S. HRG. 108–740

DISTRICT OF COLUMBIA APPROPRIATIONS FOR FISCAL YEAR 2005

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

UNITED STATES SENATE

ONE HUNDRED EIGHTH CONGRESS

SECOND SESSION

ON

H.R. 4850/S. 2826

AN ACT MAKING APPROPRIATIONS FOR THE GOVERNMENT OF THE DISTRICT OF COLUMBIA AND OTHER ACTIVITIES CHARGEABLE IN WHOLE OR IN PART AGAINST THE REVENUES OF SAID DISTRICT FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2005, AND FOR OTHER PURPOSES

District of Columbia

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DISTRICT OF COLUMBIA APPROPRIATIONS FOR FISCAL YEAR 2005

WEDNESDAY, FEBRUARY 25, 2004

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

The subcommittee met at 9:35 a.m., in room SD–138, Dirksen Senate Office Building, Hon. Mike DeWine (chairman) presiding.

Present: Senators DeWine and Landrieu.

Also present: Ms. Norton and Senator Strauss.

DISTRICT OF COLUMBIA

COURTS

STATEMENT OF ANNICE M. WAGNER, CHIEF JUDGE, DISTRICT OF COLUMBIA COURT OF APPEALS; CHAIR, JOINT COMMITTEE ON JUDICIAL ADMINISTRATION

ACCOMPANIED BY RUFUS G. KING, III, CHIEF JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

OPENING STATEMENT OF SENATOR MIKE DE WINE

Senator DEWINE. Welcome, everyone. We have with us this morning two members of the Kiev City Council. Let me see if I can do the pronunciation, Yurly Zumko and Andre Radrewski. If you could stand, in the back. Thank you very much for joining us. I am glad to have you with us.

I hope you enjoy your stay with us today; I hope we do not bore you too much with our hearing today.

This hearing today will come to order. We will convene the first fiscal year 2005 budget hearing for the District of Columbia.

I want to take this opportunity to, again, thank Senator Landrieu, our subcommittee's Ranking Member and to recognize her continued commitment to improving life for the residents of this Nation. It is good to be with you again.

Over the years, Senator Landrieu and I have worked together on a number of important issues for our Nation's Capital, and I am sure that we will continue to work together this year as we work on the fiscal year 2005 D.C. Appropriations Bill.

Today, we are considering the fiscal year 2005 budget request for the District of Columbia Courts. Under the National Capital Revitalization and Self-Government Improvement Act of 1997, the Federal Government is required to finance the District of Columbia Courts.

The President has requested $228 million for the Courts in fiscal year 2005. This is $60.2 million more than the fiscal year 2004 enacted level. I understand that the lion's share of this increase is to be used to restore the now vacant Old Courthouse, so that it can house the Court of Appeals, which in turn, will free up more space in the Moultrie Courthouse for a safe, family-friendly Family Court.

The renovation of the Old Courthouse also will be an important historical preservation achievement. This building, the fourth oldest in the District of Columbia, has great historic significance. It is where President Lincoln's first inaugural ball was held, and where his assassination conspirators were tried and convicted.

For a time, the building served as a hospital for the wounded soldiers of the Union Army. It is here where Frederick Douglass had his offices and where Daniel Webster practiced law.

The fiscal year 2005 funding request will allow this very historic building to be restored to its former majesty, while also configuring it to be used to serve the people of the District as a working courthouse.

I am pleased that Judge Wagner, Judge King followed the advice of this subcommittee and made a compelling case to OMB to support these construction efforts. I congratulate them for it. It is to their credit that the President has included adequate funding for these important Capital projects in his budget request.

I must say, however, that I am concerned to know that court officials and representatives of the National Law Enforcement Museum Fund have, unfortunately, been unable to reach an agreement on the design of their shared space in Judiciary Square.

On the one hand, Congress has mandated that the Courts reorganize and improve their services and facilities, which the Courts are beginning with the renovation of the Old Courthouse. On the other hand, Congress authorized the National Law Enforcement Memorial Fund to build an underground Law Enforcement Museum on Federal land that partially abuts the Old Courthouse. It is my firm belief that the Courts and the Law Enforcement Memorial Fund should reach an agreement that complies with both mandates. I am sure that they will be able to do this.

I understand that the Courts and the Memorial Fund fundamentally disagree on the level of construction and the design of the plaza area, which will provide the entryway to both buildings. This disagreement has apparently been going on for almost a year, with no resolution in sight.

I am concerned that this apparent impasse will result in delays to the construction schedule and, in turn, increased construction costs.

As chairman of this subcommittee, which appropriates 100 percent of the funding for the D.C. Courts, I want to work to ensure that there are no construction cost overruns involving Federal funds.

As our hearing begins, Judge Wagner and Judge King will present the Courts' overall budget request, and then I will ask our witnesses from the National Law Enforcement Memorial Fund, the National Capital Planning Commission, and the Commission of

Fine Arts to join the panel to discuss the design disagreement, which I have just mentioned.

PREPARED STATEMENT

Witnesses will be, of course, be limited to 5 minutes for their oral remarks. Copies of all written statements will be placed in the record in their entirety.

[The statement follows]:

PREPARED STATEMENT OF SENATOR MIKE DEWINE

Good morning. This hearing will come to order. Today I am convening the first fiscal year 2005 budget hearing for the District of Columbia. I want to take this opportunity to thank Senator Landrieu, our subcommittee's Ranking Member, and to recognize her continued commitment to improving life for the residents of the District of Columbia. Over the years, Senator Landrieu and I have worked together on a number of important issues for our Nation's capital, and I am sure that we will continue to reach across the aisle as we begin work on the fiscal year 2005 District of Columbia appropriations bill.

Today, we are considering the fiscal year 2005 budget request for the District of Columbia Courts. Under the National Capital Revitalization and Self-government Improvement Act of 1997, the Federal Government is required to finance the District of Columbia Courts.

The President has requested $228 million for the Courts in fiscal year 2005. This is $60.2 million more than the fiscal year 2004 enacted level. I understand that the lion's share of this increase will be used to restore the now-vacant Old Courthouse so that it can house the Court of Appeals, which, in turn, will free up more space in the Moultrie Courthouse for a safe, family-friendly Family Court. The renovation of the Old Courthouse also will be an important historic preservation achievement. This building—the 4th oldest in the District of Columbia—has great historic significance. It is where President Lincoln's first inaugural ball was held and where his assassination conspirators were tried and convicted. For a time, the building served as a hospital for wounded soldiers of the Union Army. It is here where Frederick Douglass had his offices and where Daniel Webster practiced law.

The fiscal year 2005 funding request will allow this very historic building to be restored to its former majesty, while also configuring it to be used to serve the people of the District as a working courthouse.

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I understand that the Courts and the Memorial Fund fundamentally disagree on the level of construction and the design of the plaza area, which will provide the entryway to both buildings. This disagreement has apparently been going on for almost a year, with no resolution in sight. I am concerned that this apparent impasse will result in delays to the construction schedule and, in turn, increased construction costs. As Chairman of this subcommittee, which appropriates 100 percent of the funding for the D.C. Courts, I want to work to ensure that there are no construction cost overruns involving Federal funds.

As our hearing begins, Judge Wagner and Judge King will present the Courts' overall budget request, then I will ask our witnesses from the National Law Enforcement Memorial Fund, the National Capital Planning Commission, and the Commission of Fine Arts to join the panel to discuss the design disagreement which I have mentioned.

Witnesses will be limited to 5 minutes for their oral remarks. Copies of all written statements will be placed in the Record in their entirety.

Senator DEWINE. Senator Landrieu.

STATEMENT OF SENATOR MARY L. LANDRIEU

Senator LANDRIEU. Thank you. Thank you, Mr. Chairman. And welcome to our distinguished panelists this morning, and welcome to all of our guests.

I want to just reiterate again how much of a pleasure it is for me to work with Senator DeWine. We have worked as a partnership now for several years and we can see such progress, particularly in the area that we are going to be discussing this morning, the renovation and development of Judiciary Square, the establishment of a very family-friendly or child-centered Family Court that will service not only the District, but serve as a model for the Nation.

We commend you all for the work that is ongoing, and we look forward to continuing the partnership in that regard.

I also express, again, the importance, at least from our perspective, Mr. Chairman, of the focus on establishing the new Family Court, because not only are we establishing a new building that is operational and conducive to good judgments and outcomes, but through the partnership of this committee, it can help to build a new initiative in the City that strengthens families, protects children from harm and expedites life changing and sometimes threatening decisions, to make sure that families and the well-being of children are of paramount importance for us, for this committee.

PREPARED STATEMENT

So with that, I will just put the rest of my statement in the record. And thank you, Mr. Chairman, for the focus this morning.

[The statement follows:]

PREPARED STATEMENT OF SENATOR MARY L. LANDRIEU

As the first hearing of year I wanted to join my Chairman, Mr. DeWine in welcoming the witnesses and sharing a brief philosophy on our leadership of this committee and our goals. The D.C. Appropriations bill, under my chairmanship and continuing with Mr. DeWine, has charted a course to support targeted investments in the District. Congress is partnering with the District by enhancing security and emergency preparedness; strengthening schools and education standards; supporting the Family Court and child welfare. These three areas support the District's Mayor Anthony Williams' goal to revitalize neighborhoods and increase the population of the city by 100,000 people in the next 10 years. People want good schools and dynamic, safe neighborhoods. This committee will continue this partnership, following on our investments in the Family Court and child services and development of excellent charter schools.

Today's hearing is focused on one of our Federal agencies, the D.C. Courts to discuss their fiscal year 2005 budget request. In addition, we have asked the National Capital Planning Commission, Commission on Fine Arts, and the National Law Enforcement Museum to join us to discuss the Judiciary Square Master Plan and we appreciate their attendance. The Courts are really the core of the D.C. Appropriations bill and the center of our attention. This subcommittee exercises the "State" oversight function for the District, similar to how other cities and States interact.

As one of the central functions transferred to the Federal Government in the 1997 Revitalization Act, the Courts serve a unique role to serve the public and be accountable to the Congress. I believe this Court, lead by Chief Judge King and Chief Judge Wagner has met this responsibility aptly. The fiscal year 2005 budget reflects a commitment to improved management of the Courts and justification for increased budget authority.

The focus of this year's budget is infrastructure, and I commend the Courts for making this a priority. In addition, I am pleased to see over the 3 years that I have

been on this committee that the Courts have undertaken facilities Master Planning process in close consultation with the Federal oversight panels. I look forward to a presentation on the Master Plan for Judiciary Square and supporting the Courts' needs for implementing this plan. Major renovation and expansion of the Courts' facilities is important to this committee; however we want to examine the process undertaken to prioritize these projects and decisions made to focus on construction/renovation rather than rehabilitation of existing buildings. I understand that there are serious maintenance issues in the current facilities, such as inadequate heating and air conditioning, poor lavatories, and an unfriendly public space.

This committee has invested in regular maintenance at levels much higher than our predecessors. I think much progress has been made; however I understand the need for the focus to shift now to long term capital projects, such as constructing a new Family Court and completing the restoration of the Old Courthouse. These are "marquee" projects which receive a great deal of attention from Congress and the community, but they are also much more costly and therefore take a greater bite out of the budget. I recognize their importance but there is also a balance with ongoing maintenance and making improvements to public space while rehabilitation projects are underway. I would be interested to hear your thoughts on balancing these capital infrastructure needs.

The committee is also joined by witnesses from the National Capital Planning Commission, Commission on Fine Arts, and the National Law Enforcement Museum to discuss judiciary square master planning. The committee is particularly concerned with lack of coordination and cooperation with the Museum. Federal dollars and oversight is directing the development of Judiciary Square. It is critical that we can appropriately direct resources to the moving priorities that also reflect the needs of the District. The committee has been actively engaged in creation of the family court and need for a dedicated space for children and families. Progress of the family court construction is dependent on agreement of the law enforcement museum and Old Courthouse, freeing up space in the main Courthouse. I look forward to hearing progress of the various projects and options for moving forward with restoration of the square to the original historic design.

I appreciate your attendance today and look forward to working to improve the appearance and utility of Judiciary Square.

PREPARED STATEMENT OF SENATOR PAUL STRAUSS

Senator DEWINE. Senator Landrieu, thank you very much. Senator Strauss has provided a statement to be included for the record as well.

[The statement follows:]

PREPARED STATEMENT OF SENATOR PAUL STRAUSS

Chairman DeWine, Ranking Member Landrieu, and others on the subcommittee, as the elected United States Senator for the District of Columbia, and an attorney who practices in our local courts, I would like to thank you for holding this hearing this morning, and for considering the needs of the people in the District of Columbia.

I fully support the fiscal year 2005 Budget Request for the District of Columbia Courts. It is vital that the District of Columbia Court System be fully funded in the amount proposed by the courts. As the District of Columbia Senator, I myself cannot vote on this appropriation. I am limited to merely asking you to support their requests.

As in the past, it appears that the President's request is significantly less than the amount requested by our judicial institutions. I find this unfortunate. Unlike citizens of any other jurisdiction, we lack the legal rights to make these funding decisions on our own. As I have stated before, unless the local courts are fully funded by this subcommittee and the Congress, they will not be fully funded. This is not just an issue of simply allocating appropriations, but for the residents of our Nation's Capital, an issue of fundamental justice.

There is a compelling argument to be made that District of Columbia should not have to look to Congress for the sole financial support of its courts. I for one agree with that position. This is again a case where the many limits on the District of Columbia's ability to have self-government adversely impact the taxpayers of your own States. For the record, if Congress would simply grant the District of Columbia's petition for Statehood, the restrictions on our revenue-raising ability would be lifted and we could fund our court system ourselves and over $260 million can be

returned to the Federal treasury. I have made this argument case many times before many committees of this body. I do not intend to discuss D.C. Statehood here today because the unfortunate truth is that while this status quo is maintained, it is absolutely essential that Congress fully fund the D.C. Court System, and I am obligated to support that appropriation.

The President is requesting $225 million for the District of Columbia Courts for the fiscal year 2005 budget and $41.5 million to the Defender Services. The Courts themselves are requesting $272.08 million for the fiscal year 2005 budget and $50.5 million for Defender Services. The fiscal year 2005 budget request for the District of Columbia Courts furthers the Courts developments by building upon prior achievements, and supports the Courts' commitment to serve the citizens of the District of Columbia. The D.C. Courts will be more empowered to fulfill this commitment by having the necessary funds to do so, and will be extremely limited in their abilities if they do not.

In order for the District of Columbia Courts to continue to provide the highest level of justice to the citizens of the District of Columbia, it is crucial that they receive additional resources in the fiscal year 2005. The Court's requests command considerable capital investments in facilities, infrastructure, security, and technology, as well as operational investments to enhance the administration of justice and service to the public. If the courts are unable to obtain additional capital resources, The Moultrie Courthouse and the District's historic Old Courthouse, along with Buildings A and B, will continue to deteriorate; the Courts' information technology will fail; and needed security measures and equipment will not be installed, putting the Courts' buildings and the public at risk.

I recognize that it can be tempting to refer to the increase of funds allotted to the District of Columbia Courts by the President in his request between 2004 and 2005 and conclude that the Court's needs have been met. I urge you to look past this deceiving increase. The Office of Management and Budget generated marks are inadequate to meet the needs of the District of Columbia Courts, and need to be considered a floor and not a ceiling for purposes of the fiscal year 2005 budget. I realize the President has other priorities, but the District of Columbia Courts are in dire need of revenue for program enhancements and physical improvements. The budget requests they have submitted are reasonable.

The current and future needs that will be met by the budget proposal submitted by the District of Columbia Courts are diverse. They include investing in human resources, broadening access to justice and service to the public, promoting competence, professionalism and civility, improving court facilities and technology, enhancing public security, and strengthening services to families. In this hearing, the witnesses have presented the fiscal marks that they request regarding the aforementioned capital improvements for the fiscal year 2005. With the cooperation of and significant input from General Services Administration, the District of Columbia Courts previously proposed a Master Plan for Facilities. The fiscal year 2005 capital request reflects the significant research and planning included in this Master Plan. It is essential that the Courts receive the funds needed to complete this three-part plan in order to ensure the health, safety, and quality of court facilities and begin to address court space needs.

Let me briefly address whatever conflicting design issues which may or may not exist between the D.C. Courts and the National Law Enforcement Fund. I am pleased that the D.C. Courts recently submitted a viable design that will simultaneously comply with Federal law and address the concerns of the Memorial Fund. The NCPC has encouraged the Memorial Fund to accept this resolution as a sound starting point for development, so that this project does not exceed budget restrictions, thereby costing taxpayers more money in order to complete it. Judiciary Square is the historic home of the D.C. Courts, and an original element of the L'Enfant plan. I am not convinced that any significant conflict between the plans of the two institutions exists. To the extent that one does however, any competing needs must be resolved in favor of our judicial branch. While the planned museum will no doubt enhance the culture and aesthetics of our community, the Court System is a necessary government function. While the Court System is ready now with capital funding, the museum continues to solicit private contributions. Any restriction of the Courts' mandatory operations would be a disservice to the people of D.C., no matter how noble the symbolism of the planned museum.

Notwithstanding the importance of fully funding the District of Columbia Court System operating budget, I would like to ask the subcommittee to focus your attention on the Defender Services line item. I cannot emphasize enough the need to fully fund the Defender Services line item, at the Court's mark. Presently, there is a

mere $9 million difference in the two requests.[1] In order to provide adequate representation to families in crisis, we need to fully fund Defender Services. I said it last year, and it remains true for fiscal year 2005, all of this Committee's accomplished work on restructuring the Family Court is in jeopardy unless it has the resources to sustain it.

Please note that it is not the lawyers but the D.C. Court System itself who is asking for an increase in the hourly rate paid to attorneys that provide legal services to the indigent. Their request includes those attorneys that work hard to represent abused and neglected children in Family Court. The first fee increase in nearly a decade was implemented in March of 2002 when it was adjusted to the present rate of $65 per hour. In the fiscal year 2004 request, the Courts recommend an incremental increase from the current $65 an hour to $75 per hour and eventually to $90 per hour. They are again requesting the new rate this year.

This adjustment is important because the Federal Court's appointed lawyers, literally across the street, already get paid $90 an hour to do very similar work. Therefore, the disparity in pay between the two systems creates a disincentive amongst the "experienced" attorneys to work for Defender Services in the D.C. Court. I call on this subcommittee to once again eliminate this disincentive by fully funding the requested increase in the Defender Services line item in the bill for fiscal year 2005, and then fight vigorously to defend that mark against adverse House action if a conference committee fight becomes necessary.

The Family Court is an institution that must protect the District's most vulnerable citizens—its children. Although the budget provides training for new attorneys, it is the experienced advocates who best serve these special clients. We are in danger of losing our most experienced child advocates due to budget cuts. A deficiency in funds to Defender Services will compromise the safety of children in the District of Columbia, so I am compelled to ask you to secure children's safety in the District of Columbia by fully funding Defender Services.

In closing, I wish to sincerely thank the subcommittee for holding this hearing. I know that this subcommittee has been firmly committed to meeting its fiduciary obligations regarding appropriations for the D.C. Courts. On behalf of my constituents, I thank you for all your hard work and dedication and I look forward to your continued cooperation. There has been strong bipartisan support in this subcommittee for our Court system. In particular, I commend Senators DeWine and Landrieu for all the great work that they have done on the important issue. Both of you have generally treated the D.C. Courts with the same consideration as if they were courts in your own States. Finally, let me thank Kendra Canape, Marco Berte and Brian Rauer of my staff, for their assistance in the preparation of this testimony.

Senator DEWINE. Judge King and Judge Wagner, thank you very much for joining us. And we welcome your opening statements.

Let me just announce to everyone: We have a vote on the Senate floor at 10:30. This committee will finish by 10:30 today one way or the other—so we will be able to do that. I am sure there is plenty of time for us to do our business here today.

Judge King.

Judge KING. If Judge Wagner would start?

Senator DEWINE. Oh, Judge Wagner, if you wish to start.

Judge WAGNER. Yes. Thank you.

STATEMENT OF JUDGE ANNICE M. WAGNER

Judge WAGNER. Good morning, Mr. Chairman and Senator Landrieu, subcommittee members.

Senator DEWINE. Good morning.

Judge WAGNER. I want to thank you for this opportunity to discuss the fiscal year 2005 budget request for the District of Columbia Courts. I am Annice Wagner, and I am appearing in my capacity as the Chair of the Joint Committee on Judicial Administration

[1] The President allotted $134 million for Court Operations while the Courts requested $151.15 million, a difference of $17.15 million, and the President allotted $93.4 million for Capital whereas the Courts requested $120.93 million, a difference of $27.53 million.

in the District of Columbia. Of course, Chief Judge Rufus King, III, of the Superior Court of the District of Columbia, is present and joins in this statement and will make a statement of his own.

My remarks this morning will summarize only and highlight our most critical priority, our capital budget request. I want to thank you for including in the record the detailed written statement we have submitted. I plan to focus my remarks on this critical capital requirement.

The District of Columbia Courts, as you know, serve approximately 10,000 members of the public each day. They handle more than 200,000 cases each year, and employ a staff of 1,200 who directly serve the public, process cases, and provide administrative support.

The D.C. Courts' capital funding requirements are significant because they include funding for projects critical to maintaining, preserving, and building safe and functional courthouse facilities essential to meeting the heavy demands of the administration of justice in our Nation's Capital. Of course, included in that is our Family Court, in which you both have been so interested in the past.

Just under a year ago, we appeared before the subcommittee to discuss our capital budget. We appreciate the support for our Master Plan for Facilities that you, Mr. Chairman, in particular, expressed at that time.

And we have taken your advice to heart, working very closely with the administration during its review of the Courts' capital budget request.

We are very gratified that the President has included in his budget recommendations the major components of our facilities renovation plans, particularly the restoration of the Old Courthouse for use by the Court of Appeals, which is the highest court in this jurisdiction. The restoration of this architectural jewel, the centerpiece of the historic Judiciary Square, will not only serve to address the Courts' space requirements, but it will also help to revitalize this important public area in our Nation's Capital.

Since the most recent study for the restoration of the Old Courthouse was completed in 1999, with the support of this subcommittee, we have been successful in mothballing the building, so to speak; that is, securing its roof and making it watertight, to prevent further deterioration.

Last year, we procured a nationally renowned architectural and engineering firm, Beyer Blinder Belle, to design the restoration. Representatives of that firm are with us today, Mr. John Belle and Mr. Hany Hassan. They are recognized as bringing sensitive solutions to complex urban problems requiring a delicate mix of appropriate historic restoration and bold inventive design, and have received as a result Presidential Design awards, this country's highest award for public architecture. They have worked on such things as the Grand Central Station and the Ellis Island restorations.

The design for the restoration of the Old Courthouse itself is now at the 50 percent complete stage. We will be ready to submit this design to the regulatory agencies next month, with the final design to be completed in August of this year.

We are scheduled to begin construction in January 2005 and plan to relocate the District of Columbia Court of Appeals to the

Old Courthouse when it is restored, and we expect that to occur in January 2007.

This relocation is a critical path of interdependent actions, which must occur in a complex sequence. That is, one thing must occur so that other parts of the Court can be accommodated, including the finalization of our Family Court with its own separate entrance on C Street.

Formal review and approval by the regulatory agencies of the Old Courthouse project must proceed expeditiously, as any delay will increase cost, contribute to further deterioration and delay implementation of the Courts' Master Plan for Facilities, including the Family Court.

As you may know, both the Commission of Fine Arts and the National Capital Planning Commission called for a coordinated design agreement between the Courts and the National Law Enforcement Museum, which is authorized to build an underground museum with above-ground entrance pavilions on part of the site.

At that time, it appeared that both projects were on similar construction schedules. Subsequently, however, we have learned that the museum construction may not commence until sometime between 2009 and 2012, up to 5 years after the completed Old Courthouse is scheduled to become the seat of the District of Columbia Court of Appeals.

But we are confident that our respective architects will eventually reach a design for the plaza entranceway which is agreeable to all parties. However, to address the area in the interim between construction projects, our architects have prepared a phase one design that completes the Old Courthouse restoration without infringing on the area authorized for the museum. Therefore, an agreement on plaza entranceway design should not delay the restoration and use of this important public building.

We recognize that coordination must continue with the museum and that some modifications to the site may be necessary.

Senator DEWINE. Judge, if you could conclude, please, if you could finish it.

Judge KING. Sir, I do not know if it's appropriate, but I would be happy to yield most of my time to Judge Wagner.

Senator DEWINE. That would be fine.

Judge WAGNER. Well, I have only a couple more statements to make.

Senator DEWINE. Sure.

Judge WAGNER. The principles of aesthetics, urban design, planning, and the enhancement of historical, cultural and natural resources will be best served by permitting the restoration of the historically and architecturally significant Old Courthouse.

PREPARED STATEMENT

Again, I thank you for your support of our facilities and plans and for this opportunity to discuss this very important issue in our capital budget.

And Chief Judge King and I, we will be happy to answer any questions.

[The statement follows:]

PREPARED STATEMENT OF ANNICE M. WAGNER

Mister Chairman, Senator Landrieu, Subcommittee members, thank you for this opportunity to discuss the fiscal year 2005 budget request of the District of Columbia Courts. I am Annice Wagner, and I am appearing in my capacity as the Chair of the Joint Committee on Judicial Administration in the District of Columbia. I also serve as Chief Judge of the District of Columbia Court of Appeals. Chief Judge Rufus G. King, III, of the Superior Court of the District of Columbia is also present today and joins in this statement.

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

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

INTRODUCTION

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

The Courts are committed to fiscal prudence and sound financial management. We are undergoing significant changes to meet the challenges of new technologies and are working to ensure that the courts of this jurisdiction have a sound infrastructure. Although we have requested funds for several important operating initiatives, the critical focus of our fiscal year 2005 budget request is our infrastructure.

To support our mission and strategic goals in fiscal year 2005, the D.C. Courts are requesting $272,084,000 for Court operations and capital improvements and $50,500,000 for the Defender Services account. The Federal Payment request includes: $9,109,000 for the Court of Appeals; $88,714,000 for the Superior Court; $53,331,000 for the Court System; and $120,930,000 for capital improvements for courthouse facilities.

The demands on the D.C. Courts require additional resources in fiscal year 2005. To build on past accomplishments and to support essential services to the public in the Nation's capital, investment in infrastructure, technology, and security are essential priorities. Only by investing in these areas will the Courts be in a position to ensure that our facilities are in a safe and healthy condition and reasonably up-to-date, that our information technology is capable of meeting today's demands; and that the type of security necessary to protect our citizens and our institution is in place. Focus on these capital areas is particularly critical now to meet each of these needs and to ensure that the quality of justice is not compromised.

The Courts' fiscal year 2005 request is a fiscally responsible budget that continues to build on our achievements. We are particularly proud of our progress with a number of recent initiatives. These include:

—completion of the D.C. Courts' first Master Plan for Facilities that evaluates the Courts' space needs and provides a blueprint for space utilization, both short-term and long-term;

—submission of a draft Master Plan for Judiciary Square to the National Capital Planning Commission, providing a plan for revitalization and urban renewal of this historic area where the Courts are located that dates to the original L'Enfant Plan for the Nation's Capital;

—implementation of the District of Columbia Family Court Act of Fiscal Year 2001; to date, the Courts have implemented the one family one judge principle and transferred all required children's cases to Family Court judges, created attorney panels and practice standards for neglect and juvenile cases, established a Family Treatment Court, piloted a Self-Help Center for litigants with assistance from the bar, increased resources devoted to family matters with the addition of nine magistrate judges and three Family Court Judges, and opened the Mayor's Services Liaison Center in the courthouse;

—completion and initial implementation of the Courts' 5-year strategic plan, "Committed to Justice in the Nation's Capital," following 9 months of extensive input from the public, practicing attorneys and other stakeholders, detailed analysis of community trends, and significant work by the Courts' Strategic Planning Leadership Council;

—implementation of the Integrated Justice Information System (IJIS) in Family Court substantially completed in 2003;

—creation of community-based courts, such as the criminal Community Court and prostitution calendar, that seek to improve the quality of community life by reducing nuisance crimes through community-based sanctions and treatment and social services to solve the underlying problems leading to the unlawful behavior; and

—opening the Domestic Violence Satellite Center in Southeast, in cooperation with community-based advocacy groups and District agencies, to facilitate protection orders and services for large number of domestic violence victims who reside east of the Anacostia river.

CRITICAL FISCAL YEAR 2005 PRIORITY—INFRASTRUCTURE

The District of Columbia Courts serve approximately 10,000 courthouse visitors each day, handle more than 200,000 cases each year, and employ a staff of 1,200 who directly serve the public, process the cases, and provide administrative support. The District of Columbia Courts are among the busiest and most productive court systems in the United States.[1] For example, the Superior Court of the District of Columbia has the second highest number of cases filed per judge, and the highest number of civil and criminal case filings per capita of all unified State courts in the Nation. Our Court of Appeals has the highest number of appeals filed per capita among all States with a similar court structure.

The D.C. Courts' capital funding requirements are significant because they include funding for projects critical to maintaining, preserving, and building safe and functional courthouse facilities essential to meeting the heavy demands of the administration of justice in our Nation's Capital. To effectively meet these demands, the Courts' facilities must be both functional and symbolic of their public significance and character. In the 2005 capital budget, the Courts highest budgetary priority seeks to comprehensively address these issues.

In preparing the fiscal year 2005 capital budget request, the Courts carefully assessed the capital requirements essential to performing our statutory and constitutionally mandated functions. The Courts' request for capital funding is particularly critical in fiscal year 2005 because of the need to (1) address essential public health and safety conditions in our extremely busy court buildings; (2) meet the courts' space shortage requirements for conducting business, which includes our new Family Court, recently established by Congress; and (3) avoid interruption of ongoing projects, as that typically results in substantially increased costs.[2] Significantly increased space needs for court operations and inadequate capital funding in prior years that necessitated maintenance deferral compel the Courts' significant capital request for fiscal year 2005.

The Courts presently maintain 1.1 million gross square feet of space in Judiciary Square. The Courts are responsible for four buildings in the square: the Old Courthouse at 451 Indiana Avenue, the Moultrie Courthouse at 500 Indiana Avenue, N.W., and Buildings A and B, which are located between 4th and 5th Streets and E and F Streets, N.W. In addition, when the District government's payroll office vacates Building C, the old Juvenile Court, we anticipate that it will be returned to the Courts' inventory. Recent studies by the General Services Administration (GSA)

[1] See "Examining the Work of State Courts 2002: A National Perspective from the Court Statistics Project", by B. Ostrom, N. Kauder, & R. LaFountain (National Center for State Courts 2003).

[2] For example, in the last decade, the estimated cost for restoring the Old Courthouse has more than tripled.

have documented both the D.C. Courts' severe space shortage[3] and the inadequacy of the physical condition of the Courts' facilities.[4]

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

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

HISTORIC JUDICIARY SQUARE

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

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

Buildings A, B, and C, dating from the 1930's, are situated symmetrically along the view corridor comprised of the National Building Museum, the Old Courthouse, and John Marshall Park and form part of the historic, formal composition of Judiciary Square. These buildings have been used primarily as office space in recent years, with a number of courtrooms in operation in Building A. The Superior Court's two highest volume courtrooms, Small Claims and Landlord and Tenant, moved into

[3] Master Plan for D.C. Courts Facilities, 2002.
[4] Building Evaluation Report, 2001.

Building B in November 2003. This move has freed space in the Moultrie Building needed immediately for the Family Court, permitting the construction, scheduled to be complete in July of this year, of three new courtrooms, three new hearing rooms, a centralized case intake facility, a family-friendly waiting area, a separate courthouse entrance, and District government liaison offices for family matters.

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

JUDICIARY SQUARE MASTER PLAN

The National Capital Planning Commission (NCPC) required that the D.C. Courts develop a Master Plan for Judiciary Square—essentially an urban design plan—before any construction could be commenced in the area. The D.C. Courts have worked with all stakeholders on the Plan, including the United States Court of Appeals for the Armed Forces, the National Law Enforcement Officers Memorial Fund (Memorial Fund), the Newseum, and the Metropolitan Police Department. A draft Judiciary Square Master Plan was submitted to the NCPC in June 2003 and subsequently approved in August 2003. We plan to submit the finalized Judiciary Square Master Plan next month, in March 2004.

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

The Judiciary Square Master Plan recommends (1) re-introduction of landscaped green space around court buildings and the construction of secure underground parking garages for the Courts' vehicles now parked in surface lots; (2) integration of a new service area, security features and landscape concept; and (3) coordination of the Courts' development with development of the National Law Enforcement Officers Museum by the Memorial Fund.

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

MASTER PLAN FOR FACILITIES

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

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

C, adjacent to the Old Courthouse. In addition, the Plan determined that other court facilities must be modernized and upgraded to meet health and safety standards and to function with greater efficiency.

FAMILY COURT IN THE MASTER PLAN

Interim Family Court Space Plan

The Master Plan concluded that the Family Court would be most effectively and efficiently located in the Moultrie Courthouse. The Master Plan incorporates an interim space plan that provides the facilities necessary to fully implement the Family Court Act, as well as a long term plan that optimizes space and programmatic enhancements for family matters. The interim space plan for Family Court will be complete in the summer of 2004, and fully consolidates public functions on the JM level of the Moultrie Courthouse. As this interim space plan proceeds towards completion, procedural changes have been implemented within the Family Court that meet the requirements of the Family Court Act. Essential capital components of the plan are straightforward:

—During fiscal year 2002, the Courts constructed and reconfigured space in the Moultrie Courthouse to accommodate nine new Family Court magistrate judges and their support staff. The Courts also constructed four new hearing rooms in Building B for Family Court magistrate judges hearing child abuse and neglect cases and renovated short-term space for the Mayor's Services Liaison Office.

—Two Superior Court operations formerly located on the JM level of the Moultrie Courthouse, Small Claims and Landlord and Tenant, were relocated in November 2003 to Building B to free space for the Family Court.

—Construction on the JM Level of the Moultrie Courthouse began in December 2003 and will provide three new courtrooms, three new hearing rooms, the Mayor's Services Liaison Office, a Centralized Family Court Case Filing and Intake Center, a family-friendly child waiting area, and a new Family Court entrance from the John Marshall Plaza into the Moultrie Courthouse. In addition, the corridors and hallways along the courthouse's JM-level will be redesigned to create family-friendly seating and waiting areas. This work will be complete during the summer of 2004.

Long Term Family Court Space Plan

The long-term plan to optimize space and provide programmatic enhancements for the Family Court includes expansion of the Moultrie Courthouse. The Courts are pleased that the President's 2005 budget provides funding for the design work for the Moultrie Courthouse expansion. Once complete, it will provide a state-of-the-art, family-friendly facility for Family Court operations, with its own identity and separate entrance, which will be a model for the Nation. The plan envisions a safe facility that will be inviting and welcoming to families with children of all ages and that will incorporate a "one-stop" concept by locating all related court units in one place and making it easier for families to access needed social services from D.C. government agencies. The interim Family Court plan was designed to transition smoothly into this long-term plan and to maximize the efficient use of time and money.

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

THE COURTS' STRATEGIC PLAN

The capital projects included in this request are an integral part of the Courts' Strategic Plan, completed in 2002. The Strategic Plan of the D.C. Courts, entitled "Committed to Justice in the Nation's Capital", articulates the mission, vision, and values of the Courts in light of current initiatives, recent trends, and future challenges. It addresses issues such as implementation of a Family Court, increasing cultural diversity, economic disparity, complex social problems of court-involved individuals, the increasing presence of litigants without legal representation, rapidly

evolving technology, the competitive funding environment, emphasis of public accountability, competition for skilled personnel, and increased security risks.

Improved facilities were a need identified as a high priority among all constituency groups surveyed by the Courts as the Strategic Plan was developed. "Improving Court Facilities and Technology" is the Plan's Strategic Issue 4. The Strategic Plan states:

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

Two strategic goals relate to the facilities and technology enhancements in this capital budget:

"Goal 4.1: The Courts will provide personnel and court participants with a safe, secure, functional and habitable physical environment.

"Goal 4.2: The Courts will provide technology that supports efficient and effective case processing, court management, and judicial decision-making."

The fiscal year 2005 capital budget request will help the D.C. Courts attain these goals.

CAPITAL FUNDING IN FISCAL YEAR 2005

To permit the Courts to continue to meet the needs of the community and the demands confronting the District's judicial branch, adequate resources are essential. The most critical issue we face today is sufficient capital funding to address the Courts' severe space shortage and aging infrastructure. Investment in these areas is critical to enable the Courts to provide to the public and our employees facilities that are safe, healthy, and reasonably up-to-date and to provide the type of security necessary to protect our citizens and our institution. Unless infrastructure needs are addressed, the functional capability of the Courts will decline and the quality of justice in the District of Columbia will be compromised.

The first part of the Capital Budget request identifies projects to renovate, improve, and expand court facilities, as specified in the Master Plan for Facilities. The request is a comprehensive, 5-year plan, with projects divided into phases to the extent practicable: $63 million is requested for the construction phase of the Old Courthouse renovation, which will begin in fiscal year 2005; $13.9 million is requested for the design phase of the Juvenile Holding area renovation, C Street Expansion, and Renovation and Reorganization portions of the Moultrie Courthouse Renovation and Expansion project in fiscal year 2005. For design and pre-design work to renovate Buildings A and C and for phase 1 construction in Building A, $4.9 million is requested. We are very pleased that the President has supported these essential elements of our Master Plan in his fiscal year 2005 budget recommendations. In addition, to design and prepare signage and security lighting to guide the public through the court complex, which will become increasingly important as court operations move out of the Moultrie Courthouse, $2 million is requested.

The second part of the Capital Budget request addresses the condition of the Courts' existing infrastructure, including projects necessary for the health and safety of the public in the courthouse and including the Integrated Justice Information System (IJIS). To meet these needs, the Courts make the following requests: $6 million for fire and security systems, as recommended by GSA and U.S. Marshal Service studies; $15 million for HVAC, Electrical and Plumbing Upgrades to remediate lead-contaminated drinking fountains, provide adequate ventilation, and meet electrical load needs, among other things; $1.1 million to renovate dilapidated restrooms used by the public and court staff; $2.6 million for, among other things, ADA accessibility, safety repairs, and refurbishment of run-down areas in courtrooms and secure areas. To replace prisoner elevators, alleviating trial delays because of inability to transport incarcerated persons, $0.2 million is requested. To improve safety and ADA accessibility in public areas, to clean the exterior of the Courts' buildings, to replace doors and windows in historic Buildings A and B, and to make other general repairs, $9 million is requested. Finally, $2.83 million is requested for continued implementation of IJIS. While we are pleased that some of these projects, such as IJIS, elevators and escalators, and general repairs, have been supported, we remain concerned that continued deferral of needed maintenance projects will increase costs by delaying major work and by forcing inefficient repairs of equipment that has reached its expected life and requires major overhaul.

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

capital funding in fiscal year 2005 offers important advantages including: (1) addressing urgent public health and safety conditions in the Court's busy buildings; (2) allowing ongoing projects to continue without interruption, thereby avoiding increased costs occasioned by delays; (2) and meeting the Courts' critical space requirements, including our new Family Court.

STATUS OF KEY CAPITAL PROJECTS

Old Courthouse Restoration

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

The Commission of Fine Arts reviewed the preliminary concept design for the Old Courthouse on October 16, 2003. The Commission's recommendations were incorporated in the design, which is currently 50 percent complete. Upon completion of this milestone, formal review by regulatory agencies (e.g., the Commission of Fine Arts (CFA) and the National Capital Planning Commission (NCPC)) is required for the project to proceed. The Courts are prepared to present the 50 percent complete design to the NCPC in March 2004. Formal review and approval of the Old Courthouse project must proceed expeditiously, as any delay will increase cost, contribute to further deterioration, and delay implementation of the Courts' Master Plan for Facilities, including enhancement to and the full consolidation of all Family Court related elements.

Both the CFA and the NCPC called for a coordinated design or agreement between the Courts and the National Law Enforcement Museum (NLEM), which is authorized to build an underground museum with aboveground entrance pavilions on part of the site. At that time, it appeared that both projects were on similar construction schedules. Subsequently, we have learned that the NLEM construction may not commence until sometime between 2009 and 2012. The Old Courthouse construction is scheduled to commence in January 2005 with occupancy scheduled for January 2007.

Our architects have prepared a "Phase 1" design that completes the Old Courthouse restoration without infringing on the area authorized by legislation for the museum. Therefore, an agreement on plaza entranceway design should not delay the restoration and use of this important public building. We recognize that coordination with the NLEM must continue, and that some modifications to the site may be necessary. However, the principles of aesthetics, urban design, planning, and the enhancement of historical, cultural and natural resources, which the CFA and NCPC must foster, will best be served by permitting the restoration of the historically and architecturally significant Old Courthouse to proceed.

Moultrie Courthouse Expansion

The expansion of the Moultrie Courthouse is a key element in the long-term plan for Family Court. The expansion builds on the interim plan for the Family Court, scheduled to be complete the summer, that will consolidate the public face of the Family Court through a centralized intake center and space for the Mayor's Services Liaison Office and provide a separate entrance as well as new courtrooms, hearing rooms, and a family-friendly child waiting area. The expansion will complete the facilities enhancements for the Family Court providing, for example, additional space for child protection mediation, increased Child Care Center space, and safe and comfortable family waiting areas. It will also fully consolidate all administrative operations of the Family Court including relocation of juvenile probation (the Social Services Division) from Building B to the Moultrie Courthouse. A portion of the addition will meet critical space needs for other Superior Court operations. The Courts have requested, and the President supports, funds in fiscal year 2005 to design the addition. The addition is scheduled to be completed in 2009.

COMPLETE BUDGET REQUEST SUMMARY

To provide the highest level of justice to the public in the Nation's Capital and build on recent accomplishments, it is essential that the D.C. Courts receive additional resources in fiscal year 2005. The demands on the Courts require significant capital investments in facility infrastructure, security, and technology as well as operational investments to enhance the administration of justice and service to the public. Without additional capital resources, the Moultrie Courthouse and the District's historic Old Courthouse and Buildings A and B will continue to deteriorate, placing public health and safety at risk and undermining public trust and confidence in the judicial branch; the Courts' information technology will fail, threatening judicial decision-making and community safety; and needed security measures and equipment will not be installed, placing the Courts' buildings and the public at risk. Investments in operational enhancements will support strategic management; self-representation services; complete and accurate trial records; financial, materiel, and facilities management; and human resource development. Targeted investments in these critical areas are essential to ensuring that the Courts can fulfill their mission of providing quality justice in the District of Columbia. The Court's fiscal year 2005 budget request addresses these requirements by:

—*Investing in Infrastructure*.—The fiscal year 2005 capital request reflects significant study and planning detailed in the D.C. Courts' Master Plan for Facilities. As noted above, today the Courts have a space shortfall of nearly 45,000 occupiable square feet, which is projected to rise to a 134,000 square feet shortfall over the next 10 years. To begin to address the Courts' space needs and ensure the health, safety, and quality of court facilities, the fiscal year 2005 capital request includes $120,930,000.

Included in the capital budget request is $63,000,000 for the construction phase of the Old Courthouse restoration project, which will adapt it for reuse by the Court of Appeals. The Old Courthouse is an architectural jewel located in one of the significant green areas of the District original to the L'Enfant Plan for the capital city. Construction of the accompanying garage, which will be shared with the U.S. Court of Appeals for the Armed Forces, and remove surface parking, will begin during 2004. Restoring this historic landmark to meet the urgent space needs of the Courts and preserving it for future generations are critical priorities for the District of Columbia Courts.

Also included in the capital budget request is $13,900,000 to begin work on the Moultrie Courthouse expansion, as delineated in the Master Plan. This amount includes $6,000,000 for the design phase of the C Street Expansion, which, as noted above, will complete the facilities enhancements for the Family Court and meet critical space needs for Superior Court operations. The total also includes $3,900,000 to renovate and expand space in the Moultrie Courthouse for the juvenile holding area and $4,000,000 for the first phase of the renovation and reorganization of the Moultrie Courthouse, to make optimal use of existing space as envisioned in the Master Plan.

In addition, the capital budget request includes $34,300,000 to maintain the Courts' existing infrastructure, preserving the health and safety of courthouse facilities for the public and the integrity of historic buildings for the community.

—*Enhancing Public Security*.—The Courts are responsible for the protection of 10,000 members of the public who enter the courthouse each day, among them local and international visitors and 1,200 court employees. To meet the increased security threat post-September 11, 2001, the Courts request $6,956,000. Included in this figure are: $956,000 in operational expenditures for additional contractual security officers and $6,000,000 to finance capital security improvements recommended by a U.S. Marshal Service Physical Security Survey and a GSA Preliminary Engineering Report, including design, construction, and installation of a new security system, as well as additional security cameras, duress alarms and upgrades.

—*Investing in Information Technology (IT)*.—The Courts are mandated to operate an automated, integrated case management system to provide accurate, comprehensive case data across every operating area and appropriate case data to the judiciary, the District's child welfare and criminal justice communities, and the public. To meet this mandate and achieve the Courts' strategic goal of improving court technology, the Courts request $6,729,000 and 6 FTEs in fiscal year 2005. This amount includes $3,899,000 in the operating budget for infrastructure enhancements, upgrade of IT operations and implementation of the disciplined processes the General Accounting Office (GAO) had recommended for the Integrated Justice Information System (IJIS) project. In addition, the Courts' capital budget request includes $2,830,000 to finance fiscal year 2005

procurement of IJIS, which the Court launched in fiscal year 1999. Implementation of IJIS is well underway, with Wave 1 of the Family Court module operational in August 2003 and Wave 2 operational in December 2003.

—*Strategic Planning and Management*.—To support long-range strategic planning and management, including the development and assessment of organizational performance measures, $571,000 is requested. A comprehensive performance measurement system is a critical element in accountability to the public and would enable the Courts to report performance to the community. In addition, an Office of Strategic Management is essential to make the Courts' strategic plan the dynamic, evolving document that it must be to focus resources, priorities and actions. Specifically, the request would finance performance management software, training, and knowledgeable staff with the expertise to institutionalize a proactive, coordinated approach to management including the establishment, analysis, and use of performance measures for strategic decision-making.

—*Serving the Self-Represented*.—To enhance equal access to justice for the more than 50,000 litigants without lawyers who come to the D.C. Courts each year, especially in the Family Court, Civil Division, and Court of Appeals, $2,096,000 and 13 FTEs are requested for staff and facilities to establish a Self-Representation Service Center. This amount includes $212,000 and 3 FTEs to assume responsibility for the operation, on a full-time basis, of the award-winning Family Court Self-Help Center, which is currently only a part-time operation supported by volunteers from the D.C. Bar. The Courts would adopt best practices in assisting the unrepresented with numerous important legal issues and build on the public information kiosk project being implemented in fiscal year 2003 and the very limited pro bono services currently available.

—*Investing to Ensure Accurate and Complete Trial Records*.—The Courts' fiscal year 2005 request includes $1,636,000 and 12 FTEs to improve the production of the court record. Maintaining complete and accurate court records are central to the fair administration of justice in a court system. Accurate and complete records of court proceedings are critical to ensuring a fair trial and to preserving a record for appeal. This request includes funds to upgrade the Courts' digital recording system that is installed in 80 courtrooms and has exceeded its useful life, and funds to hire additional court reporters who are essential for certain types of proceedings, such as felony trials.

—*Enhanced and More Timely Public Service*.—To enhance and provide more timely services to the public, the Courts' fiscal year 2005 request includes $2,198,000 and 15 FTEs to support operating division initiatives in family, landlord and tenant, probate, crime victim's compensation, the juror's office, court interpreting services, and the Superior Court law library. Included in the total is $1,000,000 to restore and preserve Probate Division records that are required, by statute, to be maintained forever and readily available to the public. This funding will build on the Courts' recent accomplishments, discussed above, and ensure that the highest quality services are provided.

—*Financial, Materiel, and Facilities Management*.—To enhance financial, materiel, and facilities management, $2,267,000 and 17 FTEs are requested. Included in the total are $623,000 and 8 FTEs to enhance financial and program management, including a new internal audit team; $898,000 and 1 FTE for materiel management, including warehouse space, equipment, and staff; and $746,000 and 8 FTEs to enhance facilities management, including building engineers and capital project management staff.

—*Investing in Human Resources*.—To help the Courts attract, develop, and retain highly qualified employees and address the risks of high retirement eligibility, $1,167,000 is requested for succession planning, leadership development, tuition assistance, enhanced benefits and specialized training for court personnel. Currently, 27 percent of the Courts' non-judicial employees, of whom 16 percent are in top management positions, are eligible to retire in the next 5 years, representing a potential for a tremendous loss of experience and talent that the Courts must plan now to address.

—*Strengthening Defender Services*.—In recent years, the Courts have devoted particular attention to improving the financial management and reforming the administration of the Defender Services programs. For example, the Courts have significantly revised the Criminal Justice Act (CJA) Plan for representation of indigent defendants and issued Administrative Orders to ensure that CJA claims are accompanied by adequate documentation and that only highly qualified attorneys participate in the program. To enhance the financial management of the CJA program, the Courts assumed responsibility for issuing attorney claim vouchers from the Public Defender Service (PDS). Consolidation of re-

sponsibility for all financial management aspects of the Defender Services programs will enable the Courts to estimate more accurately program obligations throughout the voucher processing cycle. To build on these initiatives and more comprehensively exert greater management control over the Defender Services appropriation from a programmatic, rather than a financial perspective, the Courts request $91,000 and 1 FTE in the fiscal year 2005 operating budget.

In the Defender Services account, the fiscal year 2005 budget request represents a net increase of $18,500,000 over the fiscal year 2004 Enacted level of $32,000,000 to fund hourly rate increases. Of the total request, $9,500,000 would provide appropriated funding for the March 2002 rate increase for Defender Services attorneys and investigators. This increase, enacted in the D.C. Appropriations Act, 2002, has been funded to-date through a reserve in the account, which is now depleted. Also included in the total request is $9,000,000 for an increase in the hourly compensation rates for attorneys from $65 to $90, to keep pace with the rate paid court-appointed attorneys at the Federal courthouse across the street from the D.C. Courts.

CONCLUSION

Mister Chairman, Senator Landrieu, Subcommittee members, the District of Columbia Courts have long enjoyed a national reputation for excellence. We are proud of the Courts' record of administering justice in a fair, accessible, and cost-efficient manner. Adequate funding for the Courts' fiscal year 2005 priorities is critical to our success, both in the next year and as we implement plans to continue to provide high quality service to the community in the future. We appreciate the President's level of support for the Courts' funding needs in 2005, and the support we have received from the Congress. We look forward to working with you throughout the appropriations process, and we thank you for this opportunity to discuss the fiscal year 2005 budget request of the Courts.

Senator DEWINE. Thank you.

Judge WAGNER. Thank you, sir.

Senator DEWINE. Judge King.

STATEMENT OF JUDGE RUFUS G. KING, III

Judge KING. Good morning, Mr. Chairman and Senator Landrieu. It is a pleasure to be back here and primarily to express my gratitude on behalf of the Superior Court, at any rate, for your support for our budget in the past and the President's support for our budget as we go forward with the construction plan.

We are engaged in the execution of a complex master plan that runs over 10 years. We have outlined that in our written submission, which I trust will be included in the record.

Senator DEWINE. It will be made a part of the record.

Judge KING. I adopt Chief Judge Wagner's oral statement as well, and I will just make a point or two.

Thus far, the construction in the Moultrie Building to round out the first part of the Family Court renovations is on time and in budget. My commitment is to try to keep it that way. And to that end, my door is always open and my phone lines are always open for any discussions that are needed to help that process along.

The one point that I just want to put on the record, because I know it is capable of getting lost in the shuffle is: The President did not support our request for capital funding for the aging infrastructure. Our building is 30 years old, essentially. The systems, the HVAC and mechanical systems and electrical and so on, are all at the end of their useful life.

I personally have had an occasion when the temperature in my courtroom rose to above 90 degrees, because the air conditioning had failed. We just had to adjourn for the day. And that is very frustrating when you have a judge ready to go, staff ready to go,

marshals ready to go, and the lawyers are prepared to try the case, and you just cannot try the case. So that is an issue that is over the horizon.

There is a $15 million request for aging infrastructure, renovation and maintenance that has not been addressed. And at some point, it is going to need to be addressed.

But I am very grateful for the support for the capital budget. And I will be glad to answer questions.

Senator DEWINE. Good.

Judge KING. Thank you.

Senator DEWINE. Senator Landrieu.

Senator LANDRIEU. Could you all just, Judge, just hit—would you just hit the highlights again of the—I know you have given us the time frame in the documents here. But just review for me on this plan that you have, when the Courts move into what building, so that I could just get a sense of when the Family Court will be in their new facility? What is the general time line, if you have it handy? If you do not, I understand.

COURT CONSTRUCTION SCHEDULE

Judge WAGNER. I do not have it handy, but I can—let me see.

Judge KING. I can give you most of the basic points. The Family Court will be moved—all of the public functions of the Family Court will be moved into the JM and first floor levels of the Moultrie Courthouse as of July of this year, in about 5 months, 6 or 5 months.

I believe the move for the Court of Appeals is scheduled for 2005. The actual occupancy is a little bit later, but the construction starts in 2005. When that move is accomplished in 2007, we will then round out the relocation of various functions to bring all of the office or administrative functions of the Family Court into the JM and the first floors.

Senator LANDRIEU. So I am understanding that the Family Court basically moves first into their renovated space. They are moving first into their renovated space.

Judge KING. That is correct.

Senator LANDRIEU. Is that correct?

Judge KING. That is correct.

Senator LANDRIEU. And then the next piece is the——

Judge KING. The C Street Expansion——

Senator LANDRIEU [continuing]. Renovation.

Judge KING [continuing]. Which will begin in 2006.

The C Street Expansion is finished in 2009. We are running with design phases while we are doing the building of the Old Courthouse and then——

Senator LANDRIEU. You all have—you are in the position to have control of this schedule so that—because they are really moving pieces. And those pieces have to move in a way that really helps us to meet these time lines to get these Courts functioning in the new spaces that we are trying to provide. And you all know that any barriers to move people or the authority to make the contractors even move faster or get out of the way or the architects—I mean, do you all feel like you have blue skies ahead, or do you

need us to do anything that helps you to make sure you stay on the schedule?

Judge KING. The one thing that we have almost no control over is the funding, and we are looking to you for that, and you have been very supportive. But given the funding, we have more barriers to——

Senator LANDRIEU. But if the funding, you know, is short, then it puts a crimp in this particular formula.

Judge KING. That is correct. That is correct.

Senator LANDRIEU. Okay.

Judge KING. If the funding is not there, then we have to come up with alternatives.

Senator LANDRIEU. All right.

Judge WAGNER. And the Courts' plans have to be approved by the regulatory agencies during this process. While we do not control that, we try to cooperate with them to get all of our submissions in so that we cause no delays.

Senator LANDRIEU. Thank you.

Senator DEWINE. Let me invite our other panelists to come up.

Craig Floyd is the Chairman and Executive Director of the National Law Enforcement Officers Memorial Fund. Patricia Gallagher is the Executive Director of the National Capital Planning Commission. And Frederick Lindstrom is the Assistant Secretary of the Commission of Fine Arts since 2001.

Ms. Gallagher, let us start with you. If you can—we have everyone's written statement, which will become a part of the record.

Ms. Gallagher, if you could make some comments, and then we will move to Mr. Lindstrom, and Mr. Floyd.

STATEMENT OF PATRICIA GALLAGHER, EXECUTIVE DIRECTOR, NATIONAL CAPITAL PLANNING COMMISSION

ACCOMPANIED BY CHRISTINE SAUM, SENIOR URBAN DESIGNER, NATIONAL CAPITAL PLANNING COMMISSION

Ms. GALLAGHER. Good morning, Senator. Is this on?

Senator DEWINE. Yes, if you push it down, that is—yes.

Ms. GALLAGHER. Thank you. Good morning, Mr. Chairman, Senator Landrieu, and members of the subcommittee. I am Patti Gallagher, Executive Director of the National Capital Planning Commission. On behalf of the Commission, I thank you for this opportunity to testify.

We understand from the Conference report language in the Omnibus bill that there is concern that NCPC may be delaying the District of Columbia Courts' plans to renovate the Old City Hall at Judiciary Square, and we are here today to assure you and the members of the subcommittee that NCPC has not delayed this renovation.

NCPC began working closely with the Courts and the National Law Enforcement Officers Memorial Fund in Spring 2003 during the preparation of the draft Judiciary Square Master Plan. In May 2003, the Courts gave an informational presentation on the master plan to our Commission. And then in August 2003, the Commission adopted this draft plan.

NCPC staff has been working closely with both parties to ensure that the redevelopment of Judiciary Square, including the Old City

Hall renovation, meets the highest standards of planning and urban design. This process is complicated in that we are working to satisfy the requirements of two legislative mandates, the National Law Enforcement Museum Act of 2000, and the District of Columbia Family Courts Act of 2001.

Through the latter, Congress mandated to the D.C. Courts that they have to reorganize and improve the Courts' services and facilities.

In the National Law Enforcement Museum Act, Congress authorized the Memorial Fund to build its museum on Federal land that partially abuts the Old District of Columbia City Hall, which is to be expanded and renovated for re-use by the District of Columbia Court of Appeals. The Act requires the Memorial Fund to construct the majority of its museum underground and limit its aboveground construction to two 10,000-square-foot entrance pavilions.

In addition, the Act requires a 90-foot setback from the renovated Old City Hall and a requirement to maintain a 100-foot-wide zone, or plaza, on the north-south axis of the Old City Hall where no aboveground museum construction is permitted. These areas are depicted on the map attached to my written testimony.

Our Commission is faced with the challenge of complying with both mandates, while respecting each of the parties' separate and distinct visions for the common plaza area. The Courts and the Memorial Fund each consider the plaza to be a key part of the entrances to their buildings, and they continue to fundamentally disagree on the level of construction and design control each party is permitted to have within the plaza area.

The Memorial Fund asked NCPC in its March and May 2003 submissions to review proposed memorial designs and museum designs that would have interfered with the entrance to the renovated Old City Hall. Since these submissions were clearly in conflict with the Act's requirement that the plaza area be kept open, the applicant withdrew both submissions.

Subsequently, in July 2003, the Courts submitted its draft Judiciary Square Master Plan. This master plan depicted the plaza as an unobstructed open space extending from the renovated courthouse's new entrance to E Street, Northwest. The Memorial Fund opposed that aspect of the master plan on the basis that it, not the Courts, had the authority to design the plaza area.

As Congress has addressed, the renovation of the Old City Hall for re-use by the Courts is an important Federal project. And delays in its construction could needlessly increase the cost to taxpayers.

Our Commission recognized this urgency and on August 7, 2003 approved the draft Judiciary Square Master Plan. And in an effort to move both projects forward, our Commission departed from its normal process of requiring an approved master plan, and authorized the Courts and the Memorial Fund to proceed with the design submissions for their individual projects.

A unified integrated plaza design is essential for both projects to have unimpeded access to their respective entrances. Therefore, our Commission asked the parties to mutually agree on a design solution before requesting further NCPC approval.

Although NCPC staff has been working with both sides since last spring to facilitate an acceptable solution, we are unable to report progress, that an agreement has been reached. However, on February 13th, the Courts presented to the NCPC staff for the first time an interim design that would maintain the plaza as an open area, and one that would provide sufficient space for the Memorial Fund to construct its entrance pavilions while allowing both projects open access to their respective entrances.

The Courts' proposed design is an uncomplicated landscape solution that could be modified when the Memorial Fund completes its fund raising and is prepared to proceed with construction.

We understand that the Courts are prepared to move forward with this interim design despite the inevitable disruption to the plaza area and its entrances once the design of—once the museum design construction begins.

Our staff opinion of the Courts' interim design is that it appears to respect the design parameters set out in the National Law Enforcement Museum Act. We feel that it is a viable solution that should satisfy both parties and allow the Courts' construction project to move forward.

PREPARED STATEMENT

We have spoken to both the Courts and the Memorial Fund to encourage the use of this interim design as an acceptable solution and have informed them that this design, if accepted by both parties, would be eligible for immediate review by our Commission. Our staff and the Commission will do our utmost to accommodate the Courts' timetable and to complete our review as expeditiously as possible.

Mr. Chairman, this concludes my testimony.

Senator DEWINE. Thank you very much.

[The statement follows:]

PREPARED STATEMENT OF PATTI GALLAGHER

Good morning Mr. Chairman and members of the Committee. I am Patti Gallagher, Executive Director of the National Capital Planning Commission (NCPC). I would like to thank you on behalf of the Commission for this opportunity to testify. We understand from the Conference report language in the Omnibus bill that there is concern NCPC may be delaying the District of Columbia Courts' plans to renovate the Old City Hall at Judiciary Square. I would like to assure you and the members of this Committee that NCPC has not delayed this renovation.

NCPC began working closely with the Courts and the National Law Enforcement Officers Memorial Fund (Memorial Fund) in spring 2003 during the preparation of the draft Judiciary Square Master Plan. In May 2003 the Courts gave an information presentation on the master plan to our Commission, which adopted the draft plan in August 2003. NCPC staff has been working closely with both parties to ensure that the redevelopment of Judiciary Square, including the Old City Hall renovation, meets the highest standards of planning and urban design.

This process is complicated in that we are working to satisfy the requirements of two legislative mandates—the National Law Enforcement Museum Act (Public Law 106–492) and the District of Columbia Family Courts Act of 2001. Through the latter, Congress mandated to the D.C. Courts that they reorganize and improve the Courts' services and facilities. In the National Law Enforcement Museum Act (the Act), passed in November 2000, Congress authorized the Memorial Fund to build its museum on Federal land that partially abuts the Old District of Columbia City Hall, which is to be expanded and renovated for re-use by the District of Columbia Court of Appeals. The Act requires the Memorial Fund to construct the majority of its museum underground and limit its aboveground construction to two 10,000-square-foot entrance pavilions. In addition, the Act requires a 90-foot setback from

the renovated Old City Hall and a requirement to maintain a 100-foot-wide zone, or plaza, on the north-south axis of the Old City Hall where no aboveground museum construction is permitted. These areas are depicted on the attached map.

Our Commission is faced with the challenge of complying with both mandates, while respecting each of the parties' separate and distinct visions for the common plaza area. The Courts and the Memorial Fund each consider the plaza to be a key part of the entrances to their buildings and they continue to fundamentally disagree on the level of construction and design control each party is permitted to have within the plaza area.

The Memorial Fund asked NCPC in its March and May 2003 submissions to review proposed museum designs that would have interfered with the entrance to the renovated Old City Hall. Since these submissions were clearly in conflict with the Act's requirement that the plaza area be kept open, the applicant withdrew both submissions. Subsequently, in July 2003, the Courts submitted its draft Judiciary Square Master Plan. This master plan depicted the plaza as an unobstructed open space extending from the renovated courthouse's new entrance to E Street NW. The Memorial Fund opposed that aspect of the master plan on the basis that it, not the Courts, had the authority to design the plaza area.

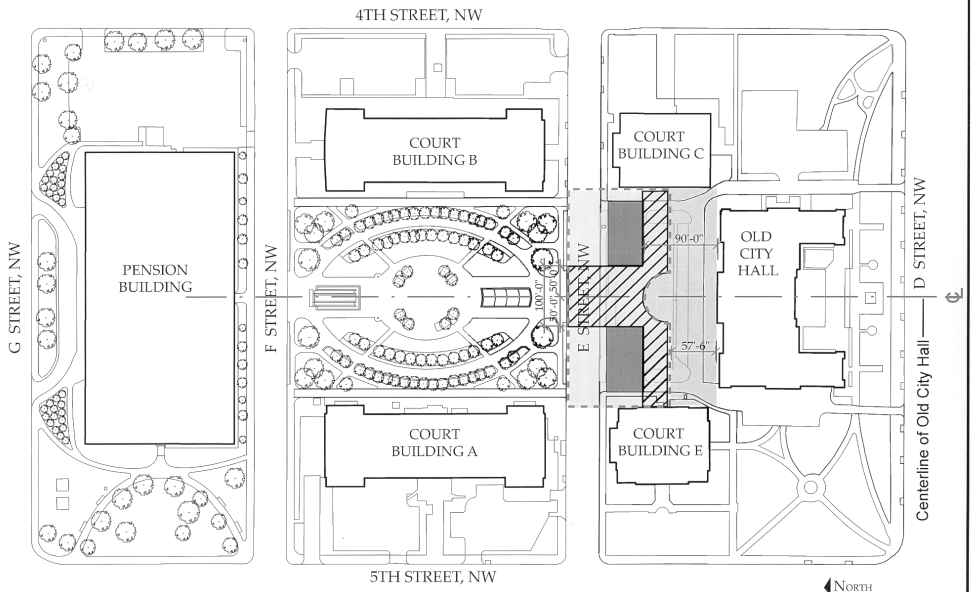
As Congress has addressed, the renovation of the Old City Hall for re-use by the Courts is an important Federal project and delays in its construction could needlessly increase the cost to taxpayers. Our Commission recognized this urgency and on August 7, 2003 approved the draft Judiciary Square Master Plan. In an additional effort to move both projects forward, our Commission departed from its normal process of requiring an approved master plan, and authorized the Courts and the Memorial Fund to proceed with design submissions for their individual projects.

A unified integrated plaza design is essential for both projects to have unimpeded access to their respective entrances. Therefore, our Commission also asked the parties to mutually agree on a design solution before requesting further NCPC approval. Although NCPC staff has been working since August with both sides to facilitate an acceptable solution, we are unable to report that an agreement has been reached. Very recently however, on February 13, 2004 the Courts presented to NCPC for the first time an interim design that would maintain the plaza as an open area, and provide sufficient space for the Memorial Fund to construct its entrance pavilions while allowing both projects open access to their respective entrances. The Courts' proposed design is an uncomplicated landscape solution that could be modified when the Memorial Fund completes its fundraising and is prepared to proceed with construction of the museum. We understand that the Courts are prepared to move forward with this interim design despite the inevitable disruption to the plaza area and its entrance once the museum begins construction.

Our staff opinion of the Courts' interim design is that it appears to respect the design parameters set out in the Act. We feel that it is a viable solution that should satisfy both parties and allow the Courts' construction project to move forward. We have spoken with both the Courts and the Memorial Fund to encourage the use of this interim design as an acceptable solution and have informed them that this design, if accepted by both parties, would be eligible for immediate review by our Commission. Our staff and the Commission will do our utmost to accommodate the Courts' timetable and to complete our review as expeditiously as possible.

This concludes my testimony. I would be happy to answer any questions you may have.

Design Requirements of the National Law Enforcement Museum Act



Area for Courthouse Expansion

Area for Museum Construction (underground)

Area for Museum Pavilions (above ground)

No above ground construction Permitted

Museum's Statutory Boundary

NCPC

Senator DEWINE. Mr. Lindstrom.

STATEMENT OF FREDERICK J. LINDSTROM, ASSISTANT SECRETARY, U.S. COMMISSION OF FINE ARTS

Mr. LINDSTROM. Certainly. Good morning, my name is Frederick Lindstrom, and I am the Assistant Secretary of the Commission of Fine Arts. I am substituting today for our Secretary, Charles Atherton, who could not be present today.

The Commission appreciates the opportunity to join the discussion on the status of the renovations to the Old City Hall for the D.C. Court of Appeals and the construction of the new National Law Enforcement Museum. As you know, discussions relating to the renovation of the Old City Hall date back quite a few years, and the Commission has been supportive of the building's reuse as an operating courthouse.

The existing configuration of the monumental entrance on this important building does not allow for ADA accessibility; nor will it allow for the addition of the required visitor security screening facility on the south side of the building without adversely affecting the structure's historic character. Therefore, the Courts have pursued reestablishing a new public entrance on the north side of the building, where one existed up until the 1917 renovation.

With the passage of Public Law 106–492, that authorized and specified the location of the new museum, it has been our expectation that both projects would be able to coexist in Judiciary Square and that the sponsors and their architects would fully coordinate and cooperate on developing the designs. So far, the Commission has been disappointed by the lack of coordination and cooperation and the inability to develop complementary designs that will enhance the historic setting of Judiciary Square.

The Commission believes that the new museum serves a very worthy objective. However, access to the Courts building should not be obstructed or physically compromised by another use. The dignity of the public entrance to the courthouse must come first.

We believe that other designs should be investigated to see if the Courts and the Law Enforcement Museum can achieve the openness and accessibility that both projects desire and deserve. With passage of Public Law 106–492, that has in a way, since that was signed into law, has inhibited that exploration of other possibilities, at least for the museum.

One possible way that we have suggested, the Commission has suggested to avoid the inherent conflicts between the museum and the Courts, would be to locate the museum's main entrances to the other side of E Street, at the southern edge of the Memorial Plaza. And this is a realistic possibility considering that the major portion of the underground museum has been authorized to extend under E Street to its northern curb line. And there may be other alternatives worth exploring as well.

PREPARED STATEMENT OF CHARLES H. ATHERTON, SECRETARY, COMMISSION OF FINE ARTS

From the very beginning of the review process, we have emphasized the need for coordination of all the projects currently slated for Judiciary Square, and there are quite a few projects that are

slated for the Square at this time. And it is essential that all of these projects be fully coordinated and work in a cooperative fashion for an acceptable design to be achieved.

This concludes our written testimony, and I would be happy to respond to any questions you might have, Mr. Chairman.

Senator DEWINE. Yes. Thank you very much.

[The statement follows:]

PREPARED STATEMENT OF CHARLES H. ATHERTON

Good Morning, my name is Charles Atherton and I am the Secretary of the Commission of Fine Arts. The Commission appreciates the opportunity to join your discussion on the status of the renovations to the Old City Hall for the D.C. Court of Appeals and the construction of the new National Law Enforcement Museum. As you may know, discussions related to the renovation of the Old City Hall date back quite a few years and the Commission has been supportive of the building's reuse as an operating courthouse. The existing configuration of the monumental entrance on this important building does not allow for ADA accessibility, nor will it allow for the addition of the required visitor screening facility on this side of the building without adversely affecting the structure's historic character. Therefore, the Courts have pursued reestablishing a new public entrance to the north side of the building, where one existed until the 1917 renovation.

With the passage of Public Law 106–492, that authorized and specified the location of the museum, it has been our expectation that both projects would be able to coexist in Judiciary Square and that the sponsors and their architects would fully coordinate and cooperate on the designs. So far, the Commission of Fine Arts has been disappointed by the lack of coordination and cooperation and the inability to develop complementary designs that will enhance the historic setting of Judiciary Square. The Commission believes that the new museum serves a worthy objective, however; access to the court building should not be obstructed or physically compromised by another use. The dignity of the public entrance to a courthouse must come first.

We believe that other designs should be investigated to see if the Courts and the Law Enforcement Museum can achieve the openness and accessibility that both projects desire and deserve. One possible way to avoid the inherent conflicts between the museum and the courts would be to locate the museum's main entrance(s) to the other side of E Street, at the southern edge of the memorial plaza. This is a realistic possibility considering that a major portion of this underground museum has been authorized to extend under E Street to its northern curb line. There maybe other alternatives as well.

From the beginning of the review process we have emphasized the need for coordination of all the projects currently slated for Judiciary Square. It is essential if an acceptable design is to be achieved.

This concludes our written testimony. I would be happy to respond to any questions you might have.

Senator DEWINE. Mr. Floyd.

STATEMENT OF CRAIG W. FLOYD, CHAIRMAN, NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL FUND

Mr. FLOYD. Mr. Chairman, our organization is a major stakeholder in Judiciary Square. In 1991, at the direction of the United States Congress we built and now assist the National Park Service in the maintenance and operation of the National Law Enforcement Officers Memorial in Judiciary Square.

In November 2000, the Congress gave us a further authorization to build a National Law Enforcement Museum right across the street from the National Memorial. The National Law Enforcement Museum Act was authored by a distinguished member of the Senate Appropriations Committee, U.S. Senator Ben Nighthorse Campbell.

Congress was very specific in terms of our authority to build this museum. The site and precise boundaries of the museum were

spelled out in very clear terms, and a diagram showing the museum's boundaries is displayed for your convenience. Two aboveground pavilions, totaling approximately 10,000 square feet, will serve as the entrances to the museum. The rest of the museum facility, approximately 80,000 square feet, will be located underground.

And I should point out, Mr. Chairman, that this museum will be funded exclusively through private donations. No taxpayer dollars are going to be used at all.

The boundaries of the site laid out in the authorizing law were established after much discussion and many meetings with the Committee on Administration of the District of Columbia Courts, after they informed us of their plans to renovate and expand the Old Courthouse building.

Recognizing that our two projects are linked so closely in proximity, the public review agencies have required that we consult with the Courts in our design plans for the museum plaza area, and mutually agree on an acceptable solution. We are working in good faith toward a final resolution. However, it must be noted, Mr. Chairman, that we have some serious differences with the Courts about the design of the museum plaza area.

First and foremost, we believe it is essential that the Memorial Fund and our architects design, build and maintain the museum plaza area, just as the Courts should be allowed to design, build and maintain the areas within their boundaries. The Courts disagree and have included the museum plaza, the space between this and surrounding the museum pavilions in their design plans.

Not only is this in conflict with the authority that Congress gave the Memorial Fund over that property, but their plans have ignored a number of our stated needs and concerns.

The museum plaza is, in fact, the roof of our $70 million museum. There are many technical, aesthetic and practical considerations when designing and maintaining the roof and plaza area of our museum; air ventilation, visitor staging, water leakage, and skylights to let natural light down into the museum, to name just a few.

It should be noted that we are anticipating between 300,000 and 500,000 visitors annually. On peak days, visits may exceed 4,500 people. The museum is requiring security screening at the pavilion level. The plaza design must take into account this queuing requirement. For these important reasons, we cannot cede control of the museum plaza area to the Courts or to anyone else.

Further, Senator Campbell addressed this issue in very strong terms in a letter to the Chairman of the Commission of Fine Arts in October of 2003. He said, in part, "The public law provides full use and control of the museum site, aboveground and underground, to the Memorial Fund. Any accommodation to others with regard to the use or access of the museum site, including the plaza area between the two entrance pavilions, is and will be at the sole discretion of the Memorial Fund."

We are also concerned about the timing of our two projects. While the construction and renovation of the Courthouse is planned for 2005 to 2006, construction on the museum is not ex-

pected to commence until at least 2007, and Congress actually granted us until 2010 to begin construction.

This means that no matter what the Courts decide on for the final design for the courthouse, and any entry on the north side, they must include a long-term interim solution. It would be irresponsible and a waste of taxpayer dollars to design and build anything on the north side of the courthouse that would have to be demolished when we begin construction on the museum.

Finally, let me state that the Memorial Fund is committed to accommodating the future access and usage needs of the Courts. Any final solution must work for both the Courts and the Memorial Fund. However, we are not prepared to relinquish control of the museum plaza area, as defined by the boundaries in the Museum Authorization Act. And we are not prepared to make concessions that will in any way appear to diminish the National Law Enforcement Museum's importance or presence in Judiciary Square.

And let me just make one final comment. This is the first I have heard of the Commission of Fine Arts' suggestion that we move our entrance to the Memorial side of E Street, the north side. We explored that option. Judge Wagner and I together looked at that very closely. I responded to the Judge's concerns in that area. And two things prevented us from doing that. One, the National Park Service strongly opposes the idea. They own and control the National Law Enforcement Officer's Memorial, and they do not think it should be disrupted in any way. And secondly, any major entrance to the museum on that site would cause a major disruption and really demolition of a major portion of the National Law Enforcement Officer's Memorial, including part of the memorial walls that include more than 16,000 names of fallen officers.

PREPARED STATEMENT

And for those reasons, I have indicated to Judge Wagner that that would not be an acceptable solution, but we did explore it carefully.

Senator DEWINE. Thank you.

[The statement follows:]

PREPARED STATEMENT OF CRAIG W. FLOYD

Mr. Chairman, I am very pleased to have this opportunity to testify on the appropriations request by the District of Columbia Courts to renovate and expand the Old Courthouse Building in Judiciary Square. I am here today on behalf of our board of directors, which is comprised of representatives from 15 national law enforcement organizations (copy of board of directors and organizations they represent is attached). Collectively, these organizations represent virtually every law enforcement officer, family member and police survivor in the United States.

Our organization, the National Law Enforcement Officers Memorial Fund, is a major stakeholder in Judiciary Square and has great interest in any construction and renovation plans in the area. In 1991, we built and now assist the National Park Service in the maintenance and operation of the National Law Enforcement Officers Memorial in Judiciary Square. Today, that Memorial stands proudly as a richly deserved tribute to the more than 16,000 law enforcement officers who have been killed in the line of duty and whose names are inscribed on the Memorial's marble walls, including 698 from your home State of Ohio, Mr. Chairman.

In November 2000, the Congress gave us a further authorization to build a National Law Enforcement Museum in Judiciary Square, right across the street from the National Memorial. The "National Law Enforcement Museum Act," Public Law 106–492 (copy attached), was authored by a distinguished member of the Senate Appropriations Committee, U.S. Senator Ben Nighthorse Campbell. As a former deputy

sheriff, Sen. Campbell has a special understanding and appreciation of the extraordinary level of service and sacrifice that our law enforcement officers have given our Nation.

Sen. Campbell also knows that many other Americans lack that understanding and appreciation, mainly because they are not familiar with the dangers and importance of the job, or the proud history of the law enforcement profession. The proposed museum will help to educate Americans about the police profession's worth to our country by properly commemorating law enforcement's outstanding record of service and sacrifice.

Congress was very specific in terms of our authority to build this Museum. The site and precise boundaries of the Museum were spelled out in very clear terms. (A diagram showing the Museum's boundaries is attached for your convenience.) Two above ground pavilions, totaling approximately 10,000 square feet, will serve as the entrances to the Museum. The rest of the Museum facility, approximately 80,000 square feet in size, will be located underground.

The authorizing law specifically states that the National Law Enforcement Officers Memorial Fund "shall own, operate, and maintain the Museum after completion of construction." Congress also required that "The United States shall pay no expense incurred in the establishment or construction of the Museum." All of the funding for this Museum, just as it was for the Memorial, will come from private funds. No taxpayer dollars will be used. Finally, Congress stipulated that sufficient funds to complete construction of the Museum must be available before we are allowed to commence construction. We were given until November 2010 to begin construction of the Museum, or our authority to build the Museum will terminate.

The boundaries of the site laid out in the authorizing law were established after much discussion and many meetings with the Joint Committee on Administration of the District of Columbia Courts, which has plans to renovate and expand the Old Courthouse building to the south of the Museum site. We have been very sensitive to their needs and interests throughout this process. In fact, we fully supported a provision that was included in the Museum Act authorizing the Courts to construct an underground parking structure to better meet their security and parking needs.

We also agreed to a provision in the Museum authorizing law that calls for us to "consult with and coordinate with the Joint Committee on Administration of the District of Columbia courts in the planning, design, and construction of the Museum." I believe the record is clear that the consultation and coordination called for in the legislation has occurred, and it will certainly continue to occur until the Museum is completed. (A chronology of that consultation and coordination is attached.)

Let me say for the record that the renovation plans of the D.C. Courts for the Old Courthouse building are certainly consistent with our own efforts to appropriately restore the Judiciary Square precinct to a condition equal to its historic significance. The establishment of the National Law Enforcement Officers Memorial as the centerpiece of the Judiciary Square complex was a major step in this direction. Completion of the National Law Enforcement Museum and the renovation of the Old Courthouse building will fulfill this important vision.

Recognizing that our two projects are linked so closely in proximity, both the National Capital Planning Commission, and the Commission of Fine Arts have required that we collaborate with the Courts in the design plans for the Museum plaza area, and mutually agree on an acceptable solution. We are working in good faith toward a final resolution. However, it must be noted, Mr. Chairman, that we have some serious differences with the Courts about the design of the Museum plaza area.

First and foremost, we believe it is essential that the Memorial Fund and our architects design, build and maintain the Museum plaza area. The Courts disagree and have included the Museum plaza in their design plans, which simply do not take into consideration our needs and concerns. For example, their plans do not provide the skylights we need to allow natural light down into the underground Museum area. Their plans call for the elimination of an important outdoor reception plaza area, and their proposed water elements pose water leakage hazards that would be out of our control and pose serious risks to our $15 million worth of exhibits below. We believe that their proposed monumental staircase and large glass entranceway would serve to overwhelm the Museum pavilions and diminish the Museum's presence and importance.

The Museum plaza is, in fact, the roof of our $70 million Museum. There are many technical, aesthetic and practical considerations when designing and maintaining the roof and plaza area of our Museum—air ventilation, visitor staging, water leakage, and skylights to let natural light down into the Museum, to name just a few. It should be noted that we are anticipating between 300,000 and 500,000 visitors annually. On peak days, visits may exceed 4,500 people. The Museum is re-

quiring security screening at the pavilion level. The plaza design must take into account this queuing requirement. For these important reasons, we cannot cede control of the Museum plaza area to the Courts or anyone else.

Further, Sen. Campbell addressed this issue in very strong terms in a letter to the Chairman of the Commission of Fine Arts dated October 14, 2003 (copy of letter attached). He said, in part:

"It was always my intent, and the authorizing law clearly states, that the National Law Enforcement Officers Memorial Fund, Inc. ("Memorial Fund") shall be solely responsible for preparation of the design and plans for the Museum, subject to the approval of the Secretary of the Interior, the CFA and the National Capital Planning Commission. Further, the public law provides full use and control of the Museum site (aboveground and underground) to the Memorial Fund. Any accommodation to others with regard to the use or access of the Museum site, including the plaza area between the two entrance pavilions, is and will be at the sole discretion of the Memorial Fund."

We believe that our needs and interests in the plaza area, along with the stated access needs of the Courts, can be successfully addressed. We have been sharing ideas with the Courts on the Museum plaza area for several months now, and the next meeting is scheduled for this Friday, February 27. Our architects will be providing the Courts with our latest design plans and I am confident that we are getting close to a final resolution on this important issue.

We are also concerned about the timing of our two projects. While the construction and renovation of the Courthouse is planned for 2005–2006, construction on the National Law Enforcement Museum is not expected to commence until at least 2007, and Congress actually granted us until 2010 to begin construction. Under even the most optimistic schedule, the Museum would not be completed until at least 2009, and at the outside, by 2012. This means that no matter what the Courts decide on for the final design for the Courthouse, and any entry on the north side, they must include a long-term interim solution. It would be irresponsible and a waste of taxpayer dollars to design and build anything on the north side of the Courthouse that would have to be demolished when we begin construction on the Museum. In fact, our construction plans call for closing E Street for approximately 18–24 months, so access on the north side of the Courthouse will be severely limited during that time.

Finally, let me state that the Memorial Fund is committed to accommodating the access and usage needs of the Courts. While our earlier plans were not successful in meeting those needs, we are working aggressively toward a final resolution. Any final solution must work for both the Courts and the Memorial Fund. However, we are not prepared to relinquish control of the Museum plaza area, as defined by the boundaries in the Museum Authorization Act. And, we are not prepared to make concessions that will in any way appear to diminish the National Law Enforcement Museum's importance or presence in Judiciary Square. As Sen. Campbell said in his October letter to the Commission of Fine Arts:

"This Museum should never be allowed to become a secondary consideration. Our Nation's law enforcement officers, especially the thousands of fallen heroes who are honored across the street at the National Law Enforcement Officers Memorial, deserve no less."

I know, Mr. Chairman, that you and the other Subcommittee members share that opinion. We look forward to working with the Courts and with this Subcommittee in ensuring that the rightfully grand vision we all share for Judiciary Square is fully realized.

Senator DEWINE. Senator Landrieu.

LOCATION OF THE MEMORIAL AND MUSEUM

Senator LANDRIEU. Mr. Chairman, I really appreciate you bringing this group together so that we can perhaps explore some options that work well for the Courts and work well for the museum.

And you will have to forgive me, because we are not familiar with all of this, many of the details, but maybe a little background would be helpful to me, Mr. Floyd, about how the memorial got to Judiciary Square in the first place. And as you and the organization that we want to be very respectful to searched for spaces to

put this museum, how did you come across or settle on this particular space?

Mr. FLOYD. Well, it was approximately 1988 when we toured Washington to find an appropriate location for the National Memorial. And with the help of the National Park Service and the Commission of Fine Arts and the National Capital Planning Commission, we realized that there was strong linkage between law enforcement and Judiciary Square. It is the seat of our Nation's judicial branch of government and the seat of the criminal justice in this Nation of ours.

And everyone involved felt that that would be the appropriate location for a National Memorial honoring law enforcement, so that is how we first arrived at Judiciary Square in 1988. We built the memorial in 1991.

And then when we decided to build a museum to complement the memorial and further our mission, we felt that it needed to be located very close to where the memorial is. There needed to be close proximity. We explored the area, and the Federal property that now serves as the court parking lot across E Street to the south we viewed as the prime location for that.

Congress agreed with us when we took that proposal to them, and they unanimously approved the legislation authorizing that site for our museum.

And I should point out and emphasize that Judge Wagner was very helpful in negotiating that site for us. We spent many months talking this through and defining the boundaries of our museum so that it would not impact negatively on their courthouse.

Senator LANDRIEU. Because both of these projects are so important, and I am just wondering maybe, Ms. Gallagher or Mr. Lindstrom, things that Congress does and can undo, things that Congress does and can change—you know, it is not—anything is not in stone. Even things that are built are torn down and redone. So I want to not just—I want to explore all of the options.

And you all have worked with the law enforcement folks. I know that area is developed quite a bit and part of the challenge is that there is so much being constructed and built all along that area in the Mall. But is there any other space of land other than this particular plaza that the museum could be located near to the memorial, which is important for them, or is this just the only spot that they can be in?

Mr. LINDSTROM. Well, I—let me back up. With the—before the public wall, I do not believe that they consulted with the Commission of Fine Arts on the siting of the museum. And I know that was before your time, Ms. Gallagher. So this law was passed without a conference with our commissioners of the appropriateness of actually locating it under E Street.

So once the law was passed, all those explorations were sort of moot. There are, perhaps not, open spaces in Judiciary Square, but there are other structures that could be rehabilitated for the museum, just as the Courts is doing for the Old City Hall, rehabilitating it for their new court.

The building that comes to mind is the building that is immediately adjacent to the west side of Memorial Plaza.

Senator LANDRIEU. Could you explain it out with the map? Because, Mr. Floyd, unless, you know, one possible solution—and I realize the plaza is very important. We respect the law enforcement across the country, and we want you all to have something that, you know, we are all very proud of, and really fulfills our mission.

But I am wondering if there were—if we could help you, if there are other buildings that are very, you know, right on the plaza, so, A, we are not going underground. Is there a particular reason why you want to go underground as opposed to being on top of the ground? And if you can be on top of the ground just as easily as you can be under the ground, maybe we can help you find a building and help you build it.

Mr. FLOYD. I appreciate that, Senator. I would respond with two things. One, there was a public hearing that the Senate held on this issue when we were discussing the site for this museum.

The Commission of Fine Arts and other agencies did testify. And I believe there was fairly universal support for the proposal. The National Park Service also testified. We did explore other options, some of the existing buildings, court buildings surrounding us, for example, and just found those buildings unsuitable for a museum.

It is important to understand that a museum requires certain space requirements and openness and so forth. We did not find any of the buildings in the area suitable for that. And Congress, after due deliberation I should point out, and working with a number of the public review agencies and the National Park Service, felt that the Court property, the Court parking lot property that ended up being the site for the museum was the best and most appropriate location.

Senator LANDRIEU. Well, and I realize that, and I know that you all have worked a great deal on this, and I am not going to reach any conclusion. I am just exploring our options, because they are all very good public purposes that are being discussed. And there are other buildings and other spaces and, you know, there are a lot of demands on this little plot of land called the District of Columbia, which is a district. And there are lots of—you know, it is the City, it is also the Nation's Capital, it is also the Park Service for recreation, so we go through this all the time. This is not anything that is unusual.

But I am just thinking for the extent of the renovations the Court needs, and you want to do a good job with your—of course, with your project. I mean, is it too late to, in your opinion, to just explore other options or buildings, even if—now, I am not sure if there are any buildings that could actually be demolished and constructed new for you. I do not know if we would be restricted in that, because maybe all of these are historic buildings and cannot be.

Mr. FLOYD. Senator, I can only say that we have already spent over $3 million to——

Senator LANDRIEU. Oh, right.

Mr. FLOYD [continuing]. Develop this site and to develop the plans for the museum. The schematic design plans for the building have already been completed. I think we have spent over $600,000 to accomplish that. I think it would be a great misuse of our do-

nors' money to now revisit the idea of moving elsewhere. And I will say, I appreciate the concern——

Senator LANDRIEU. That is a problem, because you have got $3 million in private dollars——

Mr. FLOYD. Yes.

Senator LANDRIEU [continuing]. Committed to this site.

Mr. FLOYD. Yes. Well, we are totally committed. And Judge Wagner and I, I think, need to get together. We have tried to hand this off to our architects most recently, I am afraid without great success, although they have another meeting scheduled for Friday.

And I think we are getting closer. They came to us with a plan early February that our architects are now going to be responding to on Friday. I think once that occurs, Judge Wagner and I can sit down and talk.

We are going to work this out. I really do not think we are that far away. So the idea of, you know, can we both live on that site? I think the answer is absolutely yes. I do not think Judge Wagner would have agreed to the legislative solution that we proposed back in 2000 if she did not agree with that.

Senator DEWINE. Let me just say, if I could jump in here, we need a deadline. We have got—this subcommittee provides 100 percent of the funds for the District for the Courts. We have got a responsibility to make sure we do not have overruns, that we do not waste money.

Senator Landrieu.

Senator LANDRIEU. Mr. Chairman, before we—Eleanor, I just wanted to recognize that you were here before you left. I just want to recognize the Congresswoman from the District, as well as our shadow Senator, Paul Strauss, but thank you all. We have received your——

Ms. NORTON. Thank you for holding the hearing. Thank you very much.

Senator DEWINE. It is good to see you.

Senator LANDRIEU. Thank you.

SITE PLANS

Senator DEWINE. We have got—you know, we have got an obligation to move on.

Ms. Gallagher, you were—do you want to describe the physical problem here? I saw your model back there. Not that we are going to—not that Senator Landrieu and I are going to get into this here. We are not. We cannot.

Ms. GALLAGHER. Well, there is a—what we interpret as an obstruction in the Memorial Fund's design for the plaza. Abovegrade construction that—that we perceive in the last——

Senator DEWINE. I cannot see it.

Ms. GALLAGHER. I think, if I may with your permission, our chief architect is here and she may be able to describe this.

Senator DEWINE. Yes, just briefly.

Ms. GALLAGHER. Yes.

Senator DEWINE. Just real briefly.

Ms. SAUM. In a nutshell——

Senator DEWINE. For the record, what is your name, ma'am?

Ms. SAUM. My—I am sorry. My name is Christine Saum. I am a senior urban designer at the National Capital Planning Commission.

The last time we received additional plans for this facility was last spring. But this model appears to me to be pretty much the same, in that the drawings we received last spring, the plaza location here on E Street between the museum pavilions was approximately 8 feet lower than the plaza shown here for the entrance to the courthouse.

Direct access between the two plazas is obstructed by a water feature and a skylight that provides light to the underside, to the lower levels of the museum. And access to the courthouse would be required to pass behind the two museum pavilions by their loading docks and service areas. And we thought that was inappropriate for the entrance of the courthouse and did not——

Senator DEWINE. Why is it inappropriate?

Ms. SAUM. Because we thought that to have the access to a—to an important court, the Superior Court, you should not be required to go around behind the loading dock, essentially. We thought that they needed direct access.

And it was our interpretation of the Museum Act that when it stated that there was a 100-foot-wide area to be maintained where no aboveground construction was to be created, that the purpose for us to provide direct access to the courthouse and not merely to provide open views.

Senator DEWINE. Thank you.

Judge King, Mr. Floyd said he thinks you all are getting close. Of course, that has to satisfy Ms. Gallagher, Mr. Lindstrom, and a lot of other folks——

Judge KING. I will just respond briefly, and then I know——

Senator DEWINE. Are you closer than not?

ENTRANCE TO THE OLD COURTHOUSE

Judge KING [continuing]. Chief Judge Wagner will. The Act is plain. It says there is a 100-foot corridor to get to the courthouse, so that it is an entrance, a main entrance with the security features and everything you need for the courthouse. It says that. It is very clear in the Act. I do not think we are close on that.

Since last fall, the Court has revised its effort, its plan, to try to meet some of the concerns at CFA and NCPC. The Memorial has not.

And the one other thing I do not want to let pass without commenting on is: We are renting space, swing space, while we do our renovations. We are depending on all of the buildings in the area, most of which are historic court buildings, for the ultimate filling out of our 10-year plan, so if we start giving those buildings away, then we are going to have to pay for it somewhere else. We are going to have to build space or lease space or do something, and it will become much more disruptive than any plan that we are talking about in terms of the Act as it stands now.

Senator LANDRIEU. So you would prefer them to stay underground where they are, as opposed to having to give up one of the other buildings or use some comparable site. But the problem is

that underground design that they have is not conducive to the functioning of the Courts building generally.

Judge KING. Well, no. The law says they are to have an underground building with two pavilions not to exceed 25 feet in height, and outside a 100-foot corridor that goes from E Street to the Courts buildings.

So, as we say in the courthouse, "Follow the law." That is all we need to do.

Senator DEWINE. Judge Wagner.

Judge WAGNER. May I say something? At the time the Act that was passed, of course, it was not the first bill. It was amended.

And if you look back at the legislative history, you will see that after over 2 months of negotiations, the National Law Enforcement Memorial Fund and the Courts reached an agreement to clarify that the building of this museum will in no way conflict with the Courts' expansion and renovation, which was planned at that time. And so that is how the museum went underground.

And if you have ever been down to the Smithsonian castle on the Mall, the model was essentially that. There is no blockage to the entranceway to the Castle imposed by the two underground museums on the Mall. That was how we thought we could coexist in this very small space.

Symbolically, and given the historic character of Judiciary Square, we were concerned if the entranceway to the courthouse gives the appearance that there is blockage that is imposed by law enforcement. The separation is something that is required, given our way of life and our system of government in this country.

And so within those parameters, we are working to try to accommodate our interests and the interests of the public in having this historic building——

Senator DEWINE. Well, let me——

Judge WAGNER [continuing]. You know——

Senator DEWINE. Yes. I do not think anyone is more supportive of, you know, the National Law Enforcement Fund than Senator Landrieu and I. You know, we want this to move forward very, very, very, very much.

I guess the question is, Mr. Floyd, having heard these comments, where do we go from here?

Mr. FLOYD. I think the basic thing that the Courts want and need and deserve is access to their courthouse on the northern side, which they are planning to build as part of their plan. And I am absolutely personally committed to making that happen.

I agree that the initial design that we developed with aboveground skylights precluded that to—in their mind, because they did not want to go around. They wanted to go straight up the middle. So we are now coming back to them with a design approach that gives us skylights, will allow natural light to get down below, but will give them direct access to their north entry of the courthouse, as their architects proposed to us earlier this month.

It has only been a couple of weeks since we have had a chance to look at their plans, and we are now prepared to respond on Friday. And I think we are all in agreement that we want to give them what they want, and we just want to have control over that space so that we can maintain and deal with water leakage issues

and make sure that we have the staging area for our visitors that we need. Those are our main concerns.

And I do not see this as a major impasse. But their architects and ours have got to work in cooperation.

SUBMISSION TO NCPC AND CFA

Senator DEWINE. I understand. But with all due respect, you know, there has been no agreement for a year. And that is what this committee has to look at, and we have got a fiscal responsibility to make sure something moves here. So, you know, I want you to reach an agreement. I think it is imperative, you know, that this agreement is reached.

So, you know, I am going to put everybody on notice that I expect you to reach an agreement and submit your plans to the National Capital Planning Commission and the Commission on the Fine Arts no later than March 3. If the Courts and the National Law Enforcement Fund cannot reach an agreement by March 3, then the Courts and the Law Enforcement Fund can submit their own individual plans to the NCPC and the Commission.

Finally, I ask the National Capital Planning Commission and the Commission on the Fine Arts to review these plans if they are able, even though the submission deadline for them is viewed as past. This project is time critical and a decision on the design simply cannot slip another month. So that is what we are going to have to do.

So, you know, hopefully we can reach this agreement. I hope you all can get together and in the next couple of days and get this thing ironed out. You know, we want both—you know, we are for all of you. I mean, we really are. And we want, you know—everybody has public policy objectives that I think everyone is for. And there has not been anything said up here that we are not for.

But you are the ones that have to mesh them. We cannot mesh them for you. We are not architects, and we are not sitting in your shoes, but you have got to get it worked out. And if you cannot get it worked out, you are just going to have to submit the plans, I guess, and let them deal with it. So that is where we are.

Mary, anything else?

Senator LANDRIEU. I just—are the architects for Mr. Floyd here?

Mr. FLOYD. They are. Davis Buckley is.

Senator LANDRIEU. Will you stand please, so I can recognize you?

And you are the representing the firm, representing the architects?

Mr. FLOYD. He is the principal, yes.

Senator LANDRIEU. All right. Well, we just hope—I want to support the chairman. I think those deadlines are tight, but there is a real need to work this out. And I am hoping that the architects that are present for both of these projects understand what is being said, and that these are both two beautiful projects, and I am sure with a little bit of understanding, it could be worked out. And if not, then it could jeopardize them both, and that is just not necessary.

So I know money has been spent, but there is going to be hundreds of millions of dollars spent on the final construction of this, so, yes, $3 million has been spent. But if $3 million could be spent

up front a little bit better, then we can go ahead and do this for everybody. If not, it can cause a lot of problems.

SUBCOMMITTEE RECESS

Senator DEWINE. I mean, you know, we see this Memorial and that tribute to law enforcement as something we want to see. We want to see the magnificent courthouse restored. And they are two good things we want to have, and let us just make sure it gets done.

Anything else?

Senator LANDRIEU. No.

Senator DEWINE. All right. Thank you all very much. Good luck.

[Whereupon, at 10:31 a.m., Wednesday, February 25, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

DISTRICT OF COLUMBIA APPROPRIATIONS FOR FISCAL YEAR 2005

WEDNESDAY, MARCH 3, 2004

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

The subcommittee met at 10:37 a.m., in room SD–124, Dirksen Senate Office Building, Hon. Mike DeWine (chairman) presiding.

Present: Senators DeWine and Landrieu.

DISTRICT OF COLUMBIA

COURT SERVICES AND OFFENDER SUPERVISION AGENCY

STATEMENT OF PAUL A. QUANDER, JR., DIRECTOR

ACCOMPANIED BY:

PAUL BRENNAN, COMMUNITY SUPERVISION OFFICER

REVEREND DONALD ISAAC, EXECUTIVE DIRECTOR, EAST OF THE RIVER CLERGY-POLICE-COMMUNITY PARTNERSHIP

OPENING STATEMENT OF SENATOR MIKE DE WINE

Senator DEWINE. Good morning. Today we are reviewing the fiscal year 2005 budget request for the District of Columbia's Court Services and Offender Supervision Agency and the District of Columbia's Public Defender Service.

Under the National Capital Revitalization and Self-Government Improvement Act of 1997, the Federal Government is required to finance both of these independent agencies. First, we will hear from Paul Quander, Director of CSOSA. His agency is responsible for supervising adults who are on pretrial release, probation, and/or parole supervision in the District of Columbia.

The President's fiscal year 2005 Budget request is $187.5 million for CSOSA, an increase of $19 million or 12 percent over the fiscal year 2004 enacted level. We would like to hear how these additional resources would be used to further the agency's mission and goals. Last year, this subcommittee appropriated funds above and beyond the President's request to enable CSOSA to reduce its caseload ratio for sex offenders from 36 to 1 down to 25 to 1; for domestic violence offenders, from 42 to 25 to 1; and for offenders with mental health problems from 47 to 1 to 25 to 1.

Also, this subcommittee provided additional resources to allow CSOSA to purchase GPS anklet monitoring equipment to ensure that parolees are not going to places like schools, libraries, where they are prohibited from frequenting. I am concerned, however,

that the fiscal year 2005 budget request does not include the funds to continue these important efforts, and this is something that this subcommittee will have to deal with.

After Mr. Quander testifies, we will then be joined by the Reverend Donald Isaac who will discuss the District's faith/community partnership with CSOSA which aims to reconnect offenders with their communities before returning home from prison. I am interested to see how CSOSA is using video conferences to allow families and mentors here in the District to stay in touch with their loved ones who are incarcerated 5 hours away down in North Carolina.

Mr. Ronald Sullivan will then testify, during the second panel, to present the Public Defender Service budget. PDS is an independent Federal agency that provides legal representation to indigent adults and children facing criminal charges in the District. PDS also provides legal representation for people in the mental health system, as well as the children in the delinquency system, including those who have special education needs due to learning disabilities. The President's budget request for PDS is $29.8 million which is an increase of $3.7 million over fiscal year 2004 enacted level.

As usual, witnesses will be limited to 5 minutes, 5 minutes for their oral remarks in order to leave time for questions and answers. Copies of all the written statements will be placed in the record in their entirety.

We would also like to recognize, of course, Eleanor Holmes Norton, who is here. Eleanor is back there somewhere.

There she is. Thank you for joining us, again.

We always welcome her here.

Senator Landrieu, for an opening statement or comments.

STATEMENT OF SENATOR MARY L. LANDRIEU

Senator LANDRIEU. Thank you, Mr. Chairman. I will be brief, but I do want to make just a few comments and welcome to our panelists that are here with us. And, Mr. Quander, it was very nice meeting with you, even just briefly, yesterday.

But I wanted to just recommit myself to working as a partner with Chairman DeWine. We have worked very well chairing and serving as ranking member alternately over the years of this committee as we work with the Mayor and the leadership to strengthen the District of Columbia in any number of ways: through improving our schools and education; through supporting and revitalizing the family court and child welfare system; and through working with leaders, like yourself, to bring more public safety into strengthening our public securities system.

The Mayor, I think, is absolutely correct when he states that the goal of this District, as well as many cities throughout the Nation, is to stabilize and encourage people to stay in the District or to move back to the District, and there are many aspects that go into a person's decision or family's decision to do that. Public safety is one of them. So we thank you for the work and the progress that we are making in that area.

The mission of the agency that you supervise is extremely important to maintaining and improving public safety. There are over

16,000 offenders and 8,000 defendants at any given time. I understand, from your prepared statement, that more inmates are transitioning directly from prison to the community with no halfway house options, which is a real challenge and something I hope we can address and speak about this morning.

In addition, I want to make note of the great progress made during the course of the brief existence of this agency in terms of the caseload reductions that our committee has helped to work with you to make true. Also, the number of parolees rearrested on new drug charges has dropped from 27 percent to 18 percent, which is, I think, a significant drop and a real measure of some success in certain areas.

Although we do have, Mr. Chairman, some effective drug testing programs, I think our resources are still scarce to provide the kind of extensive and comprehensive drug treatment that is necessary, not just in this District and City, but in cities throughout the United States.

So, I just want to commend CSOSA for reducing the caseload. I want to work with you, Mr. Chairman, and make sure we can continue to reduce that caseload. To try our very best to work on strategies to reduce the turnover rate, which is very important, to make sure that these cases are prosecuted and processed in a timely manner just for the rights of the victim, as well as for the rights of the accused. I have a more lengthy statement, but that will suffice for the time being and I look forward to the testimony and the questions. Thank you.

PREPARED STATEMENT OF SENATOR PAUL STRAUSS

Senator DEWINE. Senator Strauss has submitted a statement which will also be included in the record.

[The statement follows:]

STATEMENT OF SENATOR PAUL STRAUSS

Chairman DeWine, Ranking Member Landrieu, and others on this subcommittee, as the elected United States Senator for the District of Columbia, and an attorney who practices in our local courts, I would like to state for the record that I fully support the fiscal year 2005 Budget Request for the District of Columbia Court Services Offender Supervision Agency and the Public Defender Services, I would like to thank you for holding this hearing this morning. On behalf of my constituents, I appreciate your consideration of the needs of the people in the District of Columbia. It is vital that these two agencies be fully funded in the amount asked for today. As the elected Senator from the District of Columbia, I myself cannot vote on this appropriation. Therefore, I am limited to merely asking you to support the requests.

Due to our lack of self-determination, we are unable to provide or fund certain government services on a local level. Consequently, the Federal Government has sole discretion as to the funding levels for these agencies. I do not intend to discuss the issue of self-sufficiency and budget-autonomy here today. However, as long as Congress continues to control these institutions, which should be operated by the District, Congress has an obligation to fully fund the budget requests of the agencies present.

The sixth amendment to the Constitution guarantees the accused to have ". . . assistance of counsel for his defense." Public Defender Services (PDS) satisfies this mandate by playing a vital role in our system of due process. In order to uphold the Constitutional rights of indigent Defendants, it is crucial that PDS's financial requirements are met. The District of Columbia's Public Defender Services have demonstrated an outstanding record of performance. In their 30 years of existence, PDS has set a national standard of excellence with its innovative approaches that are applied by some of the most talented lawyers in the country. They are an agency

that this Congress, this subcommittee, and the citizens of the District of Columbia should be proud of.

The other organization present here today also provides a necessary service to the people of Washington, DC. The Court Services and Offender Supervision Agency (CSOSA) encompasses multiple stages of the legal process. Among them is the Pretrial services Agency (PSA), which Supervises defendants pending trial and/or sentencing. Additionally, the Community Supervision Program (CSP) manages the cases of offenders on probation, parole, or supervised release. Overall, CSOSA has developed a pragmatic approach to both administering the cases of the accused, and in reintegrating past criminal offenders into society. Furthermore, it offers valuable services to victims and provides separate services for women, children, and those in need of professional treatment. The Assessment and Orientation Center (AOC) clinically treats both defendants and offenders who are afflicted with drug addictions. With an 80 percent completion rate, and a decreased arrest rate among graduates by 75 percent, AOC has an outstanding record of success. However, without sufficient funding AOC may have to revert to a "single treatment approach", which is known to be much less effective than a multifaceted intervention. Furthermore CSOSA has been in the process of expanding their operation by hiring additional supervision officers, and enhancing their global Positioning System, which monitors high-risk domestic violence and sex offenders. Moreover, all of the programs of CSOSA ensure the safety and well being of the citizens of the District of Columbia. It is therefore imperative that their budget request is granted so that they can continue to do so.

In conclusion, I would like to thank the subcommittee for holding this important hearing. I ask that you approve the budget proposals submitted today. I commend Senators DeWine and Landrieu for their continued interest in the fate of our Nation's Capital. Their valuable support has sustained the functioning of our vital institutions. I would also like to applaud the witnesses from both agencies, who have constructed compelling testimony in justifying their budget requests. Finally, I would like to thank Regina Szymanska and Brian Rauer for their help in preparing this statement. I look forward to further hearings on this topic, and I'm happy to respond to any requests for additional information.

Senator DEWINE. Well, I think, this is going to be a very interesting hearing.

Our first witness is the Honorable Paul Quander, Jr., who is the Director of the Court Services and Offenders Supervision Agency, who was nominated by President George Bush on October 18, 2001 and confirmed by the Senate. Prior to his appointment, he served as Assistant United States Attorney in the District of Columbia and as Deputy Director for the District of Columbia Department of Corrections. We welcome him back.

And thank you very much, and you can proceed with a statement and then we will go to the videotape, then.

STATEMENT OF PAUL A. QUANDER, JR.

Mr. QUANDER. Thank you, and good morning.

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear today in support of the Court Services and Offender Supervision Agency's fiscal year 2005 budget request.

As you know, CSOSA's budget request includes the Pretrial Services Agency which, although a component of CSOSA, operates independently with a separate budget. The District of Columbia Public Defender Service also transmits its budget with CSOSA but is not a part of CSOSA.

CSOSA's fiscal year 2005 budget request totals $187,490,000, an increase of 12 percent over fiscal year 2004. Of this, $118,343,000 is for the Community Supervision Program; $39,314,000 for the Pretrial Services Agency; and $29,833,000 for the Public Defender Service.

At any given time, the Community Supervision Program supervises approximately 14,000 offenders on probation, parole, or supervised release. The Pretrial Services Agency supervises approximately 7,000 defendants pending trial and/or sentencing.

The Community Supervision Program's proposed budget represents a 13 percent increase over fiscal year 2004 funding. Of the $14 million increase, approximately $8.9 million is allocated to one new program initiative. This increase funds staffing and operating expenses for the first year of operations for our Reentry and Sanctions Center.

In fiscal year 2002, CSOSA received $13 million in no-year funds to renovate Karrick Hall, an eight-story building on the grounds of D.C. General Hospital. This facility housed CSOSA's 21-bed Assessment and Orientation Center since 1996. The Assessment and Orientation Center provides 30 days of intensive clinical assessment, treatment readiness, and reintegration programming to high-risk defendants and offenders with serious drug abuse problems. Since its inception, over 80 percent of participants have completed the program, and arrest rates among program graduates decreased nearly 75 percent. Based on its demonstrated effectiveness, CSOSA will expand this program as the focal point of a Reentry and Sanctions Center.

At present, the Assessment and Orientation Center treats approximately 250 individuals per year. The 108-bed Reentry and Sanctions Center, once completed, will provide approximately 1,200 program slots annually.

This expansion will allow us to make the program available to women, develop a dedicated mental health unit, and open three additional men's units. In addition, the center will provide short-term residential interventions as a sanction for individuals who relapse.

CSOSA's program model emphasizes accountability. Our flexible system of intermediate sanctions enables us to balance our external controls with the offender's developing sense of internal self-control. We know, however, that external authority alone is not sufficient to increase the offender's sense of responsibility to self, family, and community. For that, he or she needs to establish permanent, personal connections to positive individuals and institutions. These connections are essential to long-term change.

Supervision occupies, at most, a few years of a person's life. During that time, the offender must develop the personal resources that will permanently support him or her.

In the District of Columbia, as elsewhere, faith institutions are a permanent source of guidance, fellowship, inspiration, and assistance. These institutions have long histories of helping the less fortunate and encouraging personal change. Therefore, faith institutions are a natural point at which to connect returning offenders with their communities.

In 2001, CSOSA and the City's clergy forged a partnership to develop mechanisms through which faith institutions could contribute to successful reentry. We chose mentoring as our first initiative to emphasize the value of personal relationships in this work. From the initial call to action in January 2002, to last month's Reentry Worship events, we have raised awareness and involved over 200 volunteers in our mentoring program.

Last year, we expanded the mentoring program to reach inmates at the Rivers Correctional Institution in North Carolina, which is a Bureau of Prisons contract facility housing over 1,000 D.C. offenders. Reverend Donald Isaac, the Chairman of the CSOSA Faith/Community Partnership Advisory Council will share the clergy's perspective on this initiative with the subcommittee.

As the faith initiative matures, we hope to demonstrate the public safety benefits of linking returning offenders with the community's natural support systems. We are in the initial stages of evaluating the program, but we have already seen the difference this intervention can make in individual lives.

This has been a year of great promise for CSOSA. We have continued to refine the tools we use to supervise offenders. This spring, we will implement an expanded automated screening instrument that combines risk scoring and needs assessment to generate a prescriptive supervision plan for each offender. We recently expanded our case management system to include automated treatment tracking. With the additional fiscal year 2004 funding supported by the subcommittee, CSP, Community Supervision Program, has begun hiring additional supervision officers to lower high-risk offender caseloads and expand our use of Global Positioning System monitoring on high-risk domestic violence and sex offenders.

The Pretrial Services Agency has made significant progress with implementation of a new program funded last year, the Mental Health Supervision Unit. This new unit provides comprehensive mental health assessments and links defendants with a range of mental health services provided by the City's Department of Mental Health.

During fiscal year 2003, Pretrial Services Agency also provided strong support to the D.C. Superior Court's implementation of its new East of the River Community Court. The shift from a traditional case processing orientation to a problem-solving system of supervision has been very labor-intensive for PSA, and the agency continues to explore ways to realign existing staff to lower general supervision caseloads.

Community supervision plays a vital role in keeping our city safe. It is the bridge that offenders must cross to move from bad choices to a better life. It is our job to make it both difficult and undesirable for the offender to reverse direction and travel backwards. Our supervision officers have an equal responsibility to encourage progress and address non-compliance and relapse.

Every time I visit one of our field units, I am reminded how difficult their job is. But every time I hear that an offender got a promotion at work or completed treatment, I am reminded how rewarding it can be. As more partners join us in this work, I believe our forward momentum will carry more and more offenders to the long-term success of living as productive, crime- and drug-free citizens.

PREPARED STATEMENT

We thank the subcommittee for its continued interest in, and support of, our initiatives. I will be pleased to answer any question you may have at this time.

[The statement follows:]

PREPARED STATEMENT OF PAUL A. QUANDER, JR.

Mr. Chairman and Members of the subcommittee, thank you for the opportunity to appear today in support of the Court Services and Offender Supervision Agency's fiscal year 2005 budget request. As you know, CSOSA's budget request includes the Pretrial Services Agency (PSA), which, although a component of CSOSA, operates independently with a separate budget. The District of Columbia Public Defender Service also transmits its budget with CSOSA's but is not part of CSOSA.

CSOSA's fiscal year 2005 budget request totals $187,490,000, an increase of 12 percent over fiscal year 2004. Of this, $118,343,000 is for the Community Supervision Program (CSP), $39,314,000 for PSA, and $29,833,000 for the Public Defender Service.

At any given time, CSP supervises approximately 14,000 offenders on probation, parole, or supervised release. PSA supervises approximately 7,000 defendants pending trial and/or sentencing.

CSP's proposed budget represents a 13 percent increase over fiscal year 2004 funding. Of the $14 million increase, approximately $8.9 million is allocated to one new program initiative. The increase funds staffing and operating expenses for the first year of operation for our Reentry and Sanctions Center.

In fiscal year 2002, CSOSA received $13 million in no-year funds to renovate Karrick Hall, an eight-story building on the grounds of D.C. General Hospital. The facility has housed CSOSA's 21-bed Assessment and Orientation Center, or AOC, since 1996. The AOC provides 30 days of intensive clinical assessment, treatment readiness, and reintegration programming to high-risk defendants and offenders with serious drug abuse problems. The program has been extremely successful. Since its inception, over 80 percent of participants have completed the program, and arrest rates among program graduates were found to be nearly 75 percent lower than among offenders who did not receive this programming. Based on its demonstrated effectiveness, CSOSA decided to make this program the focal point of a Reentry and Sanctions Center that would serve a larger population. At present, the AOC treats approximately 250 individuals per year; the 108-bed Reentry and Sanctions Center will provide approximately 1,200 program slots annually.

This expansion will allow us to make programming based on the AOC model available to women, develop a dedicated unit for individuals with serious mental health issues, and open three additional units for male defendants and offenders. This type of intensive, structured, sanctions-based treatment is clearly effective, and we are very pleased that we will soon be able to expand its use.

We are also pleased that we will not need to interrupt the program during the renovations. We have procured an interim facility in Northwest Washington and are now completing the transfer of operations. The new space also allows us to increase overall capacity to 27 beds during the renovation period.

Developing the Reentry and Sanctions Center demonstrated the value and effectiveness of our community partnerships. We worked closely with the city during the Reservation 13 master planning process to identify the best location for the Center at this site. Once the decision to renovate Karrick Hall was finalized, we worked cooperatively with the city and neighborhood associations on our short-term occupancy of the interim facility. At each stage of the process, we kept our partners and neighbors informed of our intentions. The community has continually supported our presence and recognized our contribution to public safety.

CSOSA's Reentry and Sanctions Center will expand the range of program options available to our supervision officers. Most treatment professionals believe that relapse is part of recovery. A single treatment experience is rarely sufficient to enable long-term substance abusers to overcome their addiction. Most often, the road to recovery is fraught with obstacles and detours. The Reentry and Sanctions Center will provide not only the initial 30-day preparatory program, which increases the likelihood that subsequent treatment will be effective, but also short-term residential sanctions for individuals who relapse.

CSOSA's program model emphasizes accountability. Our flexible system of intermediate sanctions enables us to balance our external controls with the offender's developing sense of internal accountability. We know, however, that external authority alone is not sufficient to increase the offender's sense of responsibility to self, family, and community. For that, he or she needs to establish permanent, personal connections to positive individuals and institutions. These connections are essential to long-term change. Supervision occupies at most a few years of a person's life. During that time, the offender must develop the personal resources that will support a changed lifestyle.

In the District of Columbia, as elsewhere, faith institutions are a permanent source of guidance, fellowship, inspiration, and assistance. These institutions have long histories of helping the less fortunate and encouraging personal change. Therefore, faith institutions are a natural point at which to nurture connection between returning offenders and their communities.

In 2001, CSOSA and the city's clergy forged a partnership to raise awareness of the offenders' needs and develop mechanisms through which faith institutions could help to meet them. We chose mentoring as our first initiative to emphasize the value of personal relationships in this work. From the initial call to action in January 2002, to this year's Reentry Worship events early last month, we have raised awareness and involved over 200 volunteers in our mentoring program. Rev. Donald Isaac, the Chairman of the CSOSA Faith/Community Partnership Advisory Council, will share the clergy's perspective on this initiative with the subcommittee.

Last year, we expanded the mentoring program to reach inmates at the Rivers Correctional Institution in North Carolina, which is a Bureau of Prisons contract facility housing over 1,000 D.C. offenders. We will show a short video about the mentoring program and a clip of our video conference mentoring with Rivers at the conclusion of Rev. Isaac's statement.

As the faith initiative matures, we hope to demonstrate the public safety benefits of linking returning offenders with the community's natural support systems. We are in the initial stages of evaluating the program, but we have already seen the difference this intervention can make in individual lives. Mentors have helped their mentees get and keep jobs, maintain abstinence, find housing, and heal family relationships. A mentor cannot and should not replace the community supervision officer, but the mentor can help the offender to establish relationships that last far beyond the supervision term.

Beyond mentoring, the faith initiative makes available to offenders the support services offered by many churches and mosques. These services include job training programs, food and clothing banks, counseling and support groups, and family services. Through referral to faith-based services, CSOSA expands the range of support available to offenders.

This has been a year of great promise for CSOSA. We have continued to refine the tools we use to supervise offenders. This spring, we will implement an expanded automated screening instrument that combines risk scoring and needs assessment to generate a prescriptive supervision plan for each offender. We recently expanded our case management system to include automated treatment tracking. With the additional fiscal year 2004 funding supported by the subcommittee, CSP has begun hiring additional supervision officers to lower high-risk offender caseloads and expand our use of Global Positioning System monitoring on high-risk domestic violence and sex offenders. CSP and PSA also processed almost 4,000 treatment placements.

PSA has made significant progress with implementation of a new program funded last year, the mental health supervision unit. This new unit provides comprehensive mental health assessments and links defendants with a range of mental health services provided by the city's Department of Mental Health. We expect that this will greatly improve our ability to supervise defendants who manifest significant programmatic needs.

During fiscal year 2003, PSA also provided strong support to the D.C. Superior Court's implementation of its new East of the River Community Court. The shift from a traditional case processing orientation to a problem-solving system of supervision has been very labor-intensive for PSA, and the Agency continues to explore ways to realign existing staff to lower general supervision caseloads.

Community supervision plays a vital role in keeping our city safe. It is the bridge that offenders must cross to move from bad choices to a better life. It is our job to make it both difficult and undesirable for the offender to reverse direction and travel backwards. Our supervision officers have an equal responsibility to encourage progress and address non-compliance and relapse. Every time I visit one of our field units, I am reminded how difficult their job is. But every time I hear that an offender got a promotion or completed treatment, I am reminded how rewarding it can be. As more partners join us in this work, I believe our forward momentum will carry more and more offenders to the long-term success of living as productive, crime- and drug-free citizens.

We thank the subcommittee for its continued interest in, and support of, our initiatives. I will be pleased to answer any questions you may have at this time.

Senator DEWINE. Great. Thank you very much.

You have—why don't we go to your presentation?

Mr. QUANDER. Thank you, and with the——

Senator DEWINE. Then we will go to questions. You can, you know, bring up Reverend Isaac, now, or——

Mr. QUANDER. Actually, if I may——

Senator DEWINE. Or do you want——

Mr. QUANDER [continuing]. I would like to invite, with the Committee's permission, Paul Brennan, who is a supervisory community supervision officer and an individual who is intimately responsible for actually implementing and actually making sure that the Global Positioning System monitoring system is working.

DEMONSTRATION OF GPS MONITORING

Paul supervises one of our sex offender units, and these are the individuals who we want to make sure we have constant control and monitoring. So Paul has been instrumental in getting the system up and running, and he is the individual who is most familiar, and I would like to invite him to come forward and to just talk for a moment and explain what we have done and how we have done it.

Paul.

STATEMENT OF PAUL BRENNAN

Mr. BRENNAN. Good morning. First, I would like to make sure you have a handout that looks like this, to follow along.

Senator DEWINE. We do not.

Mr. BRENNAN. Well, let us look here.

Senator DEWINE. Yes. One. Okay. Very good. Okay.

Senator LANDRIEU. We have another one.

Senator DEWINE. We are in business.

Mr. BRENNAN. Great. What I am going to show you is just a brief clip of an offender—of a sex offender, high-risk sex offender released from prison. It is going to show his movements to a location that we later had to investigate——

Senator DEWINE. All right.

Mr. BRENNAN [continuing]. And I will talk about the findings of what we found out. What you will see on the screen is the offender at a bus stop that we identified. The green represents—the green dots represent the offender. The arrows will represent movement of the offender.

As you can see, the offender is around this bus stop here.

Senator DEWINE. Where does this show up, though, in the real world? I mean, it does not show up here in the Capitol on the screen. Where is it?

Mr. BRENNAN. It shows up on our computer screen that we can pull up from our office.

Senator DEWINE. And who monitors that?

Mr. BRENNAN. The supervising officers will monitor this on a daily basis.

Senator DEWINE. The officer for that particular individual or is there just somebody who monitors it in general?

Mr. BRENNAN. Each officer will be monitoring their offender's movements each day.

Senator DEWINE. Okay.

Mr. BRENNAN. They will be most intimately aware of what the issues are to look for.

Senator DEWINE. Okay.

Mr. BRENNAN. With this particular offender, he's a child molester and we want to keep him away from schools. He's not allowed to use the internet and so forth.

You see his movements as he comes into the City. He stops at this location. We lose GPS at this location. That typically means an offender has gone inside of a building. We know that this is G Street. We know that Martin Luther King Library is down here.

We brought the offender in and investigated why he was in this particular location, and from that investigation determined that he was using the internet at Martin Luther King Library which was a condition of his release that prohibited him from doing such. So from that, we were able to sanction the offender, put tighter restrictions on him.

I am going to show you another clip of the same offender who is at the halfway house. He goes to the same bus stop. Down at the bottom of the screen you can—in your handout you can see it clearer, the time, the date, and he travels down to Anacostia Metro Station. Now, he's on his way—he is permitted to leave the halfway house to go to a job program. The job program is not in this area.

So what caused us to be concerned is: Why is he going out of his way to go to this particular stop? What we notice are the red indicators here of schools. The time of day is between 7:00 a.m. and 8:00 a.m. So when kids are going to school, they may be taking that particular subway station.

As I play the movements, you can see that the offender is there for an extended—almost an hour, which is highly unusual, and you can see him loitering around the location. And this, right here, and that to us is suspicious. Why is he in that location?

In a minute you'll see him now getting on public transportation. We lose GPS. That means he is probably on a bus, and then he ends up in this location. He gets off the bus, and now he is walking to his program. You see a school here. And there is his program, right here. And it sees him stop. Now, here is the closest Metro. So, why was he at the Anacostia station? We later determined that he had gone there repeatedly. That was enough for us to take it back to the parole commission and revoke his parole.

Do we have time for one more clip?

Mr. QUANDER. Let me just make a point. We would never have known the travel pattern of this individual unless we had the monitoring system. What happened was once he went to the Anacostia station, the next morning when the supervising CSO took a look at his screen, the information automatically was there. So he could look at it, analyze it, and indicate—the indications were right there, that there were three schools, and we also saw that he was standing there for 1 hour.

And why does a sex offender get off at a subway stop which is not the closest one to where he is going and which is in close proximity to three schools? We were able to use this information to confront him with it and get him to acknowledge, No. 1, yes, he was there and, No. 2, he should not have been there. And then we could take the appropriate action.

The other thing that this allows us to do is when we present this to a releasing authority, whether it is the Superior Court or the

U.S. Parole Commission, it makes it very difficult for people to explain away. There is no longer an issue as to whether or not you were there. This technology proves it. There is not much that you can say. It is irrefutable, essentially, and allows us to keep control over a population that we are most concerned about. Okay.

Senator DEWINE. Good. No, that was great. Thank you, very much.

Mr. QUANDER. Okay. Thank you. Okay. Go ahead.

Mr. BRENNAN. The hardware is up here if you wanted to examine it. Also, in the green packets, there is a description of how it works and that is from the company. Feel free to review that.

Senator DEWINE. Sure. Go ahead.

Senator LANDRIEU. How expensive was this system to put in place and what is the annual cost of maintaining it? And I am not talking about the people that have to analyze it. I am just talking about the software and the general maintenance.

Mr. QUANDER. We are—we have a vendor, a contract with a vendor. Our costs are $6 a day per unit that we have available to us. The committee appropriated $100,000 for us to get the program up and operational. We would like to expand the use to get as many as 200 individuals on to the GPS system.

Senator LANDRIEU. Let us talk about the cost if we could, Mr. Chairman, for just a minute. This is the device that costs $6 a day?

Mr. QUANDER. It is the whole system.

Senator LANDRIEU. It is the whole system?

Mr. QUANDER. Yes.

Senator LANDRIEU. And for $6 a day you can monitor a felon——

Mr. QUANDER. Yes.

Senator LANDRIEU [continuing]. A person? And we have money to monitor how many?

Mr. QUANDER. Right now, we can monitor 100 individuals.

Senator LANDRIEU. And how many do we have?

Mr. QUANDER. Right now, there are nine that are actually on the program.

Senator LANDRIEU. No. How many offenders are we trying—what is our goal of trying to monitor, how many?

Mr. QUANDER. I am—I have funding to monitor 100. I would like to monitor 200.

Senator LANDRIEU. All right. How many——

Senator DEWINE. But how many——

Senator LANDRIEU [continuing]. Then would——

Senator DEWINE. Excuse me. How many are we actually monitoring right now?

Mr. QUANDER. Today, we have nine offenders on GPS.

Senator DEWINE. Why are we only at nine?

Mr. QUANDER. Because we are still in the pilot phase of the program——

Senator DEWINE. Okay.

Mr. QUANDER [continuing]. And we are evaluating. The other issues are: We have to train staff. Right now, most of the offenders are in the sex offense unit, and so Mr. Brennan, who supervises that unit, has received the training and the know how. The other thing, it is intensive as far as analyzing the material.

Senator DEWINE. Okay.

Mr. QUANDER. Once this information is provided, then the CSO has to sit down, has to analyze it, know the patterns, and then confront the individual and do the follow up. So, it is labor intensive. So, we have to be in a caseload ratio.

So, right now, although the sex offense caseload is about 29 to 1 as of January, this past January, the closer we get it down to those lower numbers, the more effective we can use this, make this tool.

Senator LANDRIEU. Let me try to re-ask my question, and I am very impressed with the technology and, believe me, I want to help you, and I can see the benefits of it. I can also see the—and understand the issue you just raised because we have talked about it before. But as good as the technology is, it is only as good as you can analyze it and have the people there to sit at the screen and to do the appropriate calculations and then take the time to follow up.

So I am clear, I am just trying to understand that this pilot, although it is good, it seems to me to be very, very small in the sense that we have, according to this, 500 sex offenders that are released on the streets and we are monitoring nine, nine people right now?

Mr. BRENNAN. We have actually hooked up over 50 in the course of the pilot.

Senator LANDRIEU. So 50 out of 500 of the sex offenders. And how many of the mental health—we have 666 mental health individuals that are described as mental health. Are we monitoring any of those?

Mr. QUANDER. None of the mental health population are on the GPS.

Senator LANDRIEU. How about domestic violence?

Mr. QUANDER. Well——

Senator LANDRIEU. We have 1,122?

Mr. QUANDER. During the course of the pilot phase, there have only been two, I believe, domestic violence individuals.

Senator LANDRIEU. This is a very small pilot, but it is very promising.

Mr. QUANDER. Yes.

Senator LANDRIEU. But the problem is: The resources are short and the staffing issues are substantial. But it seems like, is it the, I guess—I am going to finish up here in a minute.

But is it the code of consensus of the professionals that do this that this is a pretty extraordinary system if it can be funded and staffed appropriately? Because, as you said, I mean, I am sure everything is—nothing is foolproof, but this seems pretty convincing to me; that is, trying to monitor activities of people and trying to catch them before another terrible incident occurs. Is that your general sense?

Mr. QUANDER. It is, and——

Senator LANDRIEU. I am not trying to lead you to an answer. I just want to know what your feeling is, yes or no.

Mr. QUANDER. It is, and let me try to respond this way. Possibly 3 weeks ago we provided training to the Judges, the Criminal Division Judges in Superior Court, for what is involved in dealing with the sex offender, and a portion of that training dealt with the Global Positioning System, and we walked through it because we want-

ed to educate them so that they knew it was available so that they could use it.

Once we did that demonstration, the phone calls have been coming in. So there is a need. There is agreement in the community, the criminal justice community, that this works, that it is a tool that can better protect the public.

It is also a tool that helps us assist the offenders to be successful in their period of supervision. The more individuals that I can keep on the streets of the District of Columbia successfully complying with the rules, the better we are as a city, and the better their chances are for completing supervision successfully in taking advantage of all the other tools that we have available. This helps us to keep offenders accountable, and if we have them accountable, then we can do all the other things that we need to do to make that transition.

Senator DEWINE. The pilot program will run its course when?

Mr. QUANDER. Well, we have funding for this fiscal year, and we have funding for 100 for next fiscal year, but as I indicated, we are very interested in trying to expand, because I want to make it available to the CSO's who have individuals who are just on their regular caseload.

Senator DEWINE. When do you think you will move from the nine up to the next stage? I mean——

Mr. QUANDER. Actually, we are looking to do that by the end of May. There is some training that has to take place with the staff. There are some union issues that have to be overcome, but I am not anticipating any problems, because we are talking about a change in the way that we do business. So by the end of May we should be close to having 50 and by the end of the fiscal year, we will have a minimum of 100 people, I believe, on the Global Positioning System.

Senator DEWINE. What kind of union issues do you have?

Mr. QUANDER. Union issues are just that there is a change in the way that we are going to do business. This is going to require our staff to analyze material, to be familiar with patterns, to do things just a little differently. I am not anticipating any problems. In fact, I have a meeting with the union scheduled next week. They know where we are going. The staff is very receptive. They like it. It gives them an opportunity to do the work that they really want to do, and that is to make a change in individual's lives. The more tools that we can give the staff, the easier it is for them to do their job and the better the results.

Senator DEWINE. Good. Okay. Very good. What else do you have to show us here?

Mr. QUANDER. There is one additional slide if you would like to, Paul.

Senator DEWINE. Yes, I think we had better—I think we had better move to Reverend Isaac at this point.

Mr. QUANDER. Reverend Isaac?

Senator DEWINE. Reverend Isaac became the Director of the East of the River Clergy-Police-Community Partnership in 2001. This partnership was created to address issues associated with high-risk youth and the young adults who are at risk of being in the criminal justice system. Reverend Isaac also serves as the

Chairman of CSOSA's Faith Advisory Committee, and is a member of the Juvenile Justice Advisory Committee, and has served on the Board of Directors of the Thurgood Marshall Charter School.

Reverend ISAAC. Yes. Good morning.

Senator DEWINE. Reverend, thank you for joining us.

Reverend ISAAC. Thank you for having me.

Senator DEWINE. We appreciate it very much.

Reverend ISAAC. Thank you.

STATEMENT OF REVEREND DONALD ISAAC

Reverend ISAAC. Mr. Chairman and members of the committee, thank you for this opportunity to appear today to represent the partnership between the Court Services and Offender Supervision Agency and the District of Columbia faith community.

I am Reverend Donald Isaac, Executive Director of the East of the River Clergy-Police-Community Partnership and Associate Pastor of the Southeast Tabernacle Church. I am also Chairman of the CSOSA Faith/Community Partnership Advisory Council, and it is in that context that I come before you today.

Over the past few years, government has begun to understand and notice the extent to which the faith institutions contribute to community stability, family strength, and public safety. The executive order establishing the White House Office of Faith-Based and Community Programs states that, "Faith-based and other community organizations are indispensable in meeting the needs of poor Americans and distressed neighborhoods." As a minister in the District of Columbia, I see the truth of that statement every day.

I have dedicated my ministry to reversing the trend of escalating crime and violence amount our City's young people. Therefore, I am very interested—I was very interested when CSOSA issued the call in 2001 asking the City's clergy to establish a faith/community partnership that uses the power and resources of faith institutions to help offenders under community supervision.

From the very beginning, several aspects of CSOSA's approach to the faith/community partnership were encouraging. First, CSOSA represents—respects the autonomy and authority of faith institutions. Second, they acknowledge that our resources are limited, and that a partnership is a two-way street. They are willing to give something to get something. CSOSA put in place and funded a structure to support offenders' access to faith/community programs and services. And third, they value and respect all creeds and denominations.

CSOSA supports the efforts of our Advisory Committee—or Council to remain truly representative of the City's congregations. Our Advisory Council currently has 19 members drawn from the City's diverse Christian and Muslim congregations.

The Faith/Community Partnership chose mentoring as its first initiative because it allows individual volunteers and returning offenders to connect in an immediate and personal way. Relationships are the core of mentoring, but successful mentoring involves much more than conversation. It involves empathy and support. Mentors must be able to understand the obstacles and temptations their mentees face, the obligations of community supervision, and the opportunities they need to find.

CSOSA has developed and delivered mentor training that touches on most of these issues, but no classroom experience can prepare an individual for how hard the work is.

The initial 100 matches between mentors and mentees have yielded wonderful examples of that support. Shirley Hall was released from prison in October 2002 at the age of 39. When she joined us, she had a long history of drug use and incarceration. In fact, she was referred to us after having her parole revoked for drug use. She told us that she needed the support of other women to stay out. We placed her with Upper Room Baptist Church.

Reverend Catherine Bago, the associate pastor, has worked for many years with substance abuse and runs a well-regarded aftercare program. Shirley received a lot of support from the women's group at Upper Room, as well as from Reverend Bago personally. She has been drug-free since her release and is pursuing a long-term career as a commercial driver. She has managed to stay clean even though she has faced a lot of stress. Both her parents have been ill, and she started a job that did not work out. She may have relapsed, but she did not. She stayed strong and credits that success in part to the support she received from Upper Room.

Ms. Hall's case provides a good example, not just of the personal support mentoring provides, but of faith-based support services, as well. Ms. Hall's parole has had a special condition requiring substance abuse aftercare. Attendance at Reverend Bago's program has enabled her to satisfy that condition in a way that reinforced her connection to the faith community. Upper Room's program lasts as long as Ms. Hall wants to attend it. Ms. Hall has had access to a supportive women's group long after her parole has ended.

The District of Columbia faith institutions provide a wide range of support services, including job training and placement, family counseling, food and clothing banks, and transitional housing. We at the East of the River Clergy-Police-Community Partnership are proud of our recently developed housing facility, which was dedicated as part of this year's reentry activities.

ERCPCP is also pleased to have been selected as a pilot program for the Ready4Work Program administered through the Department of Labor. This program will enable us to greatly expand our job readiness and placement activities over the next 3 years.

Another lead institution in the CSOSA Faith/Community Partnership, New Commandment Baptist Church, has received funds from the Department of Justice to expand its program, as well. Our involvement with CSOSA has prepared us for the challenge of administering broader initiatives and, in turn, the offenders under CSOSA supervision will benefit from an increased range of support programs.

The CSOSA Faith/Community Partnership has grown from a dozen ministers at a conference table to a City-wide initiative involving hundreds of individuals. We are beginning to attract the additional resources needed to expand the services that are essential to success. We have expanded mentoring to reach out to prisoners, to prison inmates before they return home. Because those early weeks are so critical, we want to make sure the inmate knows where to find us as soon as he gets off the bus.

All this adds up to a promising start. CSOSA is committed to working with us, and we are committed to providing permanent fellowship and support to any offender who wants it. We are in this for the long haul, and we hope that the resources will be available for us to make even more of our inspirations into realities.

CSOAS—excuse me. CSOSA reached out to us because they recognized the limitations of law enforcement. Community supervision lasts only a short time, while the faith community can be a source of permanent inspiration. Community supervision is a consequence of past behavior, but faith institutions can influence the course of future behavior. Community supervision is about external accountability, but faith is about internal change. As in any good marriage, the two partners in this enterprise complement each other.

PREPARED STATEMENT

I look forward to continuing our work with CSOSA, and I thank you again for this opportunity to tell you about it. I will be happy to answer any questions that you may have at this time.

[The statement follows:]

PREPARED STATEMENT OF REVEREND DONALD ISAAC

Mr. Chairman and Members of the subcommittee, thank you for this opportunity to appear today to represent the partnership between the Court Services and Offender Supervision Agency and the District of Columbia faith community. I am Rev. Donald Isaac, Executive Director of the East of the River Clergy-Police-Community Partnership and Associate Pastor of Southeast Tabernacle Church. I am also the Chairman of the CSOSA/Faith Community Partnership Advisory Council, and it is in that capacity that I come before you today.

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[1] White House Office of the Press Secretary, "Executive Order: Establishment of the Office of Faith-Based and Community Initiatives," January 29, 2001.

The initial 100 matches between mentors and mentees have yielded some wonderful examples of that support. Shirley Hall was released from prison in October 2002 at the age of 39. When she joined us, she had a long history of drug use and incarceration; in fact, she was referred to us after having her parole revoked for drug use. She told us that she needed the support of other women to stay out. We placed her with Upper Room Baptist Church. Rev. Catherine Bago, the associate pastor, has worked for many years with substance abuse and runs a well-regarded aftercare program. Shirley received a lot of support from the women's groups at Upper Room, as well as from Rev. Bago personally. She has been drug-free since her release and is pursuing a long-term career as a commercial driver. She has managed to stay clean even though she has faced a lot of stress—both her parents have been ill, and she started a job that didn't work out. She might have relapsed. But she didn't. She stayed strong, and she credits that success in part to the support she received from Upper Room.

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I look forward to continuing our work with CSOSA, and I thank you again for this opportunity to tell you about it. I will be happy to answer any questions you may have at this time.

Senator DEWINE. Reverend, thank you very much.

Am I understanding that you have a video that shows some of the teleconferencing that goes on with some of the inmates? Can you show that for us?

Reverend ISAAC. Yes.

That is it.

Senator DEWINE. Good. That is very good. Now, who has the availability to access that? I saw that was a mentor there, or he was identified as. Family members have the ability to do that, as well, or——

Mr. QUANDER. Actually, we do; we invite the family members down, during certain portions of the video conferencing, so that we can establish that connection. Some of the men—what we are trying to emphasize are those pro-social values that the faith institutions have, and a part of that is that restructuring of that family or reconnection because some of those family bridges have been burned and the mentors and the faith community help us, oftentimes, reestablish and reconnect with those men, and the more that we can do that the more support that we have, the more assistance that the CSO has in making sure that offenders are being held accountable, and at the same time that those services and support mechanisms are in place.

So the family members do come down, including the children, so that they can reestablish those connections with their fathers.

Senator DEWINE. Senator Landrieu.

Senator LANDRIEU. Let me pursue that line of questioning about trying to keep convicted felons connected to their families, restrengthening the families where possible.

With the women prisoners—I understand that we have quite a challenge with all the prisoners, but particularly with women, many of whom are mothers, as many of the men would be fathers. But I understand that the majority of women are placed either in West Virginia or Connecticut?

Mr. QUANDER. That is correct.

Senator LANDRIEU. And how many miles away are those facilities, Alderson and Danbury?

Mr. QUANDER. I am not sure, but I believe that Alderson is within 500 miles of the District, but I also believe that it is probably a 6- or 7-hour drive there. Danbury is going to be an 8-hour drive, I believe.

Senator LANDRIEU. Okay.

Mr. QUANDER. So it is a significant distance that families often have to travel so that they can stay connected. One of the things that we are working with, just as we have established this video conference with Rivers in North Carolina, we are working with the Bureau of Prisons and with other organizations and the faith group to establish a similar link either at Alderson or at Danbury. So that we can start the same process and, hopefully, we can strengthen what we are doing and strengthen those families through this teleconferencing capability.

Senator LANDRIEU. And I am just focused on the number here. I have about 12 percent of the population that we are talking about is female, about 8,000 in jail. So, roughly, that would be a little over 800, maybe 1,000 female individuals, if my math is correct. Eight thousand in jail, 12 percent female, does that match with what you all—approximately, 1,000?

Mr. QUANDER. I think it is going to be a little less than 1,000 female offenders——

Senator LANDRIEU. Okay. Eight hundred?

Mr. QUANDER [continuing]. Through a——

Senator LANDRIEU. Eight hundred, maybe? Somewhere—am I right, between about 700 and 1,000? Is that safe?

Mr. QUANDER. I believe that would be accurate. Yes.

Senator LANDRIEU. Okay.

Mr. QUANDER. But the Bureau of Prisons would have the best stats, the best information.

Senator LANDRIEU. Okay. If there is 700, Mr. Chairman, to 1,000, I am wondering what kind of other options there are for the teleconferencing opportunities, whether they are, you know, once a week, once a month, once a quarter, with family members, or trying to get some of those inmates closer to the community. I think there are a couple of components here.

I mean one is trying not to just reunite them with the community, but reunite them with the families which is part of the community which is important, trying to keep those bonds from fraying in the first place, as well as, the professional supervision, so it all works together in an integrated way.

And, Mr. Chairman, I think we have quite a challenge, A, to try to keep these inmates closer, physically, but also use this technology when the physical location is impossible to really make that connection. Now, what is limiting us? Is it—again, is it the cost of the software? Is it the—what are the limitations so that this is not being available to all, let us say, 700 or 800 women, now?

Mr. QUANDER. One of the issues is that the women are not located in one facility. They are spread throughout the country. Alderson, I believe, houses the largest number of female offenders, D.C. co-defenders. And, I believe, that number is going to be—actually that is, as I understand it, there are 67 women in Alderson facility. There is, I believe, a lesser number in the facility in Massachusetts—in Connecticut.

All total from the Bureau of Prisons, I understand, is approximately less than 300 females that are housed in Bureau of Prisons' facilities throughout the country, but they are spread throughout the country. And so, thus, one of the limitations is that we do not have them in one or two central locations. Those two central locations are Alderson and Danbury. And so that is why we are focusing on that.

We have actually had meetings with the Bureau of Prisons, and the Bureau is receptive. They see the benefit. The wardens and the support staff in those facilities see the benefit of doing this. We are just in the process of trying to make it happen. We are the agency that actually receives the individuals once they have left the prison. What we want to do is sort of extend our reach to get them before they have come to us, because we think there are some services that we can provide that will help them with that transition, and the faith community has been very supportive, and we think we are there.

Senator LANDRIEU. Well, the final thing I will say on that, I think the Chairman and I would be more than happy to help you with the Bureau of Prisons to try and develop a stronger partnership as people are getting close to their release time, to move them closer to the community, physically, and then connect them via as much, you know, using some of this new technology as possible, not just for the women but for the men.

But, I think, particularly in terms of many of these women who are the primary caretakers of the children, we want those relationships to be maintained as much as possible. So that is all I will

say, Mr. Chairman. But any ideas you have, please let us know and we will work with you on that.

Mr. QUANDER. Thank you. One of the things that we have discussed with the Bureau is designating those two facilities and the Rivers facility, essentially, as a feeder site; as individuals get closer to their release date, using those facilities so that we can have a critical mass, and if we have a critical mass at these facilities, then we can continue to use those services.

If the facility is Alderson or Danbury, that is fine. And the Bureau has indicated its willingness to work with us to, maybe, sort of, funnel individuals in that direction, so that if we can get them there, then we can start establishing some of the services that, I think, we can provide.

STATUS OF REENTRY AND SANCTIONS CENTER

Senator DEWINE. Mr. Quander, I just have one question. In your written statement and your oral statement, you talked about the Reentry and Sanctions Center.

Mr. QUANDER. Yes.

Senator DEWINE. I am unclear how far along that is as far as capacity. You say, "At present, the AOC treats approximately 250 individuals per year. The 108-bed Reentry and Sanctions Center will provide, approximately, 1,200 program slots annually." So are you totally up and running or—I do not quite understand that.

Mr. QUANDER. No. Where we are——

Senator DEWINE. This and that.

Mr. QUANDER. Okay. Where we are, Senator, is that we have a facility which is on the grounds of D.C. General Hospital, Karrick Hall, which is—we have to renovate, essentially gut, put new heating, air conditioning. I mean, we have to go in. This committee appropriated $13 million——

Senator DEWINE. In 2002, right? Which one——

Mr. QUANDER. Yes. But we had to negotiate with the city. We had to bring the community in. There were a lot of issues that needed to be resolved before we could actually enter into the lease agreement, which took us a while to get.

Senator DEWINE. So where is that construction? Where is that?

Mr. QUANDER. Actually, all the paperwork is done. We had 21 men that were in the facility. They have been relocated to swing space, which is in the community. Construction is beginning. We are anticipating having the facility ready for operation, hopefully, in May of 2005. We will be able to expand that population in our facility so that we can house women there, so that we can house a mental health unit and four units for men, which will really increase our capacity to provide the type of service that we need. And with this group, this is the group of that core 30 percent of long-term substance abusers with at least six prior contacts. These are the individuals who, we believe, are doing most of the damage in our city. If we can get their substance abuse problems under control——

Senator DEWINE. So you will be rolling by May of next year, then?

Mr. QUANDER. That is what we are anticipating, having the facility and going in and rolling. Yes.

Senator DEWINE. And what does that do then to your operating budget when you hit that level?

Mr. QUANDER. Well, right now, we are funded—we have partial year funding for that, that will take us through fiscal year of 2005. And fiscal year 2006, there is going to be a substantial increase that we are going to need to continue the operation.

Senator DEWINE. Are you covered in this proposed budget then?

Mr. QUANDER. Yes, for 2005.

Senator DEWINE. That would be a partial year, then?

Mr. QUANDER. A partial year, that is correct.

Senator DEWINE. And you are covered in the President's budget for that?

Mr. QUANDER. Yes, for the partial operations.

Senator DEWINE. Because you are going to be substantially up—I mean, once you move into that facility, it is like you are moving into any new facility, your costs just kind of go up, is that right?

Mr. QUANDER. That is correct. So for the partial year 2005, I believe, we are covered. The issue will be in fiscal year 2006, when we go to full-year funding for the program.

Senator DEWINE. Let me ask one last question and then we will move to our next panel: This committee has worked with you to take down the ratio when you are dealing with sex offenders and other special population offenders, but from your budget submission, it appears that your general population—you are at a ratio of 1 to 125. That sounds high. How does that compare to other jurisdictions?

Mr. QUANDER. No, actually, our general population—our general supervision numbers are about 50 to 1. What you may be referring to——

Senator DEWINE. Maybe I misread that.

PRETRIAL CASELOADS

Mr. QUANDER. But I would like to speak to that just for one moment, because that is the ratio of the general supervision in the pretrial services area for those individuals who have not been adjudicated or convicted.

Senator DEWINE. Pretrial?

Mr. QUANDER. Pretrial.

Senator DEWINE. Okay.

Mr. QUANDER. That ratio is extremely high, as you noted. It is about 127 to 1. I believe——

Senator DEWINE. How does that compare to other jurisdictions, pretrial service——

Mr. QUANDER. In the——

Senator DEWINE [continuing]. Comparing apples to apples, then?

Mr. QUANDER. It is difficult to compare because the District is unique. If you look at Federal pretrial in surrounding jurisdictions, Northern Virginia and in Maryland, those numbers are in the range of about 60 to 1. What we have requested is an area that will get us down to 80 to 1. It is——

Senator DEWINE. How about State pretrial?

Mr. QUANDER. State pretrial, there are not any standard numbers that we have been able to really pull together, but we do know that 127 to 1 is—that does not allow us to do anything but just to

process the paperwork. If we are going to do the type of supervision that we need, our numbers in that area have to come down, and they have to come down dramatically.

Senator DEWINE. So these—just so I understand, these would be the felons, misdemeanors, what are they? Who are they?

Mr. QUANDER. On the pretrial side?

Senator DEWINE. Yes, right, that is what we are talking about.

Mr. QUANDER. It would be felons and misdemeanors——

Senator DEWINE. Mostly a——

Mr. QUANDER [continuing]. But mostly felons.

Senator DEWINE [continuing]. Mixed group.

Mr. QUANDER. Yes, but mainly felons that are in there and then——

Senator DEWINE. Mainly felons?

Mr. QUANDER. That is correct.

Senator DEWINE. Okay. Pretrial, mainly felons, 125 to 1. Yes, that does sound high.

Mr. QUANDER. It is.

Senator DEWINE. We all agree it is high, right?

Mr. QUANDER. Yes, we do.

Senator DEWINE. We agree it is a problem?

Mr. QUANDER. We believe it is a potential problem. Yes.

Senator DEWINE. So, really—I mean, we are using nice words here, but we are not doing much.

Mr. QUANDER. We are only——

Senator DEWINE. We are watching them on paper?

Mr. QUANDER. We are processing——

Senator DEWINE. Processing paper, but that is about all we are doing, is it not?

Mr. QUANDER. I like to go out, and I like to talk to the people that are really do the work, and I went out recently and spoke with a pretrial services officer and she said, "Mr. Quander, all I am doing is processing paper."

Senator DEWINE. Well, if they mess up, we know it maybe.

Mr. QUANDER. Exactly. And she indicated that she——

Senator DEWINE. If the police pick them up again, we know it, but that is about it.

Mr. QUANDER. And she said she wants to do more, but she cannot with the caseload with the way that it is.

ADDITIONAL COMMITTEE QUESTIONS

Senator DEWINE. I see it. Okay. So we have got a problem. Okay. All right. Thank you all very much.

Mr. QUANDER. Thank you.

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

QUESTIONS SUBMITTED BY SENATOR MIKE DEWINE

COMMUNITY SUPERVISION PROGRAM

Question. What are the key performance goals and measures used to manage CSOSA's offender supervision program?

Answer. CSOSA's Community Supervision Program (CSP) has adopted improvement in public safety as its most important outcome. While many factors influence public safety, CSP can contribute to it by reducing recidivism among the population

under supervision. Both new convictions and revocations that result in loss of liberty contribute to the overall recidivism rate.

The achievement of this long-term outcome depends on CSP's success in changing the offender's behavior and assisting him or her in establishing a stable, crime-free lifestyle. It is necessary to confront the problems most often at the root of criminal behavior as well as to enforce conditions of release. CSP targets five key intermediate outcome areas for its offender population that must first be addressed to improve public safety:

—*Decrease Rearrest*.—The rate of rearrest is one indicator of potential criminal activity among the supervised population. Effective supervision and sanctions should result in a decreased rearrest rate among the offenders under supervision.

—*Decrease Technical Violations*.—Offenders violate the conditions of their release by using drugs, changing residence or traveling without permission, failing to complete treatment, and other behaviors. Such "technical" violations often precede more serious criminal behavior. CSP has therefore targeted a reduction in the percentage of offenders who accumulate multiple technical violations as an important measure of whether its sanctions-based supervision model is effective.

—*Decrease Drug Use*.—Substance abusers must make progress toward reducing their drug use. CSP tracks changes in substance abuse using drug testing. The measurement of drug use (as measured by positive test results) will reflect the effectiveness of the Agency's testing policy and sanctions for positive tests. Positive drug test results among offenders who have received treatment will be the primary method for assessing the effectiveness of treatment interventions.

—*Increase Job Retention*.—CSP works with its partners in the community to develop employment opportunities for offenders under supervision. Because of data availability concerns, initial targets focused on the rate of employment among its offenders. However, with the deployment of a new information system, CSP has modified the measure to focus on the offender's ability to maintain employment. This new measure allows for job change and periods of training but not for long periods of unemployment.

—*Increase Education Levels*.—An offender's chances of success improve markedly if he or she functions at a higher educational level. CSP has implemented a system of learning labs to provide educational programming. The objective is to enroll offenders needing assistance in a GED or adult literacy program and to measure progress throughout participation.

Progress toward the intermediate outcomes is directly related to achievement of the long-term outcome of increasing public safety in the District of Columbia. If offenders are held accountable for their actions and improve the factors that contribute to personal and economic success, they are less likely to recidivate. In that way, achievement of the intermediate outcomes results in the long-term outcome of reduced recidivism.

Critical Success Factors (CSF's)

CSOSA established the following four Critical Success Factors (CSF's) as our primary operational strategies. The CSF's define the core day-to-day activities within community supervision. Without successful performance of these activities, it would be impossible to make progress toward the Agency's intermediate- and long-term outcomes.

—*Risk and Needs Assessment*.—Establish and implement (a) an effective risk and needs assessment and case management process, including regular drug testing, to help officials determine whom it is appropriate to release and at what level of supervision, including identification of required treatment and support services, and (b) an ongoing evaluation process that assesses an offender's compliance with release conditions and progress in reforming behavior so that further interventions can be implemented if needed;

—*Close Supervision*.—Provide close supervision of offenders, including immediate graduated sanctions for violations of release conditions and incentives for compliance;

—*Treatment and Support Services*.—Provide appropriate treatment and support services, as determined by the needs assessment, to assist offenders in reintegrating into the community; and

—*Partnerships*.—Establish partnerships with other criminal justice agencies, faith institutions, and community organizations in order to facilitate close supervision of the offender in the community and to leverage the diverse resources of local law enforcement, human service agencies, and other local community groups.

The CSF's define interdependent processes that, taken as a whole, determine long-term outcomes. Risk and needs assessment continually inform how offenders are supervised and which services they receive. Through partnerships with the community and other criminal justice agencies, CSP develops service capacity and improves its supervision practices.

CSP has also put in place a system of output-oriented performance measures to track specific oeprational activities related to each CSF. Most of these activities are defined within Agency policies. Therefore, the specific performance measures track whether we are in fact implementing our program model.

Question. How does CSP classify offenders to enable close supervision of those offenders who are high risk for committing serious or violent crimes?

Answer. To classify offenders into an appropriate level of supervision, CSP uses a screening instrument that is automated and fully integrated within its information system, SMART (Supervision and Management Automated Records Tracking). The screener is administered by the Community Supervision Officer (CSO) and reviewed by the Supervisory Community Supervision Officer (SCSO). Based on answers provided in the screener, a score is calculated for the offender's risk. The score, in combination with the SCSO's and CSO's assessment, is used to recommend the offender's classification to an appropriate supervision level (Intensive, Maximum, Medium, or Minimum). Although the recommendation is generated automatically, it can be overridden by the CSO with supervisory approval. Close supervision is provided to offenders who are in an Intensive or Maximum level of supervision.

The current version of the screener focuses primarily on risk level and does not incorporate other factors which, when addressed through programmatic interventions, can affect recidivism (see Andrews, Bonta, & Hoge, 1990; and Andrews, Zinger, Hoge, Bonta, Gendreau, & Cullen, 1990). "Principles of Effective Intervention," developed by several prominent Canadian researchers (also known as the Canadian Model), recommends the use of a comprehensive risk and needs assessment to determine the offender's risk of recidivism. This comprehensive assessment includes factors such as:

—Criminal associates;
—Criminal attitudes;
—Antisocial personality patterns;
—Family functioning;
—School/work;
—Substance abuse; and
—Use of leisure time.

CSP has redesigned and broadened its screener instrument to incorporate the Canadian Model. This new assessment instrument will also be fully automated within SMART and will not only recommend a level of supervision but also will generate a recommended prescriptive supervision plan. This plan will present realistic goals and objectives for the offender, define appropriate intervention strategies, and track the offender's progress. The new screener will enhance and standardize the case planning process and will ensure that all offenders are appropriately classified, supervised, and placed in programming. It is expected that the new screener will become operational by the early summer of 2004.

SUPERVISION STRATEGIES

Question. What techniques are used to monitor the offenders, particularly those who are high risk?

Answer. CSP's supervision strategy emphasizes both risk management (minimizing the likelihood of reoffense) and cost avoidance (minimizing the circumstances in which reincarceration is necessary to contain the offender's non-compliant behavior). Both strategies are achieved through appropriate classification and programmatic placements, as well as the use of graduated sanctions to address non-compliance.

Several practices have been implemented to closely monitor high risk offenders. These practices include the use of:

—electronic monitoring;
—supervisory reprimands;
—increased office reporting;
—accountability tours;
—halfway house placements;
—halfway back; and
—GPS monitoring (pilot) for high risk offenders.

These practices are employed within the context of the offender's individual case plan and Agency operating policies. There is no effective "one-size-fits-all" approach

to community supervision. Each offender is a unique individual requiring a unique set of programmatic interventions and behavioral controls. The Agency has developed a comprehensive array of tools that the Community Supervision Officer can deploy in the formulation and execution of the case plan.

Although the Agency has made impressive strides in the full implementation of its supervision strategy, not all elements are fully operational. For example, the revised auto screener is being tested prior to full implementation, and the planned Reentry and Sanctions Center will increase the range of intermediate sanctions available to CSO's. The GPS monitoring program will also be expanded to become a permanent option for supervising high-risk offenders. With the full implementation of the remaining elements of the Agency's strategy, baseline data will be captured from which the Agency will be able to set strategic benchmarks and initiate longitudinal studies to access the strategy's effectiveness.

Question. How many offenders entered CSOSA supervision in fiscal year 2003? How many departed after successfully completing terms of community supervision? How many offenders did CSOSA supervise over the course of a year?

Answer. CSOSA provided supervision to 21,603 individuals in fiscal year 2003. The flow of intakes and case closures is summarized in the following table.

Type of Case	Intakes	Satisfactory Closures[1]	
		Expiration	Termination
Probation	6,025	1,728	438
Parole	1,943	394	14
Supervised Release	55	19	.....
Civil Protection Order	440	174	7
Deferred Sentence Agreement	287	74	4
TOTAL	8,750	2,389	762

[1] A case may be closed satisfactorily either through expiration of the supervision term, or early termination due to the releasing authority's decision to discontinue supervision (generally as a result of the offender's exceptional compliance).

Question. What is the average length of supervision for probationers and parolees?

Answer. The average length of probation is 20 months, and of parole, 5 years (60 months).

Question. Describe CSOSA's use of intermediate sanctions on offenders.

Answer. Intermediate sanctions represent forms of punishment, less restrictive than incarceration, that are intended to provide a range of correctional options that vary in severity, according to the offenders' non-compliant behavior, and are related to the offender's level of risk and needs. Intermediate sanctions are designed to both hold offenders accountable for their actions and to deter them from engaging in criminal activity. These sanctions are best supported when integrated with treatment and intervention programs focused on the offender's needs, such as substance abuse, employment, and other issues that may contribute to the likelihood of reoffense. By using intermediate sanctions, CSOSA tries to change the offender's maladaptive, non-compliant behavior and to increase the likelihood that the offender will achieve successful reintegration into the community.

Successful use of intermediate sanctions requires close supervision, good documentation, well-informed collaboration, sufficient resources, and a clear understanding between CSOSA staff and the offender. The most notable tool CSOSA uses to impose intermediate sanctions is the offender accountability contract, which reflects widely accepted "best practices" in offender supervision.

A critical factor in CSOSA's strategy to reduce crime and the rate of recidivism is its ability to introduce an accountability structure into the supervision process and to provide swift responses to non-compliant behavior. According to CSOSA policy, offenders under community supervision must enter into an accountability contract within 25 working days of the case assignment. By signing this document, the offender acknowledges his or her responsibilities under probation, parole or supervised releases as granted by the D.C. Superior Court or the United States Parole Commission. The accountability contract clearly informs the offender of the consequences of non-compliance with the rules and regulations of community supervision. The offender acknowledges that he/she understands which behaviors will lead to intermediate sanctions and which behaviors will result in the request of a hearing before the releasing authority and possible reincarceration.

According to Agency policy, there are substance abuse violations and other non-criminal "technical violations" that warrant the imposition of different intermediate sanctions. If the CSO has reason to believe the offender is in violation of the general or special conditions of the offender's release, intermediate sanctions are imposed

to address the non-compliant behavior. Sanctions available for the CSO to use include:

—Daily check-in with the supervision officer for a specified period of time;
—Attendance at a group activity for a specified period of time;
—Increased drug testing;
—Increased face-to-face appointments with the supervision officer;
—Electronic monitoring for a specified period of time;
—Community service for a specified number of hours;
—Placement in a residential sanctions facility or residential treatment facility for a specified period of time; and/or
—Travel restrictions.

The use of these intermediate sanctions not only serves to hold offenders accountable and assist in changing their non-compliant behaviors, but also assists the Agency in achieving its mission of increasing public safety and reducing recidivism.

Question. Describe CSOSA's experience in reporting offender violations to the releasing authorities.

Answer. On a regular and consistent basis, CSS staff meet with administrative staff of the United States Parole Commission (USPC) and the Administrative Judges of the Superior Court for the District of Columbia to discuss issues of mutual concern. With regards to the USPC, agreements have been reached on the types of cases that will require the immediate issuance of a retake warrant by the USPC (i.e., subsequent offender felony arrest involving a victim). For all cases in which the Agency has deemed the offender to be an imminent danger to public safety, the USPC has agreed to the faxing of violation reports to their office. These emergency violation reports receive the highest priority for review and consideration by the USPC staff for presentation to a Commissioner. Our experience generally has been that the USPC is very responsive to the Agency with both the request for an emergency warrant and the violation reports that are processed on a non-emergency basis.

With regards to the Judiciary, staff must request in the violation report that a show cause (violation) hearing be scheduled. Our experience is that the Judiciary usually does not issue bench warrants based solely on the request of staff. Once a violation report is submitted, a violation hearing is scheduled based on the Judge's calendar (schedule) and can take from 30 to 60 days to be held. Once a violation hearing is scheduled, the Court notifies the offender and his/her attorney by mail of the scheduled date for the violation hearing. If the offender fails to report to the violation hearing on the scheduled date, the Judge will immediately issue a bench warrant for the offender's arrest. In cases where CSOSA staff are concerned that the offender poses a significant public safety risk, staff can request an expedited violation hearing from the Judiciary. On rare occasions, the Judge may issue a bench warrant, prior to a hearing, if the risk is deemed imminent. In instances of an expedited violation hearing, the hearing is usually set within a two-week timeframe. It has been our experience that the Judiciary honors CSOSA staff's request for a show cause hearing.

Question. What is the rearrest rate for offenders under CSOSA supervision? How has that rate changed in the past year?

Answer. In fiscal year 2003, the overall rearrest rate was 15 percent (13 percent for probationers and 17 percent for parolees). The fiscal year 2002 arrest rate was 18 percent (21 percent for probationers and 13 percent for parolees).

REENTRY STRATEGY

Question. CSOSA has been working with various stakeholders to craft a Citywide Offender Reentry Strategy. Please describe the process and the status of implementation.

Answer. Between December 2001 and April 2002, a group of community advocates, community-based service providers, and government agency representatives worked together to craft a comprehensive reentry strategy for adult offenders returning from incarceration to the District of Columbia. The primary participants in this process included:

—Court Services and Offender Supervision Agency (CSOSA),
—Office of the Deputy Mayor for Public Safety and Justice (DMPSJ),
—Office of the Corrections Trustee,
—D.C. Prisoners Legal Services Project,
—D.C. Department of Corrections (DCDC),
—D.C. Department of Mental Health (DMH), and
—Federal Bureau of Prisons (BOP).

The goal of the "Comprehensive Reentry Strategy for Adults in the District of Columbia", which was completed in June 2003, is to provide a detailed, long-range plan for an effective continuum of reentry services for D.C. offenders during incarceration, transition from incarceration to the community, and life in the community during and after supervision. In addition, the strategy proposes an agenda for reentry service provider quality assurance, community education about the relationship between public safety and effective reentry, and legislative priorities.

The core of the strategy is the development of an assessment-driven reentry plan tailored to each offender's needs, strengths, and aspirations. The plan should remain with an offender through the three phases of reentry: institutionally based programs, transitional services, and community reintegration.

In September 2003, five workgroups led by respected leaders from criminal justice system agencies and community-based organizations completed an Action Plan that sets an implementation timeline for the strategy. The strategy establishes ambitious goals for all parties involved, emphasizing that reentry services should be available to all offenders returning from some form of incarceration (jail or prison) to the community.

Implementation requires coordination among Federal agencies involved in the local criminal justice system, local agencies, and community-based organizations. Improved pre-release planning provides represents the cornerstone process to build an effective, integrate reentry system. Pre-release planning begins with the functional assessment of the risk factors that define the intensity supervision if the offender leaves incarceration to parole or supervised release. The functional assessment also identifies needs that require intervention if an individual's risk factors are to be reduced in order to promote improved public safety.

Implementation of the strategy involves broad participation by local, Federal, and non-profit agencies. The city will take a major step toward implementation this spring by opening the One Stop Reentry Service Center, which will provide subsidized job training and wrap-around support services to an initial cohort of 165 adult offenders and 40 juvenile offenders. Initial funding for the pilot year of the Service Center's operations will be provided through a Department of Justice grant. The Mayor plans to include in his fiscal year 2006 budget a request for operating funds to sustain and expand the center.

Question. What are the most critical needs of offenders under supervision? How are those needs being addressed, both by CSOSA and by the District of Columbia?

Answer. Most offenders enter supervision with needs in the areas of employment/education and substance abuse. Over 50 percent of the offender population is unemployed, and about 60 percent tested positive for drug use at least once during fiscal year 2003. Approximately 4,100 offenders tested positive two or more times for PCP, heroin, or cocaine in fiscal year 2003. Mental health issues may accompany and exacerbate these problems.

Housing is also a critical need for many offenders. Often, the combination of unemployment and substance abuse leads to residential instability. The offender may leave prison with nowhere to go or may lose his or her residence due to drug use or financial issues. Underlying all these issues is the offender's need to develop healthy social relationships and to learn how to manage his or her time.

The following table summarizes CSOSA's activities in each area of need and the District of Columbia agency responsible for each type of need. The table is adapted from the "Citywide Reentry Strategy".

Area of Need	CSOSA Activity	Responsibility of City Agencies
SUBSTANCE USE/HISTORY	Assess offender's addiction severity Place offender in the appropriate substance abuse treatment program (current appropriation allows for CSOSA to meet 16 percent of the population's addition treatment need). Place offender in drug testing requirements. Enforce violations of behavioral contract.	Addiction Prevention and Recovery Administration—(service capacity needs to expand to address the remaining needs of the offender population).

Area of Need	CSOSA Activity	Responsibility of City Agencies
EDUCATION/LEARNING DISABILITIES	Conduct a Test of Adult Basic Education to assess the educational functioning level of individual offenders. Provide adult basic education programming at one of four learning labs staffed by CSOSA learning lab specialists.	State Education Office in collaboration with the University of District of Columbia (service capacity needs to expand to address the remaining needs of the offender population).
EMPLOYMENT	Conduct a Test of Adult Basic Education. Assess offender's vocational aptitude and job skills. Assist offender in job search if he or she has employment history, an 8th grade reading level or better, and marketable job skills. Provide or make referrals to city agencies for adult basic education services or referrals.	D.C. Department of Employment Services—Plans are in place to utilize Serious and Violent Offender Reentry Initiative funds to provide Life Skills, Job Training, and Placement services to approximately 150–200 offenders (additional employment training and placement service capacity is needed).
HOUSING	Counsel offender to seek a healthy residential environment; encourage offender to move, if necessary. Maintain listings of transitional housing options available through nonprofit and faith community and refer as necessary.	(Service capacity needs to expand to address the remaining needs of the offender population).
MENTAL HEALTH	Refer offender to CSOSA contract psychologist for mental health screening to determine need for more in-depth psychological evaluation and treatment. Place offenders with diagnosed mental health disorder or Offender conforms to the norms of daily functioning, dress, appearance and behavior.	Mental Health Psychological Evaluation—D.C. Department of Mental Health. Counseling, community-based support services for offenders with diagnosed mental health disorders—D.C. Department of Mental Health.
PHYSICAL HEALTH/DISABILITY	Refer to D.C. Department of Health	D.C. Department of Health—Primary Healthcare at neighborhood health clinics operated by the D.C. Health and Hospital Public Benefit Corporation.
LEISURE TIME/SOCIAL RELATIONSHIPS	Counsel offender to develop pro-social hobbies and interests. If eligible, refer for Faith Community Partnership services, including mentoring.	(Service capacity needs to expand to address the remaining needs of the offender population).

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

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

counseling, and substance abuse aftercare. CSOSA wanted to "tap into" this important source of community-based programming in order to expand the range of support services available to offenders.

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

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

CSOSA and the Advisory Council then established a structure through which the mentor program could be coordinated and faith institutions could provide services to offenders. The city was divided into three clusters, and CSOSA issued a Request for Proposals to establish a contractual relationship with a lead institution in each cluster. The lead institutions are: Cluster A (Wards 7 and 8)—East of the River Clergy/Police/Community Partnership; Cluster B (Wards 5 and 6)—Pilgrim Baptist Church; Cluster C (Wards 1, 2, 3, 4)—New Commandment Baptist Church.

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

CSOSA also developed and implemented training programs for both mentors and the program coordinators at each faith institution. The training familiarizes prospective mentors with the structure and requirements of community supervision, the offender profile, and the program's administrative and reporting requirements, as well as providing role-playing exercise in which mentors encounter the challenges of mentoring. To date, approximately 200 mentors and coordinators from more than 40 institutions have been trained.

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

Mentoring remains just one facet of CSOSA's faith initiative. Through the cluster coordinators and site visits by CSOSA staff, outreach ministries and services have been identified. In addition, faith institutions have been directed to Federal, local, and philanthropic resources to upgrade their capacity for service. For example, CSOSA has verified the capacities and availability of the following outreach services:

Institution	Outreach Ministry	Available Capacity
AP Shaw United Methodist	Anger Management	7 program slots.
Grace Apostolic	GED classes	Varies.
Paramount Baptist	Food and Clothing	10–12 referrals weekly.
SE Tabernacle	Job Services Referrals	30 referrals/month.
	Weekly support group for Ex-offenders	Maximum 15 per week.
Redemption Ministry	Job Training/Placement	35 referrals per class cycle.
	Substance Abuse Counseling	Ongoing capacity for 15 clients.
	Family Assistance (housing, transportation).	Varies according to need.

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

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

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

Question. Does CSP have specific programs to meet the needs of female offenders?

Answer. Currently, CSP has several gender-specific programs to address the needs of female offenders. CSP contracts for residential placements in gender-specific residential programs, such as Demeter House, which treats chemically-addicted mothers, who may be accompanied by their children while in the program. The Substance Abuse and Treatment Branch also provides weekly in-house group sessions for women. In addition, the Transitional Intervention for Parole Supervision (TIPS) program has a community supervision officer on-site at the Fairview Community Corrections Center to assist women with reentry issues. The Fairview CCC also may be used for public law placements and as an intermediate sanction for high risk/needs women offenders.

CSP is working to expand gender-specific programs. The expanded Reentry and Sanctions Center will contain a unit for female offenders. Additionally, a team of managers received training at the National Institute of Corrections Academy last year on implementing effective agency-wide programs for female offenders. The members of this team now are leading a work group to implement these strategies around such issues as victimization and trauma, mental health and medical problems, family and child rearing, and economic self-sufficiency. The Agency is working to:

—Implement additional, in-house gender-specific group counseling programs and training group facilitators;
—Develop a comprehensive training curriculum that provides information/tools for line staff and administrators to effectively manage female offenders;
—Compile a resource guide to ensure that Community Supervision Officers are aware of, and have access to, available in-house, community and government programs;
—Work with our faith-based partners to female women offenders are linked to mentors;
—Strengthen partnerships with the many community organizations and government agencies that provide services to this population; and
—Arrange child-care opportunities with our community partners to allow female offenders to engage in programming and supervision activities.

Question. CSP last requested an increase in drug treatment funds in fiscal year 2002. Is this funding sufficient to meet the demand for treatment? What measures are in place to ensure that these resources are used most effectively? Is there any evidence that CSOSA drug treatment reduces drug use, rearrest, and recidivism in the District of Columbia?

Answer. During fiscal year 2003, CSOSA's Office of Research and Evaluation estimated that there were over 4,100 chronic substance-abusing offenders in need of treatment intervention. This estimate is based on the number of offenders who tested positive for cocaine, heroin or PCP two or more times. (Offenders testing positive for marijuana and/or alcohol are generally given intermediate sanctions and referred to in-house services.)

Each offender, on average, requires three placements to satisfy treatment-programming requirements. For example, offenders with chronic substance abuse histories are most often referred to detoxification followed by residential and outpatient services. For the chronic drug-using population, CSOSA would require the ability to make a minimum of 12,300 substance abuse placements per year (4,100 offenders $\times$ 3 treatment placements).

The fiscal year 2003 appropriation (approximately $8.6 million) enabled CSP to make 2,021 treatment placements. This addressed 16 percent of the estimated requirement. To ensure that limited treatment funds are being used efficiently our treatment specialist staff performs a battery of assessments to determine the appropriate treatment recommendation for each offender.

In fiscal year 2003, a data management system was introduced, which allowed automated tracking of the agency's treatment related data. Fiscal year 2003 was the pilot year for use of the automated tracking system and the system was modified

and adjusted as required during the year. It is anticipated that data on the effectiveness of interventions will be available from the automated treatment tracking system within the next 6 to 9 months.

Question. Does CSOSA contract for drug treatment services? How do you ensure that vendors are providing quality services?

Answer. CSOSA currently contracts with 11 drug treatment vendors throughout the Washington metropolitan area. Quality Assurance Specialists routinely monitor each vendor to ensure that all treatment services are provided in accordance with national and local standards.

Vendor monitoring occurs through compliance reviews and unannounced site visits. The compliance reviews are performed on an annual basis based on standards for treatment services. The areas subject to review include staffing, documentation, physical plant and administrative operations. Upon completion of the review, the vendors are provided with a time sensitive plan to correct any deficiencies. Subsequently, this plan is monitored through unannounced site visits to ensure compliance.

In an effort to continue improving the quality of interventions provided by our drug treatment vendors, CSOSA also provides ongoing technical assistance.

Question. What management strategies are employed for inmates on Special Supervision?

Answer. Special Supervision is the rendering of comprehensive, treatment-oriented services, combined with intensive supervision, for those offenders assessed as "special needs" offenders. Special needs offenders include offenders convicted of sex crimes and crimes of domestic violence, those diagnosed with a mental illness, and those assessed with a substance abuse addiction. Programmatic improvements for special supervision populations continue to evolve. However, the increasing number of offenders presenting with co-ocurring disorders, combined with limited staff resources, continues to present challenges in providing comprehensive services for these populations.

SPECIAL SUPERVISION

Question. What do you do differently for Special Supervision Offenders than the General Supervision population?

Answer. Special supervision offenders are high risk offenders. Immediately upon release to the community, "special needs" offenders are placed on an intensive or maximum level of supervision for the first 90 to 180 days, with weekly community and office contact, including urinalysis surveillance for illegal drug use. To closely manage these special supervision offenders, CSO's working with these caseloads have much smaller caseloads ratios than CSO's managing general supervision offenders. The Agency's target caseload supervision ratio for the "Special Supervision" teams is 25 offenders per CSO, versus 50 offenders per CSO for general supervision. This smaller ratio allows the special supervision CSO to provide close offender accountability, intensive counseling, treatment referrals, and tracking activities. The Agency is approaching the targeted caseload ratio, which will improve public safety.

To ensure that all "special needs" offenders receive required services, a comprehensive referral, placement and assessment tracking system has been implemented for all sex offender, mental health, and substance abuse cases. These offenders are carefully screened to match appropriate treatment services with their needs. CSO's refer offenders to treatment groups on-site, as well as makes referrals to vendor-provided treatment services, such as residential substance abuse treatment and sex offender treatment services. Also, sex offenders, depending on their classification level, are required to register with the Sex Offender Registry, every 90 days or once a year, for life, as determined by their conviction and the law. In fiscal year 2003, 185 sex offender assessments and 42 polygraph examinations were conducted.

Offenders convicted of a domestic violence offense participate in CSOSA-provided Domestic Violence Intervention Program (DVIP) or Family Violence Intervention Program (FVIP), if the offender is unable to afford private domestic violence counseling services. These group sessions also can include family members and, if appropriate, the victim of the offense and/or other interested community support persons. In addition, CSOSA offers individual counseling as needed. Those offenders who can afford to pay for private domestic violence treatment are closely monitored to ensure attendance and progress in treatment.

Question. This committee included funds in CSOSA's fiscal year 2004 appropriation for 27 new positions to provide for increased supervision of high-risk sex offenders, mental health cases, and domestic violence cases, as well as to expand the use of global positioning system (GPS)-based electronic monitoring. GPS electronic monitoring employs state of the art technology to offender supervision and hold great

promise for solving crimes and detecting offender movements or patterns that would enable CSOSA to take action before he or she commits more crime. This technology would appear to be a valuable tool for supervising all high-risk offenders, and in particular, sex offenders and domestic violence offenders in which offenders are supposed to avoid certain locations, such as schools or specific residences.

What is the status of implementing the special supervision initiative? When will the new officers be hired? When filled, what will the new caseload ratios be?

Answer. Two new Special Supervision Teams start CSP's 6-week training academy on March 22, 2004. After these staff complete training and enter supervision duties, CSP caseload ratios for sex offender, mental health and domestic violence supervision will be reduced to approximately 29:1 (based on January 2004 cases). CSP is unable to hire additional staff from the fiscal year 2004 supervision initiative due to inadequate funding for these positions in our fiscal year 2005 budget request. Simply, CSOSA cannot support all 27 staff in fiscal year 2005 with the resources contained in our fiscal year 2005 budget. If all staff from the fiscal year 2004 special supervision initiative were hired, these high-risk caseload ratios would decrease to 25:1.

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

Answer. CSOSA currently is piloting Global Positioning System (GPS) electronic monitoring technology to monitor movement of the highest risk offenders in the community. Primarily used as a tool to monitor sex offenders, CSOSA also utilizes GPS to monitor high risk domestic violence offenders. These populations generally have stay away orders from people or places within the community, and GPS has shown promise to be a useful tool to monitor compliance with these conditions. GPS allows CSOSA to place strict curfews on offenders, as well as to establish "exclusion zones," which are areas or addresses the offender is prohibited from entering. Offenders who are placed on this type of electronic monitoring generally have violated conditions of their supervision, and the GPS is used when other intermediate sanctions have been exhausted. Additionally, offenders whom CSOSA deems particularly high risk, due to their originating offense or suspicion that the offender may be re-offending, also may be placed on GPS monitoring. Offenders who are under parole or supervised release supervision may be placed on GPS electronic monitoring at CSOSA's discretion. In probation cases, CSOSA must obtain a court order, modifying the offender's supervision conditions, in order to place the offender on GPS monitoring.

Since April 8, 2004, 51 offenders have been placed in the GPS pilot at a cost of $6.00 per day, per offender. Currently, 9 offenders are under GPS. Using CSOSA's criteria, above, for placing sex offenders, domestic violence offenders, and other high risk offenders under GPS, the Agency estimates that the following number of offenders could be placed under GPS in fiscal year 2004:

Fiscal Year 2004	No. Offenders Under GPS
October-December, 2003	0
January-March, 2004	12
April-June, 2004	30
July-September, 2004	60

The system currently piloted by CSOSA is a passive one, which means CSOSA is notified of violations by e-mail the next business day following the violation. Some violations also may be reported to our sex offender supervision staff by cell phone. At any time, our staff also may link to the GPS system and track real-time the offenders who are in the program. However, CSOSA is not a 24-hour law enforcement Agency and does not have the resources available to respond immediately to each violation.

Through future collaborations with the Metropolitan Police Department (MPD), it is CSOSA's goal to provide MPD with the ability to respond immediately to GPS electronic monitoring violations of CSOSA offenders as the violations occur. Additionally, the GPS data can be linked to MPD crime data to assist law enforcement to determine if offenders on GPS tracking were at or near reported crime sites.

Currently, CSOSA contracts for GPS services with Veridian, which is a component of General Dynamics. The hardware used for monitoring is provided by PRO TECH Monitoring, Inc. CSOSA uses Veridian, instead of direct contracting with PRO

TECH Monitoring, Inc., because Veridian offers several advantages that PRO TECH Monitoring, Inc. does not currently offer, such as:

—Web based access to the data;

—Linkage with police crime data; and

—The ability to change hardware if a new, more advanced, efficient, or cost-effective product enters the market with another company, other than Pro Tech.

Question. Is the GPS technology being used for defendants?

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

INFORMATION SYSTEMS

Question. What is the status of CSP's offender case management system, for which funding was provided in fiscal year 2002?

Answer. Initially deployed in January 2002, the Supervision and Management Automated Records Tracking System (SMART) replaced an unreliable and outdated legacy system. SMART has provided the Agency with an efficient and accurate method for tracking supervision activities, improving supervision management and reporting, and enhancing management of the treatment process for offenders.

Since the supervision module's initial release, many features and modules have been added to SMART. A treatment module has been implemented to track each offender's progress, as well as a related module that allows treatment vendors to verify attendance at scheduled outpatient sessions. This integrated treatment module not only encompasses the tracking of offender treatment activities, but also manages all treatment-related financial transactions. In addition, CSOSA now has the capability to electronically transmit Pre-Sentence Investigation (PSI) reports directly to the Superior Court and the Assistant United States Attorney's Office. Current modules under development will provide automatic notification when the Metropolitan Police Department arrests an offender under supervision, as well as the revised screener and the prescriptive supervision plan.

In order to continue the significant improvements in offender supervision, CSOSA needs to continue enhancing SMART's capabilities. The current intake procedure involves the manual process of entering sentencing information from both the Courts and the Bureau of Prisons (BOP). The proposed Intake Module would streamline this function by automating the transfer of sentencing information directly from the Courts and the Bureau of Prisons, as well as electronic Notices of Actions from the U.S. Parole Commission. Automatic transmission of sentencing information would ensure that CSOSA receives the sentencing information for each offender. Additional proposed enhancements also include:

—Wireless mobile computing to provide officers with access to the SMART application while performing supervision in the community;

—Biometrics to provide a fail-proof method for identifying offenders reporting for drug testing or drug treatment programs;

—Archiving and expunging case records in accordance with Federal regulations;

—Additional interagency data sharing with both local and Federal law enforcement agencies; and

—Improved management and operational reporting using Business Objects to ensure the effective supervision and allocation of resources to attain the Agency's critical success factors.

Without these technological enhancements, it will be very difficult for CSOSA to continue its forward momentum in improving public safety through close supervision.

Question. Are CSOSA information systems integrated with other law enforcement systems? Are CSOSA systems secure from hackers?

Answer. CSOSA has aggressively implemented internal process automation, remote connectivity to external criminal justice data repositories, and justice data exchange. The information collected and managed by SMART is requested by local and national law enforcement agencies. The Agency has established data exchange agreements with several local and Federal law enforcement agencies. Criminal justice data is currently being exchanged with the Metropolitan Police Department, the Pretrial Services Agency, the District of Columbia Department of Corrections, the United States Attorney for the District of Columbia, the District of Columbia Department of Corrections, the U.S. Parole Commission, the Federal Bureau of Prisons, and the Federal Bureau of Investigations. The fulfillment of the Agency's mission is contingent on obtaining timely and accurate information from law enforcement agencies. Interagency data exchange provides the necessary criminal data for preparation of Pre-Sentence Investigation reports (PSI), Alleged Violation Reports

(AVR), Warrants, and Notices of Action (NOA's) to improve offender supervision, and ways to control crime and improve the safety of the public.

While CSOSA facilitated some initial electronic data exchange agreements with other agencies, it is crucial to establish additional exchange processes with the other law enforcement entities, such as the Courts. SMART is capable of receiving data from other entities, yet other agencies systems are not always postured to participate in the data exchange process.

The successful deployment of SMART, and the initial data exchange communication with other agencies, has moved the Agency closer to accomplishing our strategic goals. As we increase our data exchange capability with other law enforcement agencies, the need to enhance security measure increases. To continue this forward movement, it is imperative that CSOSA systems, data and infrastructure be secure. CSOSA continues to make strides in addressing IT security. We have developed an IT Security Master Plan, established an Incident Response Team, IT Security and Patch Management Working Groups, however more work must be accomplished to ensure a secure information technology environment.

SMART is a critical Agency system that must be secure. As the sophistication of hackers advance, CSOSA must enhance the capability to protect Agency resources to ensure that measures can be taken to fend off attacks and exploits. The challenge of managing new exploits and adherence to emergent Federal regulations (FISMA, A–130 etc.) requires a vigilant IT Security Program. CSOSA must implement an IT Security tool set to include enhanced WEB scanners, network intrusion software, and e-authentication devices. Also, the implementation of the IT Security Master Plan is necessary to comply with FISMA and/or regulatory requirements. The successful implementation of an Agency IT Security Program is dependent on identifying adequate resources to secure the Agency's information technology resources and comply with regulatory requirements.

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

Answer. In September 2002, CSOSA signed a long-term lease with the District of Columbia for the use of Karrick Hall as CSOSA's Re-entry and Sanctions Center. Also, in September 2002, the city government was developing a Master Plan for the D.C. General Hospital Campus, including negotiating a transfer of control of the land from the Federal Government to the D.C. Government. CSOSA worked closely with the D.C. Government and the community throughout these planning processes. In July 2003, we reached agreement with the city to proceed with the renovation of Karrick Hall. A contract for Architectural and Engineering Design and Construction Management was signed in September 2003.

Karrick Hall is an eight-story, 60,000 square foot building and since 1996, has been the home of the Assessment and Orientation Center. The AOC program is a model program CSOSA now operates in partnership with the Washington Baltimore High Intensity Drug Task Force program, also known as HIDTA. When Karrick Hall is complete, the AOC will become CSOSA's Reentry and Sanctions program.

On February 27, 2004, the AOC vacated Karrick Hall and moved into a temporary location at 1301 Clifton Street, NW. The AOC will be at 1301 Clifton until the renovation is complete, in the spring of 2005. While at 1301 Clifton, the AOC will expand its program from 18 beds to 27.

Karrick Hall is a 60,000 square foot eight-story building constructed on the grounds of the D.C. General campus circa 1961. The renovations include:

—Replacing the building's infrastructure (installing all new plumbing, electrical, windows and exterior architectural features as well as new heating and air condition systems and fire systems);
—Installing two new elevators in place of the existing units; and
—Installing new restrooms and ensuring all new systems meet the requirements of the Americans with Disabilities Act and other handicap accessibility requirements.

When complete, the Reentry and Sanctions Center will expand to 108 beds, which will service 1,200 offenders and defendants annually. The program will include 4 male units, one unit dedicated to females and one unit for the dually diagnosed.

We are very excited about this initiative because the AOC program has a proven track record of success. A study conducted by the University of Maryland in May 2002 found there was a 74 percent reduction in re-arrests 1 year following completion of the AOC program. Expanding the capacity of this program has obvious positive impacts on public safety and quality of life.

REENTRY AND SANCTIONS CENTER

Question. Does CSOSA's fiscal year 2005 budget include funding for the expanded operation of Reentry and Sanctions Center?

Answer. CSOSA's budget request includes only partial-year funding for fiscal year 2005 because the building renovation will not be complete until spring 2005. Fiscal year 2006 will be the first full fiscal year that all six units at Karrick Hall will be fully operational. The full-year operating cost in fiscal year 2006 will be approximately $18 million. To fund complete, annual operations would require an increase in fiscal year 2006 of approximately $5.5 million.

Question. Does CSOSA perform independent audits of its budget and finances? What are the results of such audit, including audit findings and status of corrective actions?

Answer. Although not required by the Chief Financial Officers Act or other Federal law or regulation, since inception CSOSA's Funds Control policy required an annual audit of our budgetary financial statement (Statement of Budgetary Resources). The auditing firm of PriceWaterhouseCoopers (PWC) LLP has conducted four independent audits of CSOSA's Statement of Budgetary Resources since Agency inception. In each audit, no material weaknesses were identified and CSOSA received unqualified opinions. The audit of CSOSA's fiscal year 2002 Statement of Budgetary Resources successfully concluded in September 2003. Thus far, the only finding raised has been concerns about our ability to fulfill new and much more stringent standards resulting from legislation enacted in 2002.

FINANCIAL MANAGEMENT

Question. Please elaborate on the new legislation and standards affecting CSOSA's financial management.

Answer. The Accountability of Tax Dollars Act of 2002 (Public Law 107–289) establishes new requirements in the area of financial management for all small agencies. These are the same financial and audit requirements which the larger cabinet level agency have been subject to for the past several years. The Act requires all executive agencies, regardless of size, to prepare and audit six financial statements versus the one Statement of Budgetary Resources currently prepared and audited by CSOSA. This will increase the scope of audit coverage and will require CSOSA to implement additional policies, systems and procedures in many areas. The changes are all positive steps in improving stewardship of taxpayer dollars, but CSOSA is struggling to put the proper infrastructure in place. It will take time and additional resources.

Question. Does the fiscal year 2005 budget include the request for financial resources to comply with the new laws affecting financial management, and if not, what is the cost and how will you deal with the problem?

Answer. We estimate the Agency-wide cost (including the Pretrial Services Agency) to be $980,000 and we will no choice but to divert funding from programs such as supervision, treatment or employee training.

Question. Within the past 2 weeks, the Washington Post reported on the arrest of a repeat sex offender who is suspected of several rapes, as well as molesting a 12-year-old girl. The Post also reported that Superior Court had sentenced the man to probation several months prior to the recent assaults but procedural errors resulted in this sex offender being unsupervised by CSOSA. Do you understand the full extent of the problems that caused this to happen? Please describe how such errors could have been avoided, or could be prevented in the future, including any resources that may be necessary.

Answer. CSOSA has closely examined this case. The exchange of data between Superior Court and CSOSA needs to be improved by increasing automation. These automated changes may require the Clerk's office to modify its existing business processes. CSOSA also needs to institute some operational changes within our Offender Intake program. We have short-term fixes in place in our attempt to ensure that we receive probation grants from the Court and input all intake data into SMART. However, we recognize the need for permanent solutions in terms of both automation and the enhancement of our Offender Intake operation. We recently completed a comprehensive review of the Offender Intake operation. The review defined organizational and procedural changes that would enhance the operation's efficiency. The review very clearly stated the need for additional resources, but more analysis is needed to accurately quantify the impact. Funding for these improvements has not been requested in the fiscal year 2005 budget.

Question. Provide the number of D.C. inmates in each Federal Bureau of Prisons facility by gender.

Answer.

DISTRICT OF COLUMBIA INMATES IN THE FEDERAL BUREAU OF PRISONS (AS OF FEBRUARY 25, 2004)

State	Facility	Males	Females	Facility Total	State Total
AL	Talladega FCI	19	.....	19	19
AR	Forrest City FCI	1	.....	1	1
AZ	Phoenix FCI	2	.....	2	2
CA	Atwater USP	19	.....	19	.....
CA	Dublin FCI	0	6	6	.....
CA	Terminal Island FCI	1	.....	1	.....
CA	Victorville Med FCI	2	.....	2	28
CO	Florence ADMAX USP	28	.....	28	.....
CO	Florence FCI	4	.....	4	.....
CO	Florence High USP	29	.....	29	.....
CO	Denver CCM	1	.....	1	62
CT	Danbury FCI	0	84	84	84
DC	D.C. Community Corrections	199	20	219	219
FL	Coleman Med	24	1	25	.....
FL	Coleman USP	182	.....	182	.....
FL	Marianna FCI	9	.....	9	.....
FL	Miami FCI	1	.....	1	.....
FL	Petersburg FCI	48	.....	48	.....
FL	Tallahassee FCI	1	16	17	282
GA	Atlanta USP	354	.....	354	.....
GA	Jesup FCI	19	.....	19	373
IL	Greenville FCI	13	.....	13	.....
IL	Marion USP	28	.....	28	.....
IL	Pekin FCI	4	.....	4	45
IN	Terre Haute USP	193	.....	193	193
KS	Leavenworth USP	218	.....	218	218
KY	Ashland FCI	6	.....	6	.....
KY	Lexington FMC	20	10	30	.....
KY	Manchester FCI	32	.....	32	68
LA	Oakdale FCI	1	.....	1	.....
LA	Oakdale FDC	3	.....	3	.....
LA	New Orleans CCM	1	.....	1	5
MA	Devens FMC	38	.....	38	.....
MA	Boston CCM	1	.....	1	39
MD	Cumberland FCI	214	.....	214	.....
MD	Baltimore Community Corrections	26	2	28	242
MI	Milan FCI	3	.....	3	.....
MI	Detroit CCM	1	.....	1	4
MN	Rochester FMC	18	.....	18	.....
MN	Sandstone FCI	1	.....	1	.....
MN	Minneapolis CCM	3	.....	3	22
MO	Springfield USMCFP	61	.....	61	61
MS	Yazoo City FCI	2	.....	2	2
NC	Butner FMC	65	.....	65	.....
NC	Butner Low	17	.....	17	.....
NC	Butner Med	48	.....	48	.....
NC	Seymour Johnson FPC	11	.....	11	.....
NC	McRae CI	18	.....	18	.....
NC	Rivers CI	1,119	.....	1,119	.....
NC	Raleigh CCM	2	.....	2	1,280
NJ	Fairton FCI	109	.....	109	.....
NJ	Fort Dix FCI	44	.....	44	153
NY	Brooklyn MDC	5	.....	5	.....
NY	Otisville FCI	63	.....	63	.....
NY	Ray Brook FCI	39	.....	39	107
OH	Elkton FCI	9	.....	9	9
OK	El Reno FCI	3	.....	3	.....
OK	Oklahoma City FTC	30	.....	30	33
OR	Sheridan FCI	2	.....	2	2
PA	Allenwood Low	10	.....	10	.....
PA	Allenwood Medium	95	.....	95	.....
PA	Allenwood USP	259	.....	259	.....

DISTRICT OF COLUMBIA INMATES IN THE FEDERAL BUREAU OF PRISONS (AS OF FEBRUARY 25, 2004)—Continued

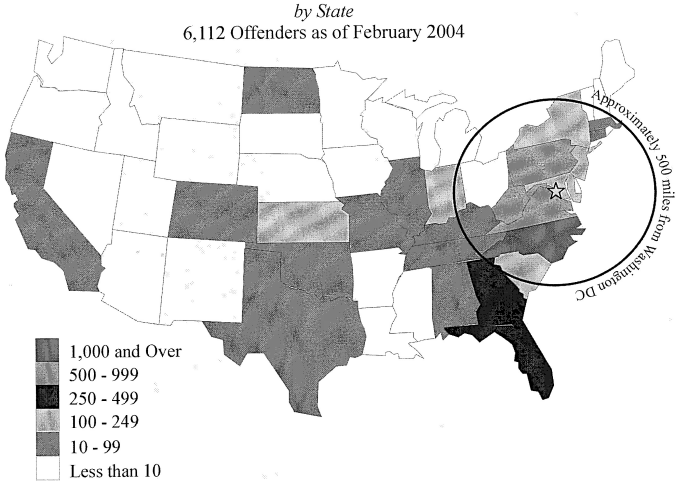
State	Facility	Males	Females	Facility Total	State Total
PA	Lewisburg USP	258	.....	258	.....
PA	Loretto FCI	3	.....	3	.....
PA	McKean FCI	85	.....	85	.....
PA	Philadelphia FDC	21	9	30	.....
PA	Schuylkill FCI	145	.....	145	.....
PA	Philadelphia CCM	2	1	3	888
SC	Edgefield FCI	125	.....	125	.....
SC	Estill FCI	49	.....	49	174
TN	Memphis FCI	31	.....	31	.....
TN	Nashville CCM	1	.....	1	32
TX	Beaumont Low	3	.....	3	.....
TX	Beaumont USP	46	.....	46	.....
TX	Carswell FMC	0	16	16	.....
TX	Fort Worth FMC	7	.....	7	.....
TX	Texarkana FCI	1	.....	1	.....
TX	Three Rivers FCI	1	.....	1	74
VA	Lee USP	409	.....	409	.....
VA	Petersburg Med FCI	281	.....	281	690
WI	Oxford FCI	4	.....	4	4
WV	Alderson	0	67	67	.....
WV	Beckley FI	161	.....	161	.....
WV	Big Sandy USP	147	.....	147	.....
WV	Gilmer FCI	235	.....	235	.....
WV	Morgantown FCI	87	.....	87	697
	TOTAL	5,880	232	6,112	6,112

Court Services and Offender Supervision Agency

Distribution of District of Columbia Offenders

by State

6,112 Offenders as of February 2004



PRETRIAL SERVICES AGENCY

Question. According to the fiscal year 2005 Pretrial Services Agency budget submission, the current caseload for defendants who are "extensively supervised" is 127:1. What types of charges are included in "extensively supervised" cases, what type of supervision is provided, and what, if any, implications does this have for public safety? If this is not the appropriate caseload ratio, what is? What, if any, resources are needed to achieve public safety goals? What changes to supervision practices would be expected if caseloads were reduced?

Answer. Within the General Supervision program, defendants who pose a higher level of risk to community safety or of not returning to Court are classified as in need of "extensive supervision." Defendants who fall into this category have been charged with a wide range of offenses—from misdemeanors to dangerous and violent felonies. Many of the felony defendants are eligible for pretrial detention based on their charge (i.e., robbery, burglary, possession with intent to distribute), but the Court has determined that placement in the community under extensively supervised release conditions should initially be ordered. The Court's expectation is that, in order to ameliorate the risk to public safety while on pretrial release, conditions such as drug testing and regular reporting will be closely supervised by PSA.

With the current high caseload ratios, PSA is not able to provide the supervision expected by the Court or required by PSA's internal policies and procedures. In fiscal year 2002, General Supervision Pretrial Service Officers (PSO's) were unable to respond to over half of defendants' condition violations, such as noncompliance with drug testing and contact requirements. Currently, PSO's often cannot respond quickly to violations of release conditions and, in many instances, defendants are testing positive for illegal drugs for many months until they have a court date where the PSO is finally able to respond. This is particularly troubling with high risk felonies pending indictment, where the first court date after the preliminary hearing is often many months after the defendant has been released to PSA. During that time, because the PSO's are "managing" their caseloads on the basis of court dates rather than providing extensive supervision, warrant checks and criminal records checks are not regularly done to see if defendants have been arrested again in a neighboring jurisdiction while on release. Curfew conditions are not monitored by visits to defendants' homes. Treatment or employment opportunities are not pursued. In short, these higher risk defendants are not being appropriately supervised, at considerable risk to public safety.

Information provided by two neighboring Federal pretrial districts under the Administrative Office of the U.S. Courts indicates that their caseloads average between 42:1 and 64:1 (Eastern District of Virginia 42:1, District of Maryland 64:1). If PSA were to reduce extensive supervision caseloads to 60:1, it would require the following resources:

PSO'S REQUIRED FOR CASELOADS AT 60:1 (AVERAGE MARCH-JUNE 2003)

Extensive Supervision	Cases	Current PSO's (121:1)[1]	Additional Required for 60:1	PSO Total 60:1
Felony	1,346	11	11	22
Violent Misdemeanor	412	3	4	7
Domestic Violence	547	5	4	9
Nonviolent Misdemeanor	1,338	11	11	22
Total	3,643	30	30	60

[1] Caseloads fluctuate over the year depending on whether the Court orders "extensively supervised" or monitored conditions. This depends on the risk level of the particular defendant. The Extensive Supervision breakdown reflects an average from March through June, 2003 when the ratio was 121:1. The 127:1 ratio addressed in the question represents the period from March through September, 2003.

With additional resources, pretrial services officers would be able to initiate case management of defendants with extensive supervision conditions. Supervision plans would be established that would include the following:

—provide orientation with defendants so that they are advised about supervision/program requirements;
—assess defendant's needs and risks by reviewing the bail report/risk assessment and by completing a social services needs screener;
—conduct regular warrants and criminal history checks to ensure there has not been a rearrest in a neighboring jurisdiction while on release;
—assess and refer defendants for substance abuse, mental health needs, or social services where appropriate and resources permit;

—execute contracts for sanctions-based substance abuse treatment where appropriate and resources permit;
—monitor conditions of release throughout the case so that non-compliance can be reported expeditiously to the court instead of only on court dates;
—respond expeditiously to non-compliance with release conditions through sanctions or referral to appropriate resources such as treatment or a request for judicial action;
—respond to non-compliance with drug testing after three drug testing infractions within 30 days rather than only on court dates;
—report to the court and investigate loss of contact with the defendant; and
—administer and recommend incentives where appropriate.

Question. Many Federal agencies have not received full funding for pay raises in the last several years. What impact does this have on the Pretrial Services Agency's ability to meet program goals?

Answer. Pretrial Services Agency's ability to accomplish our program goals relating to Risk and Needs Assessment, Close Supervision, Treatment and Services, and Partnerships is directly tied to our ability to hire our authorized 325 FTE. Since our certification as an independent entity within CSOSA in August of 2000, PSA has experienced significant but mission-essential program growth in the areas of staff and contract treatment. During this short period of time, PSA has been very successful in incrementally establishing the necessary infrastructure to support our growing FTE level; and now we need to maintain this FTE level to successfully provide front-line services to defendants and accomplish our mission.

By fiscal year 2005, the cumulative impact of the unfunded pay raise increment, the difference between the President's Budget and Congress's enacted authorization, could well be over 5 percent of payroll, or over $1 million. As a small agency where approximately 72 percent of our fiscal year 2005 funding goes into salaries and benefits, there are few options to address this increment beyond reducing staffing or reducing treatment dollars, which directly impacts the achievement of program goals. For example, with the option utilized this fiscal year, fiscal year 2004, approximately 16 positions were not filled until February to help address the fiscal year 2004 pay raise increment of 2.1 percent, or $565,000 (difference between 2.0 percent in the budget and the 4.10 percent actual).

Conversely, reducing available FTE will incrementally increase supervision caseload ratios. Higher caseload ratios, particularly in an area such as General Supervision, where the ratios are already too high, can only cause increased concern for public safety. For fiscal year 2005, to address the potential unfunded pay raise increment of approximately 1.8 percent, or $486,000.00 (difference between the 1.5 percent in the budget and the possible parity pay with DOD at 3.5 percent), PSA will be confronted with not being able to fill vacancies and/or a reduction in contract treatment funding.

COMMUNITY COURT

Question. What is the role of PSA with the D.C. Superior Court's Community Court? Does PSA have resources that are adequate to support this initiative?

Answer. The District of Columbia Superior Court launched the East of the River Community Court (ERCC) in September 2002, and it was expanded in the fall of 2003. The ERCC shifted case management from a traditional case processing orientation to a problem-solving system of supervision. The general philosophy of the Court is grounded in a therapeutic and restorative justice model, incorporating an active connection with the community. Problem-solving is achieved by assessing individual needs and tailoring meaningful solutions through drug testing, substance abuse treatment, job training, other social services and community service. PSA assessment and supervision practices have been modified to respond swiftly and frequently to assist the Court in making informed decisions about release conditions intended to problem-solve individual need and to assure appearance in court and public safety. Accountability is enforced by PSA to improve the defendant's sense of value to the community, as well as to prevent the defendant from becoming involved in further criminal behavior. Today, a few PSO's within the General Supervision program are supervising 482 defendants released through the ERCC, and 433 of those defendants have a drug testing condition.

Managing individual needs of defendants processed through the ERCC involves a labor-intensive effort by PSO's. Defendants who opt for trial or agree to diversion are released with a variety of release conditions intended to support problem-solving. PSO's spend added time with defendants attempting to instill a desire for self-improvement and community awareness while maintaining the system's requirements of assuring defendants' return for court dates and safety of the community.

In some instances, PSA supervises dual sets of release requirements for an individual defendant. Diversion agreements with the prosecutor and court-ordered release conditions are simultaneously imposed and fashioned to promote personal change. The PSOs' productivity levels are increased by the two sets of release requirements and the types of conditions imposed. Defendants need time to modify negative behaviors or to make retribution to the community through community service. As a result, the supervision period is lengthened. Non-compliance with problem-solving strategies prolongs the length of a case as PSO's attempt to work with defendants for successful outcomes. When defendants succeed at diversion, prosecutors prefer to keep their cases open for an extended period to ensure continuing compliance. Defendants who fail diversion opportunities and request a trial automatically extend the pretrial supervision period.

PSA resources are not adequate to effectively continue under the community court model. Although the Court would like to expand the reach of the community court to other districts beyond 6D and 7D, PSA does not have sufficient staff or treatment dollars to support such an expansion. Misdemeanor cases that usually average 170 days can end up on the court docket for longer periods, sustaining the need for PSA oversight and treatment funds. Resources are stretched thin to cover the variety of release requirements, to manage the high-maintenance nature of problem-solving, and to prolong supervision to promote successful outcomes or to support a second period of supervision.

DRUG TREATMENT

Question. PSA last received an increase in contract drug treatment funding in fiscal year 2002 to address the defendant population. How many defendants have drug use problems? To what extent is this funding sufficient to meet the demand for treatment? What controls are in place to ensure that these resources are used most efficiently and effectively?

Answer. PSA cannot currently meet the entire substance abuse treatment need in its supervision population. Although defendants frequently are not under pretrial supervision for the period of time necessary to complete an entire treatment regime (placement in detoxification, residential and outpatient treatment sometimes followed by transitional housing), it can reasonably be expected that the typical defendant in need of treatment would receive up to two placements while under PSA supervision.

During fiscal year 2003, there were approximately 3,700 defendants who had at least three drug testing violations while under pretrial supervision. Defendants are referred for comprehensive substance abuse assessments after three positive drug tests, and approximately 96 percent of those assessments reflect a need for treatment. PSA drug-using defendants in fiscal year 2003 needed approximately 7,104 substance abuse treatment placements (3,700 defendants × 2 treatment placements each @ 96 percent). In-house and contract treatment placements totaled 1,958 in fiscal year 2003, and 215 additional substance abuse placements were made with externally funded community-based providers, a total of approximately 31 percent of the potential need. These placements served approximately 1,200 defendants.

PSA has established and implemented significant best practice controls consisting of both manual and automated processes to ensure that the application of contract drug treatment funding is efficiently and effectively optimized.

PSA has an active contract treatment services quality control program in place, and quality assurance of the services is written into the contracts by the incorporation of the D.C. Department of Health standards for drug treatment facilities. Quality is a major evaluation factor in awarding the treatment services contracts. Each offeror is required to submit a quality assurance plan for providing services to PSA. The treatment facilities must be certified under the D.C. standards for a treatment facility, and evidence of that certification is required for award of the contracts. The treatment services contracts are closely monitored by the Treatment Branch, Contract Treatment Services Unit, Contracting Officer Technical Representatives (COTR's). The COTR's make scheduled and unscheduled site visits to the treatment facilities, inspecting the services provided and utilizing a quality assurance plan and checklist to ensure compliance with the contract terms and conditions. Issues, or potential issues, resulting from site visits are immediately coordinated with a PSA Contract Officer and addressed with the respective vendors.

Initial treatment placements are made by the COTR's utilizing an automated Task Order writing subsystem, which is an on-line, real-time application integrated with PSA's case management system for defendants and the internal funds control system, producing timely, reliable, and accurate information. Treatment vendor invoices are received by PSA's Accounting Section and reconciled with the automated

Task Order writing subsystem. This process allows for continuous maximum use of available funds. For defendants who are placed on probation, the COTR's coordinate with CSOSA to transfer the defendants into the CSP offender supervision program without interruption of treatment services or creating duplicate obligations.

Question. How many defendants did the Pretrial Services Agency supervise over the course of fiscal year 2003? What was the rate of rearrest for pretrial defendants while under the supervision of the agency? What is the rearrest rate for drug users in contrast to non-drug users?

Answer. In fiscal year 2003, the Pretrial Services Agency supervised a total of 20,948 defendants. These defendants represent 26,589 cases, meaning that some defendants have multiple cases and have been placed on pretrial release and supervised more than once. This may occur when a defendant is on release in one case and is rearrested on a different case, either during the period of pretrial supervision, or after the defendant's period of supervision is over.

Twelve percent of PSA's defendant population was rearrested at least once during the period of pretrial supervision. As would be expected from the research documenting the links between drug use and crime, drug-using defendants (defined as those with at least one positive drug test) have higher rearrest rates than non-drug using defendants. In fiscal year 2003, 17 percent of drug-using defendants were rearrested as compared to only 2 percent of non-drug using defendants.

The fiscal year 2003 rearrest rate is marginally lower than the rates from the previous 2 years. In fiscal year 2001, the rearrest rate for all defendants was over 13 percent, with 19 percent of drug-using defendants rearrested, and a little over 6 percent of non-drug using defendants rearrested. In fiscal year 2002, the overall rearrest rate was over 14 percent, with over 20 percent of drug-using defendants rearrested, and 7 percent of non-drug using defendants rearrested.

Question. What is the status of PSA's defendant case management system?

Answer. Version 1.0 of PRISM, Pretrial's case management system, was deployed in March, 2002. This release supported all aspects of defendant supervision, case management, drug test results, and substance abuse treatment. Version 1.5 was deployed in January, 2003, and added automated case assignment and task management functions. Version 2.0 development effort will be completed during the 4th quarter of fiscal year 2004. Staff training will begin in fiscal year 2004 with deployment slated for 1st quarter, fiscal year 2005. Version 2.0 will incorporate criminal history, arrest processing, and bail reports to court, and will replace the Agency's legacy ABA DABA (Automated Bail Agency Database) and DTMS (Drug Test Management System) information systems.

In future versions, we hope to automate the release order process and create an electronic release order. The release order is the initial document that places a defendant under Pretrial Services supervision. Currently, the release order is a multipart paper form, which is prepared manually by PSA and court staff in the courtroom and signed by the judge. PSA staff manually enters information on the release order into PSA's case management system.

Over 30 courtrooms in D.C. Superior Court prepare and forward release orders to PSA throughout the week. Incomplete or illegible release orders or orders not received by PSA are common problems. Breakdowns in the manual process of transmitting release orders ultimately result in defendants not being supervised. Timeliness in posting new release conditions or any bond changes is paramount to effective supervision. Accuracy of on-the-record release conditions is also essential to ensuring the appropriate release conditions are imposed and supervised.

Automation of this process would create an electronic release order, which could be generated in the courtroom, with printed copies available immediately for all relevant parties. Information could be posted real-time to both Pretrial Services' and D.C. Superior Court's information systems, assuring that both systems had reliable, timely, and accurate information.

QUESTIONS SUBMITTED BY SENATOR MARY L. LANDRIEU

RE-ENTRY AND SANCTION CENTER

Question. Please provide the schedule for renovation of Karrick Hall and how long the agency intends to remain in this facility, as part of the Reservation 13 master plan.

Answer. In September 2002, CSOSA signed a 10-year lease with the District of Columbia for the use of Karrick Hall as CSOSA's Re-entry and Sanctions Center. From September 2002 to June 2003, CSOSA, the D.C. government, and several stakeholders worked to resolve planning issues, including the transfer of control of

the land from the Federal Government to the DC government and the siting of the CSOSA facility within the framework of the Reservation 13 Master Plan. In June 2003, CSOSA reached agreement with the City to proceed with the renovation of Karrick Hall. A contract for Architectural and Engineering Design and Construction Management was signed in September 2003 and complete renovations are scheduled to be complete in Spring 2005. CSOSA plans to continue full operations at Karrick Hall at least throughout the term of the existing lease.

Karrick Hall is a 60,000 square foot 8-story building constructed on the grounds of the D.C. General campus circa 1961. Since 1996, Karrick Hall has been the home of the Assessment and Orientation Center. The AOC program is a model program CSOSA now operates in partnership with the Washington Baltimore High Intensity Drug Task Force program, also known as HIDTA. When Karrick Hall is complete, the AOC will become CSOSA's Reentry and Sanctions program.

On February 27, 2004, the AOC vacated Karrick Hall and moved into a temporary location at 1301 Clifton Street, NW. The AOC will be at 1301 Clifton until the renovation is complete, in the spring of 2005.

The renovations include:

—Replacing the building's infrastructure (installing all new plumbing, electrical, windows and exterior architectural features as well as a new heating and air condition systems and fire systems);

—Installing two new elevators in place of the existing units;

—Installing new restrooms and ensuring all new systems meet the requirements of the Americans with Disabilities Act and other handicap accessibility requirements.

When renovations are completed in Spring 2005, the Reentry and Sanctions Center will expand to 108 beds, which will service 1,200 offenders and defendants annually. The program will include four male units, one unit dedicated to females and one unit for the dually diagnosed. CSOSA's Fiscal Year 2005 Budget request contains funding for partial-year operations of all six units in fiscal year 2005.

We are very excited about this initiative because the AOC program has a proven track record of success. A study conducted by the University of Maryland in May 2002 found there was a 74 percent reduction in re-arrests 1 year following completion of the AOC program. Expanding the capacity of this program has obvious positive impacts on public safety and quality of life.

SUPERVISION AND TREATMENT

Question. What role does drug treatment play in reducing recidivism?

Answer. Research supports the conclusion that effective drug treatment plays a significant role in reducing recidivism. Nationally, it is estimated that drug treatment results in a 45 percent reduction in criminal behavior in the 2 years following successful completion of treatment. A similar trend is seen in research conducted on participants of the Baltimore/Washington High Intensity Drug Trafficking Area (HIDTA) treatment continuum, the system on which CSOSA's substance abuse treatment continuum is based. The HIDTA program, which is grant-funded through the Office of National Drug Control Policy, targets geographic areas identified as having high concentrations of drug-related criminal activity, such as the Baltimore/Washington area. The evaluation of the Baltimore/Washington HIDTA treatment program was conducted by the University of Maryland and showed that the overall arrest rate for HIDTA treatment participants dropped 51 percent, and the arrest rate for participants of the HIDTA Assessment and Orientation Center, which is operated by CSOSA, dropped 74 percent in the 12 months following successful completion of the program.

Within CSOSA, we are currently developing a system to evaluate the impact of treatment on recidivism. The integration of an automated treatment tracking module with our SMART case management system during fiscal year 2003 allows us for the first time to analyze the impact of treatment on criminal behavior. During fiscal year 2003, drug related violations accounted for 58 percent of all technical violations reported for the year. We anticipate that our outcome analysis will mirror the findings of both the national and HIDTA outcome studies and will show a reduction in recidivism and technical violations amongst offenders who were referred to and successfully completed a continuum of treatment services during fiscal year 2003.

Question. How many offenders and defendants are served by drug treatment, compared with the population identified as in need of treatment?

Answer. CSOSA estimates that approximately 4,100 chronic substance-abusing offenders required treatment interventions in fiscal year 2003, based on the number of offenders who tested positive for cocaine, heroin or PCP two or more times. It is important to note that CSOSA also supervises offenders who test positive fewer

than two times that are also in need of treatment services. For purposes of this analysis 4,100 offenders will be used as a low-end estimate.

Each offender, on average, requires 3 placements to satisfy treatment-programming requirements. For example, offenders with chronic substance abuse histories are most often referred to detoxification followed by residential and outpatient services.

Using the estimates described above, CSOSA requires the ability to make a minimum of 12,300 substance abuse placements per year (4,100 offenders × 3 treatment placements) to meet the population's need. The fiscal year 2003 appropriation enabled CSOSA to make 2,021 treatment placements, or just 16 percent of the total estimated need.

Approximately 40 percent of offenders needing treatment are supervised at the Intensive or Maximum level, indicating a relatively high level of risk to public safety. CSOSA has focused treatment resources on this population to meet a higher percentage of need among the highest-risk offenders.

Question. What kinds of programs are people placed in? Residential or out-patient? How do you determine which service providers offenders are referred to?

Answer. CSOSA currently provides the following substance abuse services:

—7-Day Medically Monitored Detoxification,
—28-Day Intensive Residential Treatment,
—120-Day Residential Treatment,
—120-Day Residential Treatment and Transitional Housing for Women with Children,
—180-Day Residential Treatment for Dually-Diagnosed Substance Abusers,
—90-Day Supervised Transitional Housing,
—Intensive Outpatient and Outpatient Treatment,
—Traffic Alcohol Education Services.

In addition to the services above, CSOSA also provides the following in-house interventions:

—Substance Abuse Education Groups,
—Assessment/Orientation Groups (Pre-treatment services),
—Anger Management Groups,
—Sanction Groups.

The level of treatment recommended for each offender is determined by an evaluation conducted by CSOSA staff. The evaluation considers a variety of factors including pattern of drug use; amenability to treatment; prior treatment history; risk to public safety; and employment/living status.

Question. How does CSOSA coordinate supervised release with drug treatment and counseling if those services are not provided at the halfway house?

Answer. CSOSA does not provide treatment services to offenders residing in the halfway house on "inmate" status. For those individuals, the Bureau of Prisons provides contract treatment services. When the individual is released, the individual continues treatment under CSOSA's contract with the same vendor.

CSOSA staff assess offenders who reside in the halfway house on "released" status (parolee, supervised releasee or probationer under a Public Law placement) to identify their specific treatment needs. The offenders are permitted to leave the halfway house to attend substance abuse treatment sessions at the identified treatment program. Upon leaving the halfway house, the offender's treatment continues and, if needed, the offender is referred to the next level of care.

Offenders who enter supervision with no prior halfway house stay are assessed for treatment needs as part of CSOSA's intake and case planning process. If the offender has a release condition requiring treatment, placement is initiated at that time.

Once the individual is under CSOSA supervision, the Community Supervision Officer (CSO) is responsible for ensuring that the offender is in full compliance with the treatment plan, sanctioning the offender for any behavioral non-compliant acts, meeting with the treatment professional to facilitate offender compliance, monitoring the offender until successful completion of treatment, or referring the offender back to the releasing authority if continued non-compliance with treatment results in removal from treatment or unsatisfactory compliance.

SUCCESS RATE OF WOMEN OFFENDERS RE-ENTERING THE COMMUNITY

Question. What specific steps or initiatives are underway to enable successful reentry of women?

Answer. Currently, CSOSA's Community Supervision Program (CSP) has several gender-specific programs to address the needs of female offenders. CSP contracts for residential placements in gender-specific residential programs, such as Demeter

House, which treats chemically-addicted mothers, who may be accompanied by their children while in the program. The Substance Abuse and Treatment Branch also provides weekly in-house group sessions for women. In addition, the Transitional Intervention for Parole Supervision (TIPS) program has a community supervision officer on-site at the Fairview Community Corrections Center to assist women with reentry issues. The Fairview CCC also may be used for public law placements and as an intermediate sanction for high risk/needs women offenders.

CSP is working to expand gender-specific programs. The expanded Reentry and Sanctions Center will contain a unit for female offenders. Additionally, a team of managers received training at the National Institute of Corrections Academy last year on implementing effective agency-wide programs for female offenders. The members of this team now are leading a work group to implement these strategies around such issues as victimization and trauma, mental health and medical problems, family and child rearing, and economic self-sufficiency. The Agency is working to:

—Implement additional, in-house gender-specific group counseling programs and training group facilitators;
—Develop a comprehensive training curriculum that provides information/tools for line staff and administrators to effectively manage female offenders;
—Compile a resource guide to ensure that Community Supervision Officers are aware of, and have access to, available in-house, community and government programs;
—Work with our faith-based partners to female women offenders are linked to mentors;
—Strengthen partnerships with the many community organizations and government agencies that provide services to this population; and
—Arrange child-care opportunities with our community partners to allow female offenders to engage in programming and supervision activities.

Question. Does CSOSA coordinate with the Child and Family Services Agency (CFSA) or D.C. Public Schools to follow-up on women re-entering family life?

Answer. CSOSA makes every effort to connect returning offenders with programs and services that can help them achieve successful reintegration in the community. While there is no agency policy requiring coordination, Community Supervision Officers (CSO's) informally confer and collaborate with the city's social services agencies on cases in which there is a common interest. The CSO may need to be aware of services the offender or her children receive from CFSA, or the CSO may initiate referral for such services. Typically, if the offender needs educational programming, s/he will be referred to a Learning Lab for assessment. The Learning Lab may refer the offender to D.C. Public Schools evening programs if appropriate.

CRIMINAL JUSTICE COORDINATING COUNCIL

Question. Is the CJCC well-equipped in its current status to continue to aide in the creation of seamless criminal justice services that enhance public safety and maximize resources?

Answer. Over the course of 2003-2004, the CJCC has been able to strengthen its position within the criminal justice community as a resource tool and a catalyst for system reform, institutional modification and program analysis. In January of 2003, the member agencies of the CJCC made a commitment to address a variety of issues by completing a multi-year strategic plan. These issues are being addressed through committees and workgroups using a process of careful investigation and recommendations. CJCC provides support to these workgroups through research, data collection and tracking. The CJCC is now in the process of completing its second, annual report for fiscal year 2003.

There is a general improvement in the trust and solicitation of multiagency approaches to problem solving which can only make the city services stronger and more efficient. Through the CJCC there has been the successful establishment of an infrastructure to support these multiagency efforts, report on progress and measure success. The support of the Mayor, D.C. Council, OMB and Congress has provided a strong foundation for the development of the CJCC.

RE-ARREST RATE AND PAROLE REVOCATION

Question. Would you please submit to the committee a comparison of the re-arrest rates and parole revocation hearings in the District to other jurisdictions of similar size? (Please coordinate response with PDS).

Answer. The percentage of offenders arrested while under CSOSA supervision was 18 percent in fiscal year 2002 and 15 percent in fiscal year 2003. Although comparable neighboring jurisdictions (i.e., Baltimore and Richmond) do not report their

rearrest data in a similar fashion, we will soon move to a more comparable reporting format—recidivism rates measured over a 24- to 36-month period for entry and exit cohort offender populations.[1]

To accomplish the above reporting objective, CSOSA is exploring a data sharing agreement with the Federal Bureau of Investigations. This particular agreement will enable the agency to implement its recidivism studies by verifying and tracking all known and reported rearrests contained in the FBI's National Crime Information Center (NCIC). Once in place, ORE will collect and verify all known arrests for stratified random samples of entry and exit cohorts. We hope to begin reporting our 24- and 36-month rearrest rates beginning in the summer of 2005 and on a regular basis thereafter.

Between fiscal year 2001 and fiscal year 2003, the United States Parole Commission reported 768, 1,072, and 1,240 revocation hearings for D.C. offenders respectively. These hearings fall into three categories—institutional, expedited, and local. Only local revocation hearings require the presence of CSOSA's CSO's for introduction of facts.[2] A large share of these revocations resulted from hearings that were requested following an offender's persistent drug use and/or technical violations regardless of rearrest or prosecutorial decision to present charges to the judiciary.[3]

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[1] In January 2003, the Virginia Department of Corrections released a 3-year recidivism study indicating that nearly 30 percent of roughly 9,000 offenders returned to incarceration. Of those who returned, the greatest share returned within the first year.

[2] USPC [actual] local revocation hearings were 481 in fiscal year 2001, 660 in fiscal year 2002, and 562 in fiscal year 2003.

[3] The Virginia study also indicated that nearly of third of recidivists were revoked to incarceration following technical violation and the remaining following arrests for a new charge.

PUBLIC DEFENDER SERVICE

STATEMENT OF RONALD S. SULLIVAN, JR., DIRECTOR

Senator DEWINE. Let me invite our second panel up, which is one witness. Mr. Ronald Sullivan, Jr. is Director of the Public Defender Service in the District of Columbia. He was appointed Director in June 2002. Mr. Sullivan was in private practice here in the District and was a visiting attorney for the Law Society of Kenya. He sat on the committee charged with drafting a new constitution of that country.

Mr. Sullivan is leaving the Public Defender Service this summer to take a professorship at Yale. We welcome him.

Mr. Sullivan, thank you for being here today.

Mr. SULLIVAN. Thank you very much.

Senator DEWINE. Would you like to make a statement? And then we will have some questions.

Mr. SULLIVAN. Indeed, I would.

Good morning, Mr. Chairman, Senator Landrieu.

INTRODUCTION

I come before you today in support of the fiscal year 2005 budget request on behalf of the Public Defender Service for the District of Columbia, or PDS as we are commonly known as in the criminal justice system.

Throughout its history, PDS has maintained its reputation as the best public defender service in the country, local or Federal. PDS is a legal services provider that this Congress, this subcommittee, and this City can be proud of.

Our track record, both historically and recently, speaks for itself. Indeed, just this past summer the United States Supreme Court appointed one of our attorneys to a case of national importance. The case regarded the construction and application of 42 U.S.C. Section 1983, which forbids State officials from depriving individuals of their Constitutional rights under color of State law.

The exquisitely graceful brief produced by our attorney on behalf of a prison inmate proved convincing. Last Thursday, the Supreme Court ruled in a 9–0 opinion, adopting PDS's position. I ask you, when was the last time you recall this Supreme Court agreeing 9–0 on anything?

PDS'S FISCAL YEAR 2005 BUDGET REQUEST

With this backdrop, I move to PDS's fiscal year 2005 request. PDS requests $29.8 million and 227.5 FTE in direct budget authority. This request includes $2.3 million as our first ever capital investment in information technology.

The investment will provide for development of our case data management systems. It will enhance our security over privileged

attorney/client information, and it will reduce our risk of losing client information in the event of a local disaster.

Indeed, recently, the Cook County defender office in Chicago was virtually destroyed by fire. This sort of disaster can occur, and if the institutional defender service is not prepared, we risk grinding the criminal justice system to a halt.

Coupled with this technology investment, we are targeting to improve PDS's operational efficiencies in the areas of program planning and development, administration, human resources, and financial management. There is far more detail in my written submission, but suffice it to say PDS's skeletal professional support staff is woefully inadequate to support an agency of this size and scope.

PDS'S FISCAL YEAR 2004 ACCOMPLISHMENTS

Now, briefly to fiscal year 2004 accomplishments: As this subcommittee knows from recent press accounts, PDS, in its class action litigation against the District, recently filed a motion to place the D.C. Youth Services Administration in receivership as a consequence of its nearly two-decade long neglect of the District's most needy children. The District's lack of compliance with dozens of court orders to date is not acceptable.

In addition to its class action litigation, PDS represents individual citizens one at a time when they are faced with criminal charges.

One example illustrates how PDS affects the lives of D.C. citizens. Recently we represented a 70-year-old man. Let me call him John, so as not to further the injustice brought upon him. John was charged with felony gun possession. He had never been in trouble before. He worked part-time as a special police officer and was licensed to carry a handgun while on duty and to and from his home to work.

One day after work, he stopped at the headquarters—the headquarters of the special police officer's department—to pick up some work related paperwork. He forgot to remove his handgun before walking into the building, since, technically speaking, he did not work at the headquarters.

As a result of this mistake, John was arrested and faced the possibility of a felony conviction with a 5-year prison sentence. The conviction would have cost him his job, his means to supplement his retirement, and his spotless reputation, which he had built over 70 years.

Fortunately, John was represented by a well-trained public defender. The result—it took John's jury 10 minutes to elect a foreperson and render a verdict of not guilty.

PDS seeks fairness in every case it handles, and this is but one example of how PDS affects the lives of concrete people and the administration of justice in our Nation's capital. PDS's mission to represent indigent citizens in the District with diligence and zeal is clear and well defined. We do it responsibly. We do it efficiently. We do it cost effectively, but most importantly we do it well.

The Public Defender Service for the District of Columbia has been and continues to be this country's model defender agency. With your support, we will continue in this proud tradition.

PREPARED STATEMENT

I see the yellow light is on, which indicates that my time is nearly expired. I thank you for your time and attention. I would be happy to answer any questions that this subcommittee may have.

Senator DEWINE. Thank you very much.

[The statement follows:]

PREPARED STATEMENT OF RONALD S. SULLIVAN, JR.

Good afternoon, Mister Chairman and members of the subcommittee. My name is Ronald S. Sullivan, Jr., and I am the Director of the Public Defender Service for the District of Columbia (PDS). I come before you today to provide testimony in support of PDS's fiscal year 2005 budget request. We thank you for your support of our programs in previous years.

The Public Defender Service, unique among local public defender offices in that it is federally funded,[1] has continued to maintain its strong reputation in the area of providing quality criminal defense representation in the District of Columbia. Just last week, the United States Supreme Court, in a 9–0 opinion, ruled for a PDS client in a case briefed and argued by a PDS attorney at the request of the Court.

This case is just the latest successful example of PDS's long history of providing quality defense representation. PDS has always been committed to its mission of providing and promoting constitutionally mandated legal representation to adults and children facing a loss of liberty in the District of Columbia who cannot afford a lawyer, and we have had numerous significant accomplishments in pursuit of that mission. However, before PDS became a federally funded entity, we did not always have sufficient funding to allow us to achieve as high a level of proficiency in our administrative functioning as we are known for in our legal representation. PDS's relatively new status as a federally funded entity[2] has created the opportunity for us to focus more on enhancing our administrative functions: in the past 7 years, PDS has established a human resources office, an information technology office, and a budget and finance office where none previously existed. To continue this "administrative maturation," PDS has a need for a more sophisticated structure that will permit not only the integration of these functions with each other and with PDS's program functions, but will permit the organization to better monitor performance and to achieve even greater results. In furtherance of these goals, PDS has already adopted Federal best practices in a number of support areas, and we are preparing to adopt additional Federal best practices in even more areas.

It is for these reasons that PDS seeks funding for our sole fiscal year 2005 requested initiative, the Program Management and Performance Integration Initiative. For fiscal year 2005, PDS requests $29,833,000 and 227.5 FTE in direct budget authority, which includes a request for 8.5 new FTE and $3,714,000 to support this new initiative. This proposed increase in personnel resources and funding—PDS's first ever Federal capital funding request—is consistent with the President's emphasis on achieving measurable results and improving operational efficiency.

BACKGROUND

Since undertaking in 1970 its intended role as a model public defender, PDS has developed and maintained a reputation as the best public defender office in the country—local or Federal. It has become the national standard bearer and the benchmark by which other public defense organizations often measure themselves. In a first ever employee survey conducted just 6 weeks ago, 99 percent of responding staff reported being proud of working at PDS. The independent firm that conducted the survey informed us that PDS received one of the highest overall scores the firm had ever observed in assessing staff commitment to an organization's mission. Congress and the District of Columbia can also be proud of this local defender office for our Nation's capital.

In the District of Columbia, PDS and the District of Columbia Courts share the responsibility for providing constitutionally mandated legal representation to people who cannot pay for their own attorney. Under the District of Columbia's Criminal

[1] As a result of the National Capital Revitalization and Self-Government Improvement Act of 1997 (the "Revitalization Act"), PDS was established as a federally funded, independent District of Columbia organization. In accordance with the Revitalization Act, PDS transmits its budget and receives its appropriation as a transfer through the Court Services and Offender Supervision Agency (CSOSA) appropriation.

[2] See n. 1.

Justice Act (CJA), the District of Columbia Courts appoint PDS generally to the more serious, more complex, resource-intensive, and time-consuming criminal cases. The Courts assign the remaining, less serious cases and the majority of the misdemeanor and traffic cases to a panel of approximately 350 pre-selected private attorneys ("CJA attorneys"). Approximately 100 lawyers on staff at PDS are appointed to represent:

—a significant percentage of people facing the most serious felony charges;
—a substantial percentage of individuals litigating criminal appeals;
—the majority of the juveniles facing serious delinquency charges;
—nearly 100 percent of all people facing parole revocation; and
—the majority of people in the mental health system who are facing involuntary civil commitment.

While much of our work is devoted to ensuring that no innocent person is ever wrongfully convicted of a crime, we also provide legal representation to children in the delinquency system who have learning disabilities and require special educational accommodations under the Individuals with Disabilities in Education Act,[3] people with mental illness who are facing involuntary civil commitment, and recovering substance abusers participating in the highly successful Drug Court treatment program.

PDS has also provided training for other District of Columbia defense attorneys and investigators who represent those who cannot afford an attorney, and provided support to the District of Columbia Courts. In addition, PDS has developed innovative approaches to representation, from instituting measures to address the problems of clients returning to the community who have been incarcerated to creating a one-of-a-kind electronic case tracking system. Other public defender offices across the country have sought counsel from PDS as they have used our work as a pattern for theirs. As Federal best practices continue to spread to the State and local level, PDS is ideally situated to become a model for how a public defender office can be operated most effectively in the 21st century.

FISCAL YEAR 2005 REQUEST

Program Management and Performance Integration Initiative

For fiscal year 2005, PDS requests $29.8 million and 227.5 FTE in total direct budget authority. This request includes $2.3 million as our first capital investment in information technology. The investment will allow us to expand our case and data management systems to provide more efficient attorney services. Software development and deployment, and associated hardware and licensing will enhance security of privileged attorney-client information and reduce our risk of loss of client information in the event of a local disaster.

Recent experience in Chicago drives home the importance to the smooth operation of the criminal justice system of ensuring that the defender organization can continue to operate even if its offices are damaged or its computer systems are destroyed. Last fall, the building housing the Cook County defender's main offices was virtually destroyed in a fire. Had the Cook County defender lacked the capacity to retrieve data from backup sources and create sufficient off site work terminals, the criminal justice system would have stalled, and representation would have been rendered ineffective.

PDS is also working to improve its operational efficiencies. PDS seeks $1.4 million as the resources needed to reach a level of sophistication in program planning and evaluation, administration, human resources, and financial management that corresponds to PDS's reputation for quality defense representation. As explained in detail in our fiscal year 2005 Congressional Budget Justification, the $1.4 million in requested support would be used for:

—program data collection and analysis;
—data system integration;
—performance planning;
—performance measurement;
—compliance with Federal standards for systems, accounting, and reporting; and
—coordination of electronic financial, personnel, and performance records.

Historically, PDS has maintained skeletal support in these critical administrative areas; however, increased performance assessment and accountability demands require that we improve our capacity in those areas. This need was also reflected in the results of the PDS employee survey; our scores were slightly lower on questions related to the quality of our administrative operations. Additional support for PDS programs and PDS attorneys will increase the potential for greater efficiency and

[3] 20 U.S.C. § 1400, et seq.

effectiveness in carrying out PDS's mission. One of PDS's goals is to maximize the time that attorneys, investigators, and social workers spend doing that for which they are best suited—developing creative and effective ways to pursue justice in the District of Columbia.

FISCAL YEAR 2004 ACCOMPLISHMENTS

During fiscal year 2004, in addition to handling a variety of criminal, juvenile, parole, mental health, and other legal matters, PDS has been very successful in instituting changes to improve the overall quality of the District of Columbia justice system.

Fiscal Year 2004 Initiative: Appellate Response Initiative

In fiscal year 2004, Congress and the President provided a program increase for PDS totaling .5 FTE, and $100,000 in support of one new initiative—PDS's Appellate Response Initiative. PDS used the funding to hire a new attorney in the Appellate Division, where the workload has increased by approximately 50 percent since the passage of the 1997 Revitalization Act without any corresponding increase in staff levels. The newest Appellate Division attorney began working just over 2 weeks ago; her work will contribute toward reducing the backlog of unfiled appellate briefs. This backlog is due to the staffing shortage and to the substantially shorter briefing schedules now being imposed generally in appellate cases by the District of Columbia Court of Appeals.

This additional resource will enhance the ability of attorneys in the Appellate Division to meet their obligations, which include providing constitutionally mandated appellate legal representation to individuals who cannot afford an attorney, responding to requests from the District of Columbia Court of Appeals and the Superior Court for amicus curiae ("friend of the court") briefs on complex or unusual issues in criminal cases, and devoting a significant amount of time to training both PDS and non-PDS lawyers.

GENERAL PROGRAM ACCOMPLISHMENTS

Criminal Justice System Reforms

PDS has remained vigilant in protecting the rights of the indigent in the District of Columbia criminal justice system in old cases and in new ones.

Well-being of Children

Throughout fiscal year 2003 and continuing in fiscal year 2004, PDS has drawn renewed attention to the conditions under which children live who have been committed to the care of the District of Columbia through the juvenile justice system. All experts agree that proper intervention in the lives of these children at this juncture is key to breaking the cycle of involvement in the system. Current conditions for committed children not only fail to advance the cause of reducing recidivism; current conditions actually promote recidivism among these children.

As a result of PDS's tireless 18-year effort in a case known as *Jerry M.*, the plight of committed children has been the object of intense examination in the media, in the political arena, and just last week in hearings before Superior Court Judge Dixon. In these hearings, PDS and co-counsel are seeking to have the District's Youth Services Administration put into receivership to finally produce the concrete changes necessary to save these children and protect the community. Whatever the outcome of this litigation, the plight of these most vulnerable children will improve because this case has put YSA on notice that the city and the public are watching. Through this lawsuit, juvenile justice experts have had an opportunity to examine the children's living conditions and recommend concrete actions that YSA or a receiver will be able to take to immediately improve the well being of committed children.

PDS has carried out this litigation while simultaneously providing services that address every aspect of a child's involvement with the court system in innumerable individual cases and in innumerable ways. Among the most important have been: (1) developing qualified attorneys to represent children by generating hours of training for court-appointed counsel who practice in the new Family Court; (2) increasing the services to children with educational disabilities through litigation handled by PDS lawyers with expertise in special education advocacy; and (3) working collaboratively with a wide variety of organizations to help children transition back to the community. This last effort is a direct result of a fiscal year 2002 initiative establishing our Community Re-entry Project, which carries on to this day.

In fiscal years 2003 and 2004, PDS approached Catholic University about providing services to girls committed to the care of the District of Columbia. With

PDS's experience and expertise, a proposal has been developed for creating a group home for girls on the university's campus, serviced by the university's graduate programs. The proposal includes long-term involvement by the university in the lives of these girls, or what experts refer to as "after-care." The proposal calls for providing school services, health care, mental health services, family services, and mentorship not only while the girls reside on campus but also after the girls leave the group home and transition back into our community. Such a wrap-around approach to caring for committed children could be developed at every university in this city. The potential of such programs for saving the lives of District of Columbia is enormous.

PDS is committed to staying on the forefront of looking for ways to improve the treatment of children involved in our court system.

Fairness in the Criminal Justice System

A logical outcome of PDS's vigorous pursuit of its mission is the attention PDS devotes to identifying and addressing questions related to fairness in the criminal justice system. PDS champions this cause in every single case it handles. Because these are too numerous to describe, we focus on three cases and one project that are illustrative.

Special police officer.—Recently in the Superior Court for the District of Columbia, our client, a 70-year-old former sergeant in the Marine Corps, was charged with felony gun possession. Our client had never been in trouble before. He operated his own security business and worked as a part time special police officer. He was licensed to carry a handgun while on duty and while traveling between his home and his work. One day on his way to work, he stopped at a District government office to drop off a form to renew his business license, forgetting that he was wearing his gun in its holster. As a result of this innocent mistake, he was arrested and charged. He faced the possibility of a felony conviction and 5-year prison sentence. The conviction would have cost him his business—his means to supplement his retirement income. Fortunately, he was represented by a well-trained and dedicated public defender. The result—it only took his jury 10 minutes to elect a foreperson and render a verdict—not guilty.

Detention order reversed.—Another example involved appellate and trial representation. Recently, PDS represented a young man charged with murder in an appeal from the trial court's decision to hold him in jail until his trial. The Court of Appeals upheld the trial judge's ruling that there was sufficient reliable evidence to justify holding our client in jail until his trial. What the trial court, the Court of Appeals, and PDS did not know at the time this appeal was argued was that the prosecutor had failed to reveal all the relevant facts during the hearing before the trial judge. Through tenacious litigation and a persistent search for the truth, PDS uncovered evidence making it clear that the government's eyewitness was very suspect: the government's eyewitness was not simply a bystander as the trial court had been led to believe, but, rather, the witness had participated in shooting the victim and had only implicated PDS's client as part of an effort to secure a deal with the government. Once PDS uncovered the truth, PDS undertook consultations at the highest levels with the United States Attorney's Office, resulting in a very unusual joint motion to vacate the Court of Appeals opinion, an opinion that was rendered on a compromised set of facts. The result—the opinion was vacated, the integrity of the court was preserved, and truth—and thus justice—prevailed. Later, the United States Attorney's Office, after weighing the merits of the murder case itself, dismissed the charges against the PDS client altogether.

Erroneous eyewitness identification.—Finally, PDS has been advancing the position for several years that eyewitness identifications can be inaccurate. Recent studies of cases where DNA has exonerated individuals have demonstrated that in the vast majority, eyewitnesses were mistaken in their identifications. Indeed, we know that defendants in the District of Columbia have been wrongfully convicted as the result of erroneous eyewitness identifications: more than a decade ago, a Superior Court jury convicted a former PDS client of multiple felonies in large part because of mistaken eyewitness testimony. After spending a year in prison, our client was exonerated by DNA evidence. Cases like these undermine public confidence in our criminal justice system. And yet, every single day, District of Columbia courts are allowing juries to evaluate eyewitness testimony without accurate information about its limitations.

Over the past 30 years, social scientists have identified many of the specific reasons that eyewitnesses make mistakes. For example, studies have shown that a witness's subjective confidence in the strength of her identification has virtually no correlation with the accuracy of the identification. Unfortunately, the lay public, uninformed that social science and empirical evidence undermine reliance on such evi-

dence, routinely misjudges what weight to give eyewitness testimony. Introduction of accurate social science evidence into the courtroom, and the use of jury instructions that accurately reflect this science, would go a long way toward preventing these kinds of errors.

PDS has already begun to lay the groundwork to update this sort of ungrounded legal thinking so that criminal cases will be decided on the basis of reliable science. PDS has developed model instructions, identified experts, and most recently conducted a jury survey to demonstrate conclusively to jurists in the District of Columbia that the average juror is not familiar with current scientific research regarding eyewitness identification and that jurors can benefit from the testimony of experts when evaluating eyewitness evidence. Bringing the law in the District of Columbia in line with more than 16 States, including Alabama, Arizona, California, New Jersey, Oklahoma, Texas; multiple Federal circuits; and the United States Army Court of Criminal Appeals is yet another example of PDS's ongoing efforts to provide quality representation.

These are but a small sample of how PDS positively affects people's lives and the administration of justice here in the Nation's capital.

OTHER PROGRAM ACCOMPLISHMENTS

PDS engaged in a number of activities during fiscal year 2004 that improved the overall administration of justice or that had significant implications for individual clients.

Appellate Division

The Appellate Division's appellate litigation has impact throughout the District's criminal justice system as decisions in their cases often establish or clarify the standards trial court judges and litigants must follow in criminal and juvenile cases. The complex and novel legal issues the Division is called upon to address therefore are best handled by experienced and talented attorneys—which the Division has no lack of. As previously noted, in fiscal year 2003, even the highest court in the land looked to the Appellate Division for assistance.

Supreme Court litigation.—The Supreme Court of the United States appointed an attorney from the Division to represent an incarcerated man where the Federal courts of appeals had issued conflicting opinions on the applicability of a rule to lawsuits challenging the conditions of confinement, but not implicating the fact or duration of confinement, i.e., matters lying at the core of habeas corpus jurisprudence. The Supreme Court recently ruled unanimously in favor of the arguments advanced by the PDS attorney.

Failure to disclose bias.—In a case in which for 10 years the Appellate Division challenged the United States Attorney's Office's refusal to comply with its obligation to provide exculpatory information, the trial court issued an order granting a new trial for a client whose trial on a murder charge was marred by secret payments from the government to the sole eyewitness and by a prosecutor who incorrectly argued to the jury that the government had done nothing to benefit the witness. The Appellate Division obtained two reversals of trial court post-conviction rulings before the trial court ultimately decided that PDS's post-conviction pleadings warranted a new trial.

Prosecutorial misconduct.—In another lengthy case involving exculpatory evidence, the Appellate Division advanced First Amendment claims to convince the United States District Court for the District of Columbia to unseal the post-conviction proceedings in a Federal court conspiracy case. The court documents in that case included, among other things, a Department of Justice Office of Professional Responsibility report concluding that a prosecutor had committed misconduct by misusing government funds to pay government witnesses and their families and friends. The District Court ultimately ruled in PDS's favor in November, after Appellate Division lawyers had been litigating for almost 2 years to allow the light of public scrutiny to shine on court proceedings.

The Appellate Division has been seeking a new trial on behalf of that same client as a result of gross misconduct by the same former Assistant United States Attorney whose malfeasance is detailed in the now-unsealed OPR report. Among other claims, our motion shows that the prosecutor misused a fund for the payment of court witnesses to provide secret payments to witnesses at the trial of our client. This misconduct parallels some of the misconduct that the Justice Department's own internal investigation uncovered in the Federal court case.

Government admissions.—In still another case involving the government's duty of fairness, the District of Columbia Court of Appeals ruled that certain statements in a search warrant affidavit endorsed by an Assistant United States Attorney constituted government admissions and could be introduced by a PDS client at his trial.

This ruling is important because it meant that the government would pay an evidentiary price for taking opposite positions on critical factual questions in two different proceedings. The case is also important because it is one of the most developed decisions on the question of when government submissions in court constitute admissions.

Attorney-client privilege.—In *In re PDS*, the Court of Appeals wrote an opinion that may be one of the most extensive discussions of an issue of national importance—namely the scope of the crime fraud exception to the attorney-client privilege. In this case, a trial judge had held PDS in civil contempt (but stayed execution of any penalty upon PDS's representation that it would comply with the court ruling if affirmed on appeal) for refusing to disclose information it believed to be protected by the attorney-client privilege. The Court of Appeals concluded that PDS was acting within the highest standards of the bar in investigating the case as it had, and that the information held by the PDS lawyer was protected by the attorney-client privilege because the elements of the crime fraud exception had not been shown.

Habeas corpus litigation.—In a series of cases involving Appellate and Special Litigation Division attorneys, we have been litigating the question of whether District of Columbia judges have habeas corpus jurisdiction over cases involving clients with District of Columbia law issues, but who are incarcerated outside the District. We have litigated this question in both the District of Columbia Court of Appeals and in the United States Court of Appeals for the District of Columbia Circuit. The question is now pending before the United States Supreme Court in a separate case. The question is immensely important to our clients and to District of Columbia citizens, because in the wake of the Revitalization Act, District of Columbia prisoners were moved from the now closed Lorton facility to non-District facilities. Because these prisoners were sentenced in the District's courts for violations of local District of Columbia laws, and because their parole is governed by laws unique to the District of Columbia and generally involves facts that occurred in the District of Columbia, the most logical forum for hearing District prisoner claims is the District of Columbia courts where the bench and bar have substantial expertise in addressing District law questions. In fact, the District of Columbia government has supported PDS's position—not the Federal Government's—in this litigation.

Special Litigation Division

The Special Litigation Division's focus on systemic issues in the District of Columbia justice system leads it to litigate those issues before every court in the District of Columbia—the Superior Court and Court of Appeals in the local system, and the District Court, the Court of Appeals, and the Supreme Court in the Federal system. These are some of the highlights of our litigation:

Conviction of the innocent.—With the advent of DNA testing, we now have evidence that the American criminal justice system sometimes produces demonstrably wrong results—innocent people are convicted, and the real culprit goes free. DNA testing is a powerful tool for catching these mistakes, but its scope is limited to the few cases in which biological evidence is available, can be tested, and is connected to the crime. For every DNA exoneration, there are countless cases where testing cannot help because no DNA was left at the scene, the biological evidence was too degraded to obtain a conclusive result, or the evidence that was once there has been lost or destroyed.

In order to effectively address the recurring, institutional problems that contribute to the conviction of the innocent, PDS's Special Litigation Division has focused on two major problems revealed by the DNA exonerations: common misperceptions about the reliability of eyewitness identification evidence, as described above, and juror misunderstanding of the demonstrated phenomenon of "false confessions"—situations in which someone who did not commit the crime admits to it anyway. PDS's Special Litigation Division has marshaled a variety of resources on these subjects, including social science research, testifying experts, surveys of potential jurors to determine the reason for their failures to properly understand these subjects, and information about the causes of wrongful convictions around the country, in order to help the courts begin to address these problems systematically. The focus of these projects is to allow the defense to point out potential flaws in the reliability of seemingly solid evidence, so that the adversarial system will work more efficiently and not continue to produce wrongful convictions at such an alarming rate.

Unfair delay in release from jail.—Another recurring problem in the District of Columbia's criminal justice system is its failure to release people who have been found not guilty after trial or whose charges have been dismissed. While local corrections officials have asserted some need to "check"—often for several days—to ensure that the right person is being released and that the case really was dismissed,

other systems around the country have managed to do this before the charges are dismissed so that people can be released directly from the courtroom. Los Angeles, for example, has developed a model procedure that ensures that people with no pending charges are not held in jail unnecessarily.

The Special Litigation Division has contacted local corrections officials and attempted to educate them on the extreme unfairness and likely illegality of the current system, and has prepared model pleadings for lawyers at PDS to use to attempt to secure speedy release for clients who are no longer facing criminal charges. Because local officials have proven unreceptive, however, PDS also has been cooperating with the lawyers litigating a class action lawsuit against the District to address this issue.

Special education services for youth at the D.C. Jail.—The Federal Individuals with Disabilities Education Act[4] was enacted to ensure "that all children with disabilities have available a free appropriate public education that emphasizes special and related services designed to meet their unique needs." The youth housed at the District's jail are clearly entitled to these services—and need them most desperately—but are not receiving anything close to what the law requires because the District's public school system and the D.C. Department of Corrections do not have any comprehensive system in place for identifying those youth who are entitled to special education services at the jail, and for providing those services to them. PDS's Special Litigation Division is currently seeking to compel the District's school system and Department of Corrections to provide these important services.

Civil Legal Services Unit

Special education services for children in delinquency cases.—PDS continues to meet the need of children in the delinquency system for special education advocacy. The Unit's attorneys specialize in advocacy under the Individuals with Disabilities in Education Act, which mandates special accommodations in public schools for children who cannot be adequately educated in a traditional classroom setting due to a learning disability or other challenge. The Unit's attorneys ensure that children receive an appropriate diagnostic assessment and work with the school system to secure alternative educational programs. This past year, the Unit doubled the number of PDS juvenile clients who are receiving appropriate special education services and treatment in community schools and non-correctional facilities as an alternative to detention and commitment.

Offender Rehabilitation Division

Our Offender Rehabilitation Division offers clients access to resources they often could not find on their own. The benefits to the clients come in many areas, including employment, education, and housing.

Employment.—Over many years, a former star athlete on a professional team lost everything—his job, his family, his home, his friends, and his pride—to cocaine. He began selling drugs, he was arrested, and he wouldn't accept anyone's help before he was referred to ORD. At the time our staff became involved, he didn't even have enough money for a $10 ID card. Through ORD's intervention, he gained the courage to interview for a job at a local trade association where he began an intensive job training and parenthood program. The result—he graduated from the program and has gone on to be a successful fundraiser for the association. He has not only gone from being involved in the criminal justice system to being a productive member of our community—he has gone even further and is giving back.

Education.—A young woman who had been in the neglect system virtually all of her life later was charged with a juvenile offense and sent to the District's juvenile detention facility in Laurel. The Division assisted her in moving into a therapeutic group home, and now she is enrolled as a freshman at a local university where scholarship programs are paying for her education.

Public benefits.—Some of our most challenging clients are severely mentally ill persons who are arrested on less serious charges, but incarcerated pending trial, and who are without support systems. Their incarceration results in the cancellation of all their benefits (SSI, SSDI, Medicaid). Without their benefits, our clients lose access to affordable housing and some essential services. Because of the collaborations that the Offender Rehabilitation Division staff is developing with a number of agencies and with individual contract providers of mental health services, this situation is improving. More and more of our severely mentally ill clients are now able to obtain financial benefits, housing, intensive outpatient mental health services, and in the last year, we have had tremendous success helping these clients re-enter the community without re-offending.

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[4] 20 U.S.C. § 1400, et seq.

Training

Forensic science conference.—In addition to PDS's usual training efforts (e.g., annual Criminal Practice Institute and CPI Practice Manual, courses for court-appointed CJA attorneys and investigators), PDS coordinated and presented its first forensic science conference last summer using funds from a Department of Justice grant program. This free training program for defense attorneys included as presenters a number of nationally known forensic science experts. The success of this conference led the grantor to award funding to PDS for a similar conference to be held in May of this year.

Investigator certification.—After adopting an investigator training proposal from PDS, the Superior Court implemented a requirement that all CJA criminal investigators be certified, receive initial training, pass a background check, and maintain their certification by attending PDS training. Senior PDS investigators and PDS staff attorneys prepare the training materials and coordinate training sessions on all aspects of criminal investigation to allow CJA investigators to maintain their certification. Over the past 2 years, PDS has held nine 20-hour training sessions and has certified 188 CJA investigators. PDS has scheduled two additional sessions in July and November 2004. This program is designed to ensure that now, and in the future, there are sufficient qualified investigators to assist CJA attorneys.

Special education.—PDS's special education attorneys provided training in the fall to new Superior Court judges on special education issues relevant to children involved in the delinquency and neglect systems.

Administrative Accomplishments

PDS has been able to institute additional improvements in its operational functions. Particularly now that PDS is a federally funded entity, we seek to reach a corresponding level of sophistication in the administration and execution of our responsibilities. Recent improvements made by PDS provide the necessary infrastructure to support our programs and our program staff and increase the potential for greater efficiency and effectiveness in carrying out PDS's mission.

Case management system.—PDS has expanded internal access to its self-designed case tracking software. The program, "Atticus," provides comprehensive case management functionality for PDS attorneys, staff, and management. Atticus now links the Trial, Investigations, and the Offender Rehabilitation Divisions to streamline referrals and processing for criminal and juvenile cases. Attorneys, investigators, and program developers can now report and track case events in a central electronic location, reducing or eliminating staff's reliance on less efficient means of communication, and ensuring that all staff who share responsibility for an individual case are kept fully informed on all case developments as needed.

Strategic planning.—PDS has developed an Office of Management and Budget-approved 5-year strategic plan similar to the plans required of Federal executive agencies under the Government Performance and Results Act. PDS has also prepared a draft annual performance plan that has received preliminary approval from the Office of Management and Budget. PDS has begun to establish the baseline measures described in its plans in preparation for implementing the strategic plan in fiscal year 2005. PDS continues to make progress toward establishing the administrative infrastructure necessary to support the development of a performance-based budget request.

Appellate brief bank.—PDS has completed the establishment of an appellate brief bank that consists of briefs filed in the Appellate Division's cases over the past 25 years. This searchable, comprehensive brief bank now provides far easier, more effective access to previously completed research, enabling attorneys to avoid unnecessary duplication of effort.

Each of the above reforms, cases, or projects has contributed to a better, more efficient criminal justice system, or has improved the quality of services provided to people who cannot afford an attorney in the District of Columbia justice system. These activities are all consistent with PDS's goal of efficiently providing representation by qualified attorneys to those PDS is dedicated to serve.

CONCLUSION

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

requirements of the right to counsel, it can also be on the forefront in modeling excellent financial and management practices in support of that right.

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

Senator DEWINE. Senator Landrieu.

PDS DIRECTOR SULLIVAN'S DEPARTURE

Senator LANDRIEU. Mr. Sullivan, I want to say that we greeted the news of your leaving to go to Yale with very mixed emotions, because you have, you know, done an outstanding job, and your leadership has been really extraordinary, and your commitment very inspiring, but we wish you the best at Yale.

I am hoping, though, that before you leave that you will—and I am certain you will—give some indication of some others that could follow in the leadership that you have outlined because this is truly a very important agency for the District and for the Nation. And while we have made great progress, there is still some tremendous challenges, as you are aware.

So I, for one, would be interested in your, you know, private comments along those lines. And as you leave, what three to four focuses should we give special attention to?

Mr. SULLIVAN. Well, I thank you very much for your kind words first of all. It is bittersweet for me, as well. I was, in a sense, born and raised in this agency. I started as a staff attorney in this agency, and I bleed the colors of PDS.

So it is with mixed emotions that I leave. I do look forward to my new opportunity, and I have promised to send many bright young law students to Washington, DC to be public defenders, so in that way I will still contribute.

As to my successor, the search started in February, early last month, and applications are due by the 16th of March. And by the end of March, beginning of April, I anticipate that our board of trustees will have selected a new director.

I happen to know that our very capable deputy director, Avis Buchanan, who is sitting behind me, is applying for the directorship, and I certainly wish her well in that endeavor.

IMPORTANT ISSUES FACING THE DISTRICT OF COLUMBIA

As to—from our perspective, as to the three or four most important issues facing the District, at least with respect to the criminal justice system, No. 1, I would speak about forensic issues. I have written in detail in my written statement, particularly about some of the science that we are becoming acquainted with with respect to identifications.

We have seen in the DNA context that for an overwhelming majority of persons who have been convicted and incarcerated, sometimes for years, but DNA evidence has exonerated them, the principal basis of the conviction was a false identification. And in almost every time, it was nothing vindictive about the identification. It was an honest mistake.

Over the past several years, psychologists and professors in psychology departments in universities across the country have been

looking into this issue of identification and, frankly, we have learned a lot about how to do identifications, the best way that police should present lineups, and a whole host of issues surrounding how we can better our identification processes.

Some States, New Jersey for example, have adopted sweeping changes in their identification procedures. And we have encouraged the District of Columbia to do the same. We have presented the Court with some of the social science findings about identifications.

And, indeed, I have been in a room with—filled with lawyers where most of the room picked the wrong person. There is a video clip, and it would sort of replicate a crime and then, you know, show different pictures. We have learned, for example, that identification is a relational concept. That is to say, if you show somebody six pictures, the mind tends to work in a way that you pick the one that looks most like who the perpetrator was. Whereas, if you show pictures in sequence, then that is a much better way to get at the actual perpetrator.

So at any rate, I do not want to bore you two with a litany of the problems with our current identification system, but it has resulted in—and we know because of DNA that it has resulted in false convictions, and that is something that we are working to eradicate.

We have begun in the last couple of years a forensic practice group at the agency, where we are looking into not only that, but DNA sciences, mitochondrial DNA is becoming a much more important aspect of the criminal justice system; the metallurgy science, with respect to bullets and that sort of thing, these are all very important issues. So that is one.

Second, I would say jury pool issues. There are problems in the District with respect to a too narrow jury pool. We are working with the Court to see what we can do to expand the jury pool so that all citizens can, as is consistent with their due process rights and the Constitution, participate on the juries in the District of Columbia.

So those are two sort of overarching issues to give you an idea of some of the things we are working on.

Senator LANDRIEU. Very good. Very helpful. Thank you.

IN RE JERRY M. LITIGATION

Senator DEWINE. Good. Mr. Sullivan, your agency is suing the District on behalf of children in the juvenile justice system. And you cite years and years of the system failing these kids.

Your lawyers told a D.C. Superior Court judge last week that the court-appointed receiver should take over the Youth Services Administration, to operate the agency and report to the Court every 2 months about changes and improvements. I wonder if you could give us some information, more information about this suit and what problems you see with the City's Youth Services Administration?

Mr. SULLIVAN. The problems frankly, Mr. Chairman, are legion. It has been nearly two decades of not complying with even the most basic requirements for the health and safety of the most needy children in the District.

One example, I think, will illustrate just the mind-set of this particular agency with respect to the children. Recently, we were in the hearings, my agency was in the hearings in front of Judge Dixon, and one of the complaints that we made in our receivership application was that children had to stuff towels—and this is at Oak Hill, the juvenile detention center—towels in holes in their rooms to keep rats from coming in at night.

The question the District posed to the expert who produced this finding was that, "Well, sir, could it be that these are not rats, but they are very large mice," as if that in some way justifies the presence of rodents in the children's rooms.

I mean, and that is just one example that is just indicative of some of the problems, but the report from the inspector general, I think, in many ways lays out some of the most critical shortcomings of the Youth Services Administration. For example, numerous residents who tested negative for drugs when they went into this locked, secure facility tested positive for marijuana and PCP once they were in there.

Senator DEWINE. That is unbelievable, is it not?

Mr. SULLIVAN. And unacceptable.

Senator DEWINE. And it is shocking.

Mr. SULLIVAN. And unacceptable. And the inspector general postulated that the guards were the source of the illegal contraband.

In violation of every fire prevention and safety requirement imaginable, locks on the housing unit doors are manual and cannot provide safety in the event of fire. Oak Hill did not have a trained health and safety officer there.

Nearly 100 percent of the youth at Oak Hill are—test positive for drugs. It is—I mean, the list goes on and on and on. And it has been like this for nearly two decades.

Senator DEWINE. Well, that is what is shocking, is that it has been that way for two decades. And so Senator Landrieu and I are, you know, are going to hold a hearing. And it may take more than one hearing, frankly, to review the District's juvenile justice system.

We want to hear specifically, you know, how the system is broken, why the City has been unable to fix this problem in almost two decades. You know, when you hear these—what the facts are, it just, you know, has to trouble anybody. You know, I am troubled to note that children in the city as young as 10 who are merely truants or victims of a failed foster system are being incarcerated with serious teenage offenders. I mean, that just has to trouble anyone, you know. You know, that is not supposed to take place anyplace in this country today. We passed that a long, long time ago, I thought, in this country.

You know, we hear that system allowed a 12-year-old boy to be sexually assaulted by nine other boys while incarcerated at the City's detention facility. We have learned that drugs are readily available as you point out in the facility. Where are they coming from? You know, we can only surmise or guess.

So we are going to hold a hearing. Senator Landrieu and I are going to do that. And if it takes more than one hearing, we are going to bring in the people who know about this, and we are going to talk to them, and we are going to try to get to the bottom of this.

So we appreciate your diligence on this, and what the lawyers who work with you have done in this area. We congratulate you for your diligence in this area.

Senator Landrieu, anything else?

Senator LANDRIEU. No.

Senator DEWINE. Should —

WASHINGTON POST ARTICLE

Senator LANDRIEU. Well, I do, actually, want to submit for the record, and maybe you can respond to this briefly and in writing. There was a case—and I know we are short on time, Mr. Chairman, but there is a case pending—if the staff will help me find the news article in The Post a couple of days ago. Here it is. The case of lengthy delays, Ida and Charles Chase were arrested in the slaying of Julius Alderman during an apparent robbery. This was 6 years ago.

I understand that subsequently Mr. Chase has died of a heart attack, but Ida is still in jail, 6 years waiting for the trial. And every time we try to go to trial, something happens. Can you just comment about this, so that I can——

Mr. SULLIVAN. Yes, absolutely.

Senator LANDRIEU. Briefly, and then perhaps at—more at length in writing?

Mr. SULLIVAN. Yes, absolutely. I will comment very briefly to the degree I can. I, obviously, cannot divulge any confidential information.

However, I can say that Ms. Chase maintains her innocence and is anxiously anticipating her trial date. It has been too long. There have been delays in this trial. She wants to go to trial, and she wants to prove her innocence, and the attorneys on the case are committed to doing that.

I will say just parenthetically, and I do not—unless obviously you are inclined, I do not want to get into a back and forth. If the predicate of the question has to do with the article, that is, in my view, one of the most irresponsible pieces of journalism that I have ever experienced and certainly beneath the standards of a major newspaper. It is replete with omissions and misstatements and allows for inferences that are factually false.

For example, I will just take the very last continuance. They make a lot about that in the paper. They say the defense asked for more time to review evidence. Well, what happened was that a month before trial, the FBI indicated to us that they found two additional hair samples that had not been disclosed before and had not been tested.

We said, "Well, we need to test those." One of them was on a piece of duct tape, which is very important to the facts of the case, which I will not go into.

We said, "We need to test it. We need a brief time to get it tested. It will take a few weeks from the lab, and we are ready to go."

The Court granted it. The prosecutor did not oppose it. The prosecutor said, "I am tied up from January to July. So it is in July."

So the article says, "Oh, defense asked for a pass. There is a seven-month delay." But it does not mention that, "Well, the reason

for this delay, for example, is that there is a—the prosecutor was not available for seven months."

There was one other huge omission. The article indicated that Judge Bowers said that there will be no further continuances and granted two more, but simply did not mention that what happened was that the D.C. Council passed the Innocence Protection Act, and our client, with advice of counsel, asserted her rights under the Innocence Protection Act to pre-trial testing of biological material, recognizing that that would delay the start date. But there was material that was back in, oh, boy, April—somewhere around April of 2002, the IPA was passed.

All of the biological material was supposed to be disclosed and, you know, we still did not get those two hairs until a couple of months ago. So there is a lot that happened in that case. I do agree that it was—it is too long. We are anxious to get to trial. But for the article to lay the blame simply in the defense attorney's lap is wrong. But we are ready to go, and we think that it is going to be a good result.

Senator LANDRIEU. And I appreciate it. And you have made—you know, you have made very direct and excellent and clarifying comments.

ADDITIONAL COMMITTEE QUESTIONS

But I would just say to the Chairman that we do have a challenge on our hand to create a system where neither those that are accused of a crime have to wait 6 years in jail for their day in court, nor those victims that have suffered terribly have to wait that long. So let us get about the work, Mr. Chairman, and thank you very much.

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

QUESTIONS SUBMITTED BY SENATOR MARY L. LANDRIEU

RE-ARREST RATE AND PAROLE REVOCATION

Question. Would you please submit to the Committee a comparison of the re-arrest rates and parole revocation hearings in the District to other jurisdictions of similar size?

Answer. Statistics comparing the District's parole revocation rates to those of cities of a similar size are difficult to obtain, in part because there is no longer a local paroling authority that maintains such statistics for D.C. parolees. As of August 5, 1998, through the implementation of the Revitalization Act,[1] the U.S. Parole Commission assumed responsibility for making parole decisions for D.C. Code offenders. The Commission estimates that slightly fewer than 50 percent of D.C. parolees return as parole violators. However, most of these "violators" are charged not with new crimes, but with minor administrative violations such as failing to meet with their parole officer, failing to obtain steady employment, or failing to overcome their drug addiction.

Last year, parole boards nationwide conducted 143,154 violation hearings with California, New York, and Texas conducting 50 percent of them.[2] In the District of Columbia, the Public Defender Service represented 1,349 persons who were facing revocation of their parole before the U.S. Parole Commission. Most of these individuals had not committed new crimes but had failed to follow a condition of parole release.

[1] National Capital Revitalization and Self-Government Improvement Act of 1997, Public Law 105–33.

[2] Association of Paroling Authorities International, Parole Board Survey 2002.

There has been a 652 percent increase in the number of parole violators, according to an analysis of the U.S. Bureau of Justice Statistics (BJS) data by the nonpartisan Urban Institute.[3] In fiscal year 2002, 19 State paroling authorities reported an increase in resources in order to keep up with the demands created by the volume of revocation hearings.[4] Twelve States had double digit increases in their parole population in 2002. Four States had a parole population increase of 20 percent or more: North Dakota (27 percent), New Mexico (26 percent), Kentucky (23 percent), and Oklahoma (21 percent).[5] Nationally, this was the largest increase in the parole population since 1995.

The lack of community resources is an overwhelming stumbling block to successful re-entry. Many parolees lack the educational or vocational skills necessary to become productive members of society. A parolee who has lost everything that he has accomplished due to technical parole violations must start anew upon his return to the community. According to a report from the Association of Paroling Authorities International, housing is the number one issue facing parolees upon their return to the community.[6] Other issues they face include a lack of available, licensed, substance abuse treatment and vocational/employment resources and services. The chronically ill, the elderly, and women particularly face insurmountable obstacles.

We echo the sentiments of Oakland Mayor Jerry Brown: "The revolving door is failing. They aren't getting the marketable skills and literacy they need in prison. It's a big huge problem."[7] Parole violators leave the prison walls but they cannot leave the stigma associated with incarceration. A study on public attitudes toward prisoner reentry revealed that most respondents were aware that prisoners face daunting obstacles in returning to the community and establishing a noncriminal lifestyle. Most admitted, however, that they had not given much thought to prisoner reentry.[8] Many persons leave prison with no particular place to go and very little support or monitoring.

One of the goals of PDS's Community Defender Program is to educate ex-offenders, including those on parole, about their legal rights and responsibilities following their release on parole. To that end, the bilingual Community Re-entry Program Coordinator regularly makes presentations at offender orientations hosted by the Court Services and Offender Supervision Agency, particularly those targeted at Spanish-speaking clients. The CRP has also presented educational sessions to other groups, including women at the Washington Transitional Center who are parolees. Topics covered in the educational presentations include housing, employment, family law, public benefits, sex offender registration, DNA testing, immigration, and community resources that are available to ex-offenders and parolees. The CRP, along with the Parole Division, has also developed an outline covering the same topics, which will be presented at the D.C. Jail to prisoners pending release.

DNA SAMPLE COLLECTION RESPONSE INITIATIVE

Question. With the increase in cases involving DNA, have you found, informally, that fewer convictions are overturned on appeal?

Answer. There are two reasons why the advent of DNA technology is not likely to result in fewer cases being overturned on appeal. First, very few cases involve biological evidence and, second, quality control issues affecting the reliability of DNA evidence are likely to generate more rather than less appellate litigation for the foreseeable future.

To date, there have been relatively few DNA cases in the District of Columbia, and potential DNA cases represent a very small sample of the cases in the criminal justice system. That is, only a small fraction of criminal cases present situations where DNA can be used to exonerate someone (because biological evidence is often not present or not preserved), and in even fewer cases can DNA inculpate someone (because it is more difficult to show a "match" than an exoneration when, for example, the sample is degraded—allowing for minimal analysis, or the sample is a mixed sample—a sample in which more than one person's DNA is present).

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[3] See, "7-Fold Jump in Parolees Sent Back to Prison Since 1980, 1 in 3 State Prison Admissions is Result of Parole Violation," Urban Institute, November 2, 2002.

[4] Association of Paroling Authorities International, Parole Board, Survey 2002.

[5] Bureau of Justice Statistics Bulletin, "Probation and Parole in the United States, 2002," August 2003, NCJ 201135.

[6] Association of Paroling Authorities International, Parole Board Survey, 2002.

[7] See, "Parole Violators Crowd California Prisons," Associated Press, Newsday.com, March 8, 2004.

[8] See, "The Revolving Door: Exploring Public Attitudes Toward Prisoner Reentry," March 2002, Urban Institute.

In the District of Columbia, there has been and will continue to be considerable litigation concerning the reliability of DNA results as the technology changes and as forensic labs are subject to lower standards than, for example, medical labs. Recent examples of problems in quality assurance at DNA labs include the scandal involving a DNA lab in Houston where results were falsified and contamination was rampant, and the termination of an FBI analyst after it was revealed that for 2 years, she had failed to run negative controls while analyzing samples.

Thus, while cases involving DNA evidence where there has not been a challenge to the reliability of the results may make appellate courts more confident in the results at trial, examples of numerous DNA exonerations actually inform us that mistakes are likely being made in cases where no biological evidence was left at the scene. This should, if anything, make appellate courts more rigorous in their review, although as a practical matter we have not noticed much of a change. The D.C. Council did, however, pass the non-DNA portion of the Innocence Protection Act, D.C. Code § 22–4135, in 2002. The express purpose of that provision was to provide closer review of innocence in non-DNA cases, on the theory that at least as many mistakes were being made in those cases as were made in the cases where DNA exonerations had demonstrated trial mistakes were made. It is too early to tell whether this provision will result in closer judicial scrutiny of innocence.

Question. Or, is there anecdotal evidence that the court and public are more willing to convict a defendant if scientific evidence is present?

Answer. PDS does have polling results of potential jurors in a specific case that show that jurors place extraordinarily high credence in scientific evidence and in DNA evidence in particular. In the view of most potential jurors, DNA evidence is by far the most reliable form of evidence, and approximately one out of three jurors believes that it "can never be wrong."

Our polling results also show that jurors begin trials with very little understanding of DNA evidence, and particularly its variety and limitations. For example, a little under half of the jurors begin the trial not understanding that different types of DNA evidence exist (nuclear and mitochondrial). Even when jurors are told that different types exist, around half do not understand that nuclear DNA evidence is more discriminating than mitochondrial DNA evidence.

Our polling data also showed that jurors place considerable weight on eyewitness identification evidence and are not familiar with the growing body of science delineating the weaknesses associated with eyewitness identification. Currently, however, efforts to present eyewitness expert testimony are usually denied by trial judges.

PDS is actively engaged in training to improve defense attorneys' ability to explain DNA evidence to jurors, litigation to improve the quality of DNA evidence that is admitted in criminal trials in the District of Columbia, and litigation to provide jurors with expert information concerning eyewitness identifications.

REPRESENTATION OF JUVENILES WITH SPECIAL EDUCATION NEEDS

Question. Does PDS handle special education administrative cases or those that go to court?

Answer. Generally, PDS handles special education cases at the D.C. public schools administrative proceedings level, while concurrently serving as the clients' education advocates in delinquency cases in the Superior Court of the District of Columbia.

Special education administrative hearing decisions, of course, are appealed to the United States District Court. Because PDS has an excellent record in obtaining favorable outcomes for its clients in special education administrative proceedings, PDS attorneys have not had to pursue client claims in the U.S. District Court thus far, except on one occasion; *J.C., et al.* v. *Vance, et al.*, Civil Action No. 03–CV–971) (D.D.C.) filed on May 2, 2003. The major issue in the *J.C.* case is the District of Columbia's failure to provide federally mandated special education services to eligible youth incarcerated at the D.C. Jail.

Question. Is PDS part of the court ordered attorneys' fees in special education cases? If so, how much has PDS collected?

Answer. PDS does not apply for or otherwise receive attorneys' fees in special education cases.

Question. What role does PDS play in determining what assessment program a child receives or which business or other group performs that assessment?

Answer. The D.C. Public Schools system assumes responsibility for determining what evaluations and assessments should be performed for children and for having them conducted by either D.C. Public School evaluators or independent specialists.

In those instances in which the D.C. Public Schools either fails to perform evaluations and make educational assessments—or fails to perform appropriate, complete, or necessary evaluations and assessments—PDS will identify and seek independent assessments and evaluations from highly qualified specialists and experts in the fields and in disciplines associated with the disabilities of the child who is to be evaluated.

Question. Does PDS play a part in determining what special education program or school a child is sent to?

Answer. As the parent's attorney in special education administrative proceedings and as the child's education attorney in the related Superior Court delinquency proceedings, PDS may make recommendations and advocate for or against particular special education program placements, depending on the needs of the child. PDS does not itself decide the child's placement.

CREATION OF A MENTAL HEALTH TREATMENT PROGRAM

Question. I understand the OPTIONS program was created to reduce the number of mentally ill offenders who are incarcerated or institutionalized because no treatment is available.

Would you highlight the effectiveness of the program and the services it provides to the District of Columbia that were non-existent before now?

Answer. OPTIONS was created as a diversion program to divert mentally ill offenders charged with misdemeanors away from the jail or another onerous condition of release to a more therapeutic environment. This assures the court that the risk of flight is minimal and the mental health issues are being adequately addressed. The program has been very effective in that many people have been connected or reconnected to the mental health system and are getting the appropriate treatment. The OPTIONS program is linked with Community Connections, a private core service agency that affords a myriad of services and contracts with the Department of Mental Health. An OPTIONS client is given a case manager who not only services the client's mental health needs, but also serves as a court liaison—ensuring that clients are present at their court hearings and providing information to the court about the client's progress. The case management provided is aggressive and comprehensive. OPTIONS clients have access to psychiatrists to prescribe medication and, with the help of a treatment team, clients have individually tailored treatment regimens designed to address their individual needs. Therapeutic programs include, but are not limited to, day programs that provide substance abuse counseling, group therapy regarding mental health issues, forensic groups designed to address the unique needs of forensic clients, work training programs, and assistance with benefits and housing. Although acceptance into a core service agency is available to any D.C. resident with a mental illness, the OPTIONS program was the first program to target recent offenders to connect them with services and housing and to help them successfully navigate through the criminal justice system. Approximately 200 people a year have been serviced through the OPTIONS program since its inception in 2001. Examples of great success stories include an individual who successfully completed the program, received a probationary sentence, and got her own house through the Home First program; she is still stable and doing well.

SUBCOMMITTEE RECESS

Senator DEWINE. Well, Mr. Sullivan, we wish you well, and we thank you for your good service very much.

Mr. SULLIVAN. Thank you very much.

Senator DEWINE. Thank you.

[Whereupon, at 11:52 a.m., Wednesday, March 3, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

DISTRICT OF COLUMBIA APPROPRIATIONS FOR FISCAL YEAR 2005

WEDNESDAY, MAY 19, 2004

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

The subcommittee met at 10:06 a.m., in room SD–138, Dirksen Senate Office Building, Hon. Mike DeWine (chairman) presiding.

Present: Senators DeWine, Hutchison, and Landrieu.

DISTRICT OF COLUMBIA

STATEMENT OF HON. ANTHONY A. WILLIAMS, MAYOR

ACCOMPANIED BY:

LINDA W. CROPP, CHAIRMAN, COUNCIL OF THE DISTRICT OF COLUMBIA

NATWAR M. GANDHI, CHIEF FINANCIAL OFFICER

OPENING STATEMENT OF SENATOR MIKE DE WINE

Senator DEWINE. Good morning. This hearing will come to order.

Today, we will hear testimony regarding the District of Columbia's fiscal year 2005 local budget request. D.C. Mayor Anthony Williams, D.C. Council Chairman Linda Cropp, and the District's Chief Financial Officer, Dr. Natwar Gandhi, will present the city's budget and will discuss the District's requests for Federal resources.

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

Senator Stevens, the chairman of the full Appropriations Committee; Senator Byrd, the ranking member of the full committee; Senator Landrieu, ranking member of this subcommittee; and I all cosponsored this bill. Unfortunately, the House has not considered a companion measure. So today we will not only hear city leaders present the priorities for the Federal payment, but we will also receive the city's local budget for our consideration and inclusion in the D.C. appropriations bill.

As we consider the local budget, I would like to congratulate the city leaders on the vote of confidence that they have recently re-

ceived from Wall Street. At a time when many local jurisdictions' bonds are being downgraded, the city's bonds were upgraded two steps, from BBB+ to A. So we congratulate the city and the city's leaders.

Despite this good news about the city's short-term financial performance, I think we are all well aware that the city faces a long-term economic structural imbalance, and that has been well documented. This imbalance represents a gap between the District's ability to raise revenue at reasonable tax rates and its ability to provide services of reasonable quality to its residents.

I recognize that the structural imbalance is driven by expenditure requirements and revenue restrictions, which frankly are mostly beyond the control of the District's leadership. Clearly, the city's revenue capacity would be larger without constraints on its taxing authority, such as its inability to tax Federal property or the income of non-residents.

I agree that the city faces a troubling problem in the long term, and I plan to hold a separate hearing on June 22 to begin to discuss ways that the city can address this problem. At that hearing, we will hear from business leaders, local officials and economists about ways to close this gap and ensure the long-term economic health of our Nation's Capital and the seat of our Federal Government. So we look forward to that hearing on June 22. I think it will be a very informative hearing and I think a very important hearing.

I note that some of our colleagues in the House, particularly some of our colleagues from Virginia, have taken the lead in this area and we congratulate them for that. Some of them will be testifying, as well, on that date and we look forward to their testimony. This will be, I think, a very important hearing and I think we will draw some attention to this very important issue.

I believe that the Federal Government must recognize the costs it places on the city and the burden it places on the city's infrastructure, all the while limiting the ability of the city to raise revenue. Indeed, many of the problems facing the city result from it being the seat of the Federal Government. As chairman of the subcommittee, I intend to work to explore and develop ways to avoid a financial catastrophe for the District of Columbia.

Now, we look forward today to hearing what the District's priorities are for Federal funding and how the city has used the funds we recently provided in the fiscal year 2004 appropriations bill. Clearly, there are many worthy activities which will place demands on the always limited resources in the D.C. appropriations bill, but we look forward to working with city leaders to fund a number of the city's initiatives and to continue to make life better for all who live, work and visit this Capital City.

As usual, witnesses will be limited to 5 minutes for their oral remarks. Copies of all written statements will be placed in the record in their entirety.

Let me now turn to the ranking member of the subcommittee and my good friend and colleague, Senator Landrieu.

STATEMENT OF SENATOR MARY L. LANDRIEU

Senator LANDRIEU. Thank you, Mr. Chairman, and I welcome all the leaders of the city, Mr. Mayor and members of the Council, and thank you all for being here this morning and for your hard work to help make the District the wonderful place it is to live and a wonderful place as an example for the Nation.

We thank you for your leadership and for acknowledging the very special and unique partnership that the District has with Federal officials. So we look forward to continuing to work with you across a broad array of issues, particularly on the transformation of the education system and reform here in the District; the renaissance of the Anacostia River waterfront; the rebuilding of the child welfare system; some additional general management principles that we have worked on; the financial discipline that this committee and others have helped, with your leadership, to bring to the city.

PREPARED STATEMENT

I am going to submit a more formal statement, Mr. Chairman, for the record to get us to our panel more quickly. I will wait for further comments until the question period.

Thank you.

[The statement follows:]

PREPARED STATEMENT OF SENATOR MARY L. LANDRIEU

I would like to welcome our witness and thank Chairman DeWine for calling the annual hearing on the District's local funds budget. I look forward to hearing from the city on the status of the District's economy, current Federal funding priorities and a summary of the fiscal year 2005 local funds budget.

The District has been careful to develop a consensus budget, and rather than adding funds to please every constituent group, has looked ahead to address looming budget pressures while maintaining priority services. At this time, almost every city in the country is struggling to maintain a balanced budget, much less deliver adequate or even good services to their citizens. The city is in good fiscal standing and I trust that this environment will continue. However, long-term economic pressures on the city and continued service challenges in such areas as public education and child welfare will require a different management approach. I am committed to developing a new partnership with the District to support building the Mayor's goal of building the population by 100,000 residents.

In addition, substantial Federal funding was provided to the District over the last 3 years, fiscal year 2002, fiscal year 2003, fiscal year 2004 ($136.3 million in direct response to requests made by the Mayor, out of a total $545 million in the D.C. appropriations bill for Federal responsibilities). The last 2 years have been unprecedented in the amount of discretionary Federal dollars that have gone to the city, as well as an increase in Congressional confidence in local leadership, resulting in increased autonomy for the District of Columbia.

In keeping with our mandate, the Committee must balance the State-level agencies we are legally responsible to fund and funding the priority needs of the city leadership. The Mayor has requested an additional $253.5 million, above the $71.3 million requested in the President's budget. Chairman DeWine and I share a commitment to the restoration of the Anacostia Waterfront, improving child and family services, assistance for charter schools, and enhanced security this year. In this hearing I hope we can identify the city's main priorities and how best to address them with very limited funding.

The fiscal year 2005 President's budget supports a wider array of local initiatives. Funding is recommended $7 million for the Unified Communications Center, $10 million for the combined sewer overflow initiative, $3 million for the Anacostia Riverwalk and $40 million for the three-sector School Improvement Initiative. I am interested to hear the city's view of two areas which the President requested that the Committee is seeking more information. The first, a request of $10 million to

construct a new firehouse in downtown District of Columbia was not initially requested by the Mayor. The second piece we need additional information to is the $15 million annual request for emergency planning and security; however, the President did not request any additional funds to address the inauguration. In 2001, the city was reimbursed for $6 million in inauguration costs. I appreciate the views of the witnesses on these two areas. The Chairman and I have a challenge ahead to balance additional requests during a seriously constrained Federal budget outlook.

Last year, the General Accounting Office (GAO) confirmed a more broad challenge in a landmark report finding the city faces an annual deficit of $400 million to $1 billion between their revenue capacity and cost of providing average services. The report, requested by Congresswoman Norton and myself, found the underlying reason for the structural imbalance in the city's budget is the high cost of providing services in the District of Columbia. The Committee will review carefully the District of Columbia Fair Federal Compensation Act bill, introduced this month by Congresswoman Eleanor Holmes Norton, to reinstate an annual Federal payment of $800 million to the District targeted for infrastructure needs. The GAO identified capital infrastructure suffers the most because a budget balanced on a thin line has no room to invest in long-term capital projects or the ability to borrow great sums.

The District is uniquely situated and requires a unique relationship with the Federal Government; the Committee should explore other options for funding: changing the tax collection ability of the District; funding directed to specific infrastructure; reevaluating State functions and taking over those agencies (like State education). We must examine the underlying issues that create an imbalance and take a multifaceted approach to addressing it, before the District goes back to years of deficit. I understand Chairman DeWine will call a hearing later this year on the structural imbalance and I look forward to working collaboratively with him on this complex issue.

One major benefit for the District, with no budgetary impact, endorsed by President Bush, is to release the local budget from annual Congressional approval—local budget autonomy. The concept of budget autonomy for the District's local budget is building momentum on the Hill and I hope it will be approved this year. These are funds derived from locally-generated tax dollars. The last word on how the city's budget is expended should be made by locally-elected leaders, just like any other city. I am pleased to say, with the hard work of the Governmental Affairs Committee, the endorsement of President Bush, the Senate passed the budget autonomy bill this Congress. I hope the leaders here and Chairman DeWine will join me to gain approval in the House.

I would like for the Mayor and Council Chairman Cropp to comment on how current and future general provisions—limitations on spending local and Federal funds—will be addressed under budget autonomy. I respect city leaders' diligence in implementing and upholding these "social riders" through the years, against local pressure. I expect that this same degree of respect for the law will be maintained in the future. There are legitimate means for Congress to provide guidance to the city; however it is my hope that at some point in the future Congressional interest in imposing riders will wane.

In addition, this year Chairman DeWine and I have investigated the Youth Services Administration and Child Services Agency. I understand the Mayor is developing a plan to transition the Oak Hill youth detention facility to another model which is better focused on rehabilitation, not just housing, of youth involved in the criminal justice system. I know the Chairman has a keen interest in this project and I am committed to bringing national programs and resources to bear.

The Committee also held a hearing last week on the charter school movement in the District. I was very encouraged to see proof that the District is far ahead of other cities or States in developing a strong charter school base. Now at nearly 20 percent of the public school population, charter schools are showing great innovation and have the ability to cultivate this innovation in traditional public schools. The Congress passed the first charter school law, the School Reform Act of 1995, overseeing the creation and oversight of schools. The Committee will be re-examining this law to see if there are additional support mechanisms needed to scale up the most successful charter schools. And by successful, I mean looking at the chartering principles, not just the test scores, to make graduates more employable or college-ready or self-sufficient. Congress will maintain the $13 million investment in charter schools, as well as overseeing the $1 in $7 spent in public charter schools from Federal funds. I look forward to the input of local leaders as Congress evaluates the Federal charter law.

Finally, I am pleased to share with the Committee that the City Build Charter School Initiative, started in the fiscal year 2004 D.C. Appropriations Act, is about to take off. The City Build Initiative was created to support Mayor Williams' vision

of increasing the population by 100,000 residents. This can be done by retaining current residents who move to the suburbs or attracting new residents. Educational options are the primary factor that has been pointed to in why families relocate. If waiting lists or tuition are insurmountable, families will move to find better educational options for their children. City Build was created as a way to connect the economic and community development already underway in emerging neighborhoods with schools. The promise of quality schools is a tool to increase residential and commercial tax base of the city.

I am excited to see a plan developing in the city to identify neighborhoods that are ready for school investment and a process for creating schools. I am pleased to have benefited from the resources of the Brookings Institution's Greater Washington Research Program, led by Dr. Alice Rivlin and David Garrison. Their research has identified 12 neighborhoods in the midst of or which are ready for revitalization that would benefit from more schools. I look forward to continuing this partnership this year in standing up the new City Build Initiative.

In addition to the $13 million provided for charter schools and $14 million provided for scholarships to private schools in the fiscal year 2004 D.C. Appropriations Act, the Congress supported an unprecedented investment of $13 million in public education. The conferees agreed that these funds would be used to raise academic achievement of students and strengthen leadership and instructional excellence. The plan transmitted by the D.C. Public Schools lacked the detail necessary to justify these funds and, for the most part, did not meet the mandate set by Congress. The Committee is currently reviewing this plan and will provide guidance as soon as possible. However, I think it is worth noting to this panel, the elected leadership of the District and the independent Chief Financial Officer, that our ability to continue supplemental funding for public schools is severely impacted by this lackluster plan. I think the Committee should recognize that no one on this panel has control over the schools' choices on how they spend their budget. This disconnect has become very clear to Congress.

I look forward to the testimony of our witnesses and hope that we may continue the strong partnership developed over the last 3 years.

Senator DEWINE. Senator Hutchison, any opening statement?

STATEMENT OF SENATOR KAY BAILEY HUTCHISON

Senator HUTCHISON. Thank you, Mr. Chairman.

I am so, so happy about the bond rating upgrade. For the first time in the recent history—I can't say all the way back, but for the first time in recent history you have an A rating across the board from every rating agency. I commend the Mayor, Chairman Cropp and Dr. Gandhi for really making some tough calls to assure that your financial stability is in place. You had hard choices and I so appreciate that you have worked with our committee every time you have had a hard choice to make sure that we knew everything that was happening.

I think the building up of the reserves which was mentioned by all of the rating agencies as something that I and this committee had really asked you to do—and you have done it really even before the timetable that we set, and I think that played an important role in those upgrades.

I just want to say that this is going to help the city lower its cost of borrowing, which means more money will be available for the programs and the needs of the city. I think it is going to show a stability that will attract more business to the city and more taxpayers to the city. So I think it is a win for everyone.

I want to say that I have been working with Dr. Gandhi over the last few weeks. He has asked for some adjustments in the reserves and I have worked with him and the rating agencies to assure that there could be some small changes that would give you more flexibility in the city, but yet keep the conservative approach.

I am going to recommend that there be some changes. Basically, those changes would be to adjust the definition of expenditures so that the calculation of reserves excludes debt service, allows the calculation of the reserve amount to be based on the prior year actual ending expenditures rather than projected expenditures, reduces the total reserve requirement from 7 percent to 6 percent.

Seven percent was more than most cities in our country have, but when we were working with B and very low ratings, that was very important to show that we were serious to the rating agencies. But now that we are A across the board, I think 6 percent is quite reasonable, and the rating agencies agree with that. So that will give you, I think, more leeway. And then we would extend the repayment period from 1 year to 2 years, no less than 50 percent in the first year if you have to repay the reserves. So that also gives you, I think, more flexibility.

I want to say that Dr. Gandhi has really been a leader in this. He asked for some changes, knowing that the Mayor and the chairman had wanted more flexibility, and I think we have come to terms that will be very favorable, but also still quite conservative and in line with the A ratings that you have.

So I could not be more proud of this city from the financial standpoint than I am because you just worked so closely with us. You took leadership positions and I commend you, and I think it is going to be a great benefit in the long term for the city.

Thank you, Mr. Chairman.

STATEMENT OF SENATOR PAUL STRAUSS

Senator DEWINE. Senator, thank you very much.

Senator Strauss has included a statement to be inserted in the record as well.

[The statement follows:]

PREPARED STATEMENT OF SENATOR PAUL STRAUSS

Chairman DeWine, ranking member Landrieu, and others on the subcommittee, as the elected United States Senator for the District of Columbia, I would like to take this opportunity to provide this statement on behalf of my constituents.

Due to our lack of self-determination, we are unable to provide or fund certain government services on a local level. As long as Congress continues to utilize city services, it has an obligation to fully fund our city budget. I would like to address the District's fiscal year 2005 local budget request to Congress. The hearings for this budget have been held in the D.C. Council, and are subsequently fundamental to the operation of the city. It is essential to the District that Congress pass this budget in time for the new fiscal year 2005, and avoid being caught up in Continuing Resolutions. When the District of Columbia's budget is held up, needed spending adjustments are not allowed to be implemented and the cost of debt services increases. Each day, our local government services suffer greatly when the budget is held up.

The dilemma of our budget being held up every year can be resolved through budget autonomy. I appreciate the Senate passing this bill. I wish the House of Representatives would also vote to allow the District Budget to be separated from the Federal Appropriations Process. This step should be furthered, as our local budget has nothing to do with Congress. Since fiscal year 1996, the District of Columbia has continuously provided Congress with a balanced budget. The District has demonstrated itself as a competent, governing body, which should allow itself the right to reject all policy interference and social riders attempting to regulate the government within the District. It should be the privilege and priority of the government of the District of Columbia, not Congress, to make the District's economic decisions. Although it is presently a constitutional prerogative of Congress to exercise oversight of the District and its budgetary needs, it is not always appropriate.

The District of Columbia has submitted a budget that calls for serious investments in public services and education. Mayor Williams, Chair Cropp, and Chief Financial Officer Gandhi have explained the specifics in great detail and I support their efforts in the budgetary requests of the District of Columbia.

Congress should have a focus on the District of Columbia's budget, in respect to resolving the structural imbalance of the budget. This major problem concerning the budget is the gap between the District's ability to raise revenue at reasonable tax rates and the ability to provide services of reasonable quality to its residents jeopardizes the District's ability to retain residents. Instead of being penalized for residing in the District, citizens should receive the same constitutional rights as all American citizens.

The government of the District of Columbia needs to be fairly compensated by Congress for the services it provides to Federal agencies. This would serve as a solution to the structural imbalance within the District's budget. The District's budget represents the citizens of the most unique city in the Nation. The District has repeatedly provided Congress with a budget that has proven both sensible and attainable. The outlook for the current fiscal year 2005 is projected as balanced with a surplus. The District government is by itself the best evaluator of local expenditures. The reoccurring record of balanced and responsible budget management during times of economic hardships and declining revenues is yet another fact that proves the District's elected officials can govern the District. Not allowing the District to have complete control over its spending only increases the structural imbalance, therefore discouraging citizens.

The elected officials are persistent in attaining locally raised revenue needed to fund various local interests such as public service and education. The city should be allowed to utilize tax dollars in a more flexible manner. This in turn would give the District government the opportunity to provide the community greater benefit from the revenue. Flexible use of revenue specifically secures and stabilizes public service departments within the city. My constituents have the right to receive the needed revenue to meet their children's educational needs. I urge you to approve the proposed budget, as it is deemed necessary to aide the District's schools. The District of Columbia has submitted a timely budget so Congress has appropriate time to approve it. I ask again that Congress pass this budget before the beginning of the fiscal year. It is unfair to the District and its constituents when Congressional delays disrupt critical improvements within the local area.

Thank you again for the opportunity to present this statement. This local budget was optimally drafted in order to benefit the citizens of the District of Columbia. I support its prompt passage without riders or amendments. In closing, let me thank a member of my legislative staff, Merin Rajadurai, for his assistance in preparing my testimony this morning.

Senator DEWINE. Mayor, would you like to come up, and Chairman, Doctor? We appreciate you all joining us very much. It sounds like we do have some good news.

Mayor, why don't you start off? We have your written statement and we appreciate it very much, and if you could just summarize for us and give us the highlights.

STATEMENT OF HON. ANTHONY A. WILLIAMS

Mayor WILLIAMS. Yes, Mr. Chairman, I notice that you have said about three times that you would just like the highlights. So I will take that instruction and I will submit my written testimony for the record and will share with you and with Ranking Member Landrieu and certainly Senator Hutchison some of the highlights.

But I want to take this opportunity as Mayor of the city to thank the committee, No. 1, for its support for budget autonomy for our city, and you, Mr. Chairman, for your leadership in calling for a hearing on the long-term structural imbalance issue.

Senator Landrieu, thank you for your leadership in many, many different areas, particularly with the Anacostia River and with education.

Senator Hutchison, I have worked with you since the time I was CFO and I remember talking with you one night asking for mercy

from the reserve requirement. You did not grant that mercy and, in retrospect, you were right and I was wrong. So we are in much better shape because of it. I thank you, though, for your willingness to work with Dr. Gandhi and provide those adjustments. I think they are welcome. Certainly, as former State treasurers, both you and Senator Landrieu, your comments on our fiscal status are taken to heart by this Mayor.

In fact, though, Mr. Chairman and members of the committee, we are doing better, but there is still more to do. Because of the structural imbalance, the mismatch between long-term revenues and expenditures in the District, three things are happening in our city.

First, because of the artificial restrictions on our revenue base against State expenditures and requirements as a Federal city, we end up over-taxing about half of our tax base, and that is not healthy for the long-term future of the city. We would like to have lower tax rates, and Council Chair Cropp has been a leader in that effort along with the Council.

Secondly, because of this situation, we have the second highest per-capita debt of any city in the country, second only to New York City. This again reflects a mismatch between long-term revenues and expenditures. Because of this mismatch, because we are at the limit of what we can borrow, we have under-invested and we are deferring massive investments in critical services and infrastructure. Approximately $2.5 billion of infrastructure has been deferred, including renovating crumbling schools, repairing the sewer overflow in the Anacostia River, fixing roads, and putting in place needed security systems to keep residents and visitors alike to our city safe.

The major initiatives in our local budget include education. We remain proud of our robust charter school movement which educates approximately 20 percent of the school-age children in the city. Under our leadership, the local facilities allowance for public charter schools has increased by almost 400 percent, from $617 per student in 2000 to about $2,400 per student in the proposed budget before you.

There is still more work to do, but we have been working with the subcommittee and the charter school community to launch the exciting City Build initiative which was funded by this subcommittee, and Senator Landrieu deserves enormous credit for that. But in education, we are working to expand early childhood education, to expand after-school and out-of-school activities; working to create five new transformation schools, where we have shown improvement in test scores; creating eight new charter schools; and upgrading school security.

In the public safety area, we make room in our local budget to continue to fund our full complement of 3,800 officers, to reconfigure our patrol service areas, to build our Office of Unified Communications, and to work toward civilianization of our force. A remaining challenge before us is working with the Council to reform our disability procedures and processes in the department. We think with an additional investment there, we can put an additional roughly 200 officers on the street.

Opportunity for all is a major commitment of mine as Mayor of the city, and we have put in place additional funds for the Youth Services Administration, particularly for reform laying the groundwork for replacing the current Oak Hill facility with a smaller, state-of-the-art facility. And I applaud you, Mr. Chairman, for your leadership on that effort, and for your steadfast oversight.

There are a number of requests we have made to the Federal Government in the Federal appropriations area; one is the Tuition Assistance Grant program. We are asking for a request to fully fund this program at a level of $25.6 million above the President's mark of $17 million. This has been a very successful program and honoring this request will avoid having to either limit the program on an income basis or to limit the program on a pro-rata basis. This has been a very successful program and we would like to continue its upward path.

Bioterrorism and forensics laboratory. Every city in the Nation has access to such a facility, as provided by their State. Many major facilities have their own. This is a critical public safety investment and we are requesting $9 million to move down the road for the planning and design phase of this lab. After the 4-year period of capital investment, we are prepared to commit the $40 million, roughly, a year to operate this.

We ask for dollars for the WMATA subsidy. What we have found, members of the committee, is that over the years the Federal Government has reduced its support for transportation in urban areas. States have increased their support. The District, because of its peculiar situation, is at a loss here. Maryland and Virginia are increasing their support. The Federal Government is diminishing its support.

So we are at the core of the Washington area and the center of Federal operations and have an enormous hit on our budget because of the amount of the subsidy. This is again a State function. It is something that benefits the Federal Government and its workers and makes us a healthy and livable region.

Next to last, Mr. Chairman, we ask for an increase in the Public Safety Event Fund. We have received from the President $15 million. We are asking for an allocation of $25 million, primarily and essentially because of the inauguration. With the expenses for the inauguration, post-September 11, we expect to easily absorb this additional amount. This is a one-time request for this addition and we would ask for the committee's support.

Last but not least, in the area of public school security we have seen what has happened in our public schools, particularly at Ballou High School. We have developed with our chief and in consultation with school officials a detailed public safety plan and are requesting from the Federal Government $15 million to assist us in this effort.

PREPARED STATEMENT

Again, I want to thank the committee for its support for budget autonomy as we move toward the road for full democracy in the District. With that, I would be happy, after the other testimony, to answer each and all of your questions.

[The statement follows:]

PREPARED STATEMENT OF HON. ANTHONY A. WILLIAMS

Chairman DeWine, Ranking Minority Member Landrieu, and other distinguished members of this subcommittee, I would like to thank you for the opportunity to testify before you today in support of the District of Columbia's fiscal year 2005 budget and financial plan. It has been particularly rewarding to work with you, Chairman, and this committee over the past year. The strength of State and local government experience you bring to your oversight responsibilities, along with your dedication to the District of Columbia, provide this panel with an opportunity to make a difference in the lives of citizens of the District of Columbia and make our Nation's capital an even more rewarding place to reside, work, and visit. My remarks this morning will focus on three main goals we have for working with this subcommittee:

—promoting the fiscal strength of the District despite a difficult national economy and a long-term structural imbalance caused by Federal restrictions;
—passing a local funds budget that provides for citizen priorities; and
—seeking critical Federal investments relating to services for our residents and our special status as the Nation's capital.

I will begin by discussing our efforts to overcome fiscal challenges.

OVERCOMING FISCAL CHALLENGES

The District has worked hard to overcome many fiscal challenges over the past decade. Some have been of our own making, others have been a matter of circumstance, affecting States and localities across the country, and others have been imposed by the Federal Government. Under my leadership, along with the legislative stewardship of our Council, led by Chairman Linda Cropp, and the fiscal guidance of Natwar Gandhi, Chief Financial Officer, there are few States or localities that have accomplished more in such a short period of time.

Fiscal year 2003 marked the District's seventh consecutive balanced budget. In April, the District received a two-notch upgrade in our bond rating from Moody's Investor Service and now all three rating agencies rate the District as grade A investment material. Over the last 4 years, as States and cities have weathered the deepest financial crisis in 60 years, the District has continued produce balanced budgets and has managed to increase our cash reserves, which totaled over $250 million at the beginning of this fiscal year. Our steady accumulation of reserves despite difficult times is due in no small part to the diligence of Senator Hutchison, who has advocated for robust and secure reserve funds. These reserves have the served the District well and have contributed to our string of ratings upgrades. I would also like to thank the senator for considering our proposal to restructure our cash reserves this year and hope that she and this subcommittee will support our proposal. This proposal, which is part of our budget request, would reduce our overall reserve requirement from 7 percent of total expenditures to 6 percent and extend the period over which the District can replenish the reserve from 1 year to 2 years. Even with these modifications, the District will have sound and stable cash reserves when compared to States across the country.

We have also achieved these accomplishments despite a long-term structural imbalance estimated by the General Accounting Office to be between $470 million and $1.1 billion per year. The GAO cites multiple factors causing this imbalance: the high cost of providing services in the D.C. metropolitan area, the relative poverty of our population, and Federal restrictions on our revenue collection authority.

So what explains this apparent paradox? How can the District achieve remarkable financial performance, yet still face this structural imbalance? The answer is twofold. One, our residents are among the most heavily taxed in the Nation, and two, the District is deferring massive investments in critical services and infrastructure. This is perhaps the most important point in my testimony today, Mr. Chairman and members of the committee, so I believe it bears repeating. In order to balance our budgets and fund our reserves, the District is deferring massive investments in critical services and infrastructure.

What is the magnitude of this deferral? Approximately $2.5 billion of infrastructure has been deferred, including renovating crumbling schools, repairing the sewer overflow, fixing roads, and putting into place the needed security systems to keep District residents and visitors safe.

As we seek solutions to address the structural imbalance and address our longstanding problems, it is clear that taxing our residents more or providing fewer services are not viable alternatives. Though the GAO report noted areas where the District needs to improve management efficiencies, the report is quite clear that this deficit would exist under any management structure and even if operational efficiencies were improved even more. One option proposed by the GAO is a change in

Federal policy to expand the District's tax base or to provide additional financial support.

Earlier this month, at the request of this committee I submitted a report to you that laid out a comprehensive plan for addressing structural imbalance in the District of Columbia. This report presented several alternatives for addressing the imbalance and highlighted one very promising vehicle, a bill recently introduced by Representative Eleanor Holmes Norton, the "District of Columbia Fair Federal Compensation Act of 2004". This bill would provide the District with an annual dedicated Federal payment of $800 million a year dedicated to transportation projects, debt service payments, public school facilities, or information technology investments. This approach to redressing the District's structural imbalance would allow the Federal Government to invest in infrastructure that benefits the Federal Government itself, the Washington metropolitan area, as well as the District of Columbia. Mr. Chairman, I very much appreciate your commitment to find a workable solution to this problem that threatens our long-term fiscal viability. In addition to addressing the Federal contribution to our budget, we also need to repair the Federal process for reviewing our budget. As you know, last year the Senate unanimously passed a budget autonomy act for the District. This legislation, besides being a well-deserved boost for us Home Rule advocates, would significantly streamline and rationalize our budget process by allowing the city to better align local funds with oftentimes unpredictable and shifting needs. This legislation would put a permanent end to long delays where the District budgets resources to respond to new service needs, but those dollars are tied up in seemingly endless continuing resolutions. This bill would also allow the District to better align our fiscal year with the Federal grant cycle and school year, as are most local jurisdictions. This would eliminate a massive number of administrative burdens. Therefore, we are hopeful that the House of Representatives will follow the Senate and pass the same bill. Without the support of Chairman DeWine and Senator Landrieu, as well as Senators Ted Stevens and Robert Byrd, this historic legislation would not have been possible, so I offer special thanks to you all. Having set the context, I will now discuss the fiscal year 2005 budget for the District.

FUNDING CITIZEN PRIORITIES

Over the past year our citizens have articulated their priorities in citizen summits and town hall meetings across the city, and this budget is the manifestation of those discussions. Our residents are calling for better education, public safety, health care and housing, and this budget makes critical investments to improve services in these areas. As a result, the growth of funding in this budget is focused on improving critical services, perhaps the most important of which is public education.

As I'm sure you noted, local leadership had a very robust debate in formulating this budget, and one of the topics discussed was the appropriate level of expenditure growth. After a healthy debate the Council approved a budget that funds the operations of government.

While growth in the budget appears dramatic at first glance, the true story is much less severe. Almost half of the growth in the budget funds one-time investments such as fulfilling court orders, paying for debt service from prior-year investments, and funding Medicaid cost increases. To manage the growth of Medicaid expenses we have new leadership in place, which includes a new Medicaid director and a director of our new Office of Medicaid Operations Reform. Our new leadership has led an effort to bring expertise and accountability to the District's Medicaid office and public provider agencies. We are implementing the recommendations from our prior-year Medicaid audits, we have made significant improvements to our Medicaid budget development process, and we have improved our approach for billing for Medicaid services. In the following discussion I will discuss key initiatives included in this budget.

EDUCATION

Since my first budget as Mayor, I have increased the funding for public education by almost 60 percent. In addition to stabilizing funding for District of Columbia Public Schools despite continuing decline in enrollments, our fiscal year 2005 budget provides record funding for charter schools. Despite these investments, I continue to be concerned with the quality of education we are providing to our children, and I am particularly concerned with how DCPS has managed its budget. To address these concerns, I have introduced legislation that would streamline the accountability and governance of our public schools by creating a chancellor position that reports directly to the Mayor with oversight from our City Council. Based on feedback from Council members and the general public, I am refining that proposal to

also create an elected State board of education that would have considerable State-level powers. I am encouraged by the increasing number of Council members who voted against the status quo at yesterday's legislative session. This indicates momentum in the direction of meaningful change. I look forward to continuing to work with the Council to reach agreement on a new governance structure soon. I hope we can rely on expedited consideration by the Congress of any legislation passed by the Council that would require a change in our Home Rule Charter. My efforts to recruit the best chancellor possible and strengthen the accountability structures around that new position are just part of my effort to improve the educational opportunities available to our children.

In addition, the city remains extremely proud of its robust charter school movement, which educates approximately 20 percent of the school-age children in the city. Under my leadership, the local facilities allowance for public charter schools has increased by almost 400 percent, from $617 per student in 2000 to over $2,400 per student in the proposed budget before you. We have also been working closely with this subcommittee and the charter school community to launch the exciting City Build initiative, which was funded by this subcommittee and will provide five charter schools with $1 million for their facilities in the coming months. Senator Landrieu deserves tremendous credit for her work on this program, and on charter schools in general.

In summary, the fiscal year 2005 budget includes several new education initiatives, including:

—expansion of early childhood education,
—expansion of after-school and out-of-school activities for children and youth,
—creation of 5 new transformation schools in the D.C. Public School system,
—creation of 8 new public charter schools, and
—an upgrade of school security.

In addition, the District's new federally-funded scholarship program is unfolding quite well and has received approximately 1,500 applications from eligible families. Over 40 schools have submitted school commitment forms to participate in this program and more are expected to join. Based on these rough numbers we anticipate that will be able to meet our goal of serving approximately 1,700 students. The Washington Scholarship Fund, which is administering the program, is currently working with the program evaluation team, and the Department of Education to assess the number of slots and eligible participants to determine whether a lottery will be necessary for specific grade levels. I am confident that if such a lottery process is employed it will be consistent with the intent and priorities identified in the legislation.

PUBLIC SAFETY

On May 3, our city suffered the tragic death of 8-year-old Chelsea Cromartie. Chelsea's murder was a senseless cowardly act of violence and unfortunately, it was not an isolated event. This year, 13 more of our children have been victims to senseless murders. The District's response has been aggressive: we continue to fund 3,800 officers, we have conducted a new Patrol Service Area plan to enhance police deployment in our neighborhoods, and we have established the Office of Unified Communications to coordinate our emergency responses, and we have just launched a major new effort to concentrate resources from across the government on crime "hot spots" in order to make fundamental change. Recently I also introduced legislation at the end of last year to reform the District's juvenile justice system. This legislation includes key legislative changes that would make the District safer for residents and victims of crime while providing improved rehabilitation services for our youth. Through these initiatives the District will make great strides to provide a safe and secure city for those who live, visit, and work here.

OPPORTUNITY FOR ALL

The city is also devoting its efforts to improving services for the District's most vulnerable. At the Youth Services Administration, I have put in place transitional leadership that has already delivered improvements in the areas of security, treatment, staffing, administration, and licensing. We have also developed a comprehensive plan to best serve our youth and comply with and ultimately exit the current outstanding class action litigation. The plan also lays the groundwork for replacing the current Oak Hill facility with a smaller, state-of-the-art youth facility. In addition, this budget includes the following enhancements:

—expanded coverage for traditional Medicaid clients,
—full funding for the Health Care Alliance,

—expanded treatment for the elderly, mentally challenged, and HIV/AIDS patients, and
—facility upgrades at community clinics and "Medical Homes".

PRIORITY FEDERAL FUNDING FOR CRITICAL PROJECTS

Our budget includes several requests for funding projects in partnership with the Federal Government and I welcome this Committee's partnership with the District to invest available Federal resources in the city's top priorities.

The President's budget includes funding for several of my top priorities, including education funding for public schools, charter schools and private school scholarships; funding for the Combined Sewer Overflow project, which is part of a long-term effort to clean up and revitalize the Anacostia River; and funding for important public safety investments such as the Unified Communications Center and the Fire Department's command center. Our budget also includes funding requests for several projects at a higher level than the President's mark and for other projects that are not included in the President's budget but are worthy of congressional attention. I would like to emphasize several of them here today:

—*Tuition Assistance Grant Program*.—This program will allow 4,000 students to pursue higher education this year—either at public institutions and private historically black colleges around the country as well as local private colleges and universities. This high participation rate, along with rising tuition costs, means that the District will need to restrict payments to students or make the program needs based for students applying to the program for the 2004/2005 school year unless Congress takes action to fund the program at a higher level. This would have a devastating impact on the program which has had such a profound impact on opening up college opportunities to many families for the first time, as well as providing an incentive for middle class families to remain in or relocate to the city. Our budget contains a request to fully fund this program at a level of $25.6 million above the President's mark of $17 million. Otherwise we will have to curtail this very successful program.

—*Bioterrorism and Forensics Laboratory*.—Every city in the Nation has access to such a facility as provided by the State, and major cities have their own. These laboratories are critical to tracing evidence that leads to convicting and incarcerating offenders in cases involving homicide, rape, and other serious offenses. Although the District is given some access to the laboratory managed by the FBI, the available capacity is woefully inadequate, and therefore the District faces a large crime rate without the tools needed to address it.

This laboratory is also essential for assessing, detecting, and addressing bioterrorism attacks. As we have seen with the events of September 11, the anthrax attack, and the ricin scare, the Federal Government is a natural target for terrorists and the public safety infrastructure of the District of Columbia is the first line of defense. This laboratory would significantly enhance our ability to detect and respond effectively to such threats. Toward this end, we are requesting the $9 million for the planning and design phase of a bioterrorism and forensics lab.

—*WMATA Operating Payments*.—The District's contribution to WMATA operations will consume $208.5 of the city's local budget in fiscal year 2005. Because the District is the core of the Washington metropolitan area and the center of Federal operations, this investment not only benefits District residents, but it benefits the entire region. Last year, for the first time, Congress contributed $3 million towards this subsidy. This year, we are asking for full funding for our WMATA subsidy. This support is justified because Federal stations, Federal workers, and visitors to the Federal Government constitution a significant amount of the WMATA activity subsidized by the District. Federal support is also justified because mass transit costs are typically funded at the State level; Maryland funds 100 percent of its localities' operating subsidy and Virginia funds half for its jurisdictions. I would argue that inherently unfair allocation of operating expenses allocated among Maryland, Virginia, and the District is a striking example of the structural imbalance and a logical opportunity for the Federal Government to craft an immediate, partial solution.

—*Downtown Circulator*.—The Downtown Circulator project will provide the 22 million visitors to Washington, DC with an inexpensive and easy way to move around the Monumental Core. The service will connect several of the District's most popular destinations for residents, tourists and even Federal employees. In the future, the system could also be adopted by Federal agencies as cost-saving replacement for private vehicle fleets and shuttle services. The Federal Government provided half a million dollars for this project in fiscal year 2004 and

the District is requesting an additional $1 million in fiscal year 2005, which the District will match with local funds on a one-to-one basis on top of considerable support from the city's tourism and business sectors.

—*Public Safety Event Fund*.—This fund was established to fund local costs incurred in response to major Federal events, but this year it was seriously under-funded by the President and should be raised to $25 million in fiscal year 2005. The proposed level of $15 million would barely cover reimbursement for the District's costs associated with relatively predictable events such as anti-war protests, IMF and World Bank events, and high alert details. It does not account for any cost associated with the Presidential inauguration, including payment for officers from outside jurisdictions, the overtime costs of our own police officers, and the additional services from other agencies such as the Fire Department, WMATA, and WASA. In the post-9/11 security environments, total costs will cost well over the extra $10 million that we are requesting.

—*Public School Security*.—In the wake of the tragic shooting at Ballou Senior High School on February 2, 2004, we need to redouble our efforts in this area. The approach of city leadership recognizes the critical importance of school principals and school staff in creating a climate of safety and the importance of providing our staff the necessary tools and training. There is currently legislation before Council to transfer the responsibility for school security to the Metropolitan Police Department. While the District is planning on funding the significant operating costs of this initiative, I am requesting Federal funding of $15 million to assist with the one-time start up costs.

—*Adult/Family Literacy Initiative*.—This initiative, which was launched by this subcommittee, continues to address a gaping hole in the city's educational infrastructure. The District has leveraged over $1 million in private assistance with Federal appropriations to date and we have used this funding to fund literacy services to 872 adults who otherwise would not have received assistance. We have also recruited, hired, placed and provided professional development for 20 Lifelong Learning Coaches. I am requesting an additional $2 million to continue our efforts and focus additional efforts on the areas where we have identified significant disparities between the need for literacy services and the availability of those services.

DEMOCRACY FOR THE NATION'S CAPITAL

Having presented the District's fiscal year 2005 budget and Federal request, I would like to close with a discussion of something that is beyond price, and that is the democratic rights of our citizens. The Senate has already signaled its interest in expanding Home Rule and democracy in the District by passing budget autonomy. I would like to ask for your individual support to take the next crucial steps. The District is the capital of the world's greatest democracy, and it is the ultimate hypocrisy that its citizens suffer from the exact disenfranchisement this Nation was founded to end. The United States is continuing to sacrifice hundreds of lives and billions of dollars to provide Iraqis with freedom and democracy, yet denies full democracy to more than a half a million people at its very heart. I urge you to end this injustice and provide the city with full voting representation in the Congress. Anything short of full democracy for our residents should be at the level of personal outrage for all Americans. This concludes my remarks today. Thank you for the opportunity to testify before you today and I look forward to answering any questions you may have.

Senator DEWINE. Thank you, Mayor.

Chairman Cropp, thank you very much for joining us.

STATEMENT OF LINDA W. CROPP

Ms. CROPP. Thank you very much, Mr. Chairman, Senator Landrieu, Senator Hutchison. It is indeed a pleasure to be here with the Mayor and Dr. Gandhi to testify before you with regard to the District of Columbia's budget. I join with the Mayor in thanking you so very much for the support that you have given to the District in the past, in particular your passage of the budget autonomy for the District of Columbia.

The fiscal year 2005 budget, as many of you recognize, represents the eighth year in a row consecutively that a fiscally-sound and

balanced budget is presented to you. This budget is also a reflection of our resolve to stand as one government that will remain fiscally prudent and responsible.

The efforts of the Council and the Mayor working together have created a spending plan that continues to provide the services needed to make the District of Columbia a much better place to live, to work, to raise a family and to visit. The Council and the Mayor will continue to work in a collaborative effort throughout the year in order to manage government spending.

Fiscal discipline has always been and will continue to be a top priority of the last few Councils for our legislative agenda. We have not only demanded it of the executive branch, but we also practice it. The various forms of fiscal discipline, from rainy-day funds, financial safeguards, insurance and investment policies, economic triggers, to pay-as-you-go funds, that we have demanded and imposed on ourselves in the past several years have yielded significant returns for the District.

During the Council's 50-day review period of the budget, we held 54 hearings, totaling 296 hours of public hearings. These public hearings are a very important part of our budget process. The public hearings provide our citizens an opportunity, with our workforce, to comment and to critique the programmatic funding needs and agency performance that impacts them. This feedback is essential.

The Council worked diligently with the Mayor in aligning both sets of priorities and put together a fiscally-sound and responsible spending plan. The operating budget funds basic city services and programs. The capital budget, as a result of stringent oversight, has been aligned. For example, funds were redirected and targeted for those projects with higher priority and critical need.

On May 14, the Council approved a $4.16 billion spending plan that provides adequate funding for basic city services and programs. The funding level for fiscal year 2005 represents a 7.1 percent growth over the revised 2004 local budget and sets growth for next year's budget at 4.6. The Council is determined to keep our budget growth within realistic figures.

The budget provides $40 million for the production of low- and moderate-income housing, and increases the funding for child care, substance and drug abuse treatment, and health care for uninsured residents. In keeping with the seven goals of the Council's legislative agenda, schools continue to receive full funding. The budget earmarks approximately $1 billion for public and charter schools.

In order to address concerns about the growth of spending in certain agencies, while still wanting to finance programs important to the District's most vulnerable residents, a contingency fund was established. This fund would provide financial support for the District's budget if other sources were not available for the Department of Human Services' Child and Family Services, Mental Health, Inspector General, Employment Services, Youth Services, and the Office of the Secretary. A request to expend money from the contingency fund would require proof of need and the appropriate efficiencies that we expect from government.

The Council supports the congressional budget request items, particularly the Tuition Assistance Grant program and the plan-

ning and security costs associated with the Federal presence. A total of 4,086 students are receiving funds this year from the TAG program. It has had a significant impact on furthering the education of these students. Therefore, it is important that the additional $8.6 million be provided to continue to fund this program.

The need for funding, planning and security costs related to the Federal presence continues to rise. The requirements of homeland security have added to this cost. In the past 2 years, the District has been reimbursed for the costs it has incurred for major events held in Washington, due to the fact that we are the Capital City. These cost have now been capped at $15 million.

In the past 2 years, which have been non-inaugural years, the District has received $15 million to cover the costs for providing safety at events. The District is now being asked to apply the $15 million to cover the costs for the major events and the Presidential inaugural. Historically, the District has been directly reimbursed for the costs associated with the Presidential inauguration.

The costs for providing security during the 2001 inauguration were $6 million. With the addition of homeland security requirements, this amount has grown to $10 million. The District, however, is now asking for the additional $10 million. We just cannot possibly absorb that within all of the other costs.

Another area I would like for you to consider is funding to assist with the cost of correcting the problem of the lead in the water. As you are aware, investigations to date have revealed that the various actions of the D.C. Water and Sewer Authority, the Environmental Protection Agency and the Washington Aqueduct may have all contributed to the problem.

Therefore, it would appear to be appropriate for Federal dollars to be made available to assist in the cost for the testing of the water, the testing of the lead levels in residents, and for the replacement of the lead service line. It is our hope that through the joint effort of the District and Federal governments, we can resolve this problem and again make water safe in the District of Columbia.

I would also like to ask for your help in obtaining the approval of the District's tax incentives that expired at the end of last year. The first-time homebuyer credit, the enterprise zone credit and the revenue bond programs are important to economic development in the District. The first-time homebuyer credit attracts residents to the District and assists persons in purchasing homes that might not otherwise have the opportunity to do so. As you are probably aware, the Mayor has a proposal that would bring in more residents to the District of Columbia, and those tax credits certainly played a major role in helping to grow our economy.

The District is always challenged in developing its budget due to ongoing structural imbalances. I want to join with the Mayor in thanking you so very much for supporting and passing budget autonomy. It is very important to the citizens of the District of Columbia and we thank you for your wisdom and your action in that.

On the structural imbalance, we hope that we would be able to rely on some of the reporting from the General Accounting Office and the committee and that they will look at that and give the District some assistance in that.

I would like to mention one other way the Congress could assist the District of Columbia in its managing of funds, and Senator Hutchison has elaborated on that in her opening statement with regard to our cash reserve. We thank you for the changes that are being made. We think that that is the right direction for us to go.

We believe that we ought to have some cash in the bank. We join with you in that, but the changes that were there were possibly just a little bit too much and we are happy we are moving in this direction. I would ask that you consider in the future as we continue along the line of fiscal responsibility that you look at a 3-year pay for paying it back if we need the emergency money within 1 year.

In most instances, a 1-year pay-back is still too soon. When you look at what most other jurisdictions do, they usually have a 3-year time period to pay it back. So as we continue along fiscal responsibility, we hope that you will look at that.

PREPARED STATEMENT

In conclusion, I would like to say that we look forward to working with you as we make the District of Columbia the type of city that we all know that it can be. We are on our way, we are moving in that direction, but we will continue to strive to make it a much better place for people to work, live and visit.

Thank you very much.

[The statement follows:]

PREPARED STATEMENT OF LINDA W. CROPP

Good morning, Chairman DeWine, Senator Landrieu and members of the Senate Appropriations Subcommittee on the District of Columbia. I am pleased to be here with my colleagues to testify on the District's budget for fiscal year 2005.

INTRODUCTION

The fiscal year 2005 budget represents for the eighth year in a row, a fiscally sound and balanced budget. This budget is also a reflection of our resolve to stand as one good government that will remain fiscally prudent and responsible. The efforts of the Council and the Mayor, working together, has created a spending plan that continues to provide the services needed to make the District a better place in which to live, to work, to raise a family, and to visit. The Council and the Mayor will continue this collaborative effort throughout the year in order to manage government spending.

Fiscal discipline has always been and will always be a top priority on our legislative agenda. We not only demand it of the executive branch, we practice it. The various forms of fiscal discipline—from rainy day savings, financial safeguards, insurance and investment policies, economic triggers to Pay-As-You-Go funds—that we have demanded of, and imposed on ourselves in the past several years, have yielded significant returns to the District of Columbia. This is reflected in the District Government receiving for the seventh consecutive year an unqualified audit opinion and a fiscal year 2003 Comprehensive Annual Financial Report (CAFR) showing a balanced budget. In addition, this year for the first time, the District received an "A" rating from all of the Wall Street financial rating agencies.

In 2004 the Council passed the fiscal year 2005 Budget Submission Requirements Resolution of 2004. It established the date for submission of the Mayor's proposed budget. It required performance plans and reports, and certain information and documentation be submitted to the Council along with the proposed budget.

THE BUDGET PROCESS

During the Council's 50-day review period the Council conducted 54 hearings totaling 296 man-hours. These public hearings are an important part of the budget process. The public hearings provide the citizens and our workforce with an opportunity to comment and critique programmatic and funding needs, and agency per-

formances that impact them. This feedback is essential in reaching the decisions and determining the recommendations of each committee in the mark-up of the budgets.

The Council worked diligently with the Mayor in aligning both sets of priorities and, put together a fiscally sound and responsible spending plan. The operating budget funds basic city services and programs. The capital budget, as a result of stringent oversight by the Council, was realigned. For example, funds were redirected and targeted for projects with higher priority and critical needs, such as schools for the children, housing for low and moderate income residents, and enhancing existing facilities for better public/Council interaction.

The Mayor submitted the budget to the Council on March 29. The proposed local budget was $4.17 billion, an increase of $282.8 million or 7.3 percent above the revised fiscal year 2004 budget. The Council carefully reviewed the proposed expenditures to ensure that priority programs were properly funded. Adjustments were made through hard decisions between competing program preferences and by rooting out unnecessary budget cushions within the request.

HIGHLIGHTS OF THE FISCAL YEAR 2005 BUDGET

On May 14 the Council approved the $4.16 billion spending plan that provides adequate funding for basic city services and programs. This funding level for fiscal year 2005 represents a growth of 7.1 percent over the revised fiscal year 2004 local budget and sets growth for next year's budget at 4.6 percent. The budget provides $40 million for the production of low and moderate income housing and increases the funding for childcare, substance and drug abuse treatment, and health care for uninsured residents. In keeping with the seven goals on the Council's legislative agenda, schools continue to receive full funding. The budget earmarks approximately a billion dollars for public schools and public chartered schools.

In order to address the Council's concerns about the growth of spending in certain agencies while still wanting to finance programs important to the District's most vulnerable residents, a contingency fund was established. This fund would provide financial support from the District's budget if other sources were not available for the Departments of Human Services, Child & Family Services, Mental Health, Health, Inspector General, Employment Services, Youth Services Administration and the Office of the Secretary. Requests to expend money from the contingency fund would require proof of need and approval by the CFO, the Mayor and the Council.

FEDERAL BUDGET REQUEST

The Council supports the Congressional budget request items included in the Mayor's proposal. However, I would like to highlight two items included in that request. The Tuition Assistance Grant Program (TAG) and the Planning and Security costs associated with the Federal presence. The TAG program has been extremely successful in the District. A total of 4,086 students are receiving funds this year from the program. TAG has had a significant impact on furthering the education of these students. Therefore, it is important that the additional $8.6 million be provided to continue to fully fund this program.

The need for funding Planning and Security costs related to the Federal presence continues to rise. The requirements of Homeland Security have added to this cost. In the past 2 years the District has been reimbursed for the costs it has incurred for major events that are held in Washington. These costs have now been capped at $15 million. In the last 2 years, which have been non-inaugural years, the District has received the $15 million to cover its costs for providing safety at events. The District is now being asked to apply the $15 million to cover the costs for major events and the Presidential Inauguration. Historically the District has been directly reimbursed for the costs associated with the Presidential Inauguration. The costs for providing security during the 2001 inauguration were $6 million. With the addition of Homeland Security requirements this amount has grown to $10 million. The District Government is asking for the additional $10 million to cover the anticipated costs that will be incurred for the 2005 inauguration.

Another area I would like for you to consider is funding to assist with the costs of correcting the problem of lead in the water. As you are aware the investigations to date have revealed that the various actions of the DC Waster And Sewer Authority (WASA), the Environmental Protection Agency (EPA) and the Washington Aqueduct may have all contributed to the problem. Therefore, it would appear to be appropriate for Federal dollars to be made available to assist in the cost for the testing of water, the testing of lead levels in residents and for the replacement of lead service lines. It is our hope that through the joint effort of the District and Federal Gov-

ernments we can resolve this problem and again make water safe in the District of Columbia.

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

The District has not been able to offer these very important benefits for the past 5 months. It is important to our economic growth that these tax incentives we reauthorize.

FEDERAL CONTRIBUTION

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

It is worth recalling that when the 1997 Revitalization Act was passed, one recommendation was that Congress would not need to review or approve the District's budget because the city would no longer receive any Federal payments. At a minimum, Congress should no longer approve the local portion of the District's budget. Just like the other 50 States, the District should be solely responsible for approving its own local spending. Achieving such budget autonomy will allow the District to implement its budget in a timely manner and will assist in improving the city's fiscal management. I want to thank you Mr. Chairman, the subcommittee and the Senate for supporting this initiative. It is my hope that the U.S. House of Representatives will soon join you in adopting this proposal.

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

Congresswoman Eleanor Holmes Norton has introduced Bill H.R. 4269, the District of Columbia Fair Federal Compensation Act of 2004. The bill outlines the unique situation of the District of Columbia as a Federal city. It proposes an annual Federal payment of $800 million with provisions to adjust the number in the future. The $800 million would be made available to address important structural needs of the city, which the District Government cannot fully fund from its current budget. Transportation and street maintenance, information technology and DCPS capital improvements are essential to the running of the city. I ask for this subcommittee to support this legislation and encourage adoption by the Senate.

I would like to mention one other way that the Congress could assist the District Government in managing its funds. Dr. Gandhi has proposed changes to the requirements for the Emergency and Contingency Cash Reserve funds. The proposed changes would provide additional monies for local programming and the provision of services to the residents of the District of Columbia while still maintaining required reserve levels. Your support of the proposed changes would be of great benefit to developing and managing our budget.

CONCLUSION

Finally, as you consider our appropriations request, we ask that you support and pass the budget in time for the start of the new fiscal year and before the adjournment of the 108th Congress. Furthermore, we urge you to pass the budget as is, without any extraneous riders. This much anticipated fiscal year 2005 budget is important because it shows how the Mayor and the Council can work together and underscores our commitment to make Washington, DC one of the best governed cities in the Nation.

Nonetheless, the Council will continue to oversee the Executive's operations and expenditures. We will be responsive to our constituents who call the District their home. We will work with the Mayor, Congress, and the surrounding governments to achieve mutually shared goals. Together with the Mayor, we will produce good responsible budgets that invest dollars for the District and leave a legacy for future generations. Granted we do not always agree from time to time, but we will be at the table to assert ourselves as an institution and work for the betterment and future of our citizens.

I thank you for this opportunity to present the fiscal year 2005 budget and these issues of major importance to the District of Columbia.

Senator DEWINE. Thank you.

Dr. Gandhi.

STATEMENT OF NATWAR M. GANDHI

Dr. GANDHI. Thank you, Mr. Chairman, Senator Landrieu, Senator Hutchison. I am Natwar M. Gandhi, Chief Financial Officer for the District of Columbia and I am here today to testify on the District's fiscal year 2005 budget request to the Congress.

The Congress created the District's Office of the Chief Financial Officer to preserve and enhance the District's financial viability at all times. The District has made substantial progress in the last 7 years, achieving a consistent series of balanced budgets and clean audits, and significantly improving its financial infrastructure.

As part of this success, the District has had a $1.4 billion turnaround in fund balance, from a negative of $518 million in 1996 to a positive balance of about $897 million at the end of fiscal year 2003. We had almost $254 million in cash reserves for emergency and contingency purposes at the end of fiscal year 2003, probably the largest of such reserves as a percentage of budget in the entire Nation.

The crowning event to date, in fiscal year 2004, is the recent two-notch upgrade in the rating on our general obligation bonds from Moody's, lifting our rating to the A category from all rating agencies for the first time ever. And I particularly want to thank this committee, and particularly Senator Hutchison, for taking a lead on that.

We continue to build on this record of accomplishment. Standardized spending plans for all agencies are now in place, and we are monitoring reserves against those plans using a new online financial management tool for controlling agency spending.

The District has enacted its own Anti-Deficiency Act to hold financial and program managers accountable for achieving program results within approved budgets. The first-ever local anti-deficiency report identifying agencies that have strayed from the approved budgets and spending plans in the first quarter of fiscal year 2004 is forthcoming.

With all these accomplishments in place as evidence of ongoing fiscal prudence and commitment to sound fiscal management, it is high time to grant the District local budget autonomy. It will allow the District to improve budget preparation and management quite significantly.

Mr. Chairman, I very much appreciate your leadership and support on that matter, and we hope that the U.S. House of Representatives will soon follow your lead in this matter.

The fiscal year 2004 financial outlook is good, and I am confident that we will end the year with a balanced budget one more time. The fiscal year 2005 budget request has just been voted on by the Council on May 14. As Chairman Cropp pointed out, the Council and the Mayor are currently reconciling their respective budget amendments, and we will provide the subcommittee with the final numbers as soon as they are available. However, I would like to briefly summarize some of the key points in the request.

The local funds, taxes and fees paid by D.C. residents comprise about two-thirds of the total budget, or about $4.16 billion, an increase of about $332 million, or about 8.7 percent. Please note that the expenditure growth for the local funds in 2005 does not set the mold for 2006 and beyond. Expenditures are expected to grow at 4.5, 4.3 and 4.5 percent for fiscal years 2006, 2007, and 2008, respectively.

The 2005 budget includes important budget corrections or increases to recognize the true cost of providing the current level of services. The increases in this budget are driven by the cost of maintaining current programs at existing program levels, not by new program initiatives. All of the total increase of $332 million in local fund expenditures is related to maintaining current services.

Two areas of note are Medicaid and public education. The rising Medicaid expenditures are in large part due to the cost of providing care to the District's aging and disabled population. In 2000, 20.3 percent of the District's population was disabled, and about 12 percent was over the age of 65. The cost of caring for these groups has increased at a rate much faster than inflation. The District has also experienced enrollment increases and has now reached 99-percent-eligible enrollment status.

When we benchmark our Medicaid programs with our neighboring States, here is what we find. Fully 25 percent of the District's population is enrolled in Medicaid, compared to 12 percent in Maryland and 9 percent in Virginia. The District spends on average $7,200 per enrollee, compared to about $5,500 in Maryland and about $5,100 in Virginia. Per resident, the District of Columbia spends about $1,776, compared to about $649 in Maryland and $445 in Virginia.

In public education, the formula increases in public education for both D.C. public schools and charter schools added about $70 million over the 2004 budget. However, these increases are needed to maintain schools as they operate today.

The economic outlook for the District of Columbia for fiscal year 2005 is quite good. Retail sales, including tourism, are expected to be up by about 5 percent, reflecting the current trends. The real estate market continues to be very strong, with taxes on property sales remaining at all-time highs. Real property tax revenues are expected to increase by about 11 percent in 2005.

Our 5-year financial plan projects positive net operating margins through fiscal year 2008. However, the District will operate on a very slim financial margin, about $2 million, in fiscal year 2005. As you are aware, in fiscal year 2002 the District fully funded its emergency and contingency cash reserve funds at the maximum current required level, totaling about $248 million, or 7 percent of the total expenditure budget. This was a significant accomplish-

ment, achieved 5 years ahead of our deadline, and it has contributed significantly to the District's bond rating upgrades.

Senator DEWINE. Doctor, if you could wrap up, please.

Dr. GANDHI. All I need to add here is basically the changes that we are currently working with Senator Hutchison's office on, once they are implemented into law, we will be able to provide still a substantial amount of cash in there.

PREPARED STATEMENT

The last thing I would want to say is basically we appreciate your lead on the structural imbalance, and on that front the recent legislation that is sponsored by Ms. Eleanor Holmes Norton in the House would be the most welcome correction for the District's structural imbalance.

Mr. Chairman, that concludes my oral remarks. I request that my written testimony be made part of the record.

Senator DEWINE. It will be made a part of the record. Thank you very much.

Dr. GANDHI. Thank you, sir.

[The statement follows:]

PREPARED STATEMENT OF NATWAR M. GANDHI

Good morning, Mr. Chairman, Senator Landrieu, and members of the subcommittee. I am Natwar M. Gandhi, Chief Financial Officer for the District of Columbia, and I am here today to testify on the District's fiscal year 2005 budget request to the Congress. My remarks will briefly touch on the fiscal year 2004 financial outlook, the fiscal year 2005 request, and the overall health of the District's finances.

OVERARCHING FINANCIAL GOAL

Since assuming this office, my overwhelming objective has been to preserve, enhance, and secure the District's financial viability for today and into the indefinite future. The District has made substantial progress in the last 7 years, achieving a consistent series of balanced budgets and clean audits, and significantly improving our financial infrastructure. As part of this success, the District has had a $1.4 billion turned around in fund balance from a negative $518 million in 1996 to a positive balance of $897 million at the end of fiscal year 2003. We have over $253 million in cash reserves for emergency and contingency purposes, the largest such reserves as compared to budget that I can identify in the entire Nation. The culminating event to-date in fiscal year 2004 is the recent upgrade in the rating on our General Obligation bonds from Moody's Financial Services, lifting our rating to the "A" category from all rating agencies for the first time ever.

We continue to build on this record of accomplishment. Standardized spending plans for all agencies are now in place and we are monitoring results against those plans using a new on-line financial management tool for controlling agency budgets. Across all agencies, we are building performance budgets that set targets for accomplishments and benchmark these targets against best practices in local government. The District has enacted its own Anti-Deficiency Act to hold financial and program managers accountable for achieving program results within approved budgets. We have recently issued the first ever local Anti-Deficiency report identifying agencies that have strayed from their approved budgets and spending plans in the first quarter of fiscal year 2004.

The District is making steady progress on its long-term replacement strategy for its administrative systems—the Administrative Services Modernization Program (ASMP)—spearheaded by the Office of the Chief Technology Officer. Over the next 3 years, all of the District's administrative systems—personnel, payroll, procurement, property management, and budget—will be upgraded and integrated with the System of Accounting and Reporting (SOAR). For the first time, the District will have a top quality, integrated information system with which to manage District operations. Already in operation is a new procurement system linked to our accounting

system. A new budget system is scheduled to become operational in August 2004, a personnel system in November 2004 and a payroll system in July 2005.

With all of these accomplishments in place, as evidence of ongoing fiscal prudence and commitment to fiscal viability, it is time for two changes in the District's relationship with the Federal Government. Specifically, budget autonomy will allow the District to improve budget preparation and management quite significantly. Without autonomy we must prepare specific expenditure plans and revenue estimates many months in advance of the actual budget year, adding more-than-usual uncertainty about the planned budget and posing more difficulty in budget execution. Mr. Chairman, I very much appreciate your support and that of the U.S. Senate on the matter of budget autonomy and am very hopeful that the U.S. House of Representatives will soon follow your lead in this matter.

It also is time for some additional Federal consideration of the District's infrastructure needs. The District faces about $3 billion in infrastructure needs in the next 4 years—mostly in schools, streets and transportation—that cannot possibly be funded locally. The District of Columbia already has the highest per capita general obligation debt in the Nation and a tax burden that is 18 to 33 percent higher than average for the States. Our only local options for meeting these infrastructure deficiencies are: (1) adding even more per capita debt—an action very much frowned on by the rating agencies, (2) increasing per capita tax burdens—an action likely to discourage current and potential residents and employers, or (3) lower delivery of other types of services—a difficult choice in a city with an unusually large population of people in need.

In May 2003, the General Accounting Office (GAO) strongly underscored the District's unique financial challenges in generating the funds to finance all usual and necessary services. An annual structural imbalance is identified in report GAO–03–666, of $470 million to $1.14 billion between the costs of delivering typical services and the revenue available from typical tax burdens, based on the fiscal year 2000 budget and data. Over the years, the District dealt with this gap by neglecting infrastructure needs and assessing very high taxes. Today, we continue to need assistance to address our many infrastructure problems.

FISCAL YEAR 2004 FINANCIAL OUTLOOK

Through the leadership and cooperation of our elected officials, the District made the necessary tough decisions to assure a balanced budget for fiscal year 2004. As of this time, all identified spending pressures have been resolved through internal or interprogram reallocations. I am confident we will end the year with a balanced budget.

FISCAL YEAR 2005 BUDGET REQUEST

The Council of the District of Columbia voted to approve the fiscal year 2005 budget request on May 14. I would like to briefly summarize some of the key points in the request.

In total, the District's gross funds operating request for fiscal year 2005 is $6.25 billion, an increase of about $545 million, or 9.6 percent, over the approved fiscal year 2004 level of $5.7 billion. The total number of positions in fiscal year 2005 from all funding sources is 33,050, an increase of 882 positions.

Local funds, taxes and fees paid by D.C. residents comprise about two-thirds of the total budget, about $4.17 billion, an increase of about $332 million, or 8.7 percent, over fiscal year 2004 levels. The total number of positions funded with local funds is 26,050 in fiscal year 2005, a decrease of 195 positions.

Please note that the expenditure growth for local funds in fiscal year 2005 does not set the mold for fiscal year 2006 and beyond. Expenditures are expected to grow at 4.1, 4.6 and 4.3 percent for fiscal years 2006, 2007, and 2008, respectively. The fiscal year 2005 budget includes important budget corrections or increases to recognize the true cost of providing the current level of services, including entitlements experiencing both higher provider rates and utilization, court orders' compliance costs, attainable projections of Medicaid reimbursements, higher pension costs for prior years' pay raises for teachers, police officers and firefighters, as well as new operating costs from completed capital projects. Almost half of the fiscal year 2005 local funds growth rate of 8.7 percent, or $156 million of the $332 million increase, is due to these one-time budget corrections for fiscal year 2004 service level and rate increases. The reminder of the growth—4.6 percent (growth rate of 8.7 percent minus 4.1 percent) or $176 million—is anticipated service level and cost increases for fiscal year 2005 alone. If we isolated service level and rate increases for just fiscal year 2005, it would be 4.6 percent rather than a 8.7 percent growth, which is in-line with the previously mentioned out-years growth rates.

COST DRIVERS

The increases in this budget are driven by the cost of maintaining current programs at existing program levels, not by new program initiatives. All of the total increase of $332 million in local fund expenditures is related to maintaining current services. Program initiatives of $36.3 million are accommodated by making program reductions or shifting costs to other fund sources.

Medicaid.—The fiscal year 2005 proposed budget for Medicaid is $1.4 billion, or 22 percent of the District's gross funds budget. Total program costs have risen 45.2 percent and local fund costs by 30.9 percent between fiscal year 1999 and fiscal year 2004. In fiscal year 2005, Medicaid costs are projected to increase by $39 million.

There are several contributing factors to rising Medicaid expenditures, but they are in large part due to the cost of providing care to the aging and disabled populations. Care for these groups has increased at a rate much faster than inflation because of price increases in prescription medications, the rapidly rising costs for nursing home services, and labor costs that continue to soar, driven by a nationwide shortage of nurses and new staffing requirements. The District has also experienced enrollment increases and has now reached 99 percent eligible enrollment status. This is attributable mainly to aggressive outreach campaigns and program expansions such as the Childless Adults Waiver that offers coverage for ages 50–64 up to 50 percent FPL and the expansion of the HIV/AIDS Waiver.

When we benchmarked our Medicaid program with our neighboring States, here is what we found:

—25 percent of the District's population is enrolled in Medicaid—compared to 12 percent in Maryland and 9 percent in Virginia.

—The District spends, on average, $7,242 per enrollee—compared to $5,509 in Maryland and $5,177 in Virginia.

Per resident, D.C. spends $1,776—compared to $649 in Maryland and $445 in Virginia.

Costs per enrollee are higher in the District than in surrounding jurisdictions because the District, an entirely urban area, has higher costs to deliver the same services as Maryland and Virginia. These States spread part of their service delivery over rural areas that have lower costs. With higher costs per enrollee and a high proportion of its population in need, D.C. taxpayers carry a large burden for their fellow residents.

Public Education.—Formula increases in public education for both D.C. Public Schools and Charter Schools add $75 million to this appropriation. However, these increases are needed to maintain schools as they operate today.

Pay Costs.—The increased cost of maintaining the District's workforce, essentially unchanged in size from fiscal year 2004, is $89 million—an increase of six percent over fiscal year 2004. These increased costs are driven predominantly by previously negotiated labor/management agreements.

Operating Impact of Capital Projects.—As a matter of good-budgeting, the District has decided to recognize explicitly in its operating budgets the on-going maintenance costs of completed capital projects. This approach assures that the on-going operational costs of such projects do not show up as subsequent spending pressures or inadequately maintained systems. In the past 5 years, the District has had an aggressive program of capital improvements in the information technology arena and must now budget for resultant maintenance costs. In fiscal year 2005, such costs add $28 million to our baseline needs.

Debt Service and Other Fixed Costs Increases.—An increase of $68 million is required to service the District's debt and meet fixed cost increases (rent, telecommunications, etc.).

The chart at the end of my testimony breaks out these cost increases by type.

THE FISCAL FORECAST

The economic outlook for the District in fiscal year 2005 is quite good, with a forecast growth in the baseline tax revenue of 5.4 percent. Retail sales, including tourist accommodations and restaurants, as well as general retail, are expected to be up by 5 percent—reflecting current trends—as will individual and corporate income taxes. The real estate market continues very strong, with taxes on property sales remaining at all time highs and real property tax revenue expected to increase 11 percent in fiscal year 2005. Special purpose revenue funds will grow by 8.7 percent.

The fiscal year 2005-fiscal year 2008 financial plan projects positive net operating margins through fiscal year 2008. However, the District will operate on a very slim financial margin—about $1 million in fiscal year 2005—based on expenditure plans and forecasts of revenue growth. The 8.7 percent expenditure growth in the fiscal year 2005 budget is financed through the use of growth in current year revenues

and fund balance amounts accumulated from prior years. Once used, a fund balance is gone and on-going expenditure requirements must ultimately be met with on-going revenue streams. Our financial plan shows that the District of Columbia meets this requirement in the planning period.

Because of these tight projected margins, any adverse disturbance in the District's expected financial fortune could necessitate immediate major cutbacks in programs and services. Our very large emergency and contingency reserves are of limited help, for two reasons. First, the conditions for use are very restrictive and, second, any funds used must be paid back in the next fiscal year. Realistically, and especially in very difficult circumstances when resources are desperately needed, the District cannot take advantage of these funds. It will be challenging for our revenue stream to sustain the current level of service, and there is no room for consideration of additional program initiatives or significant infrastructure investments. For these reasons, the city and its elected leadership will face progressively more difficult program and financial decisions in the years to come.

CAPITAL BUDGET CONSTRAINTS

One area where the imbalance between revenues and needed expenditures is already apparent is in the capital budget. The Capital program is increasingly constrained by limited operating revenues to support debt service as well as by the impact of prudent debt ratios and debt service affordability determinations. To maintain good standing with Wall Street, we must cap annual capital borrowing at $400 million in fiscal year 2005, $350 million in fiscal year 2006 and $300 million in fiscal year 2007 and fiscal year 2008. With estimated needs of $775 million, the District's Capital Improvement Plan for fiscal year 2005 has an expenditure gap of approximately $375 million.

Structural Imbalance in the District's Budget.—In the last 7 years, the District has submitted balanced and responsible budgets during periods of increasing, as well as declining, revenues. Our restrained budgeting in the good years helped us work through some of the hard times. Despite this record of balanced budgets, the District has a serious long-term financial problem—a structural imbalance that transcends short-term challenges and cyclical revenue fluctuations. This structural imbalance is a long-term gap between the District's ability to raise revenue at reasonable tax rates and the District's ability to provide services of reasonable quality and quantity to its residents. The causes and consequences of this imbalance were well documented by the General Accounting Office.

The GAO defines a financial structural imbalance as an inability to provide a representative array of public services by taxing at representative rates. Using this definition, many municipalities could legitimately claim to have a structural imbalance. However, the District is unique among all municipal governments. It is the only city chartered in the Constitution of the United States and under the legislative jurisdiction of the Congress—that is, the District is the only Federal City of the United States of America. It is the only city that has no State to share costs or underwrite expenditures in whole or part; instead, the District of Columbia bears about $500 million annually in costs of Mental Health, Human Services, Child and Family Services, a University, Motor Vehicles, Taxation, Insurance Regulation, Public Service Commission, and other State services. The District is a city whose primary employer is self-determined to be exempt from tax on its property and exempt from tax on its income. Further, by Federal law, the preponderance of workers in the District of Columbia are exempt from the District of Columbia income tax. Lastly, it is the only municipality in the country that must exercise the responsibilities of a city, county, State, and school district. Although the District has the taxing authority for all types of taxes typical of States and local governments combined, it does not have the corresponding tax base sufficient to pay for the services it must provide.

As a consequence of these factors, the GAO finds the District's structural imbalance for fiscal year 2000 to be 14.4 percent to 40.3 percent of local revenue, depending on how it is measured. Note that this is after the benefits of the 1997 Revitalization Act that relieved the District of some State-like services and ended the annual Federal payment. According to GAO, the District either is among the group of States with the very highest shortfalls (at the very lowest end of the range) or the District has more than twice the shortfall of the highest State (at the highest end of the range). The lower-end represents a set of services typical of a State and the higher-end adds emphasis for dense urban areas. The District obviously falls somewhere above the bottom and, arguably, close to the top. Because of our urban population and service requirements, the District of Columbia's problem clearly is severe and exceeds that of any State.

The GAO report also finds that the District of Columbia continues to defer significant amounts of infrastructure development because of constraints in its operating budget. When compared to combined State and local debt across the 50 States, GAO found that the District's debt ranks as the highest in the Nation both per capita and as a percentage of own-source revenue.

THE BASIS FOR FEDERAL ACTION TO ADDRESS THE IMBALANCE

Because of the District's unique status, the Federal Government—both the legislative and executive branches—has recognized its responsibility to assist the District in meeting its municipal financing needs. For many years, federally appointed commissioners administered the delivery of municipal services under the aegis of the Federal Government. With the establishment of limited home rule in 1973, chartering Federal legislation provided for a Federal payment. The basis for such payment was laid out in Section 11601 of the Act, which recognized the special limitations and burdens placed on the District by the Federal Government. These restrictions included limitations on the District's taxing authority, the costs of providing municipal services to Federal installations in the District, and the special costs imposed on the District because of its status as the capital of the Nation.

The District of Columbia Revitalization Act of 1997 restructured responsibilities in a way that resulted in the assumption by the Federal Government of prisons, courts and certain D.C. employee pension liabilities. In the absence of a parent State for the District, under the Revitalization Act, the Federal Government assumed certain responsibilities that in other localities would be undertaken by the State. At the same time, this Act phased out the annual Federal payment to the District but contained language permitting this issue to be revisited at an appropriate time.

In addition to the courts and prisons, each year the Federal Government provides financial assistance to the District for a variety of targeted projects. Apart from pass-throughs to non-governmental entities and formula-driven Federal entitlement payments, this amount has ranged from a high of $167 million in fiscal year 1998 to a low of $24 million in fiscal year 2000 and was $127 million in fiscal year 2003. Notwithstanding the provisions of the Revitalization Act, and the continued financial support from the Federal Government for earmarked projects, the District still faces an on-going structural imbalance.

When it comes to addressing the structural imbalance, we see few additional options other than continuing to shortcut services. Already the District has extremely high tax burdens; recall that by GAO account this burden ranges from 18 percent to 33 percent above the average for States, depending on the measurement used. Increasing the tax burden on District businesses and residents even further simply influences potential and current residents or businesses to locate in adjacent lower-tax or higher-service States. Given the structural imbalance, the District must continue to choose between tax levels that are even higher than the national average, service levels that are lower than the national average, or combinations of both.

It is my hope that the GAO report helps Congress and the District move beyond questions of whether there is a structural imbalance to questions of how the Federal Government and District government can work together to address this problem. And this problem must be addressed with urgency to assure the long-term financial viability of the Nation's capital city.

Congresswoman Eleanor Holmes Norton authored Bill H.R. 4269, the District of Columbia Fair Federal Compensation Act of 2004, that recognizes the District's unique needs and provides unique solutions. That Bill establishes a Dedicated Infrastructure Account within the general fund of the District. The fund would receive $800 million annually in Federal monies, with growth adjustments over time. These monies could be used only for transportation including streets, information technology, and DCPS infrastructure developments and to support debt service payments on bonds, notes and other obligations of the District. Funds would remain available until expended.

I urge the Senate to consider the Norton bill favorably. By providing for infrastructure development, it can help reverse the history of necessary neglect and move the District of Columbia toward the shining example that should be set by the capital city of the free world. With so many financial accomplishments now well underway in the District of Columbia, this is the last major piece of the financial puzzle and the District cannot prosper into the future without it.

CASH RESERVE REQUIREMENTS

The District's flexibility in managing its finances is also constrained by its current reserve requirements. As you are aware, in fiscal year 2002, the District fully fund-

ed its Emergency and Contingency Cash Reserve Funds at their maximum required levels, totaling $248 million, or 7 percent of the local expenditure budget. This was a significant accomplishment, achieved 5 years ahead of the Congressionally mandated time frame. Maintaining the 7 percent level for the District's Cash Reserves required an increase to $254 million for fiscal year 2003 and $285 million for fiscal year 2004. In fiscal year 2005 the emergency and contingency cash reserves combined are budgeted to reach $303 million. This is in addition to the $50 million in operating cash reserve maintained by the District. If I may, I would like to briefly summarize cash reserve requirements elsewhere as a reminder of how noteworthy the District's performance is in this area.

No other major city has a cash reserve requirement except Denver, which is required to have 3 percent of general fund expenditures in a reserve.

Among States, most have some form of cash reserve or "rainy day" fund. Further,

—the approximate average size of these funds is 5 percent of budget;

—most States have no replenishment requirement, but 6 States require the funds to be replenished over the course of 2, 3, or 5 years; and

—in 21 States, the reserve funds can be used when the State faces a deficit for any reason, and in most other States the funds can be used in the event of a revenue shortfall.

Working with Congress, the District has developed proposed changes to our emergency and contingency cash reserve requirements. These changes, included in the District's fiscal year 2005 Budget Request Act, would reduce the overall requirement from 7 percent to 6 percent (2 percent Emergency and 4 percent Contingency). The proposed changes would modify the requirement for replenishment from a 1-year replenishment to a 2-year requirement with no less than 50 percent being paid back in the first fiscal year after use. In addition, the proposed changes recognize that the District's Home Rule Act requires the District to maintain a separate cash reserve for expenditures associated with debt service payments. This separate cash reserve is in addition to the 7 percent emergency and contingency cash reserves. The proposed changes remove from the calculation of the 7 percent emergency and contingency cash reserve those expenditures associated with debt service for which this separate reserve is already maintained. Finally, the proposal would change the basis of the calculation of the 7 percent for the emergency and contingency cash reserves from local fund expenditures as proposed in the District's upcoming fiscal year budget, to local fund expenditures as calculated in the annual Comprehensive Annual Financial Report.

Even with, what we hope will be congressional enactment of the proposed changes, you can see from the comparison to other States, the District has an exceptionally strong reserve position, but would still have among the most demanding of any jurisdiction in the country with respect to the amount required, the fact that access to these funds is granted only in declared major emergencies or serious revenue contingencies and the replenishment requirements.

CONCLUSION

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

Senator DEWINE. Mayor, you have requested $9 million in Federal support for a new forensic lab. As a former county prosecutor, I certainly understand the need for good forensic work.

What will be the local contribution for this and what is the total cost of the project? And something you and I discussed the other day—what are the operational cost estimates when the lab is up and running? Have you figured that out yet?

Mayor WILLIAMS. Yes, we have, Mr. Chairman. We estimate that the overall cost will be $80 million through 2008.

Senator DEWINE. For the construction of the lab itself?

Mayor WILLIAMS. For the planning and the construction, and the District's participation would be over that period. So, for example, in the first year we are requesting $9 million. The District would contribute $2.3 million for a total of $11.3. In 2006, the combined Federal-District contribution would be $30 million; the same for 2007 in construction. And then in fiscal year 2008, for construction,

commissioning, and the completion, it would be $8.7. So it would be a partnership.

As I said in my testimony, we are prepared to—and I can't speak for whoever is Mayor at that time, but we are committed to putting in place $40 million. That would be about $20 million more than we are spending right now to operate this facility because we believe the benefits to our city, to Federal workers and to visitors alike are more than worth the investment.

Senator DEWINE. So it would be how much per year, Mayor? I am sorry.

Mayor WILLIAMS. Around $42 million, my people are telling me. So that is about $20 million more than we are spending now.

Senator DEWINE. For the lab itself?

Mayor WILLIAMS. Right, so we are assuming the operating burden for this facility.

Senator DEWINE. So the use of the lab is just going to go up, as we would expect, as you and I discussed the other day.

Mayor WILLIAMS. Right, because we are going to be doing more than we do now.

Senator DEWINE. Sure. It is going to do a lot more than you are doing now, and your results, we assume, will significantly increase. And if you got a good lab there, what is going to happen is that your prosecutors and your police are going to be able to use it more, and as they use it more, your costs are going to go up.

Mayor WILLIAMS. Right.

Senator DEWINE. Okay.

Mayor WILLIAMS. I would say, Mr. Chairman, we have shown a lot of progress with Chief Ramsey, with the oversight—the Council has been very strong and adamant about this—in improving our closure rate to where it is now leading many other cities. But we still have a long way to go and the forensics lab would really enormously help that effort.

Senator DEWINE. Your current situation now is that you use the FBI lab. That is free to you, is that right, or do you pay for that or how does that work?

Mayor WILLIAMS. I believe it is free.

Senator DEWINE. But you have got limited use of it?

Mayor WILLIAMS. You get what you pay for, right.

Senator DEWINE. Well, I mean in all fairness, it is a limited use, though.

Mayor WILLIAMS. Right, because we are not their top priority, by definition.

Senator DEWINE. Right, and that is just the way it is.

Mayor WILLIAMS. We thank the FBI and we value their partnership. I don't mean to say anything otherwise.

Senator DEWINE. Right, but in all fairness, it is not yours.

Mayor WILLIAMS. Right.

Senator DEWINE. Let me ask you about your request in regard to Federal support to help the District meet its commitment to Metro. Why is this important?

Mayor WILLIAMS. Mr. Chairman, I think it is enormously important because if you look at our Metro responsibilities, as I said before, this is something that benefits not only the District, but it

benefits our visitors, it benefits our Federal workers, it benefits the overall region.

We are paying a disproportionate share here in the District for regular funding compared to Maryland and Virginia because the formula doesn't recognize our peculiar situation, and the structure of the Metro, as well, doesn't. We have a number of stations, for example, that are right within the District's boundary, and the long and short of it is we have an enormous amount of commuter use of our Metro and that is not reflected in the formula.

Finally, as I said in my testimony earlier, the Federal Government has withdrawn support over the years, has reduced its support for Metro, while States have increased support. But we have no State to increase support to compensate for that lack of Federal support. So that is all coming out of the District, some $210 million.

In terms of actual benefits, we are talking about increased ridership, new bus systems that particularly would allow our lower-income workers—I know the Senate, for example, has been very, very supportive of mothers moving into the world of work, with support for day care. This would allow those mothers the opportunity to have transportation to get to their jobs. So there are enormous benefits to this, as well. I would be happy to go into more detail.

Senator DEWINE. No, no, that is fine.

Dr. GANDHI. And, Mr. Chairman, if I may just add some numbers to what the Mayor just said, we are talking about in 2004 roughly $163 million of operating expenditures that we have to provide to Metro. That goes to 171, 179, 188, all the way up to 2007.

But more important is the capital needs that we have to provide for, and the needs are something like $250 million in 2004, double that much, or about $420 million in 2005, and keep on going to $468 million in 2007. Obviously, these are enormous needs and we cannot afford to provide that kind of capital funding because we have a limitation. As the Mayor pointed out, we have the highest per capita borrowing in the country, and if we were to go out and borrow more money, it would affect our bond rating. So we are in kind of a catch–22 here.

Ms. CROPP. Mr. Chairman, if you took the capital needs for Metro and the capital needs for our school system alone, there would be no more capital dollars available for any other infrastructure needs in the District of Columbia.

Senator DEWINE. Well, my time is up. I am going to have some more questions, but let me turn to Senator Landrieu.

Senator LANDRIEU. Thank you, Mr. Chairman. I am going to have four questions, if I could, on, No. 1, the imbalance that I would like to get some information on the record on, the structural imbalance; one on the school governance issue; the progress we are making on child welfare; and also back to education and tuition assistance. There may be more, but I would like to try to work through these.

I think, Mr. Mayor, based on my view, having worked with many of you on a variety of different issues, it would be fair to say—and I would like if you would agree or disagree with this—that with all the immediate challenges before the District, the structural imbalance issue is at the core or is essential to find some remedy.

According to the GAO study that was commissioned by Congresswoman Norton and myself which was released last year—the chairman is aware of this study—it is estimated that, first of all, the gap is real and it exists. This is an independent third party, so that was one of the findings. It could be anywhere from $470 million to $1 billion.

The other interesting part of this finding said that the District of Columbia cannot raise more revenue; it already has one of the highest taxing structures in the Nation and the region. It also says in this study the District of Columbia cannot lower spending, spending 5 percent less already than other urban areas for comparable services.

It says the imbalance is largely beyond the D.C. officials' direct control. It does acknowledge that some additional management efficiencies could be achieved, but it is quick to say even if you did 100 percent and were perfect in your management, which no city is, and obviously neither is the Federal Government, you couldn't close the gap with management efficiencies. It says the District of Columbia is not the same as other cities. It has special benefits and burdens of being the Nation's Capital.

So given that, and given your testimony, Mr. Mayor, do you agree with this, and what are the one or two steps that we could explore that, in your mind, might be a way the Federal Government could help close that gap? Is it focused on maybe capital outlay needs of the District? Could it be focused in other ways? What would your suggestions be to us? And I am hoping that this Congress could develop a remedy.

Mayor WILLIAMS. Thank you, Senator Landrieu. I agree wholeheartedly with the GAO study. I think in this case where the GAO study has said something without any axe to grind on an objective basis, I think they are right on the money. They have also mentioned, in addition, Senator Landrieu, the fact that we are a higher-cost urban area. They mention that the District has the highest concentration of poverty in the United States.

We have one of the largest extremes in education in our city and in income in our city of any city in the country, and this concentration of poverty presents the District with higher costs, particularly State costs, without the tax base to meet them. So we are overly bonded and we are over-taxed.

I happen to think, chiming in with what Chairman Cropp has said, if we spent all of our money on our schools and on our Metro, we wouldn't have any more debt capacity. I think one of the major ways that the Federal Government can meet this responsibility is to take the measure that has been supported by a number of regional leaders and led by Congresswoman Norton that calls for a regular formula investment in the District, and to take that formula investment and put it into our infrastructure needs.

I think that, No. 1, that will relieve enormous pressure on our budget, and, No. 2, these infrastructure needs really are needs that are, No. 1, regional; No. 2, benefit the quality of life in the District, but also benefit the Federal Government because it benefits our Federal workers and it benefits our visitors. So there is a shared interest in success in that area. So I would strongly support using

these funds to support our debt financing and our infrastructure needs.

Senator LANDRIEU. Well, let me say, Mr. Mayor, we are going to look very closely at that proposal because obviously, based on this study, some remedy has to be proposed. But, again, the importance is to recognize the gap is real, that it is not within the power of city officials to close the gap. So all the reforms that we are putting in place, whether it is financial reform, school reform, environmental reforms in terms of the clean-up efforts underway, or the reforms on child welfare which this chairman has led, are all in jeopardy if this issue is not faced head-on.

So, Mr. Chairman, with all the challenges, I think if our committee could stay focused on this solution, it would be helpful.

I want to outline a particular formula. It could be something like this; it could be something different. But if we thought about taking the problem down into measurable amounts, 50 percent of the gap could be closed by a Federal relief in some way, 15 percent—maybe it is not that high—10 or 15 percent by increased management efficiencies, and 35 percent based on maybe new strategies within the District to increase residents.

One way to close the gap is to bring new taxpayers to the District so that you increase the tax base. The Mayor and the Council, I think, have some strategies in place, and my second question is about one of those strategies, in particular, which is City Build charters.

Mr. Mayor, I want to thank you for your support and efforts.

I wanted to read for the record what the City Build charter initiative is and then submit a longer document. With the help of our committee and with you all, we created a City Build charter school initiative. It is designed specifically to meet the Mayor's goal, shared by the Council, of attracting 100,000 new residents to the District by targeting neighborhoods that have the near-term potential of attracting and retaining new homeowners, particularly those with school-age children, by using the promise of quality schools as an economic development tool to increase the residential and commercial tax base of the District.

[The information follows:]

CITY BUILD CHARTER SCHOOL INITIATIVE

"Improving education is one of the most crucial elements to improving our city. It is key to attracting 100,000 new residents, who want to live and raise children in the District."——Mayor Anthony Williams, Feb. 14, 2003.

WHAT IS THE "CITY BUILD" CHARTER SCHOOL INITIATIVE?

The "City Build" Charter School initiative is designed specifically meet the Mayor's goal of attracting 100,000 new residents to the District by targeting neighborhoods that have the near term potential of attracting or retaining new home owners, particularly those with school age children, by using the promise of quality schools as an economic development tool to increase the residential and commercial tax base of the city.

In the Senate D.C. Appropriations bill for fiscal year 2004, Congress included $5 million to develop a "City Build" Charter School Initiative. This initial appropriation will be used to create five new charter schools in the District neighborhoods that demonstrate the greatest potential for meeting the goals of the program.

HOW WILL THE NEW SCHOOL SITES BE CHOSEN?

As stated in the text of the appropriations bill, Mayor Williams will be responsible for selecting sites for the five new charter schools. The determination of the neighborhoods and school sites will be made in consultation with the D.C. City Council, the School Board, advocacy groups and community and business leaders in a public meeting. The selection of neighborhoods best suited to help attract or retain 100,000 D.C. residents, will take into consideration the following:

—The number, quality and affordability of the neighborhood schools (public, charter and independent).
—The waiting lists for admission to the areas high performing public, independent and charter schools.
—Recent trends in the neighborhood's real estate market, including the sale and purchase of homes, demand for rental properties and the potential for population growth and increased private investment.

ARE THE "CITY BUILD" CHARTERS THE ONLY NEW CHARTERS AVAILABLE THIS YEAR?

No. Since the passing of the District of Columbia's charter school law in 1996, the District of Columbia's chartering authorities have approved almost 40 charters, earning the District of Columbia the distinction of having the highest concentration of charter schools in the Nation. The "City Build" initiative is designed to further this laudable growth in the use of charter schools as a means of achieving excellence and expanded choice for children and their parents. The District of Columbia's charter school law allows for up to 20 new charters to be created each year. To support these efforts, the Fiscal Year 2004 Appropriation also includes $8 million for the Charter School Direct Loan program and other charter school support programs, bringing the total Federal support for D.C. charter schools over the last 3 years to almost $40 million.

WHAT ABOUT PUBLIC SCHOOLS IN THESE AND OTHER NEIGHBORHOODS, DON'T THEY NEED HELP?

Yes. The "City Build" Charter program is only a part of an overall plan for transforming elementary and secondary education in the District. With this in mind, Congress appropriated a total of $40 million in 2003 for school improvement activities; $13 million for public school transformation activities; $13 million for charter school enhancement programs, including the $5 million for the "City Build" initiative, and $13 million to provide opportunity scholarships for low income students to attend private schools. The goal of all of these efforts is not to create competition among the various types of schools, but to create a strong synergy around the shared goal of giving parents more choice and every child a chance to succeed. Expanding high quality options allows parents to make the choice that is best for their child and their needs.

WHAT IS THE LONG TERM PLAN?

The Appropriations Committee intends for this to be a 5-year, ongoing appropriation. If funding allows, the goal would be to fund three to five new "City Build" charter schools each year for the next 5 years. As other public and private funds become available and as this pilot program proves successful, opportunities for future "City Build" charters will be explored.

HOW WILL THE PROGRAM BE EVALUATED?

Each year, the Mayor will report to Congress on the effectiveness of the program. Such report should include:

—The academic performance of the students and the overall performance of the schools funded by this initiative.
—The enrollment of schools funded by this initiative.
—The waiting lists for schools funded by this initiative.
—The impact of these schools on the sales and/or purchases of homes as well as rental turnover, specifically by residents with children.
—The impact of these schools on the size of the population of the neighborhood.
—The impact of these schools on the overall vitality of the neighborhood.

At the end of the 5 years, the U.S. Department of Education will conduct an independent evaluation to determine if this initiative could be expanded to other urban areas in need of similar development.

Senator LANDRIEU. So I am urging us to consider this strategy as one of many strategies—tax credits. There could be other school-

related strategies, other economic development strategies in neighborhoods, as part of this structural imbalance challenge. Again, the Federal Government should step up and commit some resources. The city can continue to improve its efficiencies to close that gap, but another very important part of that is what can we do to attract new residents to the city.

So, Mr. Mayor, my question is you have been given under our new law the obligation to identify the potential neighborhoods where these City Build charters may work to attract middle-income families to either stop leaving or return to the District.

Without going into any specific detail, just give some comments about your thoughts about this initiative, your hopes for it. Do we think we could build on it this year and expand it in the years to come? Do you see as an effective tool for trying to get new residents back to the city?

Mayor WILLIAMS. I think City Build is an enormously important initiative because it really gives us more flexibility and focus in improving education, and education is critical to providing the expectations that families have when they move to a city.

The three critical things are operations, public safety and public education. I believe the city has made enormous strides on the operation front in terms of predictability, regularity and efficiency of service. So then that gives you public safety. We have begun making some inroads on public safety. We are running substantially below last year in crime now, and I applaud the chief and our public safety people, and particularly City Administrator Robert Bobb for focusing on the high-crime hot spots.

So that leaves us with public education. The Mayor and the Council are engaged in discussions about the governance of education, bringing in the very best superintendent, and we are moving on that front. The Mayor and the Council have worked together in supporting a robust charter school effort, leading the country per capita in the number of charter schools, and a key part of that is City Build.

We are hoping that, by June, we can receive applications for these City Build schools in targeted neighborhoods and, with City Build, provide one of two important functions, I think, that charter schools can provide our city. The first function is providing parents in these targeted neighborhoods with an additional choice for their children so they don't move out once their children reach school age, and that is absolutely important.

The other area where charter schools, I think, can provide an enormous help is in providing additional choices and flexibility for kids who need additional help. An example of that would be the SEED School, where you have every one of these kids at the SEED School, in this boarding school concept, going to be going to college. Another example is the wonderful Maya Angelou School, where you are targeting kids with special needs.

Charter schools can do that much more quickly, and in many cases more effectively for a lot of different reasons than our regular public schools. So the City Build concept as part of the larger public charter school concept is critical to bringing in these 100,000 new residents, because you are right, Senator. The reason why I

set the goal, in conjunction with the Council, at 100,000 new residents is, yes, we are trying to expand our tax base.

One way you solve this problem is to recognize that the District used to have around 800,000 people in it. So if we could use a business model, we have got a store that is built for 800,000 customers and we have only got about 600,000 and we have got a lot of slack capacity. It is like driving around the bus half empty, so we need more passengers, and the charter schools allow us to do that.

Senator LANDRIEU. Well, I just want to commend you for your effort because almost every city in America is struggling, particularly cities in the South that saw a lot of flight in the 1950's and 1960's and 1970's because of the *Brown* v. *Board of Education* decision, which we mark and celebrate today.

Mr. Mayor, as you can recall, it was a very unsettling decision back in the 1950's and 1960's, but we have learned a great deal and I think we have matured as a society. New Orleans, for instance, my hometown, had 750,000 25 years ago. Today, it has 450,000 because of the white flight that left the city.

Now that we are 50 years smarter since *Brown* and more mature and more sophisticated, I think that we can devise strategies that will work, that will meet the needs of people and the great aspirations and hopes that all people have, regardless of race or income, about having opportunities for their children and for themselves.

This is part of a very exciting strategy that many cities are beginning to use, and I want to commend the District for using schools as a lure, if you will, to attract people back to the cities, and smart and efficient tax cuts.

My second question—and I thank the chairman for his latitude here, because schools are a great passion and because, I guess, we are marking *Brown* v. *Board of Education* this week. It is much on my mind and many of the Senators that advocate for fairly radical change and transformation in our school systems.

I read with some disappointment, I guess, the vote last night. Although I have not endorsed any particular plan, Mr. Mayor, as you know, and Council leader Cropp, I would just want to state for the record that I do disagree with the statement that was reported in the paper this morning about the solution being a quality superintendent.

Districts all over this country that think that just getting the right superintendent is the answer to their problem should line up behind the thousands of districts around this country that have brought in top-flight, top-quality, enthusiastic, well-skilled superintendents, only to find them leave after 3 years with very little in place.

I would say that while it is very important to have a sharp superintendent, and obviously tremendous leadership from your principals and your teachers, a system that continues to reward mediocrity, resist transparency, a system that resists accountability, a system that focuses on process and not results, is doomed to failure no matter how many great superintendents or great principals or great teachers.

So without endorsing or supporting any particular plan, I would like, Chairman Cropp, if you would just give a couple of thoughts, and the Mayor, about your continued efforts to try to find a way

to create a new system—I don't know who is going to run it, but a new system that is accountable, that is transparent, that focuses on excellence, that is child- and family-centered and brings hope to the residents of the District and the region, and serves as a model for the Nation.

This will be my last question until the second round, but maybe, Chairman Cropp, you could give a couple of thoughts that you might have.

Ms. CROPP. I don't think, Senator Landrieu, that anyone would disagree with your statement as to what we need for a system and that everyone wants to have a better system, obviously, including the District of Columbia.

The District of Columbia in recent years has gone through so much change. From the time that the Financial Authority came to the District, we have changed superintendents from the original superintendent, to General Beckton, to Arlene Ackerman, who did not really want to be superintendent, then another superintendent. All of this was under strict governance of the Financial Authority—total instability, total change for our school system. How could we expect anything but failure, when we have constant change and instability? We are now moving in a direction where the Board of Education recently has adopted certain standards that would bring about those very things that you just articulated.

It seems to me that one of the things that we need to continue to try to do is bring about stability. Over the past couple of weeks, we have had an opportunity to interview candidates to become Superintendent of Schools, and many of us believe that the superintendent is an important role, along with the classroom teacher who has that direct nexus with the students.

The one thing that we found from every study across the country, even all of the leading superintendents, is that governance is not what dictates what will bring about a good school system. There is an awful lot that is involved in it, and I think we are committed, as we struggle in the District of Columbia to find out what that answer is, to work together.

As we have talked to the superintendents who have come in, they have seen many different governance structures work. But what they need is they need to have people who are committed to educate the young people. They need to have the ability to run the school system and put in the types of programs that are needed, and they need to have the commitment of all of the principals who are involved in this city to say that they are indeed supportive of education.

I have to say that I am pleasantly surprised with the types of candidates that we got to be Superintendent of Schools. We have some of the top, most respected educators in the country who have applied. I think we still have an opportunity, in talking with some of the others, to bring in those individuals. And if we have the commitment of all of the elected leadership and if we have the commitment of that superintendent and if we get down into the bowels of the school system with the teachers who are really interacting and bring about some standards and criteria that we need to educate the type of child that we want to send out into society, then I think we all will be winners.

It is a struggle. If we had the answer, everybody in the country would do it, but I think we are moving along the right way. What I would like to do is to have the school system submit to you some of the new changes that they have instituted within the past probably 3 or 4 months that I think would increase your level of comfort with regard to the direction that the school system is going—very thoughtful and considerate, and I think directly related to the education of our young people.

Senator LANDRIEU. Thank you. I am familiar with some of them, but I appreciate you sending me that additional information. I think the urgency of trying to scale up some of the things that are working in the District is what is on people's minds, not to wait 10 or 15 or 20 years, which is the entire life of a student, but to try to identify quickly the things that are working and scale them up with some urgency, considering the dismal performance of some of the schools not just in this city but across the Nation. To have only 20 percent of children reading at certain levels just robs them of any good future that they might have.

Ms. CROPP. Might I just add that with our budget, the Mayor submitted to Council and the Council approved a recommendation that would improve our early childhood education level. That is one of the main things, I think, that will make a difference because indicators have shown that if a child enters the first grade and they don't know certain basic skills such as their name, their address, their parents' names, or can't count to 10, colors, they are already 3 years behind. And unless they really have an infusion of support, they probably will not catch up. So we are doing some other things budget-wise that will help move our system, too.

Senator LANDRIEU. Mr. Mayor, very quickly, because the chairman has been gracious.

Mayor WILLIAMS. I am a big fan of Chairman Cropp and I think she has done a fantastic job with our Council and our city wouldn't be where it is but for her leadership. I don't know how she manages to keep the Council going, but she does, and she has a unique skill and ability to do it. We just disagree on this issue, and I am confident that as we get through the final stages of the legislative process, her unique skills and abilities and my initiative will allow us to reach a conclusion that will honor the strong voice in our city for democracy.

I respect that the School Board was the first elected board in the city—I mean, the first elected anything in the city on a home rule basis. It has got to have more than just simple significance; it has got to have some kind of influence. Parents have to have a way to redress their grievances, and the board ought to be—and the Council has spoken to this—the board ought to be more about policy and not about nitty-gritty, in-the-weeds operations.

I think we can do this and at the same time do two important things, and this is why I believe strongly that some change is needed. One, we really need one point of contact in the District government to manage the systems because the systems in the schools are a mess. There is no other way of looking at it. I mean, I know what a mess is because I saw a mess when I was CFO and I have seen a lot of messes as Mayor.

Second, the needs of children. We really need one point of contact in the government to focus on the needs of these kids. Many of these kids don't have any home. So the community, through the government in partnership with the faith community, in partnership with business and in partnership with non-governmental organizations—the government, as the lead facilitator, is in loco parentis for these kids.

Finally, when you say the studies don't really correlate any real outcome when it comes to governance, when you take all the schools systems as a whole that is true. But if you compare high-impact, screwed-up urban systems with high concentrations of poverty, there is no question that you will get better outcomes that lead to better test scores if you change the governance structure. I think you could bring God in here and if you don't have the right environment for success, it won't be successful. But that is just my opinion and the Council Chair and I respectfully disagree.

Senator LANDRIEU. Thank you, Mr. Chairman.

Senator DEWINE. Dr. Gandhi, one criticism of the GAO report on structural imbalance is that the District has significant medical billing and claims management problems. How are you working to address this problem?

Dr. GANDHI. I think we have faced a substantial problem particularly in the area of Medicaid reimbursement. In the past, we have not had any infrastructure to be able to identify document claims, everything that was coming to the city. We have been working at it for the last at least 3 years.

Under the former City Administrator John Koskinen, and now under Robert Bobb, there is a special office that does nothing but make sure that Medicaid is properly accounted for, properly monitored, and that we do claim everything that is coming to the city. We hope that we have taken care of our past sins, when we had a major write-off last year, and we want to be very vigilant about that. The first thing that I told Mr. Bobb when we had our meeting when he came to the city is that there are three things that he should concentrate on—Medicaid, Medicaid and Medicaid, because that is a substantial part of our budget.

Senator DEWINE. Mayor, you requested $15 million for security costs related to special events in the city because it is the Nation's Capital—you requested, actually, $25 million and the President requested $15 million. Do you want to discuss that difference, that $10 million difference there?

Mayor WILLIAMS. Right. The big difference, Mr. Chairman, is the inauguration. We estimate that, post-September 11, the inauguration is going to be significantly higher in its exposure to us than we have had in the past because of the additional security needs and in order to do it in a way that balances the need to have an open inauguration and a safe city and, needless to say, continuity of government.

Senator DEWINE. What does the inauguration normally cost?

Ms. CROPP. Six million dollars.

Mayor WILLIAMS. I think it was half that amount, right.

Ms. CROPP. In past years, it was budgeted at $6 million.

Senator DEWINE. So you figure with the new environment, we are talking a lot more money than that?

Mayor WILLIAMS. Right.

Ms. CROPP. The challenge, Mr. Chairman, is in this year's budget we were not even given the $6 million that had been budgeted and funded in prior years.

Mayor WILLIAMS. Some of the costs that we are looking at are overtime, for example, bringing in outside jurisdictions, some IT expenses related to coordinating all of this. Public works expenses are often overlooked, but they are around $1 million, and fire and EMS as well. So I think it is a fairly conservative, objective request, given what we are looking at.

Senator DEWINE. Chairman Cropp, you highlighted the need to provide $8.6 million above the President's request for the Tuition Assistance Grant program. What would be the consequences if we were unable to provide these additional funds?

Ms. CROPP. Many of our students have been able to benefit from that program. It would be the loss of getting education for a lot of citizens in the District of Columbia, and that is probably the worst cost.

Senator DEWINE. It has been a very successful program.

Ms. CROPP. It has been extremely successful, and the return cost for that will be much greater than the initial lay-out.

Senator DEWINE. Well, I think we have gone on and kept you all quite a while. We appreciate it very much.

Mary, a last question.

Senator LANDRIEU. Thank you.

Just one more, Mr. Mayor and Chairman Cropp, on the child welfare issue on which we are making progress. Again, I just thank you. We have got a long way to go, but with the establishment under the chairman's leadership of the new family court, the new principle of one judge, one family, the coordination of city services and court services to streamline and make sure that children are not lost in the system, that they are identified early, and seamless services brought to them with a focus on permanency, either reunification with their family, temporary foster care, and then long-term permanency through adoption or kinship adoption, that is a system that we are trying to put forward throughout the whole country, and in many ways in the world.

But for the purposes of this hearing, I understand that the Council cut $23 million out of child welfare and put it in reserve. I wanted to ask you, Madam Chair, why, and ask the Mayor if you would comment on that situation and what you are doing or where you are in the process of, I think, a new hiring of the head of this important office.

Ms. CROPP. The Council believed that there is a need for this program to continue and to be expanded. In fact, the money put in the contingency reserve is somewhat safeguarding those dollars.

What the budget showed, as presented to the Council, was that there was extreme growth in the area of adoptions and foster care success, something that we all want to happen. And while we saw extreme growth of many millions of dollars in that particular, very important area, we also saw growth in the corresponding component of that program that says that there wouldn't be as many children left because you have put the children in an adoption-type program.

The Council felt strongly that the program is of such importance that we wanted to err on the side of caution, and rather than not have the necessary dollars there for the side of the program that would deal with foster care, we would put the money in a contingency fund so that the city could have access to it if it was needed. But we didn't want the money just languishing there if there was no need. But if there is need for it, then the Mayor would have the ability to draw down. So it is in a reserve for that particular purpose.

But if you look at the budget and you look at the line of children who are in foster care and then you look at the line of children for adoption, the adoption line is going up significantly, which means that the other side ought to go down. But it went up significantly, also, so there was a disconnect there. It was a non-sequitur. So then we said, well, let's put the money in contingency because we wanted to make sure that the dollars would be available if, in fact, there was a need.

Senator LANDRIEU. Mr. Mayor.

Mayor WILLIAMS. If you look at the growth in our budget, the major elements of growth have been really four-fold. That is what has pushed us up at an abnormal level. It isn't sustainable, and I don't think, as you have heard from Nat Gandhi's testimony, it is something we are planning on in the future.

One is Medicaid, and the chairman asked a question about that. One was debt service. We have talked about the structural imbalance. One was operating costs for capital projects put in the operating budget. And one was court-ordered compliance.

I am looking at what we need to do with this and I am going to certainly be working with the Chair to make this work, but I am very deeply concerned because our child welfare system is in a very fragile state. We have got a number of things, from caseload requirements, to the family team meetings that have been requested, some of the services for these kids that we want to make sure that we keep in place.

We have moved from an utter disaster to a point where the court monitor came in at one of my press conferences about a month ago and said we are now about equal to other States. Well, that is enormous progress. We don't want to lapse back to where we were. We want to keep going in a positive direction. So I want to work with the Council to see that we are justifying to them that these funds are being used efficiently and we get them to these kids, and I pledge to do that in every way I know how.

CONCLUSION OF HEARINGS

Senator DEWINE. Well, we thank you very much, Mayor and Dr. Gandhi and Chairman Cropp. Thank you very much for your good work and we look forward to working with you. The budget is always tight. There is never enough money, but we look forward to working with you.

Thank you.

[Whereupon, at 11:20 a.m., Wednesday, May 19, the hearings were concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]

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