

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

WEDNESDAY, APRIL 20, 2005

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

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

DISTRICT OF COLUMBIA

COURTS

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

OPENING STATEMENT OF SENATOR SAM BROWNBACK

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[The statement follows:]

PREPARED STATEMENT OF SENATOR MARY L. LANDRIEU

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

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

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

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

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

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

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

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

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

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

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

Senator BROWNBACK. Senator DeWine, thoughts?

STATEMENT OF SENATOR MIKE DEWINE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### PREPARED STATEMENT

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

[The statement follows:]

#### PREPARED STATEMENT OF ANNICE M. WAGNER

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

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

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

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

#### INTRODUCTION

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

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

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

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

#### RECENT ACHIEVEMENTS

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

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

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

#### CRITICAL FISCAL YEAR 2006 PRIORITY—INFRASTRUCTURE

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

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

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

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

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

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

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

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

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

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

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

#### FACILITIES IN THE COURTS' STRATEGIC PLAN

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

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

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

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

“Improving Court Facilities and Technology” is the Plan’s Strategic Issue 4. The Strategic Plan states—

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

#### THE D.C. COURTS’ FACILITIES

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

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

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

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

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

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

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

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

## HISTORIC JUDICIARY SQUARE

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

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

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

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

## JUDICIARY SQUARE MASTER PLAN

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

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

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

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

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

#### MASTER PLAN FOR FACILITIES

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

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

#### FAMILY COURT IN THE MASTER PLAN

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

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

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

*Long Term Family Court Space Plan*

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

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

## CAPITAL FUNDING IN FISCAL YEAR 2006

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

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

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

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

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

#### STATUS OF KEY CAPITAL PROJECTS

##### *Old Courthouse Restoration*

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

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

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

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

##### *Moultrie Courthouse Expansion*

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

#### COMPLETE BUDGET REQUEST SUMMARY

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

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

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

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

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

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

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

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

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

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

#### CONCLUSION

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

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

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

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

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

Judge KING. I'm 20, now.

Senator BROWNBACk. Twenty. Oh, a mere child.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### PREPARED STATEMENT

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

Senator BROWNBACK. Thank you, Judge King.

[The statement follows:]

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

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

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

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

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

#### FAMILY COURT IMPLEMENTATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### INTEGRATED JUSTICE INFORMATION SYSTEM

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

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

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

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

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

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

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

#### PROBLEM SOLVING COURTS

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

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

#### *Community Courts*

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

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

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

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

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

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

#### *Drug Court*

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

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

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

#### *Family Treatment Court*

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

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

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

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

#### *Domestic Violence Unit*

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

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

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

#### CONCLUSION

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

#### COURT SERVICES AND OFFENDER SUPERVISION AGENCY

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

Senator BROWNBACK. Mr. Quander.

Mr. QUANDER. Good morning, Chairman Brownback.

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

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

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

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

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

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

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

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

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

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

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

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

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

## PREPARED STATEMENT

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

Thank you, Mr. Chairman.

Senator BROWNBACK. Thank you very much.

[The statement follows:]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### PUBLIC DEFENDER SERVICE

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

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

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

#### INTRODUCTION

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

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

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

## FISCAL YEAR 2005 ACCOMPLISHMENTS

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

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

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

## PROGRAM ACCOMPLISHMENTS

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

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

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

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

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

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

#### ADMINISTRATIVE ACCOMPLISHMENTS

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

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

#### CONCLUSION

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

#### PREPARED STATEMENT

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

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

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

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

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

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

## BACKGROUND

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

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

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

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

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

<sup>2</sup>20 U.S.C. § 1400, et seq.

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

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

#### FISCAL YEAR 2005 ACCOMPLISHMENTS

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

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

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

#### GENERAL PROGRAM ACCOMPLISHMENTS

##### COLLABORATIVE WORK

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

##### *Sentencing Guidelines*

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

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

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

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

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

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

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

#### *Practice Standards in Family Court*

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

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

#### OTHER PROGRAM ACCOMPLISHMENTS

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

#### *Individual Clients*

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

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

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

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

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

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

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

#### *Appellate Division*

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

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

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

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

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

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

#### *Special Litigation Division*

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

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

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

#### *Community Defender Division*

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

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

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

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

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

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

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

#### *Parole Division*

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

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

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

#### *Training*

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

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

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

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

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

#### ADMINISTRATIVE ACCOMPLISHMENTS

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

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

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

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

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

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

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

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

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

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

#### CONCLUSION

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

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

Judge WAGNER. I'm sorry?

Senator BROWNBACk. Are you retiring this year?

Judge WAGNER. Yes, I am. So this may—

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

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

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

So it will, hopefully, not be too bad.

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

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

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

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

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

Judge WAGNER. Yeah. I only—

Senator BROWNBACk [continuing]. With where—

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

Senator BROWNBACk. Okay.

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

Judge WAGNER. D.C. Jail.

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

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

Senator BROWNBACk. Where is that—

Judge KING [continuing]. Which is near the—

Senator BROWNBACk [continuing]. Located now?

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

Senator BROWNBACk. Okay.

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

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

Judge KING. Twenty-two—

Mr. QUANDER. Twenty-two-hundred.

Judge KING. Twenty-two-hundred.

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

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

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

Judge KING. That's—

Senator BROWNBACk [continuing]. In the region.

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

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

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

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

Mr. QUANDER. It's—

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

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

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

Mr. QUANDER. Well—

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

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

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

Senator BROWNBACk. Yeah.

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

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

Mr. QUANDER. Certainly.

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

Mr. QUANDER. Certainly.

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

[The information follows:]

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

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

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

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

#### *Past Data Issues*

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

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

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

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

*Planned Improvements*

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

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

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

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

Senator BROWNBAC. What? What would be—

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

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

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

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

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

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

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

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

Mr. QUANDER. Yes.

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

Mr. QUANDER. Yes. We have regular contact—

Senator BROWNBACk. In realtime?

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

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

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

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

Senator BROWNBACk. Do they do that?

Mr. QUANDER. It's being done.

Senator BROWNBACk. Okay. Good.

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

Ms. BUCHANAN. Thank you.

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

Ms. BUCHANAN. Thank you.

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

Anything further you'd care to add?

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

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

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

#### ADDITIONAL COMMITTEE QUESTIONS

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

Mr. QUANDER. Yes, sir.

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

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

#### QUESTIONS SUBMITTED BY SENATOR SAM BROWNBACk

##### COMMUNITY SUPERVISION PROGRAM

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

What is the status of implementing the special supervision initiative?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PRETRIAL SERVICES AGENCY

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

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

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

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

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

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

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

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

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

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

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

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

#### SUBCOMMITTEE RECESS

Senator BROWNBACK. The hearing's recessed.

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