New York, NY 10011 Tel (212) 620-0050
Fax (212) 633-6742

New York, May 10, 1995

Honorable Ronald K. Noble
Under Secretary
Department of the Treasury
Washington, D.C. 20220

Dear Under Secretary Noble:

I appreciated the opportunity to talk to you regarding the potential closure of Pennsylvania Avenue and the creation of a new public space in front of the White House.

The closure of this arterial would obviously shift significant volumes of traffic on to other routes parallel to Pennsylvania Avenue. This impact can be mitigated by planning diversion routes and by informing the drivers about the alternate routes. A special signage program should be implemented for about one mile along both approaches to the closed section. Consideration should be given to increasing the capacities along the diversion routes by possibly eliminating parking at selected intersection approaches, changing the signal phasing to reflect the additional traffic flows or changing some streets to one-way operation. A comprehensive media announcement alerting the drivers of the closure and of the potential traffic delays in the downtown core will also be important to minimize the impacts.

If the short-term impacts can be managed and controlled, I believe that in the long-term this project will be very beneficial for the area around the White House and for the District of Columbia. In addition to the security benefits, this project will have positive transportation policy implications for downtown Washington. Drivers will eventually adjust to the new roadway system and will either seek other routes that have capacity reserves, or they will avoid the peak periods or shift to other modes of transportation, such as walk, Metro or bus transit. These changes are not unusual in our downtown areas, where we have significant capacity constraints and where there are alternatives to the single-occupant auto. These shifts will also have positive safety and environmental (air pollution and noise) impacts.

This project presents a great opportunity for the creation of a new "people space" that will in effect increase access to the landmarks. This people space could include elements of a park extension or of a garden, elements of a "democracy-in-action" such as a speakers' corner and other pedestrian and tourist activities. The idea that tourists and visitors have to view or photograph the White House out of their car or tour bus is antithetical to the functioning of a downtown core. The increased pedestrianization in front of the White House will have positive visual, environmental and safety impacts. These benefits can be increased and spread over a larger area by extending the pedestrianization beyond the two-block closure, without extending the traffic closure. If Pennsylvania Avenue is closed to traffic between 15th and 17th Streets, the traffic volumes on the two blocks on either side of the closure will decrease significantly (because cars will shift away from Pennsylvania Avenue before they reach the closed section), thus allowing partial pedestrianization all the way to 19th and 13th Streets. This could involve a possible widening of the sidewalks, the addition of landscaping, an alley of trees, etc. It will be important to tie the new "people space" to the

III. Conclusion

For the foregoing reasons, we conclude that the Secretary has authority under section 3056 to close the streets mentioned above to vehicular traffic. In addition, we conclude that the other congressional grants of authority discussed above do not diminish that authority.

WILLIAM F. CLINGER, JR., PENNSYLVANIA
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ONE HUNDRED FOURTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515–6143

June 8, 1995

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CHAKA FATTAH, PENNSYLVANIA

BERNARD SANDERS, VERMONT
INDEPENDENT

MAJORITY—(202) 225-5074
MINORITY—(202) 225-5051

Hon. Marion Barry
Mayor, District of Columbia
441 4th Street, N.W., #1100
Washington, D. C. 20001

Dear Mayor Barry,

As Chairman of the District of Columbia Subcommittee I believe I have a responsibility to inquire into certain aspects of the Order from the Secretary of the Treasury to the Secret Service closing specific areas adjacent to the White House and any future plans the Department may have. Accordingly, could you please advise me as to the following:

1. Which city officials were contacted regarding this action prior to its implementation? If contact was made, were they consulted or informed?

2. What is your understanding as to why this action was taken?

3. Do you have any indication that the Treasury Department intends for its action to be permanent, or that other plans are in progress of a long term or permanent nature?

4. What has been the response of the District of Columbia government to the action that was taken? Please indicate specific actions to deal with the traffic situation, including immediate steps and long term planning.

5. What costs are there to the District as a result of the action taken?

6. What revenues have been lost or foregone to the District as a result of the action taken? Please include future estimates as well as short term projections.

7. What is the nature and status of any discussions with the Treasury Department on the questions

of reimbursement for costs and or revenue foregone?

8. What is your opinion or the views of the District government as to what course of action the Treasury Department should take on the matter of reimbursement?

9. What is your position on the appropriate course of action for the Treasury Department or other federal Executive Branch entities to pursue for any long term or permanent closure of Pennsylvania Avenue or architectural changes to the pavement?

This clearly is a matter of interest and concern to both the District of Columbia Government and this Subcommittee. I look forward to working with you, and would very much appreciate an expeditious response to these inquiries.

Sincerely,

Tom Davis, Chairman,
District of Columbia Subcommittee,
Government Reform and Oversight Committee

cc: Secretary Robert E. Rubin
Speaker Newt Gingrich
Del. Eleanor Holmes Norton
Chairman William Clinger
Congresswoman Cardiss Collins
Members of the District of Columbia Subcommittee
Senator William Cohen
Council Chairman David Clarke

WILLIAM F. CLINGER, JR., PENNSYLVANIA
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ONE HUNDRED FOURTH CONGRESS

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BERNARD SANDERS, VERMONT
INDEPENDENT

MAJORITY—(202) 225–5074
MINORITY—(202) 225–5051

June 8, 1995

Hon. Robert E. Rubin
Secretary , Department of the Treasury
1500 Pennsylvania Avenue, N. W.
Washington, D. C. 20220

Dear Secretary Rubin,

This is to inquire about your Order to the Secret Service closing certain areas adjacent to the White House. I note that your General Counsel was quoted as saying that you have authority to take this action. As Chairman of the District of Columbia Subcommittee I have a responsibility to request information relevant to congressional oversight of such matters. It is with that in mind that this inquiry is being made. Specifically, could you please advise me as to the following:

1. What specific authority did you rely upon to close a portion of at least 2 public streets adjacent to the White House and to ban public parking on sections of other public streets?

2. What authority do you believe you may have to make these changes permanent, and what plans do you have to make these actions permanent?

3. Do you or the Administration have any plans for future actions of a similar nature?

4. Are any similar or related actions of this type being actively investigated at this time?

5. Do you currently intend to request District of Columbia or Congressional input or approval of the actions taken or other related matters under review?

6. Do you intend to follow District and congressional procedures for any permanent actions on this matter? If not, why not and what authority do you have to take such permanent actions?

7. I understand that a consultant study may have been done for the Department on the impact of this action on traffic in the District of Columbia along with possible ameliorative actions and their impact. If so, please forward a copy for review. Would you object to any

such consultant being invited to testify at an early initial hearing before this Subcommittee on the Pennsylvania Avenue closing issue? The Subcommittee anticipates other activity on this matter as more information becomes available on the long term situation.

8. Please attach a comprehensive compilation of all congressional and District of Columbia government consultation on this matter prior to and since the time action was taken.

As this matter is of concern to both the District of Columbia and Congress an expeditious response to this letter would be most appreciated. Thank you for your prompt attention.

Sincerely,

Tom Davis, Chairman,
District of Columbia Subcommittee
Government Reform and Oversight Committee

cc: Speaker Newt Gingrich
Del. Eleanor Holmes Norton
Chairman William Clinger
Congresswoman Cardiss Collins
Members of the District of Columbia Subcommittee
Senator William Cohen
Mayor Marion Barry
Council Chairman David Clarke

COUNCIL OF THE DISTRICT OF COLUMBIA
WASHINGTON, D.C. 20004

June 13, 1995

The Honorable Tom Davis
Chairman, District of Columbia Subcommittee
Government Reform and Oversight Committtee
United States House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515-6143

Dear Chairman Davis:

Thank you for your letter dated June 8, 1995, requesting my response to the following questions regarding the Order of the Secretary of the Treasury which closed to vehicular traffic certain areas adjacent to the White House.

1. To what extent were you or the Council consulted prior to the action that was taken?

I was contacted by Treasury Secretary Rubin by telephone on Friday, May 19, 1995, at 10:15 p.m., which was the night before the closing action.

2. Do you or the Council have a position as to the action that was taken? If so, what is that position?

My position is reflected in PR 11-172, the "Pennsylvania Avenue Closure Resolution of 1995," which I have co-introduced with Councilmember Frank Smith. Councilmember Smith chairs the Committee on Housing and Urban Affairs, to which the resolution has been referred for action because that committeee has legislative jurisdiction over land use issues, including street closings. Enclosed for your review is a copy of PR 11-172.

Councilmember Smith's committtee held a public roundtable on the Treasury Secretary's Order on May 26, 1995, and his committee is scheduled to consider PR 11-172 and a draft committee report on June 22, 1995. A copy of the draft Committee Report is also enclosed. Following approval by the committee, PR 11-172 would be considered by the full Council at the July 11, 1995 legislative meeting.

3. What consultations have you had since the action was taken?

On Tuesday, May 23, 1995, Ronald K. Noble, Under Secretary of the Treasury Department,

provided a briefing to Councilmembers in my office, accompanied by other federal officials, including Federal Highway Administrator Rodney Slater. The briefing was arranged at the request of Mr. Noble to present the background and rationale for the action and to address any questions or concerns by members.

At the May 26, 1995 public roundtable by Councilmember Smith's committee, Art Hill, Division Administrator of the Federal Highway Administrator provided oral testimony to the Council, which is summarized in the enclosed draft report of the Committee on Housing and Urban Affairs.

On June 12, 1995, Elizabeth Bresee, Director of the White House Security Review in the Department of the Treasury, called my office to brief my staff, who later briefed me, on the latest developments on the part of the Clinton administration. Information was provided on the administration's short-term and long-term plans on the land use and transportation aspects of the closed section of Pennsylvania Avenue. My staff, at my request, faxed Ms. Bresee a copy of the resolution which Mr. Smith and I had co-introduced in the Council on the Pennsylvania Avenue closure issue.

On June 13, 1995, Ms. Bresee faxed to my office a copy of letters from White House Chief of Staff Leon Panetta to Interior Secretary Babbitt and Transportation Secretary Peña. The letters, a copy of which are enclosed, basically contain the same information verbally conveyed to my staff by Ms. Bresee previously. Ms. Bresee indicated that although Mr. Panetta's letters are each dated June 6, 1995, they were actually not delivered until the afternoon of June 12, 1995.

4. Do you or the Council have a position as to what action should be taken at this time regarding any future long term plans the Secretary of the Treasury may have? If so, what is that position?

Yes. My position is set forth in PR 11-172, a copy of which is enclosed.

I appreciate this opportunity to provide you with my views on the recent action to close certain streets to vehicular traffic around the White House. I look forward to your assistance in ensuring that a comprehensive process is established which identifies all costs and adverse impacts related to this action, and which ensures that the federal government pays for all such costs and for all measures necessary to eliminate or mitigate the adverse impacts.

Sincerely,

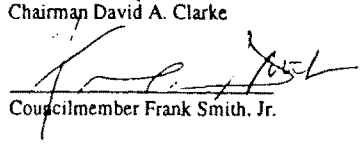
David A. Clarke
Chairman

Enclosures

cc: All Councilmembers

cdc05/closing

Chairman David A. Clarke



Councilmember Frank Smith, Jr.

A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To recognize the heightened concern about the safety of the President of the United States following the bombing of a federal building in Oklahoma and the growth of the right-wing militia and terrorist organizations in the United States, and to call upon the federal government to undertake and pay for an environmental impact statement on the federal government's closure of streets adjacent to the White House and to pay for all measures necessary to eliminate or mitigate all adverse impacts identified by the environmental impact statement.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Closure of Pennsylvania Avenue Resolution of 1995".

Sec. 2. The Council of the District of Columbia makes the following findings and recommendations regarding the federal government's vehicular closure of Pennsylvania Avenue

between 15th and 17th Streets, N.W., and of other streets adjacent to the White House complex ("street closure"):

(1) The Council and all well-meaning persons affirm their concern for the safety of the President of the United States and all other federal protectees following the tragic bombing of the federal building in Oklahoma City and the growth of the right-wing militia and terrorist organizations in the United States.

(2) On the basis of information available to the Council, the Council is not in a position to question the view of the President of the United States that the street closure is currently necessary to protect the security of the President of the United States, the White House complex, and those who live, work and visit in its environs.

(3) This street closure has resulted and will result in significant adverse impacts upon residents, businesses, and visitors in the District of Columbia, including but not limited to adverse traffic impacts (including vehicular circulation, parking availability, and commercial loading and unloading), economic impacts (both direct and indirect impacts upon businesses and upon short-term and long-term costs and foregone revenues to be borne by the District government), and historic preservation and environmental impacts.

(4) The federal government should immediately undertake and pay for the entire cost of a full environmental impact statement and study ("EIS"), as defined in the National Environmental Protection Act of 1969 and implementing federal regulations, in order to provide an opportunity for public and governmental (federal and District) participation in the identification, study, and cost of every short-term and long-term adverse impact resulting from the street closure, the identification, study, and cost of alternatives (including the "no action"

alternative) to the street closure, and the identification, study, and cost of each action necessary to eliminate or mitigate every adverse impact of the street closure.

(5) The federal government should immediately undertake and pay for the entire cost of a review of the street closure's effect on historic resources, pursuant to procedures set forth in the National Historic Preservation Act ("NHPA") of 1966 as amended.

(6) The federal government should pay for the entire cost of eliminating or mitigating every adverse impact resulting from the street closure, with federal funds which are not part of the annual Federal Payment to the District government nor part of any other federal funds which would otherwise be provided to the District government, and without regard to any expenditure limitation to which the District government is subject.

(7) The federal government should ensure that the area of the street closure be designed in an aesthetically pleasing manner which maximizes pedestrian and visual accessibility and which recognizes the temporary nature of the street closure, such as by retaining some type of paving along Pennsylvania Avenue and by neither planting trees nor constructing permanent structures on Pennsylvania Avenue.

(8) This temporary street closure by the federal government should not be considered a precedent for similar future actions by the federal government.

Sec. 3. The Council of the District of Columbia requests appropriate representatives of the executive and legislative branches of the federal government to enter into a written Memorandum of Understanding with the Mayor of the District of Columbia which memorializes the principles and procedures set for in this resolution for the street closure.

Sec. 4. The Secretary of the Council of the District of Columbia shall transmit copies of

this resolution upon its adoption to the President of the United States, the Mayor of the District of Columbia, the District of Columbia Delegate to the United States Congress, the chairpersons of the committees of the United States Congress with oversight and budgetary jurisdiction over the District of Columbia, the Chair of the District of Columbia Financial Responsibility and Management Assistance Authority, the Secretary of the United States Department of the Treasury, the Secretary of the United States General Services Administration, the Secretary of the United States Department of Transportation, the Secretary of the United States Department of the Interior, the Chairman of the National Capital Planning Commission, the City Administrator, the Assistant City Administrator for Economic Development, the Director of the District of Columbia Department of Public Works, and the Director of the District of Columbia Office of Planning.

Sec. 5. This resolution shall take effect immediately upon the first date of publication in the either the District of Columbia Register, the District of Columbia Statutes-at-Large, or the District of Columbia Municipal Regulations.

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

LAWRENCE B. KRAUS
SENIOR VICE PRESIDENT, ADMINISTRATION

1615 H STREET, N.W.
WASHINGTON, D.C. 20062-2000
202/463-5335
FAX: 202/463-5302

June 28, 1995

BY HAND

The Honorable Thomas M. Davis
Chairman of the Subcommittee
on the District of Columbia
Government Reform and Oversight Committee
B-349A
Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

As a long time resident of the District of Columbia, the U.S. Chamber of Commerce appreciates this opportunity to address the recent vehicular closure of Pennsylvania Avenue, N.W. and suggest recommendations for the improvement of traffic flow in the area, especially on H Street.

The U.S. Chamber of Commerce ("Chamber") has been a highly visible presence in the District of Columbia since 1924 when its headquarters building was constructed on the site of the Corcoran mansion at the corner of Connecticut Avenue and H Street, N.W. -- just across H Street from Lafayette Park. The U.S. Chamber building itself is on the National Register of Historic Places, and was designed and constructed to tie in to Lafayette Square and the White House. To many, President's Park does not simply stop at the northern end of Lafayette Park, but continues across H Street to the U.S. Chamber of Commerce headquarters building, the Hay-Adams Hotel and St. John's Church. In reality, H Street and these historic buildings are the northern boundary of Lafayette Park.

We have been a participant in the daily life of Lafayette Park for over seventy years. With such a historical and geographic perspective, the Chamber would like to offer you its view of the life, and traffic, around Lafayette Park -- the monumental center of Washington.

H Street N.W., between Pennsylvania Avenue and New York Avenue, is now a major West-East transportation corridor. If H Street is to successfully function as one of this city's principal cross-town thoroughfares, the District of Columbia must eliminate parking, standing, loading and unloading on any portion of H Street, and must enforce

those restrictions. Much of the traffic congestion in this area has been caused by the thousands of tour buses which park, stand, load and unload passengers in what is now the east bound lane of H Street, from Jackson Place to 16th Street, N.W. Further, the tour buses require two lanes of traffic to turn on to and off of H Street, causing additional traffic congestion on the new major North-South streets. This tour bus activity obstructs traffic, causes heavy traffic congestion, makes Lafayette Park look like a bus depot and is completely avoidable. One of the actions common to the three concepts for a comprehensive design plan recently proposed by the National Park Service and the eleven other agencies that have stewardship responsibilities within President's Park is to remove vehicle parking from the curb lanes of H Street. No other major city permits tour buses to park, stand, load and unload passengers in its "tourist center."

It may even be possible to return H Street to a two-way street now that all five lanes are open for traffic. Since May 20, when tour buses and all other vehicular traffic were prohibited from stopping in the curb lanes of H Street, we have noticed a significant improvement in traffic flow in both directions. We have also noticed that when the new traffic rules are not enforced, and tour buses do park in the east bound lane of H Street, traffic flow rapidly deteriorates and traffic becomes severely congested. Enforcement of the new traffic rules is critical. For the same reasons that K Street is kept clear, H Street must be kept open and moving as well.

In considering all the facts, including the events leading up to the vehicular closing of Pennsylvania Avenue, we respectfully offer the following recommendations:

1. Keep H Street open and moving.
   - Eliminate all stopping, standing, loading and unloading of all vehicles in any lane, particularly tour buses.

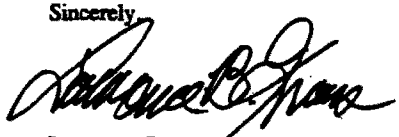
2. Follow the lead of all major cities by eliminating the east bound lane of H Street as a staging area for tour buses and moving the staging area to a less congested location.

3. Enforce the new traffic rules.

One major East-West corridor has been eliminated by the closing of Pennsylvania Avenue. H Street, now bearing a substantially increased traffic burden, must be kept open and moving. Everybody must make a contribution for this new traffic pattern to work, and it is critical for this city that it does work.

We stand ready to work with this subcommittee and Mayor Barry's administration as well as with all other interested parties on this very important matter. Please don't hesitate to contact me if we can be of further assistance.

Sincerely,



Lawrence B. Krauss

American Automobile Association

Potomac

701 Fifteenth Street, N.W.
Washington, D.C. 20005-2157

U.S. House of Representatives
Committee on Government Reform
and Oversight
District of Columbia Subcommittee

Closure of Pennsylvania Avenue
June 30, 1995

Lon Anderson
Staff Director
Public and Government Relations

Mr. Chairman and members of the committee, AAA Potomac appreciates the opportunity to comment on the closure of Pennsylvania Avenue and ancillary restrictions. On behalf of our 771,000 members in the greater Washington area, many thousands of whom drive in the District on a daily basis, thank you for your consideration of our views.

First, we'd like to applaud the resiliency of local residents in coping with the closures. Their adaptability has been the chief reason for the limited inconvenience thus far. We'd also like to recognize the District of Columbia, which has done a fine job of efficiently minimizing traffic disruptions, including the very recent directional realignment of H and I streets.

But while the closures have not occasioned major hassle thus far, we as a region need to appreciate fully that major access restrictions of this kind are not without cost. Pennsylvania Avenue is a major cross-town artery; its closure inexorably costs us a degree of mobility, particularly during peak travel periods when parallel routes have limited excess capacity to take on Pennsylvania Avenue's six lanes of traffic.

Although closing off 1600 Pennsylvania Avenue may have been legitimate and necessary, AAA Potomac urges every level of government to use great caution and exhaustively consider all ramifications prior to implementing similar access restrictions on additional facilities and streets.

The most visible aftershock of the Oklahoma City tragedy was the Pennsylvania Avenue decision, which now appears to have triggered a series of security-enhancing but mobility-restricting measures: The Arlington-based DEA recently requested prohibition of on-street parking in front of their building. Parking by the Bureau of Alcohol, Tobacco, and Firearms offices at 7th and Massachusetts is being blocked to public access. Last week, the U.S. Senate announced plans to shut down vehicular access on the perimeter of the Russell Office Building and to ban proximate public parking. And just yesterday, the Administration announced additional security measures, including more parking restrictions.

In this climate of concern, it's understandable and appropriate that officials responsible for facilities across the region contemplate additional security restrictions. But with the public's access and mobility potentially on the line, we can't help but wonder: Where will this end? At what cost are such restrictions acceptable?

The sober reality is that our region is home to scores of government buildings of far higher prominence than Oklahoma City's Alfred P. Murrah Building. Many of them could be considered potential targets of terrorism.

For example, the extreme agitation of some regarding the federal income tax is clear; should we seriously consider shutting down Constitution Avenue in front of the IRS as a protective measure? How about vexation over U.S. policy toward Bosnia; should we contemplate closing down 23rd Street beside the State Department as a precaution? What about the FBI, which has numerous potential enemies; do we ponder again slicing in half Pennsylvania Avenue?

Blockading the perimeters of many such facilities would inevitably harm our mobility -- in a metropolitan area already burdened with the second worst congestion in the nation -- and degrade our quality of life. And lest we conclude this to be a D.C.-only problem, Virginia and Maryland suburbs are dotted with several high-profile sometimes-controversial facilities, including the Pentagon and the National Institutes of Health.

It's worth considering that while individual security restrictions in isolation may not cause major traffic disruption, their cumulative effect could paradoxically pose a significant threat to our security. Closing portions of a number of streets could profoundly delay in-town travel, costing precious seconds that are often crucial in saving lives and solving crimes.

Access restrictions that result in permanent traffic delays may turn life-saving seven-minute ambulance rides into life-threatening fourteen-minute trips. Or may inhibit law enforcement from responding swiftly to in-progress violent crimes. Or may even detain racing the President to critically-needed medical attention following a terrorist's assassination attempt.

The blast that tragically took so many lives in Oklahoma City sent the nation a sickening but unmistakable message: Terrorism can strike almost anywhere. AAA Potomac fully supports and urges installation of prudent and practical measures to safeguard lives, but we urge that all consequences of such measures be considered with great care. A thoroughly balanced approach will ensure that our Nation's Capital is not transformed into a secure Fortress Washington but immobilized capital city. Thank you.

Mr. DAVIS. If there is no further business to come before the subcommittee at this time, these proceedings are closed.

[Whereupon, at 3:05 p.m., the subcommittee was adjourned, subject to the call of the Chair.]

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