

**DISTRICT OF COLUMBIA APPROPRIATIONS FOR  
FISCAL YEAR 2003**

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**HEARINGS**

BEFORE A

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

SECOND SESSION

ON

**H.R. 5521/S. 2809**

AN ACT MAKING APPROPRIATIONS FOR THE GOVERNMENT OF THE DISTRICT OF COLUMBIA AND OTHER ACTIVITIES CHARGEABLE IN WHOLE OR IN PART AGAINST THE REVENUES OF SAID DISTRICT FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2003, AND FOR OTHER PURPOSES

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**District of Columbia**

**Putting Families First: The Road to Reform of the D.C. Family Court  
Regional Emergency Planning for the Nation's Capital**

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U.S. GOVERNMENT PRINTING OFFICE

78-468 PDF

WASHINGTON : 2003

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**DISTRICT OF COLUMBIA APPROPRIATIONS  
FOR FISCAL YEAR 2003**

**THURSDAY, MARCH 14, 2002**

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

The subcommittee met, at 2:39 p.m., in room SD-192, Dirksen Senate Office Building, Hon. Mary L. Landrieu (chairman) presiding.

Present: Senator Landrieu.

**REGIONAL EMERGENCY PLANNING FOR THE NATION'S  
CAPITAL**

**STATEMENT OF MARGRET NEDELKOFF KELLEMS, DEPUTY MAYOR  
FOR PUBLIC SAFETY AND JUSTICE, DISTRICT OF COLUMBIA**

**ACCOMPANIED BY:**

**PETER G. LaPORTE, DIRECTOR, EMERGENCY MANAGEMENT SERVICES AGENCY, DISTRICT OF COLUMBIA**

**RICHARD A. WHITE, CHIEF EXECUTIVE OFFICER, WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY**

**MICHAEL ROGERS, EXECUTIVE DIRECTOR, METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS**

**DONALD KELDSEN, ACTING DIRECTOR, MARYLAND EMERGENCY MANAGEMENT AGENCY**

**MICHAEL CLINE, COORDINATOR OF EMERGENCY MANAGEMENT FOR VIRGINIA**

**JAMES SCHWARTZ, ASSISTANT CHIEF OF OPERATIONS, ARLINGTON, VIRGINIA FIRE DEPARTMENT**

**OPENING STATEMENT OF SENATOR MARY L. LANDRIEU**

Senator LANDRIEU. Let me begin by reminding our witnesses and everyone attending that the meeting is not only being covered in our usual ways, but Senator Byrd has—and we have agreed, to have this meeting covered on the Internet. So this is going to be live. And it is not the first time, but it is a new policy that we have adopted. So I just wanted to let you know that we are wired for sound.

Welcome to the District of Columbia Subcommittee Hearing on Emergency Preparedness. At our last meeting last year both the ranking member, Senator DeWine, and I had committed to having as one of our first meetings this year an update of the Districts' emergency management plan.

We are all very familiar, too familiar, with what happened on September 11. And we are aware that it is our responsibility to do

everything in our power to make sure that if there is another such attack, we hope that there won't be, but we prepare as if there will be, that we would be ready, first of all, if we can, to prevent the attack. But if we fail at detecting and preventing an attack, then we must deal with the consequences of it as effectively and as professionally and as carefully and as thoroughly as we can.

And none of us can do that alone. Therefore, the purpose of this meeting is to see how the District of Columbia, which is a rich target, and surrounding areas, which are rich targets, emergency operations plans are coming along to work together in that way.

Coordination between jurisdictions is essential. I hear this from many of my colleagues, from Senator Mikulski, from Senator Sarbanes, from Senator Warner, from Senator Allen, as well as from Mayor Williams, representatives of the District and Congresswoman Eleanor Holmes Norton about this issue.

I have four specific goals and I'm going to submit my longer statement for the record. But I hope that our committee can help, with other committees of jurisdiction, to help create a seamless emergency response plan for the region; to establish rigorous training under the plan for regional first responders; that the plan, once implemented and signed off on, must be communicated to the public in a way that they understand their role; that we just don't understand our roles, but the residents and the workers and the people who live in this region understand the plan and can respond appropriately should something happen.

And the end result of all of this, I hope we have the highest level of security, but that we keep the welcome sign out in the District of Columbia and in the region that we are so proud of.

So those are my four goals. After I hear some additional testimony I may add some additional goals, but just to get us started, I thought I would throw those goals out.

Let me remind everyone here that this subcommittee appropriated over \$200 million, \$175 million to the District of Columbia, \$39 million to Metro, and \$5 million to the Council of Governments, and tasked those entities with coming up with a response plan and coordinating it with regional representatives. I look forward to hearing from the witnesses as to how this \$175, \$39 and \$5 million has either been partially spent or is planning to be spent. We also have representatives from Maryland and Virginia, who we hope will comment about how the District's particular efforts are either complementing or meshing or not, or conflicting, whatever the case might be, with the States plans.

I am going to submit, without objection, a longer statement for the record, and also submit this fact sheet that was part of an assessment recently done by CNN when assessing resources for the District of Columbia.

Washington was ranked seventh overall among the Nation's 30 largest cities in a study of resources and training focused on disaster preparedness. In addition, D.C. was ranked second in the category of medical response resources, with 328.7 physicians per 10,000 people. It ranked second for Federal emergency preparedness grants, 19,613 per 10,000 residents. It ranked first for the ratio of police officers to the population, 63.4 officers per 10,000 residents, but it ranked 27th out of 30 of the Nation's largest cities

for the efficiency of its transportation system in the event of emergency.

I am sure Metro may want to comment. My question when I was shown this is that resources do not necessarily translate into readiness. You can throw a lot of resources at something, but if you do not have a good plan and those resources were not either invested or spent wisely, you could be no more ready except to have \$100 million.

So while I am happy to see that we are ranking in the top in terms of resources, I would be very happy when I am convinced, not to say that I am skeptical at this point, but I think the record is just open about, that we are turning our resources into readiness and into security. And that is the point of this hearing; in addition, we must determine if we are planning in a regional way that will result in a seamless regional emergency plan so our residents and our workers and our Nation can be confident that we are doing the very best we can. I would like to include in the record my full prepared statement and the statement of the ranking member, Senator DeWine.

#### PREPARED STATEMENTS

So with that, let me just introduce our witnesses.

We have Mrs. Margret Kellems, Deputy Mayor for Public Safety, who's taken a leadership role here; Mr. Peter LaPorte, Director of the Emergency Management Service Agency. We have Metro represented by Mr. Richard White; we have our Council of Governments represented by Mr. Michael Rogers; and we have Maryland and Virginia represented by the acting director of the Maryland Emergency Management Agency, Mr. Donald Keldsen, and Virginia represented by Mr. Michael Cline, the coordinator of Emergency Management for Virginia, and Mr. Jim Schwartz, assistant chief of operations for the Arlington County fire department. Chief Schwartz, we are happy to have you here.

Mrs. Kellems, why do you not begin?

[The statements follow:]

#### PREPARED STATEMENT OF SENATOR MARY L. LANDRIEU

Welcome to the Senate District of Columbia Appropriations Subcommittee hearing on regional emergency planning for the Nation's Capital. I want to give a special welcome to our witnesses this afternoon: Deputy Mayor for Public Safety, Margret Nedelkoff Kellems; Peter LaPorte, the District's Emergency Management Agency Director; Richard White, CEO of the Washington Metropolitan Area Transit Authority; and Michael Rogers, Executive Director of the Washington Council of Governments.

I am also happy to have representatives of the State and local governments surrounding the District to hear their views on the regional preparedness planning needs for the area. I want to thank: from the State of Maryland, Donald Keldsen and from Virginia, Michael Cline for attending today's hearing and answering questions. I also want to thank Jim Schwartz, Assistant Chief of Operations for the Arlington Fire Department, for coming today. Mr. Schwartz was the on-site commander at the Pentagon on 9/11.

Last November, this Subcommittee held a hearing on the District's emergency planning efforts and funding needs in the wake of the terrorist attacks of September 11. That hearing bolstered my commitment to provide the necessary resources for the District to prepare for an respond to an emergency. The Congress approved \$200 million for the District Government, the Metro transit system, and the Council of Governments to train and equip your personnel and increase security in the Capital. I would like to hear from each of you how those resources are contributing to a higher state of readiness. I thought it was appropriate for our first hearing this year

to look back for accountability for funds appropriated last year and to look ahead to developing a regional emergency strategy.

I hope this hearing will serve as a springboard to four principle outcomes for emergency planning and security in the region. First, the creation of an easy-to-understand, seamless regional emergency response plan that incorporates best practices. Second, the plan should have a rigorous regional training component. Third, the public needs to be educated about the plan which evacuation routes should people use and the locations of shelters. Finally, I hope we can begin to move toward a longer term goal of creating security systems for the region that do not take away from the beauty and the majesty of our Nation's Capital.

The terrorist attacks of September 11, just 6 months ago, united the nation. In this, the terrorists failed because they sought to tear us apart. Instead, we as a people came together as one. But the attacks also taught us a number of valuable lessons and gave us a renewed awareness of the value of emergency planning and a strong civil defense.

The attacks also underscored that the District of Columbia faces unique emergency preparedness challenges that go beyond those that would normally face a living, breathing city of over 500,000 people. The District is vulnerable to a terrorist attack because it is the seat of government of the nation that symbolizes freedom and democracy in the world so this City must be prepared for the worst. The larger challenge is that any emergency in the City be it a terrorist attack or a snow storm will have an immediate impact on at least 17 other cities, towns, and counties in the two States on Washington's borders. Until September 11 it was not unusual for all 17 of these State and local governments as well as the Federal Government and the mass transit system, Metro, had their own emergency operations plans.

The challenge, as a Capital, a City and a Region, is to ensure that these plans are at the very least coordinated on an operational basis, and that consistent policies govern decision making across the region. Without a seamless regional plan, this area could become crippled at the worst possible time.

The City has developed a comprehensive emergency response plan, called the "District Response Plan" or "DRP." The DRP identifies 15 Emergency Support Functions such as transportation, law enforcement, fire fighting, mass health care, and public communications and identifies the lead City agencies responsible for each. The DRP also identifies agencies that will provide valuable support in each of these functions. I must congratulate the City, Mayor Williams, and his team for putting this Plan together. It anticipates a wide range of emergency scenarios from the routine to the devastating and sets forth systems for how City agencies will respond to these events.

I understand the Federal Emergency Management Agency, FEMA, was actively involved in the formulation of the DRP. Cooperation between the District and the Federal Government is essential. I believe a higher degree will be necessary as we go forward. I will be interested to hear whether District officials have been briefed on the so-called "Shadow Government" that we have heard about in media reports. For some emergencies the District Response Plan indicates that one of the first calls the City might make will be to a Federal agency the Department of Justice or the Department of Agriculture for example. If either one of those agencies has been severely disrupted or destroyed, District officials should be able to find out how to contact the Federal agencies wherever they may be.

In reviewing the District's plan, I did not get a sense as to whether Maryland, Virginia, and the communities in suburban Washington played any role in developing the District's Plan. Some State and local agencies from the surrounding suburbs are identified as having a support role in some of the Plan's Emergency Support Functions for example, in the transportation area. However, it does not seem that those suburban communities play a role in some of the other Emergency Support Functions when perhaps they could.

Developing a regional emergency response plan for the Washington area will be a highly complicated and monumental task. Coordinating the emergency planning needs and systems of 17 local and State jurisdictions, plus the Washington Metropolitan Area Transit Authority will be very difficult. In December, as part of the Defense Supplemental Appropriations bill, we included funding for the Washington Area Council of Governments, COG for short, to develop a regional plan. I understand that COG has made progress in this area and I look forward to hearing the testimony about how this planning is proceeding.

I want to thank you all for attending this hearing today and for contributing to the highest state of preparedness in the nation. We will forward additional questions for the record to each witness, if necessary.



## PREPARED STATEMENT OF SENATOR MIKE DEWINE

Madam Chairman, the attacks of September 11 Dealt direct blows to the cities of New York and Washington, DC. it is little wonder why terrorists targeted these two cities. They represent our economic strength and our military and democratic strength. That is one of the main reasons that Congress provided \$200 million in the fiscal year 2002 Supplemental Appropriations Bill to secure the District of Columbia from future attacks.

Without question, Washington, DC, Is a unique city. It has the honor and the immense responsibility of being home to the Federal Government. This is a burden that we recognize every year when we provide specific appropriations for the city. We understand, however, that although we provide some of the city's resources, it is the District officials who are on the front lines in deciding how to spend a majority of those funds.

Today, I look forward to hearing from our witnesses about how the District plans to use these resources and how we—as Federal partners in this effort—can support the goal of securing our people and our institutions from terrorists.

I am particularly interested in hearing how the city is equipped to provide emergency assistance to children. because of their size, metabolism, and body development, children are more vulnerable than adults in certain crisis situations. Yet, emergency equipment—such as oxygen masks—is usually designed for adults and cannot be used effectively to assist children. Often, staged emergencies do not include children and rescue workers are not trained to handle the special needs of children. So today, I'd like you to discuss how prepared the city is in assisting our youngest citizens in the event of an emergency.

Before September 11, I was concerned about reports that local, regional, and Federal law enforcement officers were unable to communicate with one another because their communications systems were not compatible. I included funds through the fiscal year 2002 DC Appropriations Bill so that we could begin to make these systems interoperable. After September 11, the need for communications compatibility became urgent. In the fiscal year 2002 Supplemental Bill, we provided an additional \$45 million to continue this effort. I'd like to hear from our witnesses today about the progress that's been made in ensuring that the many law enforcement officers in the region can communicate and coordinate with one another.

In conclusion, we are pleased to have this group of witnesses before us today to discuss how they are working to ensure that the metropolitan area is prepared for future emergencies. As I noted earlier, they are the ones on the front lines of this effort. We thank them for their hard work and dedication and we look forward to continuing to partner with them to protect our Nation's Capital.

Ms. KELLEMS. Good afternoon, and thank you, Chairperson Landrieu.

I am Margret Nedelkoff Kellems, the Deputy Mayor for Public Safety and Justice for the District. And with your permission, I would submit my written testimony for the record. And also with your permission, I would like to deviate from it in response to some of the issues that you raised just at the outset.

In my written testimony I outline some of the management infrastructure that's been put into place to make sure that we are using all our money and resources wisely, that we are tracking them well and that we are integrating them. And that's all included in the written testimony. But listening to you at the beginning, I thought maybe I should speak a little more about the planning process that's been going on. Of course I'll be happy to answer any questions about the resources as well.

## DOMESTIC PREPAREDNESS TASK FORCE

Just after the 11th the Mayor convened a Domestic Preparedness Task Force among the District agencies. The members were the agency heads from the primary, not just the first responders, but all of the primary response and recovery agencies. So included in it we have Department of Public Works, the Department of Transportation—to mention an issue you just raised—in addition to po-

lice and fire and emergency management and emergency medical services. Also, the Department of Health and many others.

The goal of the task force at the outset was to make sure that in these days when we felt like we were living on borrowed time that we address some of the most immediate issues. God forbid something should happen in a few days or a few weeks after the 11th. He wanted to be sure that we had done everything we could to improve our state of readiness as quickly as possible.

The task force met weekly and very quickly broke into subcommittees. The subcommittees were organized around something called emergency support functions, which is the term of art that the Federal Government also uses in its Federal response plan. They include things like communications, transportation, fire-fighting, hazardous materials response, urban search and rescue, and that sort of thing.

There are in our plan a few additional ESFs, emergency support functions, that do not appear in the Federal response plan, because they are things that are really purely local. Then a number of the members of the task force went to New York and visited with the folks there to understand what kind of challenges they faced. They had a plan, they implemented it, and yet of course they faced many new and additional challenges. And we folded that into our thinking as we developed our new and improved District Response Plan. And some of those issues actually became part of ESFs, or emergency support functions.

#### DISTRICT RESPONSE PLAN

That group, over the course of about 3 months, completely re-wrote and redesigned the District Response Plan. It wasn't just the district agencies who were doing this. The district agencies took the lead in each of these functional areas, but they worked very closely with the Federal agencies that also have responsibilities in those same areas, private sector partners that we found were essential to our planning process; for example, the hospitals, the hospital association, the Red Cross, some of the volunteer organizations. So for each of those functional areas the District convened a subcommittee comprised of the Federal, the surrounding jurisdictions that we needed to work with, and the private sector and community organizations.

#### TRANSPORTATION

Of particular note, just because you brought it up in your opening remarks, was the transportation part of it. We recognized that within the four boundaries of the district what we faced on September 11 was a transportation emergency as much as anything else. We also realized that the transportation emergency extended beyond the four boundaries of the district. Our downtown area was clear within a few hours, within a couple of hours after the plane hit the Pentagon, but traffic was backed up horribly as people tried to get further and further out of the city.

So the transportation subcommittee included members from MDOT, Maryland's Department of Transportation, and VDOT, as well as the Federal Department of Transportation. Their primary focus was to figure out how, in the event of a disaster, we would

evacuate all of the people in this area as far away as they needed to. And I hope during the course of this hearing we can talk about some of the details of that area, but it is just one example of the kind of work that's happened since then.

All of the folks sitting at this table I hope, I believe, are going to say that there's been an enormous amount of cooperation in the areas where we really needed it most, in the health care and health services response, in the transportation area, in the communications area, the communication infrastructure area, to which we've devoted a lot of our time and resources. So I hope I can answer more detail during the course of the hearing, and of course speak to some of the resources, without which we would not be able to implement this plan.

But overall, I think that if we come away with nothing else, I think we should rest assured that there has been an enormous amount of progress; that the folks who live in the city, the many, many people who work here and the 20 plus million visitors we get each year should have a much higher degree of confidence that not only has the planning been done, but now of course thanks in part to you and your colleagues, we have the resources to actually implement that kind of plan. We've submitted just briefly spending plans on how we would expend the funds.

We've expended a significant amount. I think the number as of today is about 17 million—and I think that number will grow significantly over the next couple of weeks as we sort out some of the initial paperwork that we had we just received. We actually took the Federal funds about a month ago, just about a month ago. So we've been spending at a very quick pace, focusing on our highest priority, things like preparedness, personal protective equipment a lot of training that's being done with the District and some of the surrounding jurisdictions jointly, and beginning to build out some of the communications and transportation infrastructure that we think is so essential.

#### PREPARED STATEMENT

So with that, I will be happy to answer your questions after my fellow panelists here speak. Thank you.

[The statement follows:]

#### PREPARED STATEMENT OF MARGRET NEDELKOFF KELLEMS

Good afternoon, Chairperson Landrieu and members of the Subcommittee. I am Margret Nedelkoff Kellems, Deputy Mayor for Public Safety and Justice for the District of Columbia. I am pleased to have the opportunity to testify today before you today about regional emergency planning and the level of emergency preparedness and coordination with surrounding jurisdictions. As Director LaPorte's testimony reflects, the District has made great strides in developing an operational infrastructure to ensure that our nation's capital will be prepared for any emergency that may arise. As the co-chairs of the Mayor's Emergency Preparedness Council, a cabinet level organization arising from the Mayor's Domestic Preparedness Task Force, John Koskinen, the City Administrator, and I are responsible for ensuring that we are in close contact with other jurisdictions in the Washington, D.C. Metro Area in an effort to promote and ensure coordinated emergency response. As Mr. LaPorte mentioned, the District is participating in the development of a regional communications and communication plan, in cooperation with the Metropolitan Washington Council of Governments.

Additionally, earlier this week, representatives from the District participated in the Senior Leaders' Seminar, hosted by the U.S. Army Corps of Engineers and the

Federal Emergency Management Agency. This exercise highlighted the need for strong regional coordination in any major terrorist incident in the DC Metropolitan area and tested the interoperability of the District and Federal Response Plans.

Developing an operating infrastructure, however, is only the first step in ensuring preparedness. Thanks in large part to the support of members of this Subcommittee, the District government received approximately \$156,000,000, along with \$39,100,000 going to WMATA, to support the implementation of the District Response Plan. We recognize the significance of this federal support and we are committed to spending these funds on time, in accordance with Congress's intent, and in a way that maximizes the District's state of preparedness to deal with any disasters that may arise.

As you may well imagine, such a large influx of resources creates new management pressures on District support agencies. I would briefly like to discuss the management infrastructure that we have put into place to ensure the highest level of financial and programmatic accountability for the federal dollars we have received.

As you know, the federal appropriation is split into 12 Federal Payment Categories to District Agencies that spell out specific use of funds, as well as payments to the Washington Metropolitan Area Transit Authority and the Metropolitan Washington Council of Governments.

Protective Clothing and Breathing Apparatus .....	\$7,144,000
Specialized Hazardous Materials Equipment .....	1,032,000
Chemical and Biological Weapons Preparedness .....	10,355,000
Pharmaceuticals for Responders .....	2,100,000
Response and Communications Capability .....	14,960,000
Search, Rescue and Other Emergency Equipment and Support .....	8,850,000
Equipment, Supplies and Vehicles for the Office of the Chief Medical Examiner .....	1,780,000
Hospital Containment Facilities for the Department of Health .....	8,000,000
Office of the Chief Technology Officer .....	45,494,000
Emergency Traffic Management .....	20,700,000
Training and Planning .....	9,949,000
Increased Facility Security .....	25,536,000
Washington Metropolitan Area Transit Authority .....	39,100,000

All of these funds have been strategically allocated across District agencies based on identified needs. Every agency that is to receive federal funds has developed a spending plan that identifies what resources will be purchased and over what time period. These spending plans ensure that we have a mechanism to track and benchmark our progress in spending federal emergency preparedness funds. I have submitted with my testimony a graphic that depicts agency spending plans, by fiscal quarter.

In addition to agency-specific spending plans, we also are creating a centralized procurement unit to focus exclusively on purchasing against domestic preparedness funds. This unit will ensure that emergency preparedness procurement requests, particularly the most time-sensitive, are processed on their own, prioritized procurement schedule, utilizing expedited procurement techniques. Having a unit dedicated to cover these funds has an added advantage of ensuring a level of consistency and cost effectiveness across District agencies that may be purchasing similar goods or services.

From the financial perspective, expenditures are monitored closely to ensure that they are in line with the spending plans submitted by each agency and are in accordance with the agency quarterly apportionment request.

The District received its first quarterly allocation of funds in mid-February, or approximately one month ago. Nevertheless, because of the work we already had done in preparation, in that short time we have been able to expend or obligate over \$6 million. We will be submitting our first quarterly report on the use of the funds tomorrow. Among the items that we already have begun to procure are Fire/EMS response apparatus and hazmat equipment for our first responders. Furthermore, we have expedited training for our Fire/EMS specialized response units. Starting on February 11, the District's Hazmat Task Force Unit and Rescue Squads began specialized training. As of today, 48 individuals on these teams already have been certified in levels 1, 2, and 3 hazmat response. By April 19, all 125 individuals on these specialized units will be certified at all three levels. On a parallel track, starting on February 17 we began a broader training initiative for the rest of the F/EMS Department, and by mid-October 2002, approximately 1,000 firefighters will be certified at hazmat levels 1 and 2. All individuals are being trained at the Maryland Fire and Rescue Institute (MFRI), which ensures that District firefighters will share a common training foundation with surrounding jurisdictions. As you can see, our

first priority is to ensure that our first responders are equipped and trained and that our technological and communications infrastructure is in place, as these are the pillars on which the success of an effective response will stand.

In fact, our actual expenditures are lower than our first quarter expenditure projections; however, this is not unexpected during this initial ramp up period. With our expenditure tracking system in place, I have no doubt that we will expend all of these funds timely and to the benefit of all of the residents and workers in the District.

I am pleased to report that as a city, we are developing performance standards and measurements for all agencies within the District of Columbia participating in the emergency management program. Every agency director in the District has in his or her performance contract with the Mayor a requirement that he or she participate in the relevant planning groups and training sessions. We are also developing specific performance standards for the expenditure of these funds.

These preparedness efforts and budget allocations move the District closer to the goal of becoming the first city to meet the national standards for emergency management and business continuity programs endorsed by FEMA, the National Emergency Management Association, and the International Association of Emergency Managers. Meeting these standards will position Washington, D.C. to be the first city accredited under the Emergency Management Accreditation Program, once the program is online.

We have come a long way in the six months since September 11 but we recognize that there is much to do in our own city, in our region, and in our partnership with the federal government. We continue to focus on improving our communications and coordination through the Council of Governments, the D.C. White House Task Force Committee on Emergency Preparedness, and in our relationships with our counterpart agencies in the surrounding jurisdictions. We hope that the citizens of the District of Columbia, those who work here, and the more than 20 million people who visit annually know that this city is well prepared for the events that we all hope and pray will never happen.

Senator LANDRIEU. Thank you.

Mr. LaPorte.

Mr. LAPORTE. Good afternoon, Chairperson Landrieu, members of the committee. I am Peter LaPorte, Director of Emergency Management for the District of Columbia. I am pleased to have the opportunity today to testify about the level of emergency preparedness and coordination with the surrounding jurisdictions, both State, county, and local and regional entities.

In July of 2001, D.C. Emergency Management, in cooperation with FEMA and the Department of Justice, as well as our regional partners in Maryland and Virginia, convened a regional meeting of Federal and local response and recovery agencies to discuss regional preparedness for a terrorist attack using weapons of mass destruction. A tabletop exercise, to which local responders, Federal partners and other key agencies, such as Metro, WMATA, and the Airport Authority responded to a scenario featuring an attack using weapons of mass destruction was a key feature of the meeting. The ultimate goal was to develop a coordinated regional response plan as soon as possible. Subcommittees charged with developing various aspects of the plans were established and met regularly until September 11.

On September 11, 2001, it became abundantly clear that although we had made a very good start at developing a regional plan, we were not prepared to mount to the extent we needed to a coordinated regional response to emergencies. The region's response to the September 11 crash at the Pentagon showed just how our jurisdictions in the Washington metropolitan region, along with State and Federal Governments, are inextricably intertwined, and therefore, must develop a coordinated plan to respond to the level and types of terrorist threats we now currently face.

Immediately following September 11, 2001, Mayor Anthony Williams convened an interagency Domestic Preparedness Task Force to review the District's emergency management planning and activities. Through its meetings and dialogues, the task force enhanced critical linkages, operational relations with Federal, State and regional partners, as well as our regional stakeholders. The task force identified as a top priority for the District, the development of a comprehensive emergency plan capable of responding to any incident. And I emphasize any incident because of the new component we are looking at, catastrophic type disasters. Our planning is well beyond just your simple flood and that type of response.

The task force has since evolved into the Mayor's Emergency Preparedness Council, which is a full-time city body that includes among its members District agencies, businesses, schools, universities, the Council of Governments, and local utility companies.

Working in consultation with the Deputy Mayor for Public Safety and Justice, the City Administrator, and under the Mayor's leadership, DCEMA led the effort to reform the City's Emergency Response Plan, renamed the District Response Plan to reflect its revision to mirror the Federal Response Plan.

I think it really needs to be emphasized how important that is in the business of emergency management, the one language, the common architecture of a response plan, Federal, State, local; the idea that there's an accepted language and an accepted understanding of the architecture of how a response plan would work.

The new DRP is organized by emergency support functions, those tasks that, in the aggregate, comprise the City's response to emergencies and disasters. As work proceeded to develop the current DRP, DCEMA gathered input from its regional partners and stakeholders and used it to help shape the plan. A draft of the District Response Plan is posted on the agency's web site, [dcema.dc.gov](http://dcema.dc.gov). It was posted there till September 11 as part of our public review. March 11, excuse me, for public review and the comment process.

Following the comment period, the DRP now is under a revision and will be forwarded to the city council in a very short period of time.

As part of our effort to educate the community about its role in disaster preparedness and response, in early October of 2001 EMA published a family preparedness guide and distributed it to every household in the city, as well as additional 81,000 copies to all schools for distribution to each teacher, student, and staff member. Thousands, literally hundreds of thousands of copies of this guide have been distributed to community meetings, to business groups, hospitals, regional partners, and other interested parties.

A major focus during 2002 will be the implementation of Community Emergency Response Team Training, in which community members partner with the first responders to prepare for and survive disasters within their communities. The 8-hour training course was developed by FEMA to teach communities how to take responsibility for their own community preparedness, as well as personal preparedness.

In order to insure our workers are prepared to respond when called, EMA has increased the number of and types of training it

offers first responders, medical workers, and emergency personnel, as well as for citizens who expressed an interest in learning about personal and community preparedness. Examples of new courses are Personal Preparedness, the DRP, the Incident Command System, Stress Management, and so on. The agency has also increased its efforts to encourage neighboring jurisdictions to participate in regional training efforts and we've opened all of those courses to our regional partners at no expense. In fact, we are strongly encouraging their participation in all of these training classes.

As part of its ongoing effort to ascertain the efficacy of the plan, the City took part in a tabletop exercise, Tuesday and Wednesday of this week hosted by the Federal Emergency Management Agency and the U.S. Corps of Engineers to test the effectiveness of our response plan and the overall capabilities of the greater Washington, D.C. area to respond to a terrorist attack. Participants included Maryland, Virginia, the District of Columbia, EPA, DOT. It literally was the entire Federal family. It was well over 300 people at the exercise, that simulated almost a, I would say a worse case scenario and how we'd respond to that.

Through its membership again with the Washington Council of Government's, Homeland Security Task Force, EMA works with the 16 other regional member jurisdictions to enhance regional preparedness. Michael—an example of that regional preparedness is the Regional Incident Communications and Coordination System, and I am sure Michael Rogers will talk about that, which was developed to fill the gap in interagency coordination exposed September 11. RICCS facilitates communication about regional incidents and events by providing a comprehensive, real-time communication link that gives decision-makers the ability to respond in a coordinated, consistent and efficient manner under all scenarios.

The District also serves as the control point for the Washington Area Warning Alert System. EMA transmits emergency messages to 67 regional response organizations including State and county agencies in Maryland and Virginia, as well as airports, railways, District and Federal agencies. And the list is very impressive when you look at who participates of the 67, including literally three separate drops at the White House. When we do a roll call of those 67 agencies, I will tell you in the last month it has been 100 percent each and every time. It has really proven to be a very good tool.

Over the past 6 months the city has hosted or taken part in numerous community meetings focused on preparedness. Mayor Williams has led these meetings. They've been on local cable TV and they've been very well attended, standing room only, and literally the questions have all been right on point from the community.

One issue that always arises is how the city plans to evacuate residents, workers, and visitors in the event of an emergency. Oftentimes I do not like to talk about evacuation. I like to talk about an expedited commute, because in many ways it is a transportation issue to expedite folks who need to get home. And if an event is not causing a disruption, you do not want to evacuate people that could easily stay at home. And in some cases, we need to continue that education of how to shelter in place, of other things that peo-

ple can do to prevent themselves from being part of the disaster and exacerbating the situation.

One of the most important parts is the District's Division of Transportation, which has been collaborating on regional transportation planning and coordination with Maryland and Virginia and the Washington Metropolitan Area Transit Authority. New signage identifying roads that are event roads and directing motorists to I-395 will soon be installed on major throughways through the city. And what I would like to do actually is share with you some of the new signage that we are expecting and part of the new evacuation routes that are about to be announced in coordination with Maryland and Virginia.

#### PREPARED STATEMENT

As you can see, the District is fully engaged in local and regional preparedness and training activities. I take a great deal of pride in what we've been able to do in 6 months, sitting around that table-top, you know, for a day and a half and having literally every regional director from the Federal Emergency Management Agency and the Army Corps of Engineers there and putting our plan through the paces. We held up very well. And in fact, it is Mayor Williams' challenge to Margret and, myself is to be the best prepared regional jurisdiction in the country. And I think we can accept nothing but being the best. Thank you.

[The statement follows:]

#### PREPARED STATEMENT OF PETER G. LAPORTE

Good morning, Chairperson Landrieu and Members of the Committee. I am Peter G. LaPorte, Director of the District of Columbia Emergency Management Agency (DCEMA). I'm pleased to have the opportunity to testify today about the District's level of emergency preparedness and coordination with surrounding jurisdictions.

In July 2001, the District of Columbia Emergency Management Agency, in cooperation with the Federal Emergency Management Agency and our regional partners in Maryland and Virginia convened a regional meeting of federal and local response and recovery agencies to discuss regional preparedness for a terrorist attack using weapons of mass destruction. A tabletop exercise in which local first responders, federal partners and other key agencies, such as Metro, were asked to respond to a scenario featuring an attack using weapons of mass destruction was a key feature of the meeting. The ultimate goal was to develop a coordinated regional response plan as soon as possible. Subcommittees charged with developing various aspects of the plan were established and met regularly up until September 11.

On September 11, 2001, it became abundantly clear that although we had made a good start at developing a regional plan, we were not prepared to mount a coordinated regional response to emergencies. Prior to September 11, 2001, many of the threats to the District of Columbia were localized, requiring minimal inter-jurisdictional coordination. The region's response to the September 11 plane crash at the Pentagon showed us that the jurisdictions in the Washington metropolitan region, along with their state governments and federal partners, are inextricably intertwined and therefore must develop a coordinated plan to respond to the level and types of terrorist threats we currently face.

Immediately following September 11, 2001, Mayor Anthony Williams convened an interagency Domestic Preparedness Task Force to review the District of Columbia's emergency management planning and activities. Through its meetings and dialogue, the task force enhanced critical linkages and operational relations with federal, state and regional partners, as well as with regional stakeholders. The task force identified as a top priority for the District of Columbia the development of a comprehensive emergency management program capable of responding to any incident. This task force has since evolved into the Mayor's Emergency Preparedness Council and includes among its members District agencies, businesses, schools and universities, the Metropolitan Washington Council of Governments (COG) and local utility companies.



Working in consultation with the Deputy Mayor for Public Safety and Justice and the City Administrator and under the Mayor's leadership, DCEMA led the effort to reformat and refine the city's emergency response plan. Renamed "District Response Plan" (DRP) to reflect its revision to mirror the Federal Response Plan (FRP), the new DRP is organized by Emergency Support Functions (ESF)—those tasks that in the aggregate comprise the city's response to emergencies and disasters. As work proceeded to develop the current version of the DRP, DCEMA gathered input from regional partners and stakeholders and used it to help shape the plan. A draft copy of the DRP is posted on the agency's website through March 11 as part of the public review and comment process. Following the comment period, the DRP will be revised to incorporate appropriate changes and forwarded to the City Council.

As part of its effort educate the community about its role in disaster preparedness and response, in early October 2001, DCEMA published a family preparedness guide and distributed it to every household in the city. An additional 81,000 copies were made available to the District of Columbia Public Schools for distribution to each teacher, student and staff member. Thousands of copies have also been distributed at community meetings and to business groups, hospitals, regional partners and other interested parties.

A major focus during 2002 will be the implementation of Community Emergency Response Team (CERT) training in which community members partner with first responders to prepare for and survive disasters within their communities. The 8-hour training course was developed by FEMA to teach communities how to take responsibility for community and personal preparedness.

In order to ensure that emergency workers are prepared to respond when called, DCEMA has increased the number and types of training it offers for first responders, medical workers and other emergency personnel as well as for citizens who have expressed an interest in learning more about personal and community preparedness. Examples of new courses are "Personal Preparedness", "The DRP", "The Incident Command System", and Stress Management". The agency has also increased its efforts to encourage neighboring jurisdictions to participate in regional training efforts.

As part of its on-going effort to ascertain the efficacy of the plan, the city took part in a tabletop exercise, February 12 and 13, 2002, hosted by the Federal Emergency Management Agency and the U.S. Army Corps of Engineers to test the effectiveness of the District Response Plan and the overall capabilities of the greater Washington, D.C. area to respond to a terrorist attack. Participants included representatives from Maryland, Virginia as well as the District of Columbia.

Through its membership in the Metropolitan Washington Council of Government's (COG) Homeland Security Task Force, DCEMA works with the 16 other regional member jurisdictions to enhance the region's preparedness. An example of this regional effort is the Regional Incident Communication and Coordination System (RICCS), developed by COG to fill a gap in interagency communications exposed on September 11, 2001. RICCS facilitates communication about regional incidents and events by providing a comprehensive, real-time communications link that gives decision-makers the ability to respond in a coordinated, consistent and efficient manner under all scenarios.

The District also serves as the control point for the Washington Area Warning Alert System (WAWAS). DCEMA transmits emergency messages to 67 regional response organizations including state and county agencies in Maryland and Virginia as well as airports, railways and District and federal agencies.

Over the past six months, the city has hosted or taken part in numerous community meetings focusing on preparedness. One issue that always arises is how the city plans to evacuate residents, workers and visitors in the event of an emergency. The District Division of Transportation (DDOT) has been collaborating on regional transportation planning and coordination with the Maryland Department of Transportation (MDOT), the Virginia Department of Transportation (VDOT) and the Washington Metropolitan Area Transportation Authority (WMATA). New signage, identifying routes as event routes and directing motorists to I-395 will soon be installed on major city thoroughfares.

As you can see, the District of Columbia is fully engaged in local and regional preparedness planning and training activities. Thank you for the opportunity to share information with you about these efforts. I would be pleased to answer any questions you may have at this time.

Senator LANDRIEU. Thank you very much.  
Mr. White.

Mr. WHITE. Chairperson Landrieu, good afternoon. My name is Richard White. I serve as the general manager and chief executive officer of the Washington Metropolitan Area Transit Authority here in the National Capital region. Thank you for asking me to testify on emergency preparedness planning in the National Capital region.

By way of background, WMATA was created by the Congress in 1967 as an interstate compact agency. The Metro system was designed primarily to serve the employees of the Federal Government, the residents of our region, the citizens of our Nation who come to Washington to do business with the Federal Government, and the millions of people who visit the National Capital region from throughout the world.

Since the mid 1960's, population and employment in this region have skyrocketed, and the expectations of WMATA have also grown exponentially. Each day we provide 1.1 million trips on our rail and bus systems. Approximately 40 percent of the daily work trips to the core of the National Capital region are delivered by mass transit. Half of the Metrorail stations serve Federal facilities, and nearly 40 percent of the locally-based Federal work force use the Metro system regularly.

WMATA has long been considered one of the safest and most secure transit systems in the Nation. Our transit police force works closely with the many police departments in the region, as well as the FBI, the Capitol Hill Police, the Secret Service, the National Park Service, and the Military District of Washington. Since 1998, we have had a number of our police force assigned full-time to the FBI's Local Terrorism Task Force.

When the Tokyo Subway system was attacked with a sarin gas release in 1995, we recognized that we needed to improve our preparation for previously unimagined threats. We now conduct annual counter-terrorism and explosive incident training for police and operations personnel, as well as provide a high level of interagency coordination and training programs and exercises with the many law enforcement, fire and emergency rescue agencies in the metropolitan area. Essentially everything you've already heard from Peter and Margret we certainly participate in when it comes to coordination with the District and all of the other various jurisdictions in our metropolitan area.

September 11 demonstrated the critical role of transit in regional emergencies, and we were called upon to quickly evacuate the core of the region at the same time the highway network clogged from congestion. We provided many services to the Federal Government and the region, including transporting local police, rescue workers and emergency supplies, providing emergency transportation for fleeing victims of the Pentagon attack, and our buses serving as emergency shelters for rescue workers. In response to a request from the Department of Defense, we opened our rail system earlier than normal for 30 days to help support essential operations at the Pentagon.

I do want to take this opportunity to thank you, Madam Chair, and the members of this subcommittee, as well as the entire Congress and the Administration for the strong support and funding we have received to enhance the WMATA security. We were appro-

priated \$49.1 million in fiscal year 2002 funds, of which \$39.1 million was approved as emergency supplemental funding in last year's Department of Defense Appropriations Act and through your subcommittee. The remaining \$10 million we received resulted from an allocation of discretionary funds from the Administration.

Against the \$49.1 million total we have now received \$41.52 million. And although the fund transfers have been received only in the last 30 to 60 days, we have already obligated our first \$1.8 million for the approved purposes. We are moving forward to quickly obligate the remaining funds on a variety of projects, including purchasing additional protective clothing and equipment, acquiring additional explosive detective canine teams, placing vehicle locator systems on our bus fleet and security cameras on some of our buses, furnishing our rail system with bomb resistant trash containers, improving our intrusion detection warning systems, connecting our security cameras in rail stations with a central control facility, and initiating upgraded security features at some of our facilities.

These funds have also allowed us to begin installing chemical sensors, initially at up to 13—or 12 of our Metrorail stations. We have been working for several years with the Department of Energy, Transportation and Justice and the National Laboratories in applying chemical detection technology in the transit environment. We are the first transit system in the world to become equipped with chemical detection capability. We are now in the process of working with the military on potential applications for early biological detection exposure as well.

It is expected by the end of this calendar year, approximately fully \$45 million will have been obligated of the amount of funds approved, with the remainder obligated in the early to middle part of the next calendar year. Based on our continual review of our capabilities in responding to an emergency, we are currently developing a supplemental funding request to the Congress. This request will enable us to complete security projects underway, as well as address some of the additional issues we have which have recently been developed.

While in many respects the region was indeed successful in responding to the September attack, it is clear, as the previous testifiers have said, that communications among agencies can be improved. As a part of the Metropolitan Washington Council of Governments' emergency planning process, we are participating fully in the regional deliberations to better coordinate emergency planning and communications. Until these processes are finalized, the region has developed an interim communications protocol to link the region's transportation agencies, WMATA, and others involved in responding to a serious incident that either involves or affects the regional transportation system.

WMATA has volunteered to be the primary contact for the region's many transit agencies. We are aware that in a crisis we may be called upon to play many roles other than moving our work force quickly home. And we wish to be prepared for those eventualities, whether it is assisting the military or civilian government agencies during a crisis to move personnel, equipment and potentially patients, or quickly evacuating an area or Federal facility not regu-

larly served by transit, we are committed to working with the region and the Federal Government to be ready when called upon.

It does bear mentioning, as you said, Madam Chair, in your opening comments, that in a recent study of emergency preparedness of the Nation's 30 largest cities by a team of national disaster experts, although Washington was scored as being, quote, well prepared; and we should all be proud of that; and did rank seventh of the 30th cities, it did, as you say, have one of the lowest rankings in the area of transportation due to our region's chronic road and bridge congestion problem. Although the Washington metropolitan area has one of the highest uses of transit service in the entire country, we nevertheless still do have one of the most congested road systems in the country. And I think it is merely an issue of capacity and investment that leave us in this situation.

I greatly appreciate the support of this subcommittee as provided as we move to enhance security of the Metro system. Given the fact that WMATA is located in the National Capital region and is so integral to the continued operations of the Federal Government, there is an even greater need to upgrade our ability to respond in emergencies, particularly given the negative implications of the congest problem in the National Capital region. The leadership and Federal support you have provided is critical to our ability to meet the new and increased roles expected of WMATA.

#### PREPARED STATEMENT

Thank you for holding a hearing on this important subject. I look forward to continuing with this subcommittee, the Congress, and the Administration as we strive to meet these many challenges and as a full and complete participant with the region. And I would be happy to answer your questions after the others have completed their testimony.

[The statement follows:]

#### PREPARED STATEMENT OF RICHARD A. WHITE

Chairman Landrieu and Members of the Subcommittee, good afternoon, and thank you for asking me to testify on coordination of regional emergency preparedness planning in the National Capital Region. I am Richard White, General Manager and Chief Executive Officer of the Washington Metropolitan Area Transit Authority (WMATA) here in the National Capital Region.

#### BACKGROUND

By way of background, WMATA was created in 1967 through enactment of legislation by the U.S. Congress, and by the Commonwealth of Virginia, the State of Maryland, and the District of Columbia. The Metro System was designed primarily to serve the employees of the Federal Government, the residents of our region, the citizens of our Nation who come to Washington to do business with the Federal Government, and the millions of people who visit the National Capital Region from throughout the world.

Since the mid 1960's, there has been dramatic growth and change in the National Capital Region. As population and employment in this region has skyrocketed, the demands on and expectations of WMATA have also grown exponentially. Each day we provide 1.1 million trips on our rail and bus systems. Approximately 40 percent of the daily work trips to the core of the National Capital region are delivered by mass transit service. Half of Metrorail stations serve Federal facilities, and nearly 40 percent of the locally based Federal workforce use the Metro system regularly to commute to their jobs. Across the Nation, transit has experienced the highest ridership growth rate of any transportation modes over the past 5 years.

## WMATA'S EMERGENCY RESPONSE ROLE

WMATA plays a critical role in ensuring that the important work of the National Capital Region continues under all circumstances. September 11 demonstrated the importance of transit in this region when we were called upon to quickly evacuate the core of the region at the same time that the highway network clogged from congestion. Every mode of transportation is important during emergencies, but transit is able to move people much more quickly and efficiently than automobiles which rapidly congest roads and highways.

WMATA has long been considered one of the safest and most secure transit systems in the Nation. We have our own police force of 357 sworn officers who are trained and certified in all three jurisdictions, Maryland, Virginia and the District of Columbia. We work closely with the many police departments in the region, as well as the FBI, the Capitol Hill Police, the Secret Service, the National Park Service, and the Military District of Washington. Since 1998, we have had a member of our police force assigned full-time to the FBI's local Terrorism Task Force.

When the Tokyo Subway System was attacked with a sarin gas release in 1995, we recognized that we needed to improve our preparation for previously unimagined threats. We now conduct annual counter-terrorism and explosive incident training for police and operations personnel, as well as provide a high level of interagency coordination and training programs and exercises with the many law enforcement, fire and emergency rescue agencies in the metropolitan area.

On September 11 we were called upon to provide many services to the Federal Government and the region. We helped evacuate the city, transport local police, rescue workers and emergency supplies, provided emergency transportation for fleeing victims of the Pentagon attack, and our buses served as emergency shelters for rescue workers. Further, in response to a request from the Department of Defense, we opened our rail system earlier than normal for a period of 30 days to help support essential operations at the Pentagon while it recovered from the September 11 attack. Since September 11, we have redoubled our focus on security and are continually assessing the best way to meet new challenges and expectations being placed upon WMATA.

## SECURITY FUNDING

I want to take this opportunity to thank you, Chairman Landrieu, and the Members of this Subcommittee, as well as the entire Congress and the Administration for the strong support and funding we have received to enhance the security of WMATA facilities and equipment. In response to our request for Federal assistance, WMATA has received \$49.1 million in fiscal year 2002 funds, of which \$39.1 million was approved as emergency supplemental funding in last year's Department of Defense Appropriations Act. The remaining \$10 million we received resulted from an allocation of discretionary funds from the Administration.

We are moving forward to quickly obligate these funds on a variety of security projects including purchasing additional protective clothing and equipment, adding K9 explosive detection canine teams, placing vehicle locator systems on our bus fleet and security cameras on some of our buses, furnishing our rail system with bomb resistant trash containers, improving our detection warning systems, connecting our security cameras in rail stations with our Central Control facility, and initiating upgraded security features at our facilities.

These funds have allowed us to move from a test phase to an installation phase for chemical sensors, initially at up to thirteen of our Metrorail stations. We have been working for several years with the Departments of Energy, Transportation and Justice and the National Laboratories in applying chemical detection technology in a transit environment. We are the first transit system in the world to become equipped with chemical detection capability. We are also now in the process of working with the military on potential applications for early biological detection exposure.

Recently the Federal Transit Administration completed a security assessment of WMATA, as part of its nationwide review of transit system readiness. While they indicated to us that we are one of the best prepared transit systems in the country in terms of security, they also recognized our heightened vulnerability as a target, being located in the nation's capital. Based on the preliminary results of the FTA assessment, as well as our continual review of our capabilities in responding to an emergency, we are currently developing a supplemental funding request to the Congress. We plan to forward that request to the full Appropriations Committees, this Subcommittee, and the Administration in the very near future. The request will enable us to complete security projects now underway, as well as address some of the new vulnerabilities we have recently identified.

## REGIONAL COORDINATION

While in many respects the region was very successful in responding to the September attack, it is clear that communications among agencies can be improved. As part of the MWCOG emergency planning process, we are participating in the regional deliberations to better coordinate communications among jurisdictions concerning regional transportation issues and activities following an emergency incident.

Until these processes are finalized, the region has developed an interim communications protocol to link the District of Columbia, Maryland and Virginia departments of transportation, WMATA, and other agencies involved in responding to a serious incident that either involves or affects the regional transportation system.

WMATA has volunteered to be the primary contact point for the region's many transit agencies under the COG umbrella, which is also working to ensure redundant communications systems, holding mock emergency conference calls, and initiating an on-line bulletin board. These "quick-hit" efforts are low-tech, but they assure our region will be better prepared to respond if an incident were to occur tomorrow.

The transportation portion of the regional funding request being coordinated by MWCOG is focused primarily on improving communications and incident management capabilities. Much of WMATA's Federal funding request will echo this theme. Redundant and secure communications under our Continuity of Operations Plan (COOP) are absolutely essential to WMATA's ability to continue to run rail and bus service in an emergency, including a major disruption to our Operations Control Center. Another part of the COG funding request will be for an improved regional traveler information system.

We are also cognizant of our responsibility to communicate with citizens during a crisis. On September 11, our web site experienced an 89 percent increase in use, and our Call Center and media offices also had a steep rise in inquiries. Our ability to communicate with our customers through various means, including the public address system in our rail system, which can reach thousands of people in this region simultaneously, is an important tool in emergencies. We are evaluating all of our communications and operating systems, as well as back up capability, in order to ensure that we are prepared to respond to any situation.

We also look forward to continuing to work with the MWCOG and the District of Columbia as they develop actual planning scenarios. WMATA participates in the region's emergency preparedness exercises. This week a table top exercise was held with several Federal agencies, the District of Columbia, Maryland and Virginia and WMATA simulating responses to threats in the Metro rail system. There is also a more extensive crisis planning workshop on March 21, 2002, that is sponsored by COG, the Greater Washington Board of Trade and others to determine the effectiveness of existing plans and cooperative agreements.

We are aware that in a crisis, WMATA may be called upon to play many roles other than that of moving a work force quickly home, and we wish to be prepared for those eventualities. Whether it is assisting the military or civilian government agencies during a crisis to move personnel, equipment and potentially patients, or quickly evacuating an area or Federal facility not regularly served by transit, we are committed to working with the region and the Federal Government to be ready if we are needed. In an ongoing study we are currently completing on regional bus service we are examining establishing strategic bus corridors to help expedite evacuation from key Federal and other employment centers in the region.

We need to ensure that the Federal Government participates fully in the preparation of the region's emergency response plan so that the region can be properly equipped to address Federal workforce mobility and Federal agency continuity of operations issues. I would add that it is also important to the Legislative Branch of the Federal Government to participate in this as well.

## CONCLUSION

I greatly appreciate the support this Subcommittee has provided as we move to enhance security of the Metro System and to be prepared to respond to any future emergencies. I urge you to consider certain transit properties, such as the WMATA System, as an essential part of the nation's homeland defense system as it pertains to readiness of our urban centers, and to contemplate our value and needs as the evacuation method of choice, and possibly necessity, during specific emergency situations. Given the fact that WMATA is located in the National Capital Region and is so integral to the continued operations of the Federal Government, there is an even greater need to upgrade our ability to respond in emergencies. The leadership

and Federal support you have provided is critical to our ability to meet the new and increasing roles expected of WMATA.

Thank you for holding a hearing on this important subject. I look forward to continuing to work with this Subcommittee, the Congress, and the Administration as we strive to meet these challenges. I would be happy to answer your questions.

Senator LANDRIEU. Thank you very much.

Mr. Rogers.

Mr. ROGERS. Good afternoon, Madam Chair. I am Michael Rogers, executive director of the Metropolitan Washington Council of Governments. As you know, COG is a 501(c)(3) not for profit association of 17 governments in the Metropolitan Washington region serving Northern Virginia, suburban Maryland and the District of Columbia. This region is also known as the National Capital region.

COG has served this region since 1957, providing a venue for regional collaboration and coordination on a multitude of public policy issues that have shaped this region, including transportation, planning and development, environment, public safety and emergency management, housing, and a host of other issues for which regional cooperation was essential.

First, I want to acknowledge the support of this committee in insuring that this region received funds from the Federal budget to improve preparedness in the entire region post 9/11. Overall, the District of Columbia, Northern Virginia and suburban Maryland jurisdictions, as well as key regional organizations such as COG and WMATA, received a total collectively of \$320 million to improve emergency preparedness.

I note this fact because of the significant nature of the act of allocating funds directly to jurisdictions in Northern Virginia and suburban Maryland. This act recognizes that jurisdictions within the COG region are significant to the Federal interest because of the Federal facilities and workers that are disbursed throughout this region.

Kevin Avery asked me to bring a map. I have it—

Senator LANDRIEU. Thank you for improvising. We do have an easel. The staff is getting it right now.

Mr. ROGERS. Okay.

Senator LANDRIEU. But this will work for right now and then we'll get the easel so that the cameras might—

Mr. ROGERS. Well, we brought this map to show you the footprint of the COG region, the National Capital region, and the fact that Federal facilities and employees are located all over this region. And we think that is significant and the fact that this committee and the Federal Government allocated funds to—for regional security is very significant.

Senator LANDRIEU. And the boundaries of this region are the red lines we see?

Mr. ROGERS. That's right.

Senator LANDRIEU. The circle?

Mr. ROGERS. That's right.

I am pleased to report that we have made substantial progress toward developing a Regional Emergency Response Plan. On April 10 we expect to present a baseline plan to the COG board for approval.

In Public Law 107-38, COG was appropriated \$5 million to be used to improve emergency preparedness in this region. The funds requested were allocated for the development of a regional plan, \$1.5 million; the development of improved emergency communications, \$500,000; development of a vulnerability assessment tool, \$500,000; and development of regional training and exercises and community outreach, \$2.5 million. These funds are to be expended by September 30, 2003. COG received its first payment on February 1, 2002.

Let me share the steps that have been taken to develop a Regional Response Plan and coordination.

In October, the COG Board Chair, Carol Schwartz, created a COG Ad Hoc Task Force on Homeland Security and Emergency Preparedness. The purpose of the task force is to develop a comprehensive, all sector plan involving all levels of government in the region, key private sector organizations, and to improve communication and coordination when an incident of regional impact occurs.

The task force involves representation from all of the local governments, key Federal agencies, the private sector, the educational community, volunteer organizations active in disaster, and the non-profit community. Federal agencies that are participating in the task force include the Office of Homeland Security, FEMA, the Office of Personnel Management, the Army Corps of Engineers, the Military District of Washington, the Department of Health and Human Services, U.S. Public Health Service, and the Center for Disease Control.

The task force is organized in six major functional areas: transportation, health, communications, solid waste debris management, public safety, energy and water supply.

The committees of the task force are populated with representatives of all sectors in the functional areas. Through the committee structure, a number of gaps in policies, procedures and protocols, legal authorities and equipment have been identified. These committees identified 50 recommendations that were approved by the COG board. When implemented, these recommendations will address the identified gaps in the region's response on 9/11.

The focus of our efforts has been to develop the framework for a Regional Emergency Response and Communication and Coordination Plan. We have hired a consultant group to work with us. The COG Board and task force have approved an approach that will result in a regional plan being modeled after the Federal Response Plan and the District Response Plan. Our objective is to create a common terminology for emergency response in this region, to create a seamless plan, if you will, from the Federal to the district to the regions and involving the States.

The purpose of the Regional Emergency Response Plan is to assure effective regional communications and coordination among participation organizations in an event or incident in the region. The plan will be functionally organized and will use common terminology and structure for compatibility, with accepted State and local emergency plans. The framework for the Regional Emergency Response Plan describes the purpose and roles of member organizations, including the concept of operations. The Regional Emergency



Response Plan describes the organizations that have roles and responsibilities for planning communication and coordination for specific support functions.

The Regional Emergency Support Function is a collection of organizations with resources and capabilities that align with particular types of assistance or requirements that are needed in large-scale emergencies or disasters, provides effective way of grouping like organizations and activities from a wide range of dissimilar jurisdictions. Support annexes describe activities and responsibilities that have unique, cross-cutting regional requirements. The support annexes include emergency evacuation support plan and terrorism annex.

Our progress to date includes more than 40 coordination meetings with working groups. We have drafted a basic framework for a Regional Emergency Response Plan and a framework of 11 of the 15 supporting annexes. We have reviewed all mutual aid agreements and determined what must be done to make them more effective. We are currently conducting a capability assessment for readiness, a survey of all 17 jurisdictions in the region. We have begun the—begun the assessment of current training and exercises across the region, and this assessment will facilitate the development of a regional training and exercise plan.

As I noted earlier, we have used a process that focuses on the many functions necessary for an emergency response plan. Those functions correspond with elements of the Federal Response Plan, and that is important, and the District Response Plan.

Organizing the regional plan along cross-functional lines is creating a product that is sure to be effective because it matches the Federal outline. In addition, we, by inviting all regional stakeholders to the table to work on the plan, we are insuring that the extra level of coordination and value that will be extremely important for the region and its unique needs.

Now let me say in view of all this highly visible planning process, it is reasonable to ask has anything that has been done in this region since 9/11 improved preparedness for an emergency incident? Are we more prepared for an attack or an emergency in this region than we were on September 10, 2001?

The answer to that question is yes. But before I provide a detailed answer, let's take a look at what happened on 9/11 according to a report by George Washington University Institute for Crisis and Disaster and Risk Management. Their report was funded by the National Science Foundation.

The findings were encouraging. The Institute reported that the response to the attack on the Pentagon September 11 was effective, including both a rapid mobilization and integration of Federal and local resources, and the effective use of available assets and teams. I have attached a chart that kind of lays out a graphic of the deployment of resources and who responded on 9/11. And the short of it is that the first responders did their job, the mutual aid plans work.

There's another report called "Answer the Call: Communications Lessons Learned from the Pentagon Attack" that was released on February 1 by the Public Safety Wireless Network, a joint initiative sponsored by Treasury and Justice Departments. The program's

goal is to help public safety community improve wireless radio operability.

This report indicated that there were 50 public safety organizations that responded to the Pentagon. They used 900 radios. A lot of them were not on the same frequency, but there were various ways of creating interoperability. But nonetheless, though they were able to communicate at the site, there still remains an interoperability challenge that we need to focus on in this region.

Now I say yes that we are prepared for an incident.

Senator LANDRIEU. You have one more minute.

Mr. ROGERS. One more minute. And I can cut it short because both Margret Kellems and Peter LaPorte and Dick White have identified the work of COG through the planning process for the Regional Incident Communications Systems.

What did not happen on 9/11 was the communication from the Federal Government to the local government and the early engagement of local decision-makers to coordinate and communicate early in the process. What we've created now is an interim measure called the Regional Incident Communications System, that will be operated on a interim basis at least by the District of Columbia Emergency Management Agency, that will have the ability to get regional leaders on the phone for a conference call or by a variety of backup mechanisms early in an incident, so that decisions can be made early in the process about how to respond to an incident so we can create one common message and one common approach, though it may be delivered through many voices in the region.

#### PREPARED STATEMENT

So if something happens, our first responders will respond and do their jobs. There are ways to create interoperability that did not exist in some cases on 9/11 and our leaders have the ability to communicate with each other early in the process for decision making. So that's the answer.

Thank you very much for the opportunity to be here. I look forward to answering your questions.

[The statement follows:]

#### PREPARED STATEMENT OF MICHAEL C. ROGERS

Good Afternoon, Madame Chair and Members of the Subcommittee. I am Michael C. Rogers, Executive Director of the Metropolitan Washington Council of Governments (COG). As you know, COG is the 501(c)3 not for profit association of 17 governments in the Metropolitan Washington region serving Northern Virginia, Suburban Maryland and the District of Columbia. This region is also known as the National Capital Region.

COG has served this region since 1957 providing a venue for regional collaboration and coordination on a multitude of public policy issues that have shaped this region, including transportation, planning and development, environment, public safety and emergency management, housing, and a host of other issues for which regional collaboration was essential.

First, I want to acknowledge the support of this committee in ensuring that this region received funds from the federal budget to improve the preparedness of the entire region post 9-11. Overall, the District and the Northern Virginia and Suburban Maryland jurisdictions as well as the key regional organizations, COG and the Washington Metropolitan Transit Authority, received collectively \$320 million to improve emergency preparedness.

I want to note this fact because of the significant nature of the act of allocating funds directly to the jurisdictions in Northern Virginia and Suburban Maryland. This act recognizes that jurisdictions within the COG region are significant to the

federal interest because federal facilities and workers are disbursed all around this region. Having this region, because it is so target rich, be the best prepared in the country, is a desirable objective and this cannot be accomplished without substantial ongoing support by the federal government to the region.

As a think tank on local issues and a regional information source, COG has molded its members into an effective partnership. We are an organization that often ensures that the region speaks with one voice. As we confront the aftermath of September 11, I believe there has been no other time in COG's 45-year history when those services have been more valuable to the region. Since the attack, we have effectively mobilized the entire region and focused the attention, time and talent of the region's leaders—and their emergency management and public safety officials—on the development of a plan.

Madam Chair, I'm pleased to report that we have made substantial progress toward developing a Regional Emergency Response Plan, and on April 10, we expect to present a baseline plan to the COG board for approval.

In Public Law 107-117, COG was appropriated \$5 million to be used to improve regional emergency preparedness. The funds were allocated as requested in the following categories:

- Development of Regional Emergency Response Plan: \$1.5 million
- Development of plan for improved emergency communications: \$500,000
- Development of regional vulnerability threat assessment tool: \$500,000
- Development of regional emergency training, including exercises and community outreach: \$2.5 million

These funds are to be expended by September 30, 2003. COG received its first allocation on February 1, 2002.

Let me share with you what steps are being taken to develop a regional plan for emergency response and coordination.

In October, then COG Board Chair Carol Schwartz created the COG Ad Hoc Task Force on Homeland Security and Emergency Preparedness (COGHSTF). The purpose of COGHSTF is to develop a comprehensive all sector plan, involving all levels of government in the region and key private sector organizations to improve communication and coordination when an incident of regional impact occurs. The task force involves representation from area local governments, key federal agencies, the private sector, the educational community, Volunteer Organizations Active in Disaster (i.e. the National Capital Region Red Cross and the non-profit community.) Federal agencies that are participating in the task force include the Office of Homeland Security, FEMA, the Office of Personnel Management, the Army Corps of Engineers, the Military District of Washington, the Department of Health and Human Services, the U.S. Public Health Service and the Centers for Disease Control.

The task force is organized into six major functional areas: Transportation, Health, Communications, Solid Waste/Debris Management, Public Safety and, Energy/Water Supply

The committees of the task force are populated with representatives from all sectors in the functional areas. Through the committee structure a number of gaps in policies, procedures, protocols, legal authorities and equipment were identified. These committees identified 50 recommendations that were approved by the COG Board. When implemented, they will address the identified gaps in the region's response to the Pentagon Attack.

The focus of our efforts has been to develop the framework for a regional emergency response and communication and coordination plan. We have hired a consultant group to work with us in this process. The COG Board and the COGHSTF have approved an approach that will result in a regional plan being modeled after the Federal Response Plan and the District Response Plan. Our objective is to create a common terminology for emergency response in this region.

The purpose of the regional emergency response plan is to assure effective regional communications and coordination among participating organizations in the event of an incident of regional impact. The plan will focus on regional communication and coordination. The plan will be functionally organized and will use common terminology and structure for compatibility with accepted state and local emergency plans. The framework for the regional emergency response plan describes the purpose and roles of member organizations including the concept of operations. The RERP describes the organizations that have roles and responsibilities for planning communication and coordination for a specific support function.

A Regional Emergency Support Function (R-ESF) is a collection of organizations with resources and capabilities that align with particular types of assistance or requirements that are needed in a large scale emergencies or disasters. R-ESFs provide an effective way of grouping like organizations and activities from a wide range of dissimilar jurisdictions. Support Annexes describe activities and responsibilities

that have unique, cross cutting regional requirements. The Support Annexes include an emergency evacuation support plan and a terrorism annex.

Our progress to date includes more than 40 coordination meetings with working groups. We have drafted the Basic Framework for the Regional Emergency Response Plan, and the framework for 11 of 15 Supporting Annexes. We have reviewed all mutual aid agreements and determined what must be done to make them more effective. We are currently conducting a Capability Assessment for Readiness survey of the 17 jurisdictions in the region. We have begun to assessment of current training and exercises across the region and this assessment will facilitate the development of a regional training and exercise plan.

As I noted earlier, we have used a process that focuses on the many functions necessary to an emergency response plan. Those functions correspond with the plan elements used by the Federal Emergency Management Agency (FEMA) and that also exist in the District of Columbia's Emergency Response Plan.

Organizing the regional plan along these "cross-functional" lines is creating a product that is sure to be effective because it matches the federal government's outline. In addition, by inviting all the regional stakeholders to the table to work on the plan, we are ensuring there is an extra level of coordination and value that will be extremely important for the region and its unique needs.

In view of our highly visible planning process it is reasonable to ask has anything that has been done in this region since 9-11 improved our preparedness for an emergency incident. Are we more prepared for an attack or an emergency in this region than we were on September 10, 2001?

The answer to that question is Yes. But before I provide a detailed answer, let's take a look at what happened on 9/11 according to a report by the George Washington University Institute for Crisis, Disaster and Risk Management. The report was funded by the National Science Foundation.

The findings were encouraging. The Institute reported that response to the attack on the Pentagon on Sept. 11 was effective, including both the rapid mobilization and integration of federal and local resources, and the effective use of available assets and teams. The report notes that the response system designed for natural disasters was effective for terrorist attacks. (A chart from the report that tracks the organizational response to attack on the Pentagon is attached.)

Another report came to a similar conclusion. The report, "Answering the Call: Communications Lessons Learned from the Pentagon Attack," was released Feb. 1 by the Public Safety Wireless Network (PSWN) Program, a joint initiative sponsored by the Justice and Treasury departments. The program's goal is to help the public safety community improve wireless radio interoperability.

Interoperability has been a major focus among public safety organizations and governments for years, but has become a national focus following the Sept. 11 attacks. Many public officials have said first responders in many jurisdictions cannot communicate with one another because many operate on different radio frequencies.

During the Pentagon attack, 50 local, state and federal public safety agencies responded to the incident, resulting in about 900 radio users, the report said. Initial responders, led by those from Arlington County, Va., had no problem establishing communications at the scene due to "the high-level of regional coordination and agreements previously established," it said.

Robert Lee Jr., a PSWN program manager representing the Justice Department, said part of the success stemmed from the problems first responders had when Air Florida Flight 90 crashed into the 14th Street Bridge and into the Potomac River in 1982.

He said several public safety agencies, including the National Park Police, Washington, D.C., fire and police, Arlington County rescue units and authorities from then-Washington National Airport, were "dissatisfied with their ability to communicate" and set about making changes.

"Cooperation is the key," Lee said. "If you can't get people to sit down and talk with each other, they'll never come up with technological and procedural solutions to meet the challenge."

The report found that: Regional planning and coordination efforts produced procedures for mutual-aid interoperability for local jurisdictions.

—Local agencies regularly rehearse mass casualty incidents.

— Agencies had early establishment of and strict adherence to a formal incident command system.

— Responders found that their private land mobile radio systems were the most reliable form of communication. However, the report noted that as state and federal agencies, which are considered secondary responders, increased their presence at the site, "no means of direct interoperability was immediately avail-

able” for them. It also said the level of interoperability necessary to support these secondary responders had not been documented.

Lee said the PSWN report, which contains a number of recommendations, should be used to see how communities and regions can increase their interoperability. “In the emergency services, stress is inevitable,” he said. “It’s really, really comforting to responding entities that they have plans and procedures to fall back on and they have appropriate equipment to meet the challenges. If we don’t plan ahead of time, it makes it all the more frightening for responders and all the more confusing for the initial ones to help.”

These two high level reports reflect what COG has found in its review of the events of September 11, as well as what we know about the regional coordination and mutual aid agreements that were developed under COG’s leadership over many years. Even though those systems worked reasonably well, we have identified problems in several areas:

- Communications between federal and local officials
- Timely communication between the region’s local jurisdictions
- The failure to use the Emergency Alert System or the WAWAS system.

Early in the planning process, COG’s Board identified improved communication as a key component of a Regional Emergency Response Plan. When the COG Board’s Task Force developed its 50 recommendations in December, the most significant proposals dealt with communications. As a result, the board decided to establish a Regional Incident Coordination and Communications System (RICCS).

The mission of the RICCS is to facilitate coordination and communications among local, state and federal governments authorities to ensure an effective and timely response to potential, imminent and actual emergencies and incidents. The system will facilitate communications and decision making via conference calls. An important goal of coordinated decision-making is to have regional leaders develop “common messages” that will be delivered by “many voices.”

On an interim basis, the RICCS will be located in the District of Columbia’s Emergency Operations Center. We expect this new system to benefit local and federal governments as they work together during emergencies to coordinate school closings, transportation planning and the safe movement of the area’s workforce.

Once the RICCS is in place, it will give this region a greatly improved capacity to respond to emergencies and make us all more aware of how to work cooperatively.

An important next step in our planning process, Senator Landrieu, is to develop the training exercises that will better prepare our public safety agencies for a 9–11 like emergency. We will also acquire the technical tools that can evaluate potential threats to the region’s infrastructure. We are reviewing several different systems. The general public will become more aware of the regional plan as we begin to activate a community outreach plan and begin the training sessions for public safety personnel.

Again, thank you for this opportunity to brief the subcommittee. I’ll be happy to take your questions.

Senator LANDRIEU. Thank you.

Mr. Keldsen.

Mr. KELDSEN. Thank you, Madam Chair. I am Donald Keldsen, acting director, Maryland’s Emergency Management Agency. I too welcome the opportunity to be here to discuss this important issue.

Let me talk a little bit about Maryland. We created a Maryland Terrorism Forum back in January of 1998 to bring together State, Federal and local partners across the spectrum of the disciplines involved in combating terrorism and managing the consequences of such events. Over the last 4 years our agency has been involved in over 40 terrorism-related exercises, innumerable planning sessions, and equipment procurement within the last few years.

Baltimore was selected as a national pilot for the Chemical Improved Response Program. The relevance of that to the National Capital region is we included partners from the Baltimore/Washington corridor in that process and developed new processes for dealing with chemical weapons and sharing those throughout the Nation. Relative to the National Capital region, Montgomery Coun-

ty and Prince George's County were active members in that, have been very proactive in anti-terrorism.

In the exercise arena, for example, Montgomery County on an annual basis is conducting chemical, biological and radiological and hazmat exercises, and on an annual basis conducts a decontamination demonstration for the entire region and the rest of the State. Prince George's County likewise has been involved in many exercises, including participation with the State and with the district in poison response 1999 and in the National Capital region exercise in 2000 which was concurrent with top-off.

In addition, Maryland and the two counties have worked with the jurisdictions in the COG and with the District in various planning things, such as the regular meetings of the COG Emergency and Disaster Preparedness Committee, which the important aspect there is they've established the relationship. So people know each other and they know who they're talking to at the other end of the phone.

The other aspects, also completed a Bio-terrorism Plan. I worked with FEMA as they developed a National Capital region annex to the Federal Response Plan. It is already been alluded to the cooperation in the transportation arena based on 9/11 and its remarkable accomplishments.

In addition, I would like to refer to the Brentwood anthrax incident. That's where the relationships established during the Bio-terrorism Training Plan came to fruition and health people were able to talk to health people and emergency managers to emergency managers.

That also provided us the opportunity to deal with the National Pharmaceutical Stockpile. We will coordinate with CDC and with the other jurisdictions in the area to break down parts of that and allocate it, albeit a small portion of that, but since that time there's been extensive planning on dealing what the National Pharmaceutical Stockpile for the National Capital region as a joint, combined effort.

That's most of what I needed to say that hasn't already been said. One thing I would like to point out, even with Washington, D.C. having such a high rating in medical response resources and Maryland also having them, we should not be deluded that we nationally have a deficit in surge capability in the medical arena in dealing with weapons of mass destruction and terrorism issues.

Senator LANDRIEU. Thank you.

Mr. Cline.

Mr. CLINE. Chairperson Landrieu, Subcommittee members, I am Michael Cline with State Corp Native Emergency Management for the Commonwealth of Virginia. I too appreciate the opportunity to be here and address the subcommittee. While I do not have a prepared written statement to submit, I would like to make a few comments and then I'll be available to answer any questions.

We are confident in our State emergency operations plans, in the response and recovery system that is in place and exercised regularly both in real emergencies and through exercises. While we feel that our operational relationship, both with the District and with Maryland and with our Northern Virginia counties and cities is excellent, and while we train and exercise regularly with those juris-

dictions, we feel that there is still a need for a specific, earmark unit of resources to support capital area regional planning, training and exercises.

We would propose an all hazards approach, but certainly terrorism and weapons of mass destruction response is the—would be the focus. We are very encouraged by a number of the efforts that are currently underway. We are participating in efforts to develop planning around pharmaceutical stockpiles for transportation and evacuation coordination plans, we are regional hazardous materials capabilities, a number of the things that you've already heard mentioned today.

There are also a number of planning efforts that are underway. The National Capital region response planning efforts that recently took place; the work that is being done in each of the jurisdictions and at the State level, to the extent that it is being coordinated, and to a large extent it is, is going to be very supportive of an enhanced capability to respond. But we still believe that the bottom line is that first there's a real need for a formal effort going through the governors of the States and the Mayor in the District to be established to insure that we have a working, coordinated, regional plan that everyone will agree to and that will work both through communications operationally and functionally when it is required to be activated.

Senator LANDRIEU. Thank you, Mr. Cline.

Mr. Schwartz.

Mr. SCHWARTZ. Thank you, Madam Chair. My name is James Schwartz and I am the assistant chief of operations for the Arlington County Fire Department. I appreciate the opportunity to be here this afternoon and represent Arlington County.

I submitted my formal remarks, and in the interest of time and with your permission, I'll abbreviate my remarks to a couple of key issues.

I want to compliment all the other panel members on all of their remarks regarding the emergency planning issues. They are all extremely qualified to speak to those. So I'll focus my remarks more on some of the operational issues and some of the obstacles and impediments that we view as being present now.

The first one leads—is the indemnification of mutual aid responders. New York and the Pentagon incidents graphically demonstrated that major emergencies cannot be managed without mutual aid from all jurisdictions in a region. A serious obstacle for interjurisdictional response to major emergencies in the capital region is the lack of indemnification for mutual aid responders.

The problem is created by the differing sovereign immunity laws in the District, Maryland and Virginia. This is not an abstract legal issue for Arlington. We suffered a major legal and financial loss in 1979 when a civilian was severely injured—injured during a pursuit in the District.

Police departments in the region have found a creative solution for mutual assistance to the District when there is adequate time to plan ahead. Maryland and Virginia police officers are deputized as Federal marshals. However, we have no solution for unplanned situations requiring police mutual assistance or any situations requiring fire and emergency medical services.

Last fall the Metropolitan Washington Council of Governments passed a resolution to seek Federal legislation to provide for such indemnification. A draft Mutual Aid Authorization Act was sent to Congress on November 21, 2001. Delegate Eleanor Holmes Norton and Representative Jim Moran support such a bill, and we ask your support also.

Moving to another issue regarding operations, I'll focus for a moment on a Uniform Incident Management system, critical for effective operations to occur. The management aspect of a terrorist incident must be addressed. That means the universal adoption of a standard Incident Management System as taught by FEMA's National Emergency Training Center. This system should be understood and mastered by all operational agencies at every level of government, local, State and Federal.

It is a simple, modular system that is used by the fire service throughout the United States. It is commonly used by State emergency management agencies as well. Several Federal agencies, including the U.S. Coast Guard and the Environmental Protection Agency also use it. And the Federal Bureau of Investigation has begun to train its special agents to use this system.

The FBI's understanding of and adherence to standard IMS was invaluable at the Pentagon on September 11. IMS does not dictate who is in charge, but provides a framework for managing the incident and has been proven in countless public emergencies. The use of IMS should be mandated by all agencies and should be a requirement for all funding.

And I want to add in my written comments also that the understanding of an Incident Management System, a common Incident Management System, has to go beyond just emergency responders and emergency management agencies. It truly is, as Mr. LaPorte pointed out earlier, an issue that the public needs to understand.

And the CERT teams who play a vital role in communicating and acting in our communities also need to have a common understanding of it. We also found a lot of the nongovernmental organizations, such as the Red Cross and the Salvation Army, need a much better understanding of that as a result of lessons learned on September 11.

Let me turn our attention just for a moment to the communications system, adding onto something that Mr. Rogers talked about, that we all knew this before September 11. We learned an absolutely critical lesson about good communications systems and the interoperability among individual jurisdiction's communications systems. We are concerned that not all jurisdictions in the capital region have interoperable communications ability. There are a number of steps that have to be taken to address the problem, including adequate funding for local jurisdictions to upgrade their systems.

The best long-term solution lies in the allocation of additional radio spectrum. Radio spectrum, a publicly owned commodity, is used by government agencies and the private sector alike. Congress can provide a long-term solution to this problem by setting aside appropriate band width that will allow us to communicate in an emergency. H.R. 3397, sponsored by Representative Jane Harman,



is critical in the effort for additional public safety spectrum, and we ask the support of this committee also.

Let me turn for just a moment to public health resources, because this is an important one. And while a lot of the focus so far of our comments have been on September 11, we cannot forget the anthrax events that occurred in October throughout our region.

That particular crisis made us aware of the essential role the public health systems play in emergency planning and response. If the public health system is to continue to function effectively, it is critical that adequate resources be made available at the local level. Health departments that coordinate activities play a critical role as first responders in anticipating, preparing for, and identifying and responding to acts of bio-terrorism, bio-terrorism hoaxes, and other public health threats and emergencies.

Clearly defined, consistent lines of communication during planning, response and evaluation phases between health directors in all jurisdictions must be developed and supported at the highest levels of government. The Council of Governments Health Officer's Committee provides such a forum. The health officers, or their designee, from every Metro jurisdiction should consistently attend these meetings.

A critical early component of all responses should be immediate communication and discussion of options with all health directors. Internet-based information and communications system became widely unavailable on September 11, and many health departments could not access e-mail for hours to receive health alerts from neighboring jurisdictions, the centers for disease control and prevention, or their States. Wireless handheld communication capacity is an important emergency tool the public health agencies should not be without.

During the anthrax outbreak we learned an important first step during a public health disaster involves setting up an immediate available 24-hour hotline to receive reports and dispense accurate information. This may require a pre-arranged means to access new telephone lines to create an emergency hotline across jurisdictional boundaries for the public.

The following four critical areas need immediate attention: Public health strategies, which include advance planning, coordination of public health response, and implementation of emergency measures to control and contain an outbreak must occur in a collaborative manner across jurisdictional boundaries. It is imperative that public health expertise from all jurisdictions be integrated with that of other emergency response agencies throughout the region.

Surveillance and epidemiologic investigation, which requires monitoring community health status to detect the presence of bio-terrorism agents and to characterize the public health threat or emergency across jurisdictional boundaries. Public health agencies must share results of active, syndromic surveillance for disease across jurisdictional lines to do immediate, on-scene, epidemiological investigation; to develop and test local bio-terrorism preparedness plans; and to coordinate community responses. Strong public health systems coordinated across jurisdictional boundaries are required to rapidly detect and respond to bio-terrorism events.

The metropolitan D.C. area has the unique challenge of needing to coordinate response across the three jurisdictions of Northern Virginia, D.C. and Maryland, and coordinate those responses in the case of Virginia and Maryland with their States obviously.

PREPARED STATEMENT

We need additional laboratory capacity to identify, rule out, and confirm and characterize biological threat agents and rapidly share information among jurisdictions. And finally, we need communication across jurisdictional boundaries at the day-to-day operational level and at the policy level, which includes collection, analysis, and communication of information among the response community, decision makers, and the general public during a public health emergency. Thank you.

[The statement follows:]

PREPARED STATEMENT OF JAMES SCHWARTZ

Madam Chair: Arlington County appreciates the Subcommittee's invitation to be present at today's hearing and to offer the following comments on regional issues impacting the District of Columbia's emergency planning and response.

*Indemnification of Mutual-Aid Responders.*—New York and the Pentagon graphically demonstrated that major emergencies cannot be managed without mutual aid from all jurisdictions in a region. A serious obstacle for inter-jurisdictional response to major emergencies in the Capital Region is lack of indemnification for mutual-aid responders. This problem is created by the differing sovereign immunity laws in the District, Maryland, and Virginia. This is not an abstract legal issue for Arlington: we suffered a major legal and financial loss in 1979 when a civilian was severely injured during a pursuit in the District.

Police departments in the region have found a creative solution for mutual assistance to the District when there is adequate time to plan ahead: Maryland and Virginia police officers are deputized as Federal marshals. However, we have no solution for unplanned situations requiring police mutual assistance or for any situations requiring fire and emergency medical service.

Last fall, the Metropolitan Washington Council of Governments passed a resolution to seek Federal legislation to provide for such indemnification. A draft Mutual Aid Authorization Act was sent to Congress on November 21, 2001. Delegate Eleanor Holmes Norton and Representative Jim Moran support such a bill. We ask your support, too.

*Fire/Emergency Services Funding.*—Key to emergency planning and response is adequate funding; and significant Federal funding is required for the emergencies we must now deal with. This is especially true for the fire and emergency-medical services, which has not typically been recipients of Federal funding. We were very concerned that the administration initially proposed eliminating, in fiscal year 2003, the FIRE Act grants that were created about 18 months ago. The Assistance to Firefighters grant program at the Federal Emergency Management Agency (FEMA) is regarded as an unqualified success in the fire service and should not be eliminated or folded into any new, untested program.

There are signs that the administration is reconsidering its initial position. FEMA Director Joe Allbaugh recently testified before Congress on the fiscal year 2003 budget request and stated that he thought the FIRE grant program should continue. Homeland Security Director Governor Tom Ridge met about 6 weeks ago with the Terrorism Committee of the International Association of Fire Chiefs. At that meeting, Governor Ridge said that the FIRE Act grant program should remain and be funded as a program distinct from the proposed new terrorism preparedness block grant program that would be administered by FEMA.

We urge Congress to insure that FIRE Act funding is maintained.

*Regional Planning.*—We must insure that this funding is used well. It is imperative that agencies within a given community or region work together so as not to duplicate their capabilities while leaving some needs completely unaddressed. We believe that grant funding made available should be contingent upon inter-jurisdictional planning based on carefully articulated preparedness goals.

*Uniform Incident-Management System.*—The management aspect of a terrorist incident must be addressed. That means universal adoption of the standard Incident

Management System as taught at FEMA's National Emergency Training Center. This system should be understood and mastered by all operational agencies at every level of government, local, State and Federal. It is a simple, modular system that is used by the fire service throughout the United States. It is commonly used by State emergency management agencies as well. Several Federal agencies, including the U.S. Coast Guard and the Environmental Protection Agency also use it. The Federal Bureau of Investigation has also begun to train its special agents to use this system. The FBI's understanding of and adherence to the standard IMS was invaluable at the Pentagon on September 11. The IMS does not dictate who is "in charge," but provides a framework for managing the incident and has been proven in countless public emergencies. The use of IMS should be mandated by all agencies and should be a requirement for funding.

*Communications Systems.*—Though we always knew this, September 11 taught us about the absolute criticality of good communications systems and of the interoperability among individual jurisdictions' communications systems. We are concerned that not all jurisdictions in the Capital Region have interoperable communications systems. There are a number of steps that can be taken to address the problem, including adequate funding for local jurisdictions to upgrade their systems. The best, long-term solution lies in the allocation of additional radio spectrum. Radio spectrum, a publicly-owned commodity, is used by government agencies and the private sector alike. Congress can provide a long-term solution to this problem by setting aside appropriate bandwidth that will allow us to communicate in an emergency. H.R. 3397, sponsored by Rep. Jane Harman, is critical in the effort for additional public safety spectrum. We ask you to support this bill.

*Public Health Resources.*—The anthrax crisis that followed September 11 made us aware of the essential role that public-health systems play in emergency planning and response.

If the public health system is to continue to function effectively it is critical that adequate resources be made available at the local level. Health departments that coordinate activities play a critical role as first responders in anticipating, preparing for, identifying, and responding to acts of bioterrorism, bioterrorism hoaxes, and other public health threats and emergencies. Clearly defined, consistent lines of communication during planning, response, and evaluation phases between Health Directors in all jurisdictions must be developed and supported by the highest levels of government. The Council of Governments Health Officers' Committee provides such a forum. The Health Officers or designee from every Metro jurisdiction should consistently attend these meetings.

A critical early component of all responses should be immediate communication and discussion of options with all health directors. Internet-based information and communication systems became widely unavailable on September 11 and many health departments could not access email for hours to receive health alerts from neighboring jurisdictions, the Centers for Disease Control and Prevention, or their States. Wireless, handheld communication capacity is an important emergency tool that public health agencies should not be without. During the anthrax outbreak we learned that an important first step during a public health disaster involves setting up an immediately available 24-hour hotline to receive reports and dispense accurate information. This may require a prearranged means to access new telephone lines to create an immediate emergency hotline across jurisdictional boundaries.

The following four critical areas need immediate attention:

- Public health strategies, which include advance planning, coordination of public health response and implementation of emergency measures to control and contain an outbreak, must occur in a collaborative manner across jurisdictional boundaries. It is imperative that public health expertise from all jurisdictions be integrated with that of other emergency response agencies throughout the region.
- Surveillance and epidemiologic investigation, which requires monitoring community health status to detect the presence of bioterrorism agents and to characterize the public health threat or emergency across jurisdictional boundaries; Public health agencies must share results of active syndromic surveillance for disease across jurisdictional lines, to do immediate, on-the-scene epidemiological investigation, to develop and test local bioterrorism preparedness plans, and to coordinate community responses. Strong public health systems, coordinated across jurisdictional boundaries are required to rapidly detect and respond to bioterrorism events. The Metropolitan DC area has the unique challenge of needing to coordinate response across three jurisdictions (Northern Virginia, DC, and Maryland).

- Laboratory capacity must be available to identify, rule out, confirm and characterize biological threat agents and rapidly share information among jurisdictions.
- Communication across jurisdictional boundaries at the day to day operational level and at the policy level, which includes collection, analysis and communication of information among the response community, decision-makers and the general public during a public health emergency must be strengthened.

Senator LANDRIEU. Thank you all very much for keeping your statements concise.

We are going to take a 3-minute break before we get at the round of questions. And then I've got a series of questions, if you do not mind, for all of you. And we have also some from members that may not be able to come to submit for the record.

So if we could just take a 3-minute break. I would appreciate it.

#### DEFINING THE REGION

We will reconvene our meeting for the question and answer period.

Let me begin by thanking you all for your testimony. And as you know, your full statement will be submitted for the record.

Let me begin by asking each of you, if you would, to just help me understand the boundaries here. Because as you know, my overriding goal, and I think shared by members on both sides, would be to have a system that is seamless. And it is important to know how far those seams run. Are they short or long; how far beyond the city do they run?

And I am wondering if you could each tell me if this red line on that chart represents what you think is the right regional component, or should that circle be enlarged or small. And if you think it should be changed, why; and if not, why not. And if you could each just take a minute or two for that answer. And I am assuming, as was stated on the record, that that red line is the beltway?

Mr. ROGERS. Yeah, that's the beltway.

Senator LANDRIEU. What is the jurisdiction of COG?

Mr. ROGERS. The jurisdiction of COG actually is all of the white area. I—

Senator LANDRIEU. And only the white area?

Mr. ROGERS. And only the white area, right.

Senator LANDRIEU. Okay.

Mr. ROGERS. It goes down to Prince William County to the south, and to Loudoun. And the white area right above Montgomery County is Frederick County. It is not shown in its entirety there. It is Frederick County, Maryland. That is part—

Senator LANDRIEU. Okay. So this isn't a picture of the whole COG region?

Mr. ROGERS. It just has—a portion of Frederick County to the north is missing, but most of Frederick County is there, yeah.

Senator LANDRIEU. Okay. Well, even though it is not exactly the accurate map, you all looking at this map, is this the region that we should really try to create this plan, or should the region be larger or smaller? And just your ideas about that in 1 minute or less.

Ms. KELLEMS. I think that the region—this is a very difficult question. The region could be the Eastern Seaboard, the region could be the Mall, downtown Washington. I think the way that we

view that, and I would assume most others do, is sort of rings on a bull's-eye. And I hate to use that expression, but that's essentially what it is. The District is the center of the bull's-eye, if you're thinking of a terrorist incident and the goal is to be disruptive and attack a public place, a very—a symbol rather.

So I think you—that you could keep expanding the ring of the bull's-eye, and we should probably do that as we become more and more sophisticated. But if you look at it in those terms, that's a good facsimile of the area in terms of transportation, in terms of communication, in terms of mutual aid, the most likely people who would respond, and the most likely sort of scope of a target area. I think that's probably right, but as we become more sophisticated I would imagine we would keep adding rings out, probably going both north and south and encompassing more of the seaboard.

Senator LANDRIEU. Mr. LaPorte.

Mr. LAPORTE. I would very much concur. In fact, as we start to think and prepare out of resources and identifying resources, if you look at where resources were pulled for New York City, you went 500 to 1,000 miles pulling resources that close by. Very familiar with the proper—the response in New Jersey and Connecticut, in both those States in preparing areas where they could bring resources, the donations management, that Stockton, Connecticut, before it got to New York, as well as New Jersey; the hospital response, literally I think 500 miles out.

And personally, when we start thinking catastrophic, where am I going to stage heavy equipment, where are we going to provide other resources, we look at military assets, military facilities. So our—as we plan a catastrophic event, start to look well beyond just your traditional National Capital region, you start going as far away as Richmond, you get up to Annapolis, you go to Baltimore, because it will impact the entire region. And that type of communication really needs to be in sync. We've done a lot to rectify some of the gaps that have been identified, but the region will continue to grow as any event impacts the entire region.

Senator LANDRIEU. Mr. White.

Mr. WHITE. Yeah. I would say the place where we start to try and define the region is where do our residents live and work. I mean where's the population centers and where are the job centers obviously brings you to the focus of what you're looking at. And what we have is large concentrations of job centers, the largest of which, of course, is in the District of Columbia. But many other regional employ—activity centers is what the COG now calls them. It is kind of the spider web of regional activity centers. And although you do have concentrations of employment, you have dispersals of population. So that complicates your problem here, because you're taking people in many instances from single locations and trying to disperse them to multiple locations.

So I mean I think a good place to start is at the boundaries that constitute the COG. I think it is clear that probably most of the events that this region would be called upon to deal with would in all probability be—in all probability be somewhere inside the ring of that beltway with respect to activity. And therein lies the importance of making sure there are those important—those appropriate hand-offs.

It is one thing to be able to help get people out of a city, but once they're out of the city, I mean there's a transfer from district boundaries, as I think the district people have testified, to an adjoining county that needs to be able to be well coordinated from the road point of view and the transit point of view to be able to accept that hand-off. And I think it is that that we are now dealing with in terms of really coming up with some alternative scenarios for emergency movement of people.

Senator LANDRIEU. Thank you.

Mr. Rogers.

Mr. ROGERS. Well, since it has been the boundaries of the Council of Governments for—since our creation, and really, when you look at an incident in this region, the mutual aid, the immediate mutual aid from first responders is likely to come from within that, you know, those jurisdictions represented on the map. And that does not mean that there will not be support from other regions, but the mutual aid agreements are involved with those jurisdictions, you know, on the map.

There's been—and this jurisdiction is really defined based on a history of COG as a metropolitan planning organization, a standard, statistical area. It is used for planning purposes for a lot of, you know, a lot of region—reasons.

Senator LANDRIEU. Okay.

Mr. KELDSEN. Yeah. I agree with basically everything that's been said so far. I guess as the District itself is more secure, terrorists may be looking at adjacent areas for attack, and that needs to be considered. And as far as mutual aid, there's several things going on in the District and in the States that may make that a more universal capability. But Howard County and Wicomico County, and even Charles County may be responding to backfill Prince Georges and Montgomery Counties. So I think the, as Peter described, there's—there'll be an expansion depending on the severity of the event and we need to have interoperability.

Mr. CLINE. I do not disagree with what's been said. I take a slightly different approach. I would suggest that contiguous jurisdictions—

Mr. KELDSEN. I would suggest that contiguous jurisdictions, and perhaps you're all looking at the Beltway and inside, certainly should be included in the development of operational plans. To the extent that there are written mutual aid agreements between other jurisdictions, they certainly need to be included. And I couldn't speak to which ones those might be specifically.

I think that you also have to include the capitals for the two States and the emergency operation centers for the two States, not as entities to be impacted by the disaster, but certainly that's where, from REOC in Chesterfield County outside of Richmond, we would coordinate the allocation of resources and the staging of resources from all over the State and from places coming from outside of the State. Hopefully they would be staged close in, but that coordination would take place in REOC.

Just by way of background, we would also expect to have representatives from our office in the EOCs in Maryland and in D.C. to help coordinate ongoing activities. And certainly as the Federal

plans call for, in the jogs and the jigs and all of the other entities that are established when an incident occurs.

The one other thing I would mention is that your major transportation corridors are obviously going to impact in a catastrophic situation. And the plans need to recognize those, even though they may not show up specifically on a map.

Senator LANDRIEU. Thank you.

Chief Schwartz.

Mr. SCHWARTZ. Senator, I couldn't add a whole lot more other than to say obviously most of this is situational. If we look at September 11, it was a rather confined area. Yes, in the first hours it affected people that lived throughout the area here that you see represented here, but as days went on it, you know, it was a rather confined kind of event. A biological event is going to be something significantly different.

If we have an event that is on the catastrophic level whereby an attack took out a lot of our transportation corridors, or to take out some of the bridges that connect Virginia to the District, obviously mutual aid would be coming from—we would be reaching further south to get that mutual aid. So a lot of this is really situational, I think, and when—what is it that we are dealing with that really defines the area?

Senator LANDRIEU. I think that we've gotten somewhat of a consensus, and I am glad we got those answers on the record because I think Ms. Kellems, your visual of a bull's-eye is a good one to work from. But if we are really committed to building one system that serves this region, we need to know whether we are dealing with one ring, or two rings, or three rings. And if we have to go out 10 rings or 12 rings, we know and we all understand which ring we are in, where the rings start, where the rings end. And so there is a map that is understandable and that all of the entities have bought into. And I think we have a little work to do yet on that map, but I think we are getting there. We've gotten some interesting comments about how this process needs to work.

We need to define the region; we need to be clear about who's in the region, who's not, and how other parts might be added if necessary. That would make a big difference in our planning.

#### PLANNING AND TRAINING

Let me begin also asking a question for each of you. In your opening statements there was some tabletop exercises mentioned. I am understanding that there were two that have been conducted. If I am wrong, tell me. How many of you participated in the first one and in the second one? And could you give a comment about the one or two things that really jumped out at you that we really have to work a little harder on.

And I do not know, Ms. Kellems, if you can clarify for us, have there been one tabletop or two? Was everybody here represented included, et cetera.

Mr. LAPORTE. I am going to—the July tabletop was really driven from the two States and the District, recognizing that we understood that our planning process needed to include a regional approach. And so we approached FEMA and Justice to say “Hey, this

is different here.” And what occurred really was a change for their response.

And they changed the traditional response where Maryland, Virginia or the District in a disaster would have to go to Philadelphia, the regional office, and then back to headquarters, in a case of a disaster as you have made requests for Federal assistance. In a weapons of mass destruction incident in the National Capital region, they changed the plan. The Federal Government changed the plan, meaning we would directly with FEMA headquarters. And so that was the genesis of that and that was one of the outcomes.

We also identified the significant gaps in our plans, the fact that the district plan did not marry the Federal Response Plan; there wasn't a common language.

The second tabletop exercise is the one held this week, which was March 12 and 13, which included everyone at this table. Maybe not Arlington specifically, but the Council of Governments were there, Maryland and Virginia were there. And it was really an Army Corps of Engineer/FEMA exercise, but the participating locality was the District and the greater Washington area. And what we learned from that exercise truly was the new District Response Plan, the plans for Maryland and Virginia accepting that common language really did work well accepting and understanding our requests for Federal assistance, exactly what we were looking for, how we would go about getting it, and what mechanism we would use.

We've also had a number of internal tabletops within the District to improve our own internal coordination. They've been led by Mayor Williams. And we've gone through a number of scenarios among all our government entities to really test our own plan. And it is our intent to continue that with a full-scale exercise later this summer.

Senator LANDRIEU. Okay. I would just like to ask if you'd submit for the record who participated in that tabletop.

[The information follows:]

EMERGENCY PREPAREDNESS “TABLETOP” EXERCISE 2002 SENIOR LEADERS’ SEMINAR  
PARTICIPANT LIST—MARCH 12–13, 2002

American Red Cross  
Commonwealth of Virginia  
  Department of Emergency Management  
  Department of Transportation  
  Deputy Assistant to the Governor for Commonwealth Preparedness  
District of Columbia Government  
  Deputy Mayor for Public Safety and Justice  
  Department of Health  
  Department of Public Works  
  Department of Transportation  
  Emergency Management Agency  
  Fire and Emergency Medical Services Department  
  Metropolitan Police Department  
  Office of the Chief Medical Examiner  
  Office of the Chief Technology Officer  
District of Columbia Water and Sewer Authority  
  Director of Occupational Safety and Health  
  Director of Sewer Services  
Federal Bureau of Investigation  
  Counter Measures Unit  
  Domestic Terrorism/Counter terrorism Planning Section  
  Washington Field Office



Federal Emergency Management Agency  
   Headquarters:  
     Readiness, Response and Recovery Directorate  
     Office of National Preparedness  
     HAZMED  
     Federal Insurance and Mitigation Directorate  
     Region I: Boston, MA  
     Region II: New York, NY  
     Region III: Philadelphia, PA  
     Region IV: Atlanta, GA  
     Region V: Chicago, IL  
     Region VI: Denton, TX  
     Region VII: Kansas City, MO  
     Region VIII: Denver, Co  
     Region IX: Ft. Shafter, HI  
     Region X: Bolhell, WA  
 George Washington University  
 Marasco Newton Group  
 Metropolitan Washington Council of Governments  
   Department of Environmental Programs  
   Waste and Debris Management Work Group  
 National Guard  
   Assistant for Homeland Security  
   Office of Homeland Security  
     Critical Infrastructure Restoration  
   Office of Personnel Management  
   Office of Communications  
 Securities and Exchange Commission  
   Office of Market Watch  
   Office of Administrative and Personnel Management  
 State of Maryland  
   Department of Emergency Management  
 The IT Group  
 United States Army Corps of Engineers  
   Headquarters  
     Civil Emergency Management Branch  
     Security and Intelligence and Law Enforcement  
   Readiness Support Center  
   Great Lakes and Ohio River Division  
   Los Angeles District  
   Mississippi Valley Division  
   North Atlantic Division  
   Northwestern Division  
   Omaha District  
   Pacific Ocean Division  
   Readiness Support Center  
   South Atlantic Division  
   South Pacific Division  
   Southwestern Division  
 United States Department of Defense  
   Joint Forces Command  
   Readiness & Recovery  
   Navy War College  
   Military District Washington, Force Protection Branch  
 United States Department of Energy  
 United States Environmental Protection Agency  
   Chemical Emergency Preparedness and Prevention Office  
 United States Park Police  
   Special Events  
 United States Secret Service  
   Major Event Division  
 United States Department of Transportation  
   Office of Emergency Transportation  
 Washington Aqueduct  
 Washington Metropolitan Area Transit Authority  
   Metro Transit Police  
   Rail Analysis and Support

Senator LANDRIEU. And would anyone else like to comment that was there about one or two important things that you gleaned currently? How much have we improved since the first exercise you participated in or what jumped out at you at the tabletop about either progress we've made or some real challenges ahead?

Mr. ROGERS. I was not a participant in the July tabletop, but I did participate in the Army Corps/FEMA tabletop this week. And I was impressed by the fact that our Federal partners seem to have a greater degree of understanding than may have been expected of the District Response Plan and how the District would request assistance.

But I also think that what was important was the dialogue that was developed between the various levels of government, because in the regional context that's what's going to get the job done. And more opportunities to get people from a variety of agencies that will be participating in a response in the room participating with each other will help by improving our well preparedness.

Senator LANDRIEU. Ms. Kellems.

Ms. KELLEMS. To answer the question about a couple of the specific things. One thing that became abundantly clear in this tabletop last week in which one aspect of the scenario was a building explosion in downtown Washington was debris removal and what—where would we take all this debris. We pointed out that the building they blew up was a Federal building, so they would have to figure that out. But it did point out that if we had a major event like that, certainly within the bounds of the District, we do not know where we would take something like that.

We started looking regionally where it would go. Suggestions were made, and I know there's a COG subcommittee that's looking at the issue of solid waste disposal generally. Would it go to a military base, would it go to some independent staging area first, how would we avail ourselves of private landfills if we needed to do that after debris had been decontaminated. There was a fair amount of discussion about that, and I do not think that we've come to a good resolution.

I think the other issue that was highlighted and I think we are much better, we—that I saw a lot of improvement at least from September 11 to the tabletop was the communications issue; who has command centers, who's in them, and how do they communicate with each other to make sure, among other things, not just the operational perspective, but what is being said to the citizens here, what is being said nationally, what kind of information do we have, what kind of information are we sharing with each other. And I think we are much more likely now to have many voices with the same message. That's really where we were trying to get to, as opposed to many voices with many different messages, which was one of the struggles that we faced last September.

So I think those were the two that were most notable.

Senator LANDRIEU. Thank you for being specific.

Anybody else want to add anything? And were the fire departments just not included in this particular tabletop?

Ms. KELLEMS. The District Fire Department was. I do not believe that Arlington was, no.

Mr. ROGERS. It was just the District.

Senator LANDRIEU. So it was just the District Fire Department at this tabletop because it wasn't a regional tabletop?

Ms. KELLEMS. Well, if I could—I do not think any of us here were actually part of the original committee that created it, but this tabletop was hosted again by FEMA and the Army Corps of Engineers. And the Army Corps' focus is really emergency support function three, which is public works and engineering. So this tabletop tended to be more focused on issues like debris removal and the kinds of things that would be within the Army Corps' purview.

The other comment that was made during the course of this tabletop though was that as we go forward, maybe we ought to not make it specific to just one ESF. But generally they're grouped. This one tended to be ESF three, public works and engineering. There was a heavy transportation component, because as part of the scenario two bridges were disabled. So it clustered around a few of the more infrastructure/engineering functions.

We discussed having another one, and the District offered to co-sponsor this, to have one around mass care, health and medical issues, and that sort of thing. It obviously has implications to the other ESF's, but they tend to be sort of topic specific. So I think that's why the fire department was not—

Senator LANDRIEU. I am glad you brought that up, because maybe we do not have all the right information, I am looking at emergency support function areas, the ESF's. For the Council of Governments, according to our records, and we could clarify this now, has six titles: transportation, health, communication, solid waste, public safety, energy and water. The District has 15 and the Federal Government has the same 15.

Ms. KELLEMS. The Federal Government actually has 12.

Senator LANDRIEU. Twelve, okay. So the Federal Government has 12. Can anybody here, for the record, give me those 12? I know I could get them, but you do not have them here?

Ms. KELLEMS. Sure. This could be like a little problem for us.

Senator LANDRIEU. That's all right. If you do not have them, I will get them for the record.

Ms. KELLEMS. No, we have them.

Senator LANDRIEU. So the COG has 6, District has 15, and the Federal Government has 12. Do we all not need the same committees? Or if we are going to keep these different committees, do they know which ones relate to which?

Ms. KELLEMS. They are sets. They're starting with the largest universe, which is the District's. The others are subsets of those. And where you see an ESF committee number one, let's say, transportation in the District, it is very closely coordinated with the same ESF through COG, which expands to a set of regional partners. And the ESF for the Federal Government, which is the same one, the same set of people are operating in all of those. They just tend to expand or contract the focus of their issues depending on who's having the meeting, but that's all the same ESF. The—

Senator LANDRIEU. Because it may work fine that way, but I would also suggest you may want to consider everybody having the same committee breakdown so there is a one-to-one correspondence. Like you've got COG has communications, but I guess under the district you've got communications broken down into, informa-

tion and planning and resource support. I am not going to belabor the point, but it might be better to follow one system or another.

Mr. ROGERS. COG has 15 emergency support functions. What you're looking at are the committee structure. And so you have several emergency support—related emergency support functions assigned to one of those six committees that's chaired by an—

Senator LANDRIEU. So they have the same 15?

Mr. ROGERS. Right, right.

Senator LANDRIEU. Okay. That's fine. And the Federal Government has 12 and—go ahead, Ms. Kellems—

Ms. KELLEMS. The difference is there are some that are primarily local functions. It is not unusual. It is to be expected that local governments would have additional emergency support functions. The most obvious example is law enforcement. The primary law enforcement response is the local jurisdiction. Another one is donations management. The local jurisdiction would be primarily responsible for donations management. And so we've added some on. The Federal Government is very supportive of that. And I think as we all become more sophisticated, not just this region, but all of the cities, there may be additional ones that need to get added.

Senator LANDRIEU. Okay. But having those standardized, or as close to it as possible would be helpful. Does anybody want to add anything on tabletop before I go into another issue?

Mr. KELDSEN. Just one comment. One of the issues that came up this week was really the clarification of the role of COG by the States and the operational issues, and we are exploring those.

Senator LANDRIEU. I am glad you raised that, because one of my questions was going to be that I am familiar with many of these planning districts around the Nation that we pull together because economic growth doesn't stop necessarily at political boundaries. These planning districts were put together for growth and economic development.

But when you get into the issue of attacks or terrorism or defenses, sometimes we might have to think differently. Planning districts were not specifically created to defend against terrorists. And so we might have to have some modifications to the way that we function to take into account the changing terrible reality that we are facing now, and I think that's what you have alluded to.

Mr. White.

Mr. WHITE. Yes, Madam Chair. To your question of tabletop, beyond what has already been said, and we do participate in the tabletop exercises, is that we have been conducting ourselves on an annual basis mock disaster drills; beyond tabletop, but actually making believe something happened and going into the field and replicating an emergency condition, and then testing the response preparation capabilities of not only the Metro employees, but the local fire, police, emergency rescue people.

And we found that to be a very good exercise to really keep ourselves fresh with our regional partners. And also we do debriefings after each of those annual exercises to go over lessons learned. And we actually use them to prepare ourselves for the next year to make sure that anything that didn't go quite right in that mock drill, that we kind of learn from that and then prepare for the next event.

Senator LANDRIEU. First, Ms. Kellems, the National Capital Regional Plan which you've alluded to is under development. Can you tell me which organization or entity is taking the lead in creating this plan? How does the National Capital Regional Plan differ or relate to the District Plan that you are in the process of coordinating and refining and perfecting?

Ms. KELLEMS. That is one of the most common questions we get asked, how do all of these many plans fit together. And as a baseline matter, that's exactly why everyone keeps underscoring the importance of the same language, the same architecture, the same terminology, so that you can move your module of your plan and integrate it with someone else's module.

The National Capital Plan is led by FEMA, the development is led by FEMA. We are very much active participants in that obviously, for all the reasons that we've talked about. And again, our District Response Plan is designed to marry function by function with that, but FEMA's the coordinator for the larger National Capital Regional Response Plan.

Senator LANDRIEU. Have all of you either been consulted or connected in some way to this National Capital Regional Plan? Those of you that have had some input or some connection, could you just testify about what that might be very briefly?

Mr. ROGERS. Yes. We—FEMA is participating in the COG planning process. And we are using the Federal Response Plan and— it is to the Federal Response Plan and then it is the continuity of operations for weapons of mass destruction for the National Capital Region. That's the plan I think you're referring to that's being led by FEMA. And we are working with them on that as well.

And we, when we finish our planning process, Madam Chair, it should be seamless in terms of terminology, in terms of concept of operations, and in terms of procedure from the Federal plan to the district and the local jurisdictions. And that's what we are trying to achieve.

Senator LANDRIEU. So you see it as your mission, based on the resources that we've given you, to try to pull together all of these many plans and make them as seamless as possible and get the region identified, or the areas identified, and the responsibilities identified. And that's the process that you're beginning?

Mr. ROGERS. Right. That's correct.

Senator LANDRIEU. Okay.

Mr. CLINE. Madam Chairman.

Senator LANDRIEU. Go ahead.

Mr. CLINE. If I may.

Senator LANDRIEU. Go ahead, Mr. Cline.

Mr. CLINE. If I am not mistaken, we did participate providing input and review so far as the National Capital Regional Plan has been developed. But it appears that that—really the best way to think of it is an annex to the Federal Response Plan. It provides information that the Federal agencies would need and it is a follow-on to that response plan that the Federal agencies are going to use as they respond. It does not address the needs for operational planning at the regional basis for the capital area.

So you need to make sure you think of them as on the—well, as two separate entities. I agree that the terminology needs to be the

same; the concepts and the policies need to meld closely. And I am not sure that we've gone to that level yet to insure that it is—that those things will occur. But there does—there is a need for that to be seamless as it flows into the State plans, the regional plan, and the local plans.

Senator LANDRIEU. This chairman is committed to work with you all for however long it takes and helping to allocate the resources necessary to make sure the end result is truly the model described today. And it is going to take some give and take, some throwing out and starting over, building and being, constructively critical about where we are.

It is a very difficult, very difficult thing to undertake. You've got many jurisdictions. And this area is complicated by a number of factors. Not only is it a rich target area, but you've probably got more jurisdictions here than anyplace in the Nation, between the Federal and State and county level agencies. So this is going to be probably the most difficult region in the whole Nation, but I think we can do it. We have to do it and we have to do it well.

Let me ask you this question. To date, and I know where this is still a work in progress, but among all the various plans, could you, Ms. Kellems or anyone, tell us today, if there was an attack this week, who checks the bridges? Who's got the responsibility to check the bridges? Is it a Federal agency or is it the city, is it Metro?

Ms. KELLEMS. It is a whole group of people depending—

Senator LANDRIEU. Is it the fire fighters or the police? Who checks the bridges to see if there are explosives, like before we start sending people over them? Who would be, according to the plans that you're aware of, whose job would it be right now, today, if it happened this week, to check the bridges to make sure that they were secure for exit or entrance?

Ms. KELLEMS. Amazingly, and I do not know if someone whispered this in your ear, but part of our tabletop this week involved two of our bridges being destroyed. And so this—a lot of people, I think, learned a lot about this. It depends on which bridge you're talking about actually. The bridges are owned by different jurisdictions. Depending on the bridge and the jurisdiction, who would be responsible for checking it.

One of the things that we saw in our tabletop was that you can have three jurisdictions who are all contributing to the operation of a bridge and a fourth one whose responsible for the security of that. I think that your question gets at the larger point of knowing—not assuming any of those kinds of things and knowing where your vulnerabilities are, where your risks are, and dealing with it at a very individual level. Having each of your jurisdictions do risk assessments for what are their high target areas.

Bridges are just one example, but we went through—we are going through now a similar exercise with the Federal Government for particular buildings. Particular buildings have their own individual jurisdictions, the sidewalk is owned by another jurisdiction, and the street is owned by a third jurisdiction. So what we—and that's actually true. So what we are going through is individualized assessments of these high-risk targets and determining all of those

levels of jurisdiction, and knowing who would respond depending on what type of incident it is.

We had an incident recently at the Commerce Building, which happily turned out to be nothing. Everyone knew that the local fire department was the incident command, but with all of the other jurisdictions that showed up, we had people closing streets and people re-routing traffic. And it became apparent at that point that that's the level of coordination that has to occur, but it has to be unique. It is not—there is not a global plan for that. There is not an agency responsible for doing that kind of thing.

It underscores Peter's point earlier about having an all hazards plan based on specific risk assessment, which is why COG is going through the risk assessment analysis now, the District is doing it in connection with DOJ, so that we can identify specific kinds of targets and what the—who—the specific jurisdictional responsibilities are there. So I hope that answers your question.

Senator LANDRIEU. No. It is very important and helps the public to understand what a great challenge this is, because in addition to 100 questions I could ask like this, two others would be who monitors the air, in the region to see if something has been released into the atmosphere and where it is moving? Who is responsible for the waterways to check the same? Is there any thing that's been put in the waterways that would be dangerous?

And that's how regions have to think. It is an unfortunate reality of the times we live in. Who would have thought. But this is the future and we've got to be prepared for it. And so there is some, you know, urgency and there's some real consequences for not getting it right. And we talk about coordination, and sometimes we do a good job of it and sometimes we do not. But when you do not do a good job planning here there could be serious consequences of not making this as seamless as we would hope.

#### COORDINATING REGIONAL PREPAREDNESS

Let me ask Mr. LaPorte, if you could. One of the goals of the hearing is to understand the extent of cooperation between the District and not just the regional, but the other States. And we've heard a little bit of that. I've got some concern to the degree in which the whole State of Maryland and the whole State of Virginia are playing into developing this. And we talked about possibly, Mr. Cline said, of extending some of our planning to take the capitals of those two States.

Could you just comment about how you see us now and where we'd like to go in the future.

Mr. LAPORTE. We've come a long way. And prior to coming to the District I was the State director of Emergency Management in Massachusetts. So I pretty much understand the State hat. The challenge is from a State to local jurisdiction, and that relationship. And the District being a city, a county, a State and the District, it is many things at once.

One of the hats that I wear is I sit on the National Emergency Management Association and I chair the terrorism committee. And one of the things we are really focusing on is the cross State to State jurisdiction, sharing of information, sharing of resources. Just recently Mayor Williams submitted, the council is in its final pas-

sages, make the district part of the Emergency Management Assistance Compact, which is signed—a signatory, congressionally approved compact that deals with resources across State lines. The District will be a very happy signatory to that to bring additional resources.

Regularly we have shared our plans with Maryland and Virginia. Michael and Don and I are personal friends. We talk on a regular basis. They've offered opportunities for the District first responders to train at their facilities and we've offered our training to them. What we need to do is continue to build up the relationship and sharing of those plans, identifying where our resources are and how we would share them.

I think we've come a long way of between the two States and the District, but I again think it is critically important that we build that relationship up even stronger.

Senator LANDRIEU. Let me ask you this. Could someone go on the record to say right now, do we have a regional police training, a regional fire training? Are there different centers, regional, first responder training centers, in terms of medical first responders, or are we still having those assets done within counties or within smaller areas? Because in Louisiana, even before September 11, we had a fairly, I think, effective—I helped to create it and was very proud of that, and got good reports—but a statewide fire training academy that all of our local fire departments thought was really good because they didn't have to spend their own resources developing these kinds of academies. And many States, even before September 11, had sort of coordinated their law enforcement.

I would like Chief Schwartz, for you to respond to this, but, Ms. Kellems, you could begin, or Mr. LaPorte. Do we have plans to have regional training sites so that we can have some of the best training? Instead of having five mediocre programs we could have one or two really strong training programs that we can all support and it cuts down on the expenses that the public has to pay?

Ms. KELLEMS. I'll let the State speak for their individual State operations as well. I know that the District has tried to take advantage of some of these opportunities. In fact, now with some of the Federal resources we have for fire and EMS training, our folks are going to MFRA, the Maryland Academy, and receiving the same training, and some of it is delivered in conjunction.

In the law enforcement side, particularly on the police side, we have an Institute of Police Science for local aid, for the MPD, but they do a lot of joint training, particularly with the Federal agencies, not as much with the surrounding jurisdictions. We, out of the Federal funds that we received, I think close to \$11 million is for training. And one of the top—one of the highest priority topics is how do we integrate our training with these other jurisdictions, particularly the operational training. But also underscoring the point that the Chief made at the beginning, the incident command training, so that we are all operating our incidents the same, using the same methodology.

The District Response Plan is now based on an Incident Command System, just like the Federal Response Plan, but there is a steep learning curve, not only for our agencies, but for the other jurisdictions. And I think you're exactly right. That is exactly



where we need to head to regional training programs not just for first responders, but for all of the response and recovery agencies that would be involved.

Senator LANDRIEU. And I want to ask the chief to comment, but I hope in the plans that you're—that COG is developing you'll look closely at the possibility of having perhaps Maryland lead in a certain kind of training, and they become quite expertise in training in this certain area. And then Virginia could lead in a certain other kind of training, and the District could host its training, instead of taking our training dollars and everybody trying to set up training and spreading them so thin.

But I hope a good part of this plan will be to have an understanding among the region whenever we decide how many rings we are talking about within the region, can really give the very best training and we are not duplicating facilities, et cetera. Because we are a compact area and there'd be no reason why someone couldn't travel 45 minutes or an hour to get good training as opposed to having them 15 minutes away.

Chief, do you want to say anything on that? And then, Mr. Keldsen.

Mr. SCHWARTZ. Just to add to what's been said. You are correct that in most jurisdictions they have their own training facilities. There are examples in Virginia, farther down in the Tidewater area, where they do share an awful lot of their training facilities. And there is an effort underway in the Northern Virginia region to explore the idea of a regional training academy. There's an effort underway with Fairfax County working with Dulles Airport to look at a plan, some of the land that's out at Dulles Airport, and use for a regional training facility for the Northern Virginia departments. It is exploratory right now and hasn't gotten too far, but it is got a lot of interest on the part of the fire departments in Northern Virginia.

One thing I do want to emphasize though is that regardless of how the training is delivered, I think you will find, speaking at least for the fire and EMS community, that our training is all to the same standards. There are sets of professional standards that—under which all, at least in this region, all training academies, all training efforts teach to those standards. So while there may be—the delivery may be in different places, you can pretty much go from one jurisdiction to the next and find the same capabilities, the same capacities in terms of EMTs, paramedics, firefighters and officers.

There are additional efforts, speaking for Northern Virginia, because we operate under a very tight automatic aid program. In other words, we share our resources without regard to jurisdictional boundaries. So we operate also under the same standard operating procedures and we share not only our first level emergency response resources, but we share our command level officers too.

So there is an awful lot of that going on already. Certainly there can be some improvement to gain more economies of scale, but I would want to emphasize that standards are an important aspect of this. And so we are not losing a lot in that regard.

Senator LANDRIEU. I appreciate you clarifying that, because the standards are important. But it is also important to, husband our

resources and try to make sure that we've got good training systems that are being utilized, and not have 15 programs that are utilized at 15 percent when you could support 5 and have them utilized at 100 percent and save the taxpayers some money in the process.

Mr. KELDSEN. Yeah, one other comment. Maryland Terrorism Forum actually has a training committee which is interdisciplinary. It has the police, fire, police and fire, public health, emergency management. And they're looking at best practices and sharing those across. In some cases in Maryland, like the Fire Rescue Institute has training facilities throughout the State, outside of our big seven counties who have their own fire academies. But again, as the chief talked about, they would be training to the same standard.

The purpose of this training committee is really look at the weapons of mass destruction, unique things, and look at other non-traditional responders that might need training, i.e. dispatch folks, public health folks, even public works staff. So we'd certainly be willing to share what we've done with the COG committees.

Mr. ROGERS. Madam Chair, as part of the funds that were allocated we are required to do a training needs assessment, as well as develop a training plan for the region. And the assessment comes first. We are going through that process now. And it will reveal to us what—not only what the training needs are, but the existing training facilities and the resources allocated to training by the local jurisdictions and the State. And we will have a plan for how to better maximize the use of those training dollars.

#### COORDINATING TRANSPORTATION SECURITY

Senator LANDRIEU. Okay. Let me ask if I could switch to some questions to Metro. Could you, Mr. White, comment about the way you're developing your plans. Are you doing it in conjunction with other carriers similar to yourself? Not that Amtrak would be similar, but it is a rail system; Amtrak and other Metro-like facilities or entities around the Nation. How are your plans that you're developing? Are you all conferencing with people around the Nation? And if so, what are you learning?

Also, you can't go into specific detail, I know, but are we making any progress on our new chemical sensor programs that you're developing?

And third—three questions at once. We've had some complaints from visitors here about not having anyplace to throw waste in the Metro stations, because we removed the trash cans because they have proven to be somewhat of a security risk. But when we will get bomb-resistant trash cans is the question.

Mr. WHITE. At the great risk of trying to compare ourselves to Amtrak—which I'll probably choose not to do given the enormous controversy on that issue right now. But as it pertains to coordination, I'll try to address it from the two areas that you asked the question.

Regionally, we are kind of playing the central glue role of this coordination process under the COG Regional Emergency Response Plan. The vision is in the event that there is a transportation event that either affects the transportation network or facilities or has

some direct or indirect effect on that, we then become a part of the consultation process and coordination of decision making process with our peers. The State highway departments and departments of transportation would be making decisions on roads and bridges. In the instance where there are Federal control and ownership, that's an issue that would be involved as well. And then the various transportation carriers.

We then would have a responsibility for coordinating with the two commuter railroads, for example, VRE in Virginia and MARC in Maryland, as well as any Amtrak-related services that would be coming through Union Station, as well as the county-based bus systems, of which there are multiple county-based bus systems. So we are—since we are the regional operator, we become the, kind of the regional facilitator of letting people know how we've been impacted and what we are doing, and then sharing that information with others. And if it means we are dropping people in different locations or running different kinds of services that we wouldn't otherwise be running, we want to make sure then that the other systems who then are the circulator systems who pick the people up from the stations after we bring them to a location, they're prepared to do that kind of distribution role that we play.

So we are very—getting very well coordinated regionally to perform that function, and there have been several conference calls testing that capability, you know, from a demonstration point of view. And I think that process is emerging and looks like it is going to work quite well.

At the national level, we are playing a very active role. I happen to have been appointed by our industry's, the American Public Transportation Association, which represents all the mass transit interests around the country, as the chair of their security task force. Well, we are now coordinating this issue at a national level, all of our peers. I am kind of at the central point of all of that coordination inside of the industry, as well as with the Federal Government, most particularly the Federal Transit Administration.

So we are providing that linkage between what the Federal Government is doing with respect to our industry, how we coordinate it nationally amongst ourselves. Internationally, we are bringing people in from around the world who, unfortunately, have many more years of experience than this country has about responding to terrorism and they've learned a lot. And we hope to be able to shortcut our learning process by understanding their best practices. We've already had people from the United Kingdom in. There's going to be a symposium bringing people from Europe and Asia in as well.

So there's a lot of work going on in this particular area and I am fairly fortunate that I am kind of playing a leadership role at the regional and the national level.

Senator LANDRIEU. And are there funds available to help you continue this good work that you have talked about in terms of conferencing and bringing people in? Because I think exchanging information and not starting from scratch, and taking ideas from other people that unfortunately have faced these challenges is very helpful. And I think that should be part of our budget, a smart way to spend money.

Mr. WHITE. Yes. Now some of the money that you have appropriated to us are used for regional emergency coordination purposes as we continue our efforts in that arena, although much of what we are spending the money on is to prepare our employees to do what's called upon them. A lot of that is—involves coordination with our police, fire, emergency, rescue departments, which we have an enormously close relationship with.

At the national level, we are quite fortunate that the Federal Government took \$2 million of its national research, actually a quarter of the money it spends in this particular arena, and devoted it entirely to this region—this national coordination mechanism as to where research could be best applied to bring the highest and best use.

And the first allocations of funding under that program was to conduct regional workshops where we and our peers, the large urban heavy rail systems, got together. And we spent 3 days exchanging best practices, conducting actually mock exercises, trying to put ourselves in the shoes of terrorists and trying to think of what they would and how they would—how our system might be vulnerable, then the next day saying “Well, wait a minute. What would we do to shore up our system given those kind of scenarios.”

So there's four of those workshops that are going on around the country with this \$2 million program, and the Federal Transit Administration is conducting something like 15 additional regional workshops. So I know that the Federal Transit Administration is probably better qualified than I am to talk to you about what's going on nationally, but based upon how I am participating at the national level, I see a lot of activity going on.

Senator LANDRIEU. Can you comment on the chemical sensor program?

Mr. WHITE. Yes. Chemical sensors. We have moved now from the prototype phase. It has proven, after about 15 to 18 months of testing, to be ready to move into the implementation phase. Part of the first batch of money that we got is going to be used to move towards outfitting up to 12 of our underground stations with these sensor technologies. We are going to have the next set of stations moving forward probably in the next 90 days or so. And then we expect that these next 12 stations should be completed by the end of this calendar year.

And as it pertains to waste and trash cans, the good news is that we are now able to bring bomb-resistant trash cans back into our stations where we moved all the trash cans out from our platforms. We've now researched and found what we believe to be the best bomb-resistant trash cans on the marketplace. We are now in the process of acquiring them. And we'll be bringing them in, not to our platform levels, but into our mezzanine and entrance levels. All of our stations will be equipped with those and that should happen no later than this summer and fall.

Senator LANDRIEU. Great. And one other question on transportation and Metro. Have we completed the establishment of protocols for evacuating Federal employees, or is there a process going on by the Federal Government in the event that we would have to, evacuate? Would anybody like to comment?

Mr. WHITE. Peter probably would want to give you the first answer, and I can try and chime in afterwards.

Senator LANDRIEU. Okay. Mr. LaPorte.

Mr. LAPORTE. It is certainly one of the biggest challenges out there. And oftentimes if I talk to a group it is just that question, "What do we do as Federal employees. Federal Government may say you all can go home, but what about our building specifically?"

We've been working with the Office of Personnel Management and FEMA in putting together plans for all the Federal buildings to design the basic curriculum of their evacuation plan, where they would go, how would they run their fire drills, floor captains. And it is—that process, in many ways the District is beating the Federal Government to that, because they're going to end up on the city streets and then into the region on Metro and the like. So we've been working with FEMA and OPM on that. OPM approached us to ask us to give them some assistance of putting that training together for individual plans for each building.

We've worked a couple facilities, started with 500 C Street, which is FEMA. And one of the challenges ongoing in the next few months is to put those plans in place at each building and then continue to work on their plans and drills and exercises. Because we saw in New York, from the 1993—from learning from 1993, the first explosion, to the explosion in 2001, a number of companies did some great planning and it saved a lot of lives. And so things we need to think about right now and continue to work on that.

Senator LANDRIEU. It was an extraordinary story I read, I wish I could remember the company. But it was a inspirational story but yet sad at the end, because the guy who organized the evacuation was a former member of our armed services and he'd served in Vietnam very courageously. You all might remember the story. But the bottom line is because he was such an extraordinary security officer, and despite the fact that he was told not to worry about such things, had such a strong evacuation plan for his company. And would train, even despite the fact that they were not really encouraged to, that he got every single person out, but he lost his life doing it and his right hand guy basically. They didn't make it out.

I think it would be very important for us to all be knowledgeable about that, how a strong evacuation plan by a guy who had been through the war and understood, despite not getting the right instructions did it anyway, and saved everyone in the company.

#### COORDINATING SCHOOL EVACUATIONS

Let me ask a question on one thing. And, Ms. Kellems, I'll get back to you. For a lot of parents in the region, the whole idea of the coordination between the school system and everyone else in the event of an emergency is very important, because one wrong decision to let schools out thinking you're doing the right thing could cause terrific panic when you can't get the children together with the parents. So could you give us—because we are running very short on time and we only have a few more minutes. But could you and anyone else who would want to comment about progress we are making to coordinate the schools emergency operations.

Ms. KELLEMS. Yeah, you're exactly correct. We've all said that one of the best things that happened on September 11 was the decision to keep our schools open. With all of the folks trying to flee the city or the Federal Government closing down or people self-evacuating, it was probably the best option. And I think all the surrounding jurisdictions shared that opinion in their schools. It was the best option to have the kids without some threat, have the kids where we knew they were safe and they were supervised.

Since then we've put a lot of attention to this issue. The director of security for D.C. Public Schools is also a member of the task force, along with the superintendent of schools. One of the portions of the money that you appropriated to us is for facility security. Each of the schools, D.C. Public Schools at least, is going through an effort to update their evacuation plans and their security plans. They're also integrating their camera system with our law enforcement camera system, so that we can keep track of it. In its—the building security, the planning process, a very important part of it is the education of the children about what to do in these circumstances.

We all tease Peter and call him the Master of Disaster. And we stole that nickname actually from a program that is federally sponsored that we are delivering in D.C. public schools now that helps children understand how they need to be prepared, whether it is a flood or a hurricane or a tornado or anything else; what are the basics that they need to know, starting at a very young age. This curriculum is now being adopted by the D.C. Public Schools.

So I think it is a whole host of things that have to be done. It is an enormous percentage of our population obviously, and the most vulnerable part of our population, the one that gives most people the greatest trepidation. Many people were leaving their posts, their facilities and their jobs, because they were fearful for their children. So I think to the extent that we can underscore and bolster their sense of confidence in how the school system is handling it, we are trying very hard to do that.

Senator LANDRIEU. Well, it is very important—does anyone want to comment, because I have one closing comment?

Mr. ROGERS. The school superintendents are a part of the decision making process with the CAOs and emergency managers in an incident. They are on the conference call usually. They were on the conference call on 9/11, though it was late. We need to improve that process. We've made provisions to do that. The superintendents have been incorporated as a part of the COG planning process. The school safety officers have formed a cluster under an emergency support function so that we can better understand their needs there. So what happens in the school system and the decisions there are very much a part—will be very much a part of our eventual plan.

Senator LANDRIEU. Okay. Well, I think that's very important. And I'll say my daughter and I for some reason were talking the other day, Chief, about fire. And she just looked at me and she said, "Well, Mom, if that happens just stop, drop and roll." It would be very helpful if we could get all the kids understanding as well as the fire chiefs have done such a good job with this as they go around the schools teaching the children about stop, drop and roll,

then our kids will know what to do in the event that something like this happens.

So, Chief, thank you for teaching——

Mr. SCHWARTZ. Good to hear that all of our hours of public education are getting down to——

Senator LANDRIEU. Yeah. They got that stop, drop and roll. They got it down.

SUBCOMMITTEE RECESS

Thank you all so much. It was a good hearing.

[Whereupon, at 4:37 p.m., Thursday, March 14, the subcommittee was recessed, to reconvene subject to the call of the Chair.]





**DISTRICT OF COLUMBIA APPROPRIATIONS  
FOR FISCAL YEAR 2003**

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**THURSDAY, MARCH 21, 2002**

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

The subcommittee met at 2:38 p.m., in room SD-192, Dirksen Senate Office Building, Hon. Mary L. Landrieu (chairman) presiding.

Present: Senator Landrieu.

DISTRICT OF COLUMBIA

COURTS

**STATEMENT OF JASPER ORMOND, INTERIM DIRECTOR, COURT SERVICES AND OFFENDER SUPERVISION AGENCY**

OPENING STATEMENT OF SENATOR MARY L. LANDRIEU

Senator LANDRIEU. Good afternoon, everyone. I am pleased to call this meeting of the Subcommittee on the District of Columbia of the Appropriations Committee to order.

The purpose of our hearing today is to review the fiscal year 2003 budget request of the D.C. Subcommittee's Federal agencies, and those are the Court Services and Offender Supervision Agency, with the Public Defender Service and the District of Columbia courts. We are going to have two panels today. We thank the first panel for being with us.

Let me say that some of our members will be coming in and out during the hearing, and of course, we are live on the Internet and hope that we will have a good hearing today and get some good information on the record.

Let me begin by just submitting a couple of things for the record for our committee. One is just some information, a fact sheet, on D.C. inmate population, information and statistics that our staff was able to pull together for today; the fact sheet on the agency, and I am sure some of these numbers will be bolstered or supported by your presentations. We have gotten some information from the Bureau of Prisons about the population data, U.S. prison population, and their data to submit to the record, about 6,792 prisoners that they have identified as part of their U.S. system.

I would also like to submit for the record the two articles that were in the Washington Post today, one about the challenges under our new system of inmates being separated at some distance from

families and some of the challenges that that creates, and we will have some questions about that as this hearing goes on. And also an article about the city's plans for the D.C. General site which might affect one of the sites under the jurisdiction of this agency. And then just a map of that particular area. So, without objection, I am just going to submit these for the record.

[The information follows:]

[The Washington Post, March 21, 2002]

#### CITY UNVEILS PLAN FOR D.C. GENERAL SITE

HOMES, SHOPS, WATERFRONT PARK, HEALTH-RELATED OFFICES ENVISIONED

(By Debbi Wilgoren)

District officials yesterday introduced their vision for extending the Capitol Hill neighborhood into the sprawling, mostly vacant D.C. General Hospital campus in Southeast Washington.

The proposal would replace about 45 acres of deteriorating hospital buildings and parking lots with tree-lined streets, homes, shops, laboratories and outpatient clinics and health-related government offices. The neighborhood they envision would lead to a 15-acre waterfront park along a now-inaccessible stretch of the Anacostia River.

City officials must submit the draft land-use plan to the D.C. Council, which would hold public hearings before deciding whether to approve or modify it.

Under an agreement with the federal government, which owns the land, the entire site must continue to have a municipal focus. That means most new offices would be owned by the government and related to health or science, and some of the new housing could be reserved for health care workers or teachers. Despite the restrictions, officials said, they are determined to transform the site into a lively waterfront neighborhood.

"People are going to suddenly look at this [parcel] with very different eyes," said City Administrator John A. Koskinen, who briefed reporters on the proposal yesterday afternoon in advance of a public presentation at Eastern High School last night. "Instead of seeing what is there, they'll start to see what could be there."

A few of the 50 or so people who attended last night's presentation spoke approvingly of the plan.

"I love the fact of opening up to the waterfront," said Ellen Opper-Weiner, who has lived a few blocks from the D.C. General campus for 24 years, but set foot on the campus for the first time just two weeks ago. "It's creating a whole new neighborhood."

But others in the audience, mostly longtime opponents of the decision to close D.C. General, criticized the plan. They focused on the decision to reserve four acres near the Stadium-Armory Metro station for a facility for St. Coletta's, a private special education school in Alexandria that enrolls many D.C. students.

"The citizens of the District once again have been disrespected," said Kathleen Wills, an activist on school and land-use issues. "How . . . does a private institution get this public land? It's a travesty."

The entire plan could take up to 20 years to achieve, District Planning Director Andrew Altman said. City officials have not begun to estimate the cost, which would be borne by local, federal and private funds.

Once a plan is approved, the city would start developing the site around its edges, building the waterfront park—including a scenic roadway and a bicycle path—extending Massachusetts Avenue, and improving 19th Street to include a new mix of homes and shops around a "village square." That first phase probably would take about five years, Altman said.

Along Massachusetts Avenue, a public health and science center would include offices, laboratories, a rebuilt city morgue and new facilities for the outpatient health care and drug treatment clinics that have remained in operation since D.C. General was shut down last year. Koskinen said the buildings could include a new health department headquarters, the police forensics lab and possibly a federal forensics facility.

The office buildings on the south side of Massachusetts Avenue would serve as a buffer between the new boulevard and the D.C. jail, at the southern edge of the hospital campus.

The northern edge of the site is earmarked for St. Coletta's. The city wants the school there because it would reduce transportation costs. The project also enjoys strong support on Capitol Hill.

Capitol Hill resident Elizabeth A. Purcell said yesterday that she has asked the D.C. inspector general to investigate the decision to award the site to the school rather than issue an open call for bids. "I think that was a tremendous loss," she said.

Those who opposed closing the hospital expressed disappointment last night that the draft plan does not call for construction of a public hospital.

But the plan reserves about eight acres along Independence Avenue SE for undetermined municipal projects. Officials said such projects could be anything from a hospital, if one is needed, to a high-quality community swimming facility that could also be used in the Washington-Baltimore bid for the 2012 Summer Olympics.

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[The Washington Post, March 21, 2002]

#### FAMILIES LAMENTING LIFE AFTER LORTON

WITH PRISONERS ALL OVER COUNTRY, RELATIVES FIND VISITS DAUNTING

(By Arthur Santana)

Gayle Hebron's trips to the old Lorton Correctional Complex in Fairfax County used to be governed by routine: a 30-minute drive every Saturday, a security check and hand stamp at the entrance and then a short walk to the visitors area. There, she would sit in a crowded room and talk with her 26-year-old son about life on the outside.

That eight-month routine ended in November when Hebron's son, Elauin "Lonnie" Hebron, was among the last inmates transferred from Lorton, in his case to the federal penitentiary in Leavenworth, Kan., more than 900 miles away.

Now, Hebron said, she would have to spend hundreds of dollars for a plane ticket or endure two days each way on a bus to see her son. "I absolutely hate it," she said. "I don't get to see him anymore. We miss each other."

Since Lorton was closed for good in November, more than 6,400 District felons like Hebron are scattered in 77 federal prisons nationwide, according to the federal Bureau of Prisons.

The last of seven prisons at Lorton was shut Nov. 19, completing a task mandated by the 1997 Revitalization Act for the District. That law transferred the expense of operating prisons from the city to the federal government, which committed itself to placing the prisoners within 500 miles of Washington.

About 82 percent of those felons, including about 5,255 men and women in 36 prisons, are within the 500-mile radius. But more than 1,184 are housed farther away.

Prison officials calculate the distance "as the crow flies." Some prisoners are in California, Texas and Arizona, exiled from their families, according to Carol Fennelly, director of Hope House, a North Carolina-based group that connects incarcerated prisoners with loved ones.

While crime victims might feel that sympathy for distant inmates is misplaced, such separation of prisoners from families hurts everyone, according to prison-rights groups. Inmates who lose touch with close relatives are more likely to be on shaky footing when they reenter society and to return to crime, these groups say. "We know that the best way to have somebody come home and become a productive member of society is to make sure they maintain family ties," said Marie-Ann Sennett, executive director of the D.C. Prisoners' Legal Services Project. "By being sent throughout the country, family ties are being severed. That connection that is so important is gone."

Faraway inmates also have fewer chances to pursue legal options. "Does that federal facility have the D.C. Code in their law library? I doubt it," said Kara Gotsch of the American Civil Liberties Union National Prison Project, based in the District.

Since they are far from hometown inmate-rights groups, District prisoners are more susceptible to prison abuse, Sennett said. Her group handles about 2,000 D.C. inmate complaints a year and intervened after problems at the private Northeast Ohio Correctional Center in Youngstown.

Run by Corrections Corporation of America, it was beset by trouble after opening in 1997. About 1,700 inmates were sent there from Lorton in May that year. Two inmates were fatally stabbed; 40 assaults were reported; six prisoners escaped in 1998; and in 1999, inmates won \$1.65 million in a class-action suit accusing guards of excessive force.

Sennett called the decision a landmark victory exposing prison abuses.

Incarcerating inmates far from where they committed crimes is the rule, not the exception, Fennelly said. "Having a prison at Lorton was a luxury for D.C. inmates," she said. "So when they were transferred, they had the distance shock."

John L. Clark, a congressionally appointed trustee who oversaw transition of city inmates to federal prisons, agreed, saying that, when Lorton was operating, D.C. inmates and their families had "a definite advantage that was unique in the country. The prisoners and their families here will now be more like the situation in many states."

But Gotsch said distance not only increases severity of punishment for inmates but also for their families.

Edward Robinson Sr., hasn't seen his son, Edward Jr., 27, since he left Lorton about two years ago. Now that he's in Edgefield, S.C., serving a life sentence for murder, the family said it's financially impossible to travel the more than 400 miles to see him. "When you're on a fixed income, going down to Lorton was easy, but now, I don't know how we'd do it," Robinson said. "It's been a strain on the whole family." He added that his son's two children, both 7, often ask him how their father is doing. "I think they are suffering for him," Robinson said. "They can't see him. By not seeing him and not knowing him, it's definitely going to affect them later in life."

Traci Billingsley, a Bureau of Prisons spokeswoman, said the policy of keeping D.C. inmates within 500 miles of home cannot always be implemented. It was put in place, she said, "because being within 500 miles of home . . . strengthens family ties."

But, she said, a primary reason that inmates cannot be placed in prisons within 500 miles of Washington is that the bureau has only two high security prisons nearby—in Pennsylvania at Allenwood and Lewisburg, each about 200 miles away.

She said the bureau's policy of not housing large numbers of inmates from a single geographic location in a single federal penitentiary prohibits concentrating high-security D.C. felons in the Pennsylvania institutions. When more high-security prisons are constructed, she said, the bureau expects to bring D.C. offenders closer to home.

Bureau officials said the 500-mile commitment was made with the understanding that it would have time to build facilities to handle the influx of D.C. inmates. They said the 1997 law didn't give officials time to do so.

Billingsley said work is underway on five high-security prisons in the Mid-Atlantic region. One has begun accepting inmates in Lee, Va., she said.

Trustee Clark said inmates sometimes must be incarcerated far away if they misbehave in prison. "Most of the people who are sent to Leavenworth, Kan., are sent there because they were not able to adjust and get along in prisons closer in," Clark said. "Or they may have some unique situation, like they have an enemy . . . at a number of other prisons."

Hebron's mother said he was not sent to Leavenworth for misbehavior but by mistake after being convicted of theft. She is disputing the system's classification of her son as a high-security inmate. Prison officials said Hebron is also serving time for assault, armed robbery and other charges.

Billingsley said that a D.C. inmate released from a faraway prison is referred to a halfway house in the District or that accommodations are made to get the inmate home.

Until then, families prepare for a long haul.

Shanetta Wilson hadn't seen her nephew, Marco, 16, in more than a year when she paid a \$700 Amtrak fare this month so she and her niece could travel to Atlanta to see him. Previously incarcerated at D.C.'s Oak Hill Youth Center for robbery, Marco won't be released for five years, his aunt said.

Our Place D.C., a private, nonprofit women's center, was founded in 1999 in part to help incarcerated mothers. It has worked with 800 women and their families, said Susan Galbraith, its president and executive director. "We were very concerned that women were being dispersed throughout the country, that they were losing any connection they had to the community," she said.

Before Kathryn Hunter discovered Our Place D.C., she had to take her daughter's two children more than 200 miles by bus to Danbury, Conn., to see their mother, Jacqueline Ferguson, imprisoned since 1994 for violating parole, her mother said. "She [Ferguson] didn't get to see them but once every eight months or so," Hunter said. "It was devastating to her and the kids."

With the help of Our Place D.C., the children, now 21 and 8, have seen their mother every other month. "It was a lifesaver to have the kids go up there much more often," Hunter said. Ferguson, 40, returned to a D.C. halfway house in January, her mother said.

Clark, who said transition of D.C. inmates into the federal prison population had gone "with remarkable smoothness," said he has heard few inmates complain about distance. "There have been very few inmates who were unhappy about going to federal institutions," he said. "The overwhelming response that I have gotten . . . has been that they were eager to go to federal prisons versus being in Lorton because of the program opportunities, the vocational opportunities, the chance to work everyday and make some money, and as much as anything, that these are clean, safe, well-managed institutions."

But some inmates' family members, such as Nellie Toliver, have difficulty being that upbeat. Toliver, 74, said she that has never been on an airplane, that she has no intention of doing so and that age precludes traveling more than 1,000 miles to the Federal Correctional Institution in Pollock, La., where her son, James Gibbs, 50, is serving 15 to 20 years for murder.

Her grandson, Lamont Warren, 29, is at Leavenworth, serving a life sentence for murder. "I don't know why they would send your relatives so far away," Toliver said. "I don't know when I'll get to see them."

Senator LANDRIEU. I would like to welcome our first panel of witnesses today, the Interim Director, Mr. Jasper Ormond, and the Director of the Public Defender Service, Mrs. Jones. We look forward to your testimony today.

As you all know in our audience, the mission of the Court Services and Offender Supervision Agency is varied, but the purpose is to ensure public safety primarily, while also helping District residents reenter their communities. CSOSA supervises approximately 15,000 offenders and 8,000 defendants at any given time, according to the records that we have. I understand from your prepared statements that more inmates are transitioning directly from prison to the community with no halfway house stays, and up to 70 percent of convicted D.C. offenders serve all or part of their sentences in the communities, which is quite a challenge for us. In these instances, especially an offender's connection with a community supervision officer is crucial.

We have made some progress during the course of this brief existence of this new agency, which was created not too many years, but the number of parolees rearrested on new charges seems to have dropped 63 percent since 1998. There is a drug testing program that has shown some decline of positive drug tests, from 28 to 23 percent, some positive signs.

CSOSA is reaching out to the District's faith-based community to provide treatment and rehabilitation services to offenders under its supervision, which is commendable.

We have also, I think, made some progress in reducing our caseload that was once at 100 to 1 before the Revitalization Act to the current level of 64 cases under general supervision. But in my opinion that is still too high, and I would like to encourage some investments or redeployment of resources to reduce that caseload even further.

I am interested in hearing about specific steps the agency is taking to minimize recidivism, again either faith-based initiatives or other programs that are very result-oriented and very effective and have a proven track record of effectiveness.

I also want to note that I have recently learned that CSOSA must move 70 employees from a D.C. court building to accommodate the new Family Court, which is also a priority of this committee, to help stand up a new court system, and has spent a considerable amount of time and energy and money helping to stand up that Family Court. This move has been accelerated, and I un-

derstand it is not the most convenient option for this agency, but it is a necessary move. This subcommittee is committed to help CSOSA to ensure that the operations continue, that the Family Court needs are met.

I am looking forward, Mr. Ormond, to hearing from you about the development of the D.C. site, as I mentioned, the General Hospital site. One of the articles that I put into the record describes to me a very promising plan for the development of that site, but how it affects your agency we are interested in hearing.

I look forward to the testimony from you, Mrs. Jones. I am glad to see that you are continuing your training program for court-appointed attorneys. It is absolutely essential that competent legal representation be provided for indigent defenders so that our system that we are so proud of we can actually be proud of and that it is fair.

Additionally I am looking forward to hearing about representation your agency provides to juveniles with disabilities in that system. Currently our committee is grappling with the cost of special education services in the District and would appreciate any of your views regarding that.

#### PREPARED STATEMENT

I know you have statements prepared for the record. My statement is at some length in addition to what I have described, and I am going to submit that for the record.

[The statement follows:]

#### PREPARED STATEMENT OF SENATOR MARY L. LANDRIEU

Good afternoon, the Subcommittee on the District of Columbia will come to order. I would like to welcome our witnesses today and thank you for your time. This is the Subcommittee's second hearing, but one of it's most important as we review the fiscal year 2003 budget requests of our two main federal agencies, the Court Services and Offender Supervision Agency, with the Public Defender Service, and the District of Columbia Courts.

We will conduct the hearing in two separate panels so everyone's time is used efficiently. We will begin by receiving statements from the Court Services and Offender Supervision Agency and the Public Defender Service; followed by a second panel from the D.C. Courts. I would like to remind witnesses to limit their remarks to five minutes and your entire prepared statement will be included in the record.

The D.C. Revitalization Act of 1997 eliminated the \$600 million Federal payment appropriated by Congress to the District. Instead, the Act transferred several functions of the D.C. government to Federal supervision. It was decided that the Federal government would be fully responsible for two specific areas traditionally carried out at the state level: criminal justice and District employee pensions.

The first function, the District's criminal justice activities, is under the direct oversight of this Subcommittee and is comprised of two main entities: the D.C. Courts and the Court Services and Offender Supervision Agency (CSOSA).

The third component of criminal justice, corrections, was successfully terminated by the District's Correction's Trustee, John Clark, with the transition of all adult felons to the Federal Bureau of Prisons last December. Corrections of D.C. adult felons are now under the sole control of the BOP. An article in the Washington Post today highlighted the new reality for D.C. offenders—they do not get to see their families. Apparently, the 6,400 D.C. inmates housed in the Bureau of Prisons are scattered in 77 prisons nationwide.

Though we do not fund corrections of D.C. adult felons, I am concerned about the impacts of this transition on the District community—particularly, the ability of offenders to maintain close ties with children and families. Although BOP policy is to keep offenders within 500 miles of home—that does not appear to be happening. I would be interested to see if CSOSA offers any type of mediation or counseling to re-entering offenders to help them re-enter family life at home.

I would like to welcome our first panel of witnesses, the Interim Director of the Court Services and Offender Supervision Agency, Mr. Jasper Ormond and the Director of the Public Defender Service, Ms. Cynthia Jones.

The mission of the Court Services and Offender Supervision Agency is varied, but the purpose is to ensure public safety while also helping District residents re-enter their community. CSOSA supervises approximately 15,900 offenders and 8,000 defendants at any given time. I understand from your prepared statements that more inmates are transitioning directly from prison to the community with no halfway house stay at all and up to 70 percent of convicted D.C. offenders serve all or part of their sentence in the community. In these instances especially, an offenders' connection with a Community Supervision Officer is crucial.

CSOSA has made some great progress during the course of its brief existence as an agency. The number of parolees' re-arrested on new charges dropped 63 percent since 1998. It has an effective drug testing program that has shown a decline of positive drug tests from 28 percent to 23 percent. CSOSA is reaching out to the District's extensive faith community to provide treatment and rehabilitative services to the offenders under its supervision. I commend CSOSA for reducing caseloads from over 100, before the Revitalization Act, to current levels of 64 cases under general supervision. Additionally, I encourage the investment to reduce caseloads further to 50 cases per officer in fiscal year 2003. I am also interested in hearing about specific steps the agency is taking to minimizing recidivism, such as the Faith-based Initiative and Transitional Intervention Program.

Also, I wanted to note that I have recently learned that CSOSA must move 70 employees from a D.C. Courts building to accommodate the new Family Court. This move has been accelerated and I understand it is not the most convenient option for CSOSA. However, it is a necessary move. Establishment of the Family Court is a high priority of this Subcommittee, but we are also committed to working with CSOSA to help ensure that their operations are not disrupted.

I would also like to hear from Mr. Ormond about the development of the D.C. General Hospital site. Another article in the Washington Post today described the District's plans for the site, with no mention of the Assessment and Orientation Center administered by CSOSA. The Center conducts a 30-day residential program to stabilize the highest-risk offenders. We need to work together to ensure that CSOSA is able to expand these critical services, wherever they are located in the District.

I look forward to the testimony from the Public Defender Service. I am glad to see that you are continuing your rigorous training program for court-appointed attorneys. Providing comprehensive legal representation to indigent defendants is critical to a fair legal system. Additionally, I look forward to hearing about representation your agency provides to juveniles with disabilities in the delinquency system. Currently, the Committee is grappling with the costs of special education services in the District, and we would appreciate your views on how the system serves delinquent juveniles.

I would also like to welcome our second panel of witnesses representing the D.C. Courts, Chief Judge Rufus King and Chief Judge Annice Wagner. As a relatively new quasi-federal entity the Courts have done a terrific job, during my tenure, of communicating with this Committee on your funding needs and keeping us informed of progress. Additionally, I appreciate the tremendous effort that you, Judge Satterfield, the new Family Court chief, and others have contributed to the formation of the Family Court.

Over the last two years, a surge of public pressure highlighted the faces of abuse and neglect in the District—faces of children who were victims of a system so disjointed and ineffective that they did not live to see the day when major reforms are being implemented. I commend the Courts, the City, child welfare advocates in the District and in Congress for collaborating on the Family Court Act. I am committed to working hand-in-hand with the Courts and the City to ensure that every child currently in the system benefits from this reform and does not suffer the fate of too many children that have been failed. Every child should be moving towards permanency as quickly and effectively as possible. This Committee is committed to addressing resource and management issues of the Family Court. We are anxious to review the Courts' transition plan and will hold a hearing in May to investigate reform more intensively.

One hundred percent of the D.C. Superior Court's operating budget is paid for with federal funds. Therefore, Congress has a unique obligation to ensure that the day-to-day operations of this court reflect the best practices in each and every area of law under its jurisdiction. In fiscal year 2002 the Senate bill made it a priority to provide sufficient resources to implement the Family Court Act. We did this be-

cause we did not want other areas of the Court to suffer in an attempt to comply with the law.

The fiscal year 2002 D.C. Appropriations Act included over \$23 million specifically for the Courts' to hire and train new judges and renovate space. We included a provision requiring review of the Courts' transition plan specifically to ensure effective implementation and accountability.

It was this Committee's intent that, if necessary, the Court's could use its operating expenses account to comply with the Family Court Act and reimburse the operating fund with Family Court funds, once they become available. Considering explicit report language and remarks made on the Senate floor, I am disturbed that the General Accounting Office has determined that the Courts may not reimburse operating expenses with Family Court funds. I will work with the Court and interested Members to resolve this issue as soon as possible. We do not want to have a situation where other Court functions are deprived or where Family Court funds are left unexpended.

Additionally, I am looking forward to hearing about the Courts' new initiatives. Particularly, I wanted to take the time to commend the Courts' for expanding the strong Domestic Violence Unit through a satellite in-take center in Anacostia. It is critical to take services to the communities in which they are needed, particularly in dealing with vulnerable populations who are often reluctant to come forward. I would also like to for the witnesses to present the plans for renovating the historic Old Courthouse and how this fits in with other capital improvements.

I want to thank you all for attending this hearing today and for contributing to public safety and justice in the District.

Senator LANDRIEU. But so that we can begin, I am happy for you all to begin and then we will have a series of questions. If you each could limit your opening statements to about 5 minutes, that would be helpful.

#### STATEMENT OF JASPER ORMOND

Mr. ORMOND. Madam Chairperson and members of the subcommittee, thank you for the opportunity to appear before you today in support of the fiscal year 2003 budget request of the Court Services and Offender Supervision Agency for the District of Columbia, CSOSA.

For fiscal year 2003, CSOSA requests direct budget authority of \$161,925,000 and 1,266 FTE. This includes the administration's Federal retirement funding proposal. Of this amount, \$100,612,000 is for the community supervision program; \$37,357,000 is for the Pretrial Services Agency; and \$23,956,000 is for the D.C. Public Defender Service, which transmits its budget with CSOSA's.

Without the retirement funding proposal, the requested appropriation is \$154,707,000. Of this amount, \$95,682,000 is for the community supervision program; \$35,955,000 is for the Pretrial Services Agency; and \$23,070,000 is for the Public Defender Service.

CSOSA requests an increase of 4.4 percent over fiscal year 2002. This increase is spread over 10 new initiatives totaling \$13,653,000 and 92 FTE. The Director of PDS, Cynthia Jones, will present the details of her request separately.

CSOSA is committed to linking program performance to our budget initiatives. The agency received an unqualified opinion on the independent audit of fiscal year 2000 financial statements. To further enhance our abilities to integrate performance data with the budget process, our first budget request is an additional \$280,000 for PSA to purchase and pilot test performance management software.



CSOSA performance model is based on four critical success factors that must be achieved for us to fulfill our mission of increasing public safety. I will discuss our fiscal year 2003 budget initiatives within the context of these critical success factors.

The first critical success factor is risk and needs assessment. CSOSA requests \$4,737,000 for three new initiatives in this area.

Our first initiative will increase the number of diagnostic officers. These officers complete pre-and post-sentence investigations for use by the court, the Federal Bureau of Prisons, and the U.S. Parole Commission. Currently each officer carries 14 investigations per month. We would like to reduce this to more appropriate levels of nine to ensure that investigations are thorough, accurate, and timely.

The second initiative will establish two new teams for CSP's transitional intervention for parole supervision, or TIPS, program. TIPS officers work with inmates transitioning to the community through halfway houses, to verify release plans, and assess offenders' needs.

Finally, we request funds to relocate roughly 17 diagnostic and interstate supervision staff from Building B of the D.C. Superior Court to other nearby office space. We must vacate Building B to facilitate the implementation of the D.C. Family Court Act.

CSOSA's second critical success factor is close supervision. CSOSA supervises about 15,900 offenders and 8,000 defendants at any given time. We request \$6,444,000 to fund three new close supervision initiatives. First, we request funding for five additional general supervision teams and a new field office within CSP. This will reduce our general supervision caseload from a current 64 offenders per officer to our target level of 50 offenders per officer. Lower caseloads enable the officer to monitor the offender closely. Closer monitoring has contributed to reductions in parole rearrests, one early indicator of recidivism. The number of parolees rearrested has significantly decreased over the last several years, about 63 percent since 1968, to be exact. The corresponding rearrest rate has also dropped 33 percent over the same period.

Second, we request funding for the Pretrial Services Agency to establish a community-based day reporting center, which will expand the options available to supervise higher risk defendants.

Our third initiative will enable us to maintain increased levels of offender drug testing. The funding will be used for the drug testing staff at the field offices scheduled to open in fiscal year 2002 and fiscal year 2003, as well as for test processing chemicals.

Treatment and support services, our third critical success factor, are the means through which offenders and defendants can establish stable, drug-free lives in the community. CSOSA requests an additional \$2,196,000 for three new initiatives in this area.

First, we request funding to expand CSP's Substance Abuse Treatment Branch. These staff assess offenders for treatment placement. CSOSA initiated or continued treatment for nearly 1,500 offenders and 800 defendants in fiscal year 2001. The additional staff will ensure timely assessment and expand our in-house treatment capacity, which is currently 600 offenders at any given time.

CSOSA has established learning labs to meet the extensive educational and job placement needs of our supervised population. We request additional funds to expand learning lab programs at the new field units scheduled to open in the fiscal year 2003.

The third new treatment initiative would provide mental health services to the defendant population, expanding the capacity that PSA established last year through successful pilot mental health programs. Testing, sanctions, and treatment have contributed to the substantial decrease in drug use among our offenders. Positive tests dropped 60 percent among a sample of 353 offenders who successfully completed treatment in fiscal year 2001.

Our fourth critical success factor is the establishment of partnerships with police, the community, and other criminal justice agencies. While we are not requesting new funds in this area, I would like to call your attention to our newest partnership with the city's faith community. Nearly 40 faith-based institutions have pledged to recruit mentors to work with offenders returning from prison. We anticipate training nearly 200 mentors next month.

#### PREPARED STATEMENT

We thank the subcommittee for its past support which has made our success possible. This concludes my prepared statement. I will be pleased to respond to any questions you may have. Thank you.  
[The statement follows:]

#### PREPARED STATEMENT OF JASPER ORMOND

Madam Chairperson and Members of the Subcommittee: Thank you for the opportunity to appear before you today in support of the fiscal year 2003 budget request of the Court Services and Offender Supervision Agency for the District of Columbia, or CSOSA. As you know, CSOSA provides supervision for pretrial defendants and convicted offenders released into the community on probation, parole, or supervised release. The Pretrial Services Agency (PSA) supervises defendants, while the Community Supervision Program (CSP) supervises offenders.

For fiscal year 2003, CSOSA requests direct budget authority of \$161,925,000 and 1,266 FTE. Of this amount, \$100,612,000 is for the Community Supervision Program; \$37,357,000 is for the Pretrial Services Agency, and \$23,956,000 is for the Public Defender Service. The District of Columbia Public Defender Service transmits its budget request with CSOSA's. The Director of PDS, Cynthia Jones, will present it in a separate statement.

CSOSA requests an increase of 4.4 percent over fiscal year 2002, taking into account the President's initiative of making each agency directly responsible for funding federal retiree benefits and health insurance. This increase is spread over ten new initiatives totaling \$13,653,000 and 92 FTE. The request excludes PDS.

In the two years since CSOSA was certified as an independent Executive Branch agency, we have made great progress toward our goals of establishing strict accountability for the population we supervise and supporting the fair administration of justice in the District of Columbia. These goals support our mission, which is to increase public safety through effective supervision of defendants and offenders.

CSOSA supervises approximately 15,900 offenders and 8,000 defendants at any given time. Our supervision model is based on the premise that four types of activities must occur in order for us to perform effectively. Therefore, our budget request is based on these Critical Success Factors: Risk and Needs Assessment, Close Supervision, Treatment and Support Services, and Partnerships. In addition to our request for enhancements in these areas, we also request information technology funding to support the Critical Success Factors and enhance our ability to measure performance. I will discuss our fiscal year 2003 budget initiatives within the context of the Critical Success Factors and briefly summarize our information technology initiatives.

## RISK AND NEEDS ASSESSMENT

The first Critical Success Factor is Risk and Needs Assessment. We believe that effective supervision is based on a comprehensive knowledge of the offender's risk to the community and need for support services. Defendants are assessed for risk as part of the release recommendation process. For offenders, risk assessment includes diagnostic activities, such as pre-sentence investigations, initial risk screening, and comprehensive pre-parole assessment, as well as reassessment every 180 days throughout the supervision period. Needs assessment begins at intake and continues throughout supervision. It is the basis of case planning and referral to treatment, education, training, and other support services.

CSOSA will dedicate 245 percent of its fiscal year 2003 budget to activities in this area, and we request funding for three new initiatives. First, we request \$2,310,000 for additional diagnostic staff within the Community Supervision Program. Diagnostic staff prepare pre-sentence and post-sentence investigations, which are used by the court in determining sentences, by the Federal Bureau of Prisons in making institutional placements, and by the U.S. Parole Commission in making release decisions. These reports must be thorough, accurate, and timely; they are an important product our Agency provides to the criminal justice system.

Our existing staff completed over 5,000 investigations last year. The additional staff will reduce each diagnostic officer's caseload from 14 investigations per month to a more appropriate level of nine. The caseload reduction is supported by a workload study we commissioned from the National Institute of Corrections last year.

Second, we request \$1,127,000 to establish two additional teams of officers in the Transitional Interventions for Parole Supervision, or TIPS, program. TIPS officers work with inmates transitioning to the community through Community Corrections Centers, or halfway houses. These officers investigate and verify the inmate's release plan, work with the inmate to secure employment, and initiate referrals to treatment, education, training, or other support services. TIPS officers' involvement ensures that the inmate makes a seamless transition from the institution to the community, with no break interruption of supervision.

The volume of TIPS investigations has remained consistent throughout the three years since the program was established. However, during this period, the average length of stay for inmates in halfway houses has decreased. This means our officers have less time to complete each investigation. Moreover, an increasing number of inmates are transitioning directly from prison to the community with no halfway house stay. For these inmates, the release plan must be verified within a very short time. The additional funding for staff would ensure that release plan verification and case planning are completed in a timely manner despite the shorter timeframes within which officers are working.

Finally, we request \$1,300,000 to relocate approximately 70 diagnostic and interstate supervision staff from Building B of the D.C. Superior Court to other office space in close proximity to the court. Building B must be vacated due to renovation of the space for the new Family Court.

## CLOSE SUPERVISION

CSOSA's second Critical Success Factor is Close Supervision. We believe that a system of close supervision, based on clearly defined expectations and graduated sanctions for offenders and defendants who violate those expectations, will result in increased accountability and decreased recidivism among our population. The primary means of enforcing accountability are regular contact between the offender and his or her supervision officer and testing the offender for drug use.

For sufficient meaningful contact to occur, the officer's caseload must be manageable. We have set a target of 50 offenders per officer for general supervision cases and have made consistent progress toward that target. Last year, the average general supervision caseload was 64 offenders per officer. With the addition of Pretrial Supervision Officers funded in fiscal year 2002, PSA's caseload will be reduced from 95 defendants per officer to 83.

CSOSA will dedicate 48 percent of its fiscal year 2003 budget to activities in this area, and we request funding for three new initiatives. Our first new Close Supervision initiative totals \$3,633,000 and would establish five general supervision teams and a new field office within the Community Supervision Program. With the addition of these staff, CSP's general supervision caseload will reach the target level of 50.

The second new initiative would provide \$569,000 for the Pretrial Services Agency to develop and establish a community-based Day Reporting Center. The Center will expand the available supervision options for higher-risk defendants by offering non-

residential intensive supervision with a variety of substance abuse, education, and life skills programs.

For our third initiative, we request \$2,238,000 to increase offender drug testing. This will fund new positions for specimen collection at the field offices scheduled to open in fiscal year 2002 and fiscal year 2003. The request also includes \$1,100,000 for the chemicals and supplies used to process drug tests. Drug testing is critical to both needs assessment and supervision. Offenders who are using drugs are more likely to need treatment and pose a greater risk of committing new crimes.

Late in fiscal year 2000, CSOSA began requiring all offenders entering supervision to be tested twice weekly for eight weeks. Testing then gradually decreases as the offender demonstrates abstinence. Under this policy, an offender who uses drugs can be placed on a more intensive testing schedule as a sanction for use. Full implementation of this policy contributed to a 233 percent increase in the total number of drug tests between fiscal year 2000 and fiscal year 2001. The requested funding would meet the full cost for testing chemicals and supplies under this policy.

Increased testing reinforces offender accountability. Each positive test is treated as a violation of release conditions and is sanctioned. Sanctions include increasing the frequency of testing, requiring the offender to check in daily with the supervision officer, or requiring the offender to attend a group meeting every day for a fixed number of days. If the offender continues to test positive, he or she will be referred to treatment or a residential sanctioning facility. The offender receives the message that drug use will not be tolerated and that violations will be punished. We believe that increased testing has begun to impact drug use among the supervised population: the average percentage of positive tests per month decreased from 28 percent in fiscal year 1999 to 23 percent in fiscal year 2001.

#### TREATMENT AND SUPPORT SERVICES

The third Critical Success Factor is Treatment and Support Services. These services provide the means through which offenders and defendants can establish stable, drug-free lives in the community. CSOSA will dedicate 23 percent of its fiscal year 2003 spending to this area, and we plan three new initiatives.

CSOSA initiated treatment for more than 1,000 offenders in fiscal year 2001 and continued services for 480 others. Over 800 defendants were also placed in sanction-based treatment last year. We have seen significant growth in the amount of treatment available to offenders and defendants over the past three years. In order to ensure that these resources are used effectively, CSOSA assesses all individuals referred to treatment for severity of need and commitment to treatment and recommends an appropriate placement.

As treatment availability has increased, the volume of referrals has also increased. In order to continue processing referrals in a timely manner, we request \$848,000 to expand CSP's Substance Abuse Treatment Branch. The additional staff would also allow CSP to better utilize existing staff who are certified addiction counselors and expand in-house treatment programs.

The defendants and offenders under CSOSA supervision need a range of services in addition to substance abuse treatment. The average offender has a fifth grade literacy level, poor job skills, and an unstable work history. CSOSA has established a network of learning labs to provide academic and vocational assistance to address these needs. We request \$464,000 to expand the learning lab program at the new field units scheduled to open in fiscal year 2002 and fiscal year 2003.

The third new treatment initiative, totaling \$884,000, would provide mental health services to the defendant population. These services would include case management and referral to community-based mental health treatment services for a rotating caseload of 180 defendants. Further, this initiative includes 50 contractual, residential treatment slots for defendants with concurrent substance abuse and mental health disorders. PSA launched a pilot mental health program in fiscal year 2001. This program reached its capacity within 90 days, demonstrating the need to expand mental health services available to defendants. Numerous studies have established a strong association between serious mental illness and criminal activity, including violent crime. An even stronger association exists when the mentally ill individual also has a substance abuse problem. Some studies have shown that placing the mentally ill into appropriate treatment programs reduces the likelihood of a return to jail.

#### PARTNERSHIPS

Our fourth Critical Success Factor is the establishment of Partnerships with the police, the community, and other criminal justice agencies. CSOSA will dedicate 4 percent of its fiscal year 2003 budget to activities in this area.

Although we are not requesting additional funding in this area, we have developed a new initiative of which we are very proud. Last fall, we began to work with the city's faith-based institutions on a pilot program through which returning offenders can access the resources and services available through houses of worship. During the weekend of January 11, nearly 40 faith-based institutions devoted their worship services to a discussion of offender re-entry and pledged to recruit mentors to work with offenders returning from prison. Since then, interest has remained high. We are on track to begin training mentors next month. We hope the mentoring program will be the first expression of a long, fruitful collaboration between CSOSA and the faith community that will increase opportunities for returning offenders and, as a result, decrease recidivism.

#### INFORMATION TECHNOLOGY

CSOSA achieved significant improvements in information management in fiscal year 2001. The Agency designed, built, tested, and deployed two separate custom-designed case management applications, one for defendant management and one for offender management. The new applications replace outdated legacy systems. Both will greatly enhance the information available to the supervision officer, as well as the quality and availability of program data.

Our final program request is \$280,000 for PSA to purchase and pilot test a strategic planning software package designed to facilitate the integration of performance and budget data. If the pilot test is successful, the software will be implemented throughout CSOSA.

#### CONCLUSION

CSOSA continues to accumulate evidence that our supervision approach is contributing to a safer District of Columbia. Both the number of parolees rearrested and the rate of rearrest have dropped significantly in the three years since the TIPS program began. The number of parolees rearrested dropped 63 percent; the rate of rearrest is down more than 33 percent. We are beginning to study the effects of our supervision model on probation rearrests as well.

We are beginning to see the effects of our drug testing and treatment programs. Although we are testing more people for more drugs, the rate of positive drug tests among probationers and parolees has fallen 15 percent since fiscal year 1999. Among a sample of offenders who completed treatment in fiscal year 2001, positive drug tests dropped more than 50 percent. We are studying treatment placements and outcomes this year to determine whether the promising results of that sample hold true for the entire treatment population.

We at CSOSA are very proud of the difference we have made to offender and defendant supervision and our positive impact on public safety. We thank the Subcommittee for its past support, which has made our success possible. This concludes my prepared statement. I will be pleased to respond to any questions you may have.

Senator LANDRIEU. Ms. Jones.

#### **STATEMENT OF CYNTHIA JONES, DIRECTOR, PUBLIC DEFENDER SERVICE, DISTRICT OF COLUMBIA**

Ms. JONES. Good afternoon, Madam Chair and members of the subcommittee. My name is Cynthia Jones and I am the Director of the D.C. Public Defender Service. I appreciate the opportunity to come before you today to discuss the agency's fiscal year 2003 budget request.

For fiscal year 2003, PDS requests \$23,956,000 and 218 FTE. If the President's initiative is not fully funded, our request goes to \$23,070,000.

The Public Defender Service provides constitutionally mandated legal representation to indigent people facing the loss of liberty in the District of Columbia. While much of our work is devoted to ensuring that no innocent person is ever wrongfully convicted of a crime, we also provide legal representation to mentally ill people who are facing involuntary civil commitment, recovering substance abusers who are participating in the highly successful Drug Court program, and juveniles in the delinquency system who suffer from

learning disabilities and require special accommodations under the Individuals with Disabilities and Education Act.

In the District of Columbia, PDS and the District of Columbia courts share the responsibility for providing constitutionally mandated legal representation to indigent people. Approximately 100 lawyers on staff at PDS are appointed by the court to represent the majority of the people facing the most serious felony charges, the majority of juveniles in the delinquency system, nearly 100 percent of all parolees, and the majority of the people in the mental health system facing involuntary civil commitment.

Under the Criminal Justice Act, the District of Columbia courts appoint over 200 other pre-selected private attorneys to handle the less serious felony cases, misdemeanor cases, and the neglect and abuse cases.

In fiscal year 2002, PDS was very successful in instituting changes to improve the overall quality of the District of Columbia justice system. We filed a successful class action lawsuit against the U.S. Parole Commission in the U.S. District Court. As a result, the court ordered the U.S. Parole Commission to reform its procedures for handling parole revocation cases.

We also created a training and certification program for CJA criminal investigators to make sure that only competent and qualified people were assisting the court and providing representation. We also created several other training programs for the CJA Bar, including a very in-depth training seminar on special education advocacy and juvenile delinquency.

One of our biggest achievements in fiscal year 2002 was the OPTIONS mental health treatment program in collaboration with the Corrections Trustee, CSOSA Pretrial Service Agency, the D.C. Department of Mental Health and the courts. We created a substance abuse treatment for nonviolent offenders to provide them with not only mental health treatment and counseling, but to get them social work, to get them into medication programs, and to provide them with housing. The OPTIONS program has been highly successful and has been fully incorporated into the District of Columbia Government Commission on Mental Health.

For fiscal year 2003, the Public Defender Service has just two initiatives: the Parole Revocation Defense initiative and the DNA Sample Collection Response initiative.

As you know, in August of 2000, the U.S. Parole Commission assumed responsibility for handling parole matters for all D.C. code offenders. With the strict accountability measures employed by CSOSA to ensure that all parolees are in line with community supervision standards, not surprisingly there has been an increase in the number of parolees who are facing revocation. According to CSOSA figures, in fiscal year 2001, the parole rearrest rate was 21 percent. Out of an average monthly population of 3,846 parolees, 815 were rearrested last fiscal year. PDS represented nearly 100 percent of them. This current fiscal year in the previous 4 months, there have been 160 parolees rearrested, a rate of 40 parolees per month. That does not include the number of parolees who are facing revocation based upon noncompliance with technical community supervision requirements.

We request four additional positions to handle the parole revocation cases.

The other initiative is the DNA Sample Collection Response initiative. The use of DNA evidence in criminal cases is on the rise, and at least two statutes have been passed in the District of Columbia to expand the use of DNA evidence in criminal proceedings. In order to keep pace with this trend and continue to provide the same quality of constitutionally mandated legal representation in the growing number of DNA-based criminal cases, PDS seeks two additional positions and funding for expert services.

#### PREPARED STATEMENT

I respectfully request your support of these initiatives, and I would like to thank you and the members of the committee for your time and attention to these matters. I will be happy to answer any questions you might have.

[The statement follows:]

#### PREPARED STATEMENT OF CYNTHIA E. JONES

Good Afternoon, Madam Chair and members of the Subcommittee. My name is Cynthia Jones, and I am the Director of the Public Defender Service for the District of Columbia (PDS). I appreciate the opportunity to come before you today in support of the Agency's fiscal year 2003 budget request.

As a result of the National Capitol Revitalization and Self-Government Improvement Act of 1997 (the "Revitalization Act"), PDS was established as a federally-funded, independent District of Columbia agency. The Revitalization Act requires PDS to transmit its budget and receive its appropriation through the Court Services and Offender Supervision Agency (CSOSA). The Public Defender Service provides constitutionally-mandated legal representation to indigent people facing a loss of liberty in the District of Columbia. While much of our work is devoted to ensuring that no innocent person is ever wrongfully convicted of a crime, we also provide legal representation to mentally ill people who are facing involuntary civil commitment, recovering substance abusers participating in the highly successful Drug Court treatment program, and juveniles in the delinquency system who suffer from learning disabilities and require special educational accommodations under the Individuals with Disabilities in Education Act.

For fiscal year 2003, PDS requests \$23,956,000 and 218 FTE in direct budget authority, which includes a request for 6 new FTE and \$874,000 to support two new initiatives.

Taking into account the President's initiative of making each agency directly responsible for funding federal retiree pension and health benefits, this represents a 10.7 percent increase over fiscal year 2002.

In the District of Columbia, PDS and the District of Columbia Courts share the responsibility for providing constitutionally-mandated legal representation to indigent people. Approximately 100 lawyers on staff at PDS are appointed to represent:

- the majority of people facing the most serious felony charges;
- the majority of the juveniles facing serious delinquency charges;
- nearly 100 percent of all people facing parole revocation; and
- the majority of people in the mental health system who are facing involuntary civil commitment.

Under the Criminal Justice Act, the District of Columbia Courts appoint over 200 pre-selected private attorneys ("CJA attorneys") to handle the less serious felony cases and the majority of the misdemeanor and traffic cases. The cases assigned to PDS are generally the more complex, resource-intensive and time consuming criminal cases that would be very costly if litigated by CJA attorneys who are paid on an hourly basis.

#### FISCAL YEAR 2002 ACCOMPLISHMENTS

In fiscal year 2002, in addition to handling a constant volume of over 10,000 criminal, juvenile, parole, mental health and other legal matters, PDS was very successful in instituting changes to improve the overall quality of the District of Colum-

bia justice system through litigation and very successful collaborations with other criminal justice agencies.

#### COURT-ORDERED CRIMINAL JUSTICE REFORMS

First, PDS initiated litigation in the United States District Court to challenge a District of Columbia statute which did not comply with constitutional Due Process standards. The United States District Court agreed, and the issue is now before the United States Supreme Court in a separate case involving the same legal issue.

Second, PDS filed another successful class action lawsuit in the United States District Court in order to force the United States Parole Commission to reform the manner in which the agency adjudicated parole revocation cases involving DC Code Offenders. The federal court agreed that the U.S. Parole Commission's procedures were unconstitutional and ordered the Agency to make critical reforms.

In another case, PDS was successful in convincing the Superior Court to find that the grand jury practices of the local United States Attorney's office were a violation of local law, and major changes were ordered by the court to better protect the rights of people subpoenaed to the grand jury as witnesses.

#### CRIMINAL JUSTICE COLLABORATION PROJECTS

In addition to these large-impact litigation cases, PDS also initiated the OPTIONS mental health treatment program in collaboration with the Corrections Trustee, the CSOSA Pretrial Services Agency, the DC Department of Mental Health, and the Courts. The OPTIONS program provides comprehensive treatment and social services to people with mental illness who are charged with non-violent offenses in order to prevent recidivism and promote healthy rehabilitation. In the short time that it has been in existence, the program has been incredibly successful assisting nearly 100 people with mental illness by providing counseling, medication, housing and other critical social services. The participants in the OPTIONS program are members of a class of offenders who have traditionally been a high risk for successive re-arrests in the absence of effective treatment. Through the comprehensive services provided in the OPTIONS program, the re-arrest rate among program participants has declined. This pilot program has now been fully incorporated into the DC Department of Mental Health and will be a permanent fixture in the DC criminal justice system to better serve people with mental illness.

Similarly, PDS worked closely with the Courts and the Corrections Trustee to create a consolidated financial management system for the issuance, processing and payment of vouchers under the Criminal Justice Act. The new system allows the Court to maintain better, more efficient financial control and oversight of its CJA budget and requires minimal participation by outside agencies. This new automated system fundamentally reforms the process for payment under the Criminal Justice Act by centralizing the accounting and payment functions with the Courts.

Finally, PDS continued its tradition of providing in-depth training courses for court-appointed CJA attorneys in order to improve the overall quality of the defense bar and promote the maximum economic efficiency in providing legal representation to indigent people.

- The Public Defender Service produced the Criminal Practice Institute Practice Manual, an 1,800-page, comprehensive treatise on criminal law in the District of Columbia. Over 600 copies of this manual have been distributed to the judges on the District of Columbia Courts, the United States Attorney's Office, the Bureau of Prisons, area law schools and the private bar.
- The Public Defender Service sponsored the 37th annual Criminal Practice Institute training conference, a 3-day event involving seminars by nationally-known speakers, law professors, legal scholars, local judges and criminal justice practitioners. Over 200 lawyers attended the 2001 conference.
- The Public Defender Service sponsored over 14 other training sessions for CJA attorneys throughout the year, including in-depth training seminars on Special Education Advocacy and Juvenile Delinquency.
- The Public Defender Service initiated the creation of a training and certification program for all CJA criminal investigators in order to ensure that only competent, well-qualified people were appointed by the court to assist private lawyers investigate and prepare cases. The Superior Court adopted the PDS proposal and implemented the mandatory training requirement for all CJA investigators in criminal cases. Senior PDS investigators and PDS staff attorneys prepared the training materials and coordinated the training sessions on all aspects of criminal investigation. All CJA investigators should complete the training and receive certification by the end of this fiscal year.



Each of the court ordered reforms and successful collaboration projects have improved the quality of services provided to indigent people in the District of Columbia justice system and have contributed to a better, more efficient criminal justice system. With the on-going development and implementation of the PDS Community Defender Program to provide legal assistance and community re-entry support to people under criminal justice supervision, PDS hopes to continue to work closely with the other agencies in the criminal justice system for positive change and reform.

#### FISCAL YEAR 2003 REQUEST

For fiscal year 2003, PDS seeks to build on the current successes of the agency with two new initiatives: The Parole Revocation Defense Initiative and the DNA Sample Collection Response Initiative. The total request for these two initiatives is \$874,000, for a total fiscal year 2003 budget request of \$23,956,000.

#### PAROLE REVOCATION DEFENSE INITIATIVE

In August 2000, the United States Parole Commission assumed responsibility for handling parole matters for all DC Code Offenders. At that time, PDS began representing all parolees facing parole revocation proceedings. In the first full year, PDS handled over 700 revocation matters. With the current strict accountability measures employed by CSOSA to ensure that all parolees are in line with community supervision standards, not surprisingly, there has been an increase in the number of people facing parole revocation. Currently, PDS handles 70–100 new cases each month. This is a nearly 80 percent workload increase. The current number of staff attorneys assigned to handle parole matters cannot absorb the steadily increasing parole revocation docket without adversely affecting our ability to provide legal representation in trial, mental health, and other legal matters. Thus, we are seeking additional legal and administrative staff. We request 4 FTE and a total of \$447,000 to enable PDS to continue to provide this constitutionally-mandated legal representation.

#### DNA SAMPLE COLLECTION RESPONSE INITIATIVE

In 2001, the Council of the District of Columbia passed the DNA Sample Collection Act that mandates that persons convicted of felony offenses (and certain misdemeanor sex offenses) submit a DNA sample for inclusion in the FBI database for use in solving future crimes. In addition, the DC Council has also passed the Innocence Protection Act, which allows persons convicted of crimes in the District of Columbia to litigate post-conviction claims of actual innocence based on DNA and other evidence. The combined effect of these two new laws is an increase in prosecutions based largely or exclusively on DNA evidence. In order to provide the constitutionally-mandated legal representation in this growing number of DNA-based criminal cases, PDS seeks 2 FTE and \$427,000 to hire experts and staff to assist with the science of DNA, population genetics and other technical and scientific areas involved in this type of litigation.

I respectfully request your support of both of these initiatives and I would like to thank the members of the committee for your time and attention to these matters. I would be happy to answer any questions the committee might have.

Senator LANDRIEU. Thank you, Ms. Jones. I appreciate you all keeping your testimony concise, and any additional information please feel free to submit to the record.

#### OFFENDER POPULATION

Let me begin, Mr. Ormond, with you. There are so many questions that I could ask in such a limited time, but I would like to just flush out a few things.

In our preparation for this hearing, our staff had some difficulty receiving some detailed information about the profile of prisoners within the Federal system. And the reason I raise that in terms of their age, their background, et cetera, there did not seem to be information at our fingertips.

My question would be, how is it possible either to anticipate the prisoners coming out into the community, in terms of what their

needs might be, if we are not able to have an accurate profile of the 6,000–7,000 in the system that are coming back into the District each month at approximately, from what we can gather, 120 per month on average?

How are you managing to anticipate who is coming out of the prison system back into the community so that you can help to either reorient them, prepare them for reentry, and most importantly protect the public and ensure public safety?

#### RE-ENTRY INTO THE COMMUNITY

Mr. ORMOND. We initiated 3 years ago a transitional program that really allowed us to put our staff parole officers in the halfway houses ideally to work with the men and women for 120 days. Given the fact that people are throughout the country now, that was probably the most fixed place that we could control the population.

During that time, we are assessing people. We are also getting a sense of what both their criminal profiles are, as well as their treatment needs. About 60 percent of the men and women that we are serving have significant drug abuse kinds of issues. If we look at one profile of the geographical location, about 19 percent of those people were violent offenses, about 50 percent were drug-related offenses, which really told us that we really needed to focus on those drug-related kinds of issues, even the technical violations and revocations are basically drug-related.

A small percentage, about 5 percent, were sex offenses, and we had to begin to focus on those sex offenses.

We are seeing some increase in domestic violence, and again it forced us to make sure that our interventions around domestic violence were current to the needs that we were seeing in the population.

So, again, for us we do a fairly thorough assessment both at the Karrick Hall facility, which is a 28-day program that allows us to have a good profile of the needs of individuals transitioning back before they actually go into the community, as well as our staff working in the halfway houses that are assessing folks, developing plans, assessing their residential needs or employment needs prior to them actually coming under supervision. So, that is the intervention that we have in place thus far.

Senator LANDRIEU. So, you are testifying that 100 percent of everyone coming out of the system goes into the 30-day assessment period and then 100 percent of that population goes into a halfway house and then out into the community. Are we catching everyone or are we missing some people?

Mr. ORMOND. No, that is not exactly the testimony. Right now and probably recently, we are seeing roughly about 45 percent of folks that are coming directly from the institution to the community.

Senator LANDRIEU. So, we are only either providing services, as limited as they might be, to about 55 percent of the population; 45 percent is going directly from prison back into the population without the benefit of either assessment or transition. Is that what we are establishing here?

Mr. ORMOND. They really are not getting the transition that we would prefer. Ideally we want at least 120 days of transition time to do the assessment, to be clear about the profiles. Particularly now because people are in various jurisdictions throughout the country, we need that time. So, we are seeing a significant number of people that are leaving the Bureau of Prisons coming directly to the community without the benefit of transition, and we need to address that. Hopefully, with expanding the services at Karrick Hall or wherever we decide to place that program, we can capture a significant number of folks.

But in addition to that, we are finding ourselves in a position of having to assess people, once they are actually in the community, which is not the most ideal way of intervening with the population that we are serving.

Senator LANDRIEU. Have you estimated, Mr. Ormond, what it would either cost or what would have to be configured or restructured to allow us to try to, at a minimum, get 30 days or 60 days of profile and evaluation before the person entered the community? Do you have any figures that you could submit to us on what it would take financially or otherwise to see that that would occur?

Mr. ORMOND. Yes. I would be pleased to submit those figures to the committee. I do not have them at this point, but I really would like to get those figures back to you.

Senator LANDRIEU. I realize that that is probably a goal for every community in the Nation, and based on fiscal constraints and other constraints, it may not be possible. But I think it would be a goal worth working towards so that we could have a clear profile of a person leaving the system and a plan for their reentry, obviously for public safety, number one, but also as an opportunity to try to give this individual a second chance if they would so grasp it. Some will and some will not, but it would be a benefit.

So, if you could submit that to the committee.

#### DRUG TREATMENT

Let me ask something about drug testing because, as you stated, the vast majority—and I think you stated for the record 50 percent of more—had drug-related offenses. I would assume most of those had a drug problem.

Mr. ORMOND. Yes.

Senator LANDRIEU. So, when they come from the Bureau of Prisons back into the community, one of our primary objectives would be to assess that these individuals are remaining drug-free.

Mr. ORMOND. That is correct.

Senator LANDRIEU. And could you describe the system that we use now to ascertain that information and talk to me a little bit about the expense of it or the way it is actually conducted, the kinds of tests, the frequency of tests, and the general outcome of those tests.

Mr. ORMOND. Well, again, there are two phases. The first phase, ideally the transition phase. Right now, roughly 50 percent of the people are getting that. During that period, we do a thorough assessment, and we are also testing them twice a week to make certain that as they begin to enter the community, they are not using drugs.

Now, we also introduced a zero tolerance policy about 3 years ago that if you get a positive urine once you are in the halfway house, we would remand you back to the jail for at least 30 days just to reorient you to kind of get you focused again and try the transition process again, assuming that the U.S. Parole Commission supports that.

Once they complete transition, our policy within CSOSA is each person gets 8 weeks of drug tests twice a week. If they test clean, they get an additional 4 weeks once a week. If they test clean, we begin to do monthly spot checks from that point forward because, again, the accountability around drug testing is critical given the population profile that we are seeing at this point.

Senator LANDRIEU. Let me ask you this. Are you aware of any better technologies other than the current testing system that you are using that you would like to have at your disposal that would either be less intrusive, that would give us more accurate information? I understand that there are some advantages and disadvantages to different types of tests.

Mr. ORMOND. We have looked at saliva testing. However, it really does not provide the rigor that would stand up against some of the challenges that we would probably get from PDS over time. Right now, the drug testing protocol is probably the most tested science that we have that would really stand up against the challenges.

Now, we also initiated a pilot program last year just to look at saliva testing as a prescreener. We see that as being far more cost effective, but we would still need the regular drug testing, the urine screens, that would give us the rigor of confirmation and the chain of custody that would be required to really stand up.

Senator LANDRIEU. I am somewhat familiar with a program that we have piloted in Louisiana about using hair analysis. Do you have any information about that? Because the information that I have—and this is just on a very small pilot that we have helped to fund, and it is used not for offenders but for students in school, a system that is less intrusive. It is, of course, voluntary, et cetera.

But the reliability seems to be very high. The evidence of drugs cannot be washed or bleached out. It is non-intrusive and there are advantages there. There's increased detection efficiency. Hair testing can detect drug use in the previous 90 days so that there is a long lead time, if you will, about trying to determine if someone is violating the conditions of their parole.

The disadvantages would be—and that is why I ask you—the cost seems to be a little bit higher.

But I just would be interested if you had ever heard of this or had explored this as an option and just dismissed it because of the cost.

Mr. ORMOND. We also had some concerns about the fact that it really does not get recent use with the level of sensitivity that we would require because our basic protocol is to do quick responses as soon as the person begins to use the drugs. I think the hair testing does good after long-term use, but with recent use, it really does not get the level of sensitivity that we would need. But we have explored both saliva and hair testing.

## SUPERVISION CASELOAD

Senator LANDRIEU. Let me ask this just to get our hands around the numbers here. You testified that you have approximately 23,000 individuals under sort of the jurisdiction of your agency. And how many personnel do you have? 1,200 approximately?

Mr. ORMOND. Well, as far as our community supervision officers, we have about 271 community supervision officers.

Senator LANDRIEU. But total personnel.

Mr. ORMOND. 956 FTE.

Senator LANDRIEU. That would be about, if my math is correct, 200 to 1. Is that about right?

Mr. ORMOND. 200 to 1?

Senator LANDRIEU. Is that correct? Yes. 1,200 FTE. So, that is about 200 to 1. Now, I know that is all personnel compared to the population that you are serving. That is one way to measure it. The other way to measure it is your case load.

Mr. ORMOND. Exactly.

## SEX OFFENDER REGISTRY

Senator LANDRIEU. But either way you are measuring it, can you give us any reference point to other jurisdictions around the Nation? Are those ratios high or low in terms of our trying to deliver effective services? Do you have any information about that?

Mr. ORMOND. Well, the ratios are still much higher than we would prefer. I think the general rule of thumb is about 50 to 1. We are probably at 64 to 1 now. That is with about 271 community supervision officers and with an active and monitored population that is roughly around 3,600 or 3,800 at any given point in time. We still feel a significant need, particularly with the sex offenders, the mental health population, and some of the substance abusers. We really still need to reduce those caseloads.

In addition to that, our diagnostic staff caseloads are around 14 to 1. I think the U.S. Probation is probably around 6 to 1. So, we have to, again, significantly reduce those caseloads.

Senator LANDRIEU. So, it is about double that amount.

Mr. ORMOND. Exactly.

Senator LANDRIEU. Let us talk about the sex offenders for a moment because that is a real hot button issue, as you know, everywhere within the community. Our information shows that CSOSA established a sex offender registry for the District. Currently there are 585 sex offenders registered. It is your obligation to forward the information to the Metropolitan Police Department which has the responsibility for handling public notification. It is unclear to us whether CSOSA plays any role in following up with the police department's efforts. So, could you comment about that? And can you comment about any public notification that the police department is doing that you are aware of that you support or think should be enhanced?

Mr. ORMOND. Well, first, we developed an automated system with the police department so all of the sex offenders that are registered are electronically transferred to the police department. There is also notification in the precincts. That notification process

is going fairly well. There are some challenges against the notification.

But as far as the registration itself, it is all automated. We are connected also with the FBI. So, we are able to constantly communicate with the police department around those sex offenders.

In addition to that, because we have geographically specific supervision and we are collaborating with the police department, within each of the police service areas. We are constantly communicating with the police around those high risk offenders.

We also have a special transition program for the high risk sex offenders that we provide substance abuse treatment, as well as sex offender treatment, before they are actually able to transition from the halfway house into the community. So, there is pretty stringent monitoring on that population and communication with the police department.

Senator LANDRIEU. Well, that is very good to hear. But do you know if the public has access to that registry? Is there any requirement in the District for that registry to be listed, as it is in some jurisdictions? The neighborhood has to be notified if there is a sex offender living in the neighborhood.

Mr. ORMOND. The registry is at the police precinct. I am not quite sure about what the notification procedures are. We will have to get that information back to you.

Senator LANDRIEU. Do you know, Ms. Jones, by any chance?

Ms. JONES. Yes. The Metropolitan Police Department has a website and they also have a book at the police station where they list the pictures and the names of the people who are sex offenders.

There was a legal challenge to the statute and those procedures in that it did not give people who were listed as sex offenders the opportunity to say, that is not me, I am not the James Brown that you think I am and I should not be in the book, or to say I was a juvenile at the time and my record was expunged. So, the legal challenge is going on regarding those kinds of cases, but the system is in place.

Senator LANDRIEU. But the website is still up.

Mr. ORMOND. Yes.

Senator LANDRIEU. And will stay up until that legal challenge is either successful, and then it will have to be taken down and reconstructed or it will have to be removed?

Ms. JONES. Unless the court orders otherwise. Right now I believe it is up and the book is still—

Senator LANDRIEU. But it is still up. To your knowledge it is kept up pretty regularly? I have not looked at it myself, but I may after this committee hearing.

Ms. JONES. That is my understanding, that it is kept regularly.

Senator LANDRIEU. Could you please, staying on this general topic, talk to us a minute about what specific programs are offered to offenders convicted of child abuse or domestic violence? And if you could take each one separately and walk us through how your agency would prepare a child abuser to come back into the community but, more importantly, sort of back into whatever family unit they came from. Could you describe briefly that kind of process and any kind of effective programs where you are seeing any real re-

sults in terms of turning people around and really stopping that behavior, et cetera?

Mr. ORMOND. Let me start with the sexual child abuser. Again, for a policy that profile of offender has to go through the halfway house. Really, they do not have any options, and they are not allowed to leave that halfway house until we have completed a comprehensive assessment and we have also gotten treatment vendors working with that person as we begin to transition him out.

We have a sex offender unit that works specifically with them. It is a much smaller caseload. Right now it is probably around 25 to 1 because we put a lot of time and energy making sure that the monitoring of this population was very, very closely provided.

In addition to that, they do have to register, so we have another level of supervision through the registration. That is the sex offenders. We are feeling pretty comfortable with our treatment interventions. There are groups that they have to attend. There are specialized treatment they have to attend. So, the monitoring and intervention has been good with that population of sex offenders.

With the domestic violence population, we use the Duluth model. They go through 28 weeks of intensive treatment. There is a screening that we also are engaged in to work with that population. Again, we have a specialized unit and specialized caseloads working directly with that population.

Senator LANDRIEU. Is there any provision in that system, though, for the victim to have some input into that counseling or reintegration system? You know, the spouse that was battered. Is there any way that they can express their views about this going on, about their batterer coming out of prison?

Mr. ORMOND. We actually have a separate victims program, but in addition to that, reunification issues are something that we assess, particularly as people transition through the halfway houses. At that point, any significant others that are a part of that transition process—and more often it is the victim—we work with those folks, particularly if they are going to have contact with them as they transition back into the community. Beyond that, it is purely a notification process.

Senator LANDRIEU. I think that is a very, very important aspect that probably sometimes gets overlooked. There are agencies that are looking out for the convicts and the felons and the lawbreakers, but sometimes we fail to support the victims in terms of that reintegration and for a family situation whether the family has stayed together or has been separated because of this situation, if these individuals are living in the same community, it can make it very, very difficult for the victims, spouses, but also children. It can be frightening. So, I just wanted to pursue that line.

#### TRANSITION BACK INTO THE COMMUNITY

Let me ask, could you describe just briefly for the record? I am assuming some of these halfway houses are private contractors or all of them are private contractors?

Mr. ORMOND. Most of them are private contractors. I think the Department of Corrections runs one halfway house out of the halfway houses that are being administered in the city.

Senator LANDRIEU. What is sort of the general per diem that these halfway houses charge? Is there a range of per diem that they charge per day for this work?

Mr. ORMOND. It varies. I do not have those exact figures because we do not contract with halfway houses. Our contracts are either with the Department of Corrections or the Federal Bureau of Prisons.

Senator LANDRIEU. So, they do the contracts for the halfway houses.

Mr. ORMOND. Yes.

Senator LANDRIEU. But you have to be responsible for getting them out of the halfway houses into the community?

Mr. ORMOND. Well, we basically put our staff in the halfway houses even though the offenders are technically under the jurisdiction of the Bureau of Prisons or the Department of Corrections during that transition period. But we felt it necessary to start the assessment, to start the interventions prior to them actually coming under supervision. But technically the folks are still in a pre-parole status under the jurisdiction of the Bureau of Prisons.

Senator LANDRIEU. Well, I would be very interested in that information because to me—and I am not saying that I would suggest a change, but I would be very interested because your agency has actually more at stake than the Bureau of Prisons. The Bureau of Prisons is happy to get rid of people, of which they have too many, and are happy to get them out.

But your agency's job is to make sure that they are safely integrated into the community. So, the quality of the work that goes on at the halfway house would be really very important, if I were in your position, to make sure that I have the tools I need to help make sure that they are not out back in the community committing more crimes and causing general disruptions, et cetera.

Mr. ORMOND. If I may add.

Senator LANDRIEU. Please.

Mr. ORMOND. One of our initiatives this year is the transitional treatment program to add staff to support those halfway houses for the various reasons that you stated.

Senator LANDRIEU. I would be interested in that.

Let me see here. Then I will get to you, Ms. Jones. Let me ask about the D.C. General Hospital site. There are some promising developments in my opinion about the development of that site. But you have Karrick Hall there, which is your primary transition facility.

Mr. ORMOND. Yes.

Senator LANDRIEU. Do you know if these new plans include you or not, and if not, where do you think you might be relocated?

Mr. ORMOND. We have been working with the city in this planning process. The current plan basically is proposing that we stay in Karrick Hall as an interim solution for a period of 2 to 3 years, and after that period, a permanent site would be identified.

Our concern is that because we got funding in the '01 budget to start capital improvements of Karrick Hall and March 31st will be a period of decision for us, that we are very aggressively looking at some other alternatives because some of the dynamics around D.C. General are so uncertain right now. We really do need to start



the process of developing some transitional options that Karrick Hall would afford us. But we are aggressively working with the city to identify additional sites, particularly if we do not feel comfortable after March 31st that we will get a permanent commitment from the city in reference to the site at D.C. General.

Senator LANDRIEU. Let me ask if you could comment. I am assuming you saw the article in the paper this morning about the challenges of prisoners being so far away from families. This is not the only subset of prisoners that I am aware of that have this problem. There are many prisoners that have this problem, and there are some limited solutions.

But have you given any thought to this or would you just like to go on the record with some of your general thoughts about any potential solutions or suggestions, particularly in terms of integrating back into the community, ways that we could improve the fact that some of these prisoners are more than 500 miles away, making it virtually impossible for family members, particularly those on limited means, to have any sort of contact, which is important when you are trying to rehabilitate people, or at least to get them back into a productive state.

Mr. ORMOND. We have a steering committee now, working with the city, to really look at a comprehensive approach to transitioning people back into the community. One of the options is to really look at teleconferencing, particularly for people in the various jurisdictions, as a pre-release option. The Federal Bureau of Prisons is also putting policies in place that will enforce a certain level of pre-release planning prior to people coming back, but again, it is going to have to be electronic communication at this point.

But we feel very, very strongly that transition needs to be absolute for 100 percent of the people that are transitioning back because people are in so many different jurisdictions. The mothers particularly because most of the women that are incarcerated have at least one child, and that reunification process is so absolutely critical. We need that period of transition, at least 120 days, in some cases 6 months to a year, to assist in just addressing some of the core needs of developing and addressing the demands of adult life. I mean, it is just very, very critical at this point. So, again, 100 percent transition, at least 120 days, is something that we are really pushing.

Senator LANDRIEU. Two questions. What percentage of your population is male and what percentage is female?

Mr. ORMOND. Probably roughly about 90 percent male.

Senator LANDRIEU. 90 percent male, 10 percent female?

Mr. ORMOND. 10 or less female.

Senator LANDRIEU. Is there a priority for the closest beds to the District being given to custodial parents with small children? Have you at least thought about requesting to have preference given to custodial parents? Because the idea is to punish the offender or the criminal but not to punish the children. We would like to try to minimize the punishment to the innocent children, even if you are going to maximize punishment to the adults. Is there any such preference in our placement law that you are aware of?

Mr. ORMOND. I do not think there is a preference in the law. I think there was a lot of community concern and initially a lot of support around having particularly a prison for women within the geographical boundaries of D.C. because most of these women do have children, and trying to maintain those bonds in some system of reunification was very, very critical. But to my knowledge there is not a stated preference at this point.

Senator LANDRIEU. So, we do not have a women's prison.

Mr. ORMOND. No, we do not.

#### PUBLIC DEFENDER SERVICE PRIORITIES

Senator LANDRIEU. I just got a note that we have two back-to-back votes. I have got a few minutes. I would like to go ahead and finish the questions for this panel and then take a break. I will go vote and we will start the second panel so we can stay on time.

Let me just begin. Ms. Jones, if you could just repeat for us or express again some of the priorities that you see. If you could list one, two, or three in terms of the challenges that are before you in your budget that you have requested, what would be the number one or number two or number three item that you would really want us to leave this hearing with understanding about what you are trying to do or accomplish?

Ms. JONES. I think that number one clearly for us is parole revocation. There are a growing number of people who are returning to the community, as you know, who are on parole. We see they are at a rate of about 40 per month, which is more than 1 or 2 parolees per day, coming through on a rearrest charge. Although we are trying very hard to represent them, we are also trying to provide social services assistance, and we are trying to provide community reentry services. A lot of times the law has changed. The world has changed in 15 years, and some of the transition and rearrest problems are a result of people really not being adept to handle to that. So, we are requesting some additional positions to really enable us to provide those kind of services.

Often we find that you are disconnected with your family. You view the social workers and some of the people who are supervising you as the enemy, but you will listen to your lawyer who is trying to help you. So, we are hoping that we can expand the services in that area.

The DNA initiative is our second biggest and the reason why that is important is we, in the last 3 or 4 months, have seen a marked increase in the number of DNA cases. There are different kinds of DNA. I am learning about mitochondrial DNA, whatever that is. But we have been hiring experts, and it gets very costly. And the learning curve is very steep. We have a forensic practice group at the Public Defender Service right now of about 12 lawyers who are learning about the science of DNA and population genetics and all of those areas. But we would like additional funding to really stay up to speed and allow us to train the CJA Bar so that they can remain up to speed in this area as well. The additional funding we are seeking in our budget is just adjustments to base.

Senator LANDRIEU. I understand that this system is a result of two laws that were passed in 2001 requiring all persons convicted of felony offenses to submit a DNA sample. So, the database is

growing and we are becoming more effective in our prosecutions because of that information.

Ms. JONES. What we are seeing is a growing number of cases that are old cases and the prosecution is based either solely or largely on DNA evidence. So, there are not a lot of witnesses to cross examine, and you really have to know the science of DNA to effectively represent someone as a result of that database.

And then there is the Innocence Protection Act that has been passed in the District, which will also result in people who have been incarcerated seeking to have their conviction overturned because they are saying DNA was never performed and I was wrongfully convicted. The Public Defender Service will also get its share of those cases. Again, we would have to understand the science of DNA and hire experts to represent those people as well.

Senator LANDRIEU. How do you compensate your public defenders? What is your means of compensating them? Are there salaries or per hour, or what is that system? Can you describe it?

Ms. JONES. They are salaried on a GS pay scale. Although we are a District of Columbia agency, because we are federally funded, they are paid comparably with Federal defenders and the attorneys who work at the U.S. Attorney's Office, though not quite as high.

Senator LANDRIEU. Did we not just have an adjustment or a request for an adjustment last year in that regard? The courts, not this. Okay.

Can you just give me a rough estimate of what the starting salary is of a public defender?

Ms. JONES. Yes. The starting salary is approximately \$45,000, and the average salary for a public defender—people stay around 5 years—is around \$55,000 to \$60,000. I believe you were referring to the Criminal Justice Act. The court received funding. Those are the lawyers who handle mostly misdemeanor and CCAN cases, and they received an adjustment.

Senator LANDRIEU. Let me ask the final question here about juveniles with special needs education and how that interrelates to what your role is. Can you comment for the record about some of the challenges there?

Ms. JONES. We are finding increasingly, just as substance abuse remains a major factor for adults and linking them to criminality, a lot of times juveniles in the delinquency system come into the system with learning disabilities. They have been acting out in school. They got into a fight in school. They are not in the proper classroom. They are not receiving an accommodation for a learning disability, and it just sort of trickles over into other areas of their life and they find their way into the delinquency system.

As a result of that, the Public Defender Service has a total of three special education advocates, and they work full-time on nothing else other than finding appropriate educational placements for kids charged in the delinquency system.

By and large what happens is somewhere in their school records, when the delinquency lawyer begins representing them, there is some evidence that this child has a learning disability either that has not been properly diagnosed ever or has been diagnosed by D.C. Public Schools, but nothing has ever happened. The advocate then goes in and negotiates with DCPS and says you have to do

something to accommodate this child. We find the appropriate educational placement either within the system or at a private institution, and we seek to have DCPS place that child or we litigate with DCPS and say under the Individuals with Disabilities in Education Act you have to place the child.

Senator LANDRIEU. I just want you to know there is great concern among Members on both sides of the aisle about the, in our view, staggering costs of special education in the District and costs associated with the litigation, with the placement of children in some of these contract schools or a disproportionate number of special ed children being placed in these schools. This is not the proper time for those kinds of questions, but it is going to be a very important issue that we stay focused on until we can solve the problem for the District or try to help solve the problem for the District, as well as deal with this whole issue nationally because the costs are outstripping the resources. There has got to be some reform of the underlying law, as well as some reform of the advocacy and the placement of these children, the end result hopefully being that children get the services they need, but the taxpayers are not getting ripped off, if you will, by a system that is dysfunctional. Hopefully we can spend some time talking about that this year either with my committee or with the other committee of jurisdiction in the Senate.

Now, I am going to have to vote. Let me just check and make sure there is not anything.

Thank you all. This panel has been very good. We will take about a 10-minute break.

**STATEMENT OF HON. ANNICE M. WAGNER, CHAIR, JOINT COMMITTEE  
ON JUDICIAL ADMINISTRATION IN THE DISTRICT OF COLUMBIA  
ACCOMPANIED BY ANNE WICKS, EXECUTIVE OFFICER, D.C. COURTS,  
DISTRICT OF COLUMBIA**

Senator LANDRIEU. Our committee will resume.

We are now pleased to have our second panel of witnesses representing the D.C. courts. Judges, it is good to see you. We have Chief Judge Rufus King and Chief Judge Annice Wagner with us today.

As a relatively new quasi-Federal entity, the courts in my opinion have done a very good job during my tenure in communicating with this committee on your funding needs and keeping us informed of your progress. We are indeed grateful and pleased.

Additionally, I appreciate the tremendous effort that Judge Satterfield, the new Family Court Chief, and others have contributed to the formation of the Family Court.

Just briefly and for the record, as everyone here is familiar, over the last 2 years a surge of public pressure highlighted the faces of abuse and neglect in the District, faces of children who were victims of a system so disjointed and ineffective that they did not live to see the day when these major reforms are being implemented.

I commend the courts, the city, the child welfare advocates in the District and in Congress for collaborating on the creation of a Family Court.

I and I know my ranking member, who has spent a great deal of time and energy and has expressed such passion his commit-

ment to this, are committed to working hand in hand with the courts and the city to ensure that every child currently in the system benefits from this reform and does not suffer the fate of too many children that we have come to know in a very personal way.

Every child should be moving toward permanency as quickly and as effectively as possible. And let me be very clear. Every child that is removed from their home for whatever situation either should be moving back to be reunited with a family that has been treated and the opportunity to be reinstated and to be healthy and safe or they should be moving as quickly as possible to an adoptive home and only temporarily in foster care which supposedly is the way it was to operate.

This committee is committed to addressing resources and management issues of the Family Court because the judges are in a position, the most critical position, of making sure that our child welfare system actually works, that the laws are upheld, the time lines are met, and that justice is dispensed.

100 percent of the D.C. Superior Court's operating budget is paid for with Federal funds. Therefore, Congress has a unique obligation to ensure that the day-to-day operations of this court reflect the best practices in each and every area of the law under its jurisdiction. In fiscal year 2002, the Senate bill made it a priority to provide sufficient resources to implement the Family Court Act. If I am not mistaken, it was approximately \$23 million.

The Appropriations Committee, as I said, included \$23 million. We included a provision requiring review of the court's transition plan specifically to ensure effective implementation and accountability.

It was this committee's intent that if necessary, the court could use its operating expenses account to comply with the Family Court Act and reimburse the operating fund with Family Court funds, once they became available. Considering explicit report language and remarks made on the Senate floor, I am disturbed that the General Accounting Office has determined that the courts may not reimburse operating expenses with Family Court funds. I will work with the court and interested Members to resolve this issue as soon as possible. We do not want to have a situation where other court functions are deprived or where Family Court funds are left unexpended.

Additionally, I am looking forward to hearing about the court's new initiatives. Particularly I want to take time to commend the court for expanding the strong Domestic Violence Unit through a satellite intake center in Anacostia. It is critical to take services to the communities in which they are needed, particularly in dealing with vulnerable populations who are reluctant to come forward. And as we know, domestic violence hides its ugly face in every part of this community, and so we need to reach out to every neighborhood and every socioeconomic income level.

I would also like for the witnesses to present the plans for renovating the historic Old Courthouse and how this fits in with other capital improvements.

Again, thank you for being here. We will try to proceed for the next 40 minutes because we lost some time at the vote. But hopefully, you can keep your opening statements to about 5 or 10 min-

utes and then I will have a few questions. Chief, would you like to go first?

Chief Judge WAGNER. Good afternoon, Madam Chairwoman, and members of the committee. Thank you for this opportunity to come and address you in person about our fiscal year 2003 budget request. I am Annice Wagner and I am appearing here in my capacity today as Chair of the Joint Committee on Judicial Administration, which is responsible for submitting the budget. The courts, as you know, have submitted a detailed budget request with justifications, so my remarks this afternoon will highlight only the most critical priorities.

As you know, the District of Columbia courts comprise the judicial branch of the D.C. government. Through our mission and strategic goals, we strive to provide fair, swift, and efficient and accessible justice. We try to enhance public safety and ensure public trust and confidence in the justice system, which is needed more and more today.

To support our mission and strategic goals in fiscal year 2003, the courts have requested \$131 million for court operations, \$53.3 million for capital improvements, and \$45 million for defender services. In many ways, last year marked a turning point for the courts. Our nonjudicial employee turnover rate was cut in half when we achieved pay parity with our counterparts in the Federal agencies. We are very grateful to this subcommittee for its strong support in this area.

During the year, the courts continued to build on enhancements that demonstrate our commitment to sound management and fiscal responsibility. We are proud to have received an unqualified opinion from KPMG, an independent accounting firm, on our financial audit for the second year in a row.

We also successfully implemented a new personnel information system that provides immediate access to detailed information for employees and job applicants, enabling us to better manage our human resources.

We initiated the courts' first comprehensive master plan study, this coupled with an assessment of the condition of our physical plants. This is critical to accommodating the Family Court within the court complex.

We also completed an information technology strategic plan and initiated an independent study of staffing levels court-wide to assist us in deploying our limited resources most effectively and efficiently.

Each of these efforts supports the courts' comprehensive, long-term strategic planning and re-engineering efforts which are currently underway, which will enable us to determine priorities and focus our efforts and resources on measurable results, which we will share with you and the public.

Last year, the courts completed roof repairs to help prevent further deterioration to the Old Courthouse at 451 Indiana Avenue. Key to the efficient use of court facilities is restoration of habitability to this historic structure for use by the Court of Appeals. The Old Courthouse is now ready to begin restoration and planning work is already underway. We are pleased to be involved in such an exciting and important project, which will not only help meet

our critical space demands, but also preserve for the city and for the Nation a national treasure. We appreciate the subcommittee's support for this project.

As you know, the National Law Enforcement Museum is planned for a portion of the site. There was legislation that made this possible. These two projects must proceed in tandem and in a coordinated manner to ensure the best results possible.

In addition, the U.S. Court of Appeals for the Armed Forces is participating in this effort, as part of the site will be used to enhance their security, parking and service access.

The courts' fiscal year 2003 request invests in the Family Court, court employees, information technology, infrastructure, financial management, trial records, and defender services.

The largest initiative underway at the courts is the implementation of the District of Columbia Family Court Act of 2001. This initiative will change the way the court serves families and children in the District. As the Family Court is part of the Superior Court, Chief Judge King will address this initiative in his testimony.

The President has shown strong support for the courts' fiscal year 2003 budgetary needs. I would like to mention, however, three critical areas not addressed in the President's recommended budget for 2003.

First, the court faces critical staffing needs. The following positions must be filled to support quality judicial administration in the District: courtroom and support staff to serve the domestic violence victims and coordinate police officer appearances in criminal cases; clerks and accountants to enhance financial management, including the Criminal Justice Act voucher issuance function the courts recently assumed from the Public Defender Services; facilities staff to support our buildings and to manage the Old Courthouse restoration project; information technology staff required by expanded court-wide use of technology; and staff to continue a successful juvenile probation program previously funded through grants.

Another priority is appropriation language changes, including limited authority to transfer funds among the courts' appropriation accounts in order to meet changing needs and circumstances. In addition, the courts would like to provide employees the new Federal long-term care insurance program. We do not believe that either of these language changes require additional funds.

Finally, the courts have requested an increase in the defender services account to provide appropriated funding to increase the hourly rate paid court-appointed attorneys to \$90 per hour. The services of these attorneys who represent indigent defendants or children and families before the court are essential to the fair administration of justice.

In conclusion, the District of Columbia courts have long enjoyed a national reputation for excellence. Adequate funding for the courts' highest priorities in fiscal year 2003 is critical to our success both in the next fiscal year and as we plan our strategy to continue to provide high quality service to the community.

## PREPARED STATEMENT

Madam Chairwoman and members of the committee, thank you for the opportunity again to discuss the courts' budget request. Chief Judge King and Ms. Wicks, our executive officer, are also here, and we would be pleased to address any questions when you are ready.

Senator LANDRIEU. Thank you very much, Judge.  
[The statement follows:]

## PREPARED STATEMENT OF ANNICE M. WAGNER

Madam Chairwoman, Senator DeWine, thank you for this opportunity to discuss the District of Columbia Courts' budget request for fiscal year 2003.

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. The Courts have submitted a detailed request for the budgetary resources needed in fiscal year 2003. My remarks this afternoon will summarize the request and highlight the Courts' most critical priorities.

## INTRODUCTION

Comprised of the Court of Appeals, the Superior Court, and the Court System, the District of Columbia Courts constitute the Judicial Branch of the District of Columbia government. The Joint Committee on Judicial Administration is the policy-making body for the Courts. The mission of the District of Columbia Courts is to administer justice fairly, promptly, and effectively. Through our strategic goals, the Courts strive to provide fair, swift, and accessible justice; enhance public safety; and ensure public trust and confidence in the justice system. To support our mission and strategic goals in fiscal year 2003, the D.C. Courts request \$181,416,000 for court operations. Of this amount, \$8,640,000 is requested for the Court of Appeals; \$81,530,000 is requested for the Superior Court; \$40,894,000 is requested for the Court System; and \$50,352,000 for capital improvements for courthouse facilities. In addition, the Courts request \$45,014,000 for the Defender Services account.

The largest initiative underway in the D.C. Courts is the implementation the District of Columbia Family Court Act of 2001, Public Law 107-114. This initiative will change the way the Courts serve families and children in the District. As the Family Court is part of the Superior Court, Chief Judge King will address this initiative in detail in his testimony.

In many ways, last year marked a turning point for the Courts. In particular, the Courts' ability to recruit and, particularly, retain highly qualified staff was significantly enhanced as the fiscal year 2001 appropriation permitted the Courts' non-judicial employees to achieve pay parity with their counterparts in federal agencies. The Courts' non-judicial turnover rate has been cut in half, dropping from 10.9 percent in fiscal year 2000 to 5.2 percent in fiscal year 2001. We are very grateful to the Subcommittee for its strong support which contributed to these positive results.

The Courts are also proud of their improved management of the Defender Services Account and the significant reduction in processing time for vouchers from attorneys representing the indigent. To gather additional data to estimate more accurately future obligations, the Courts assumed responsibility for voucher issuance from the Public Defender Service and implemented an automated system to track obligations. We are now able to track vouchers from issuance to payment. Re-engineering the processing of submitted vouchers has reduced the time from receipt to payment from 62 to 29 days, a 53 percent drop.

## CRITICAL BUDGET PRIORITIES ABOVE THE PRESIDENT'S FISCAL YEAR 2003 BUDGET

To permit the Courts to continue to meet the needs of the community, adequate resources are essential. The Courts have identified three critical areas which the President's recommended budget for fiscal year 2003 does not address.

*Court Staffing.*—To support quality judicial administration in the District of Columbia, mission-critical staffing needs must be addressed in fiscal year 2003. First, staff for courtroom operations and support is critically needed to serve Domestic Violence victims and to support the police overtime reduction initiative in the Criminal Division. Second, our efforts to enhance financial management in the Budget and Finance Division, including assumption of the CJA voucher issuance function from the Public Defender Service, requires additional clerks and accountants. Third, to provide critical engineering support to the Courts' infrastructure and to manage



the multi-million dollar Old Courthouse restoration project, which will address some of our space needs, additional Administrative Division staff persons are essential. Fourth, expanded courtwide use of technology demands additional IT support staff. Finally, grant funding has expired for a successful program to monitor high-risk juveniles on probation, and Social Services staff members are critically needed to continue the program.

*Appropriation Language Changes.*—The Courts are requesting limited authority to transfer funds among their accounts to enhance flexibility to meet changing needs and circumstances. In addition, the Courts want to expand employee benefits to include the new federal long term care insurance program. Neither language change requires additional funds.

*Defender Services.*—The Courts' budget request includes an increase of \$10.7 million in the Defender Services account to increase the hourly rate paid court-appointed attorneys to \$90. These attorneys, who represent indigent defendants or children and families before the court, are essential to the fair administration of justice in the District.

#### PERFORMANCE MEASUREMENT AT THE COURTS

As part of our strategic goal of providing fair, swift, and accessible justice, the Courts monitor performance in efficiently processing cases in terms of (1) the case clearance rate, or the ratio of cases disposed to cases filed in a given year (a standard efficiency measure is 100 percent, meaning one case disposed for each case filed); and (2) the reduction in cases pending at the end of the year.

—In fiscal year 2000, the Courts' caseload management practices resulted in a case clearance rate of 107 percent in the Court of Appeals and 112 percent in the Superior Court.

—In addition, the Court of Appeals reduced its pending cases by 4 percent and the Superior Court reduced the number of cases waiting to be resolved by 8 percent in fiscal year 2000.

In fiscal year 2000, the Court of Appeals saw 1,739 new cases filed. Including pending cases and reinstatements, 4,407 cases were on appeal in fiscal year 2000. During the same time, in the Superior Court, 144,046 new cases were filed. Including reinstated cases and pending cases, 209,329 were available for disposition in fiscal year 2000.

The Courts look forward to enhancing our performance measurement system by moving toward implementation of the strategic planning and related strategies of the Government Performance and Results Act in the coming years.

#### STRATEGIC PLANNING

The Courts have initiated a comprehensive long-term strategic planning and re-engineering process that will enable us to determine priorities and focus our efforts and resources on measurable results. Early in 2001, the Courts held two management training conferences which were attended by a broad group of Court leaders, including both judges and top administrators. Facilitated by experts in court management from around the country, the training sessions provided conferees with an opportunity to explore the key issues and challenges which face the Courts and to discuss goals and desired outcomes in critical strategic areas.

To continue the work initiated at the management training conferences, the Courts have appointed a full-time strategic planning director and established the Strategic Planning Leadership Council. Together, they will facilitate the development of the Courts' long-range strategic plan and continuously monitor the Courts' progress in fulfilling their mission and achieving key strategic goals, as well as ensure that the Courts' strategic agenda is dynamic and responsive to the changing needs of the community.

#### SOUND MANAGEMENT PRACTICES

As the Courts approach the fifth year of direct federal funding in fiscal year 2003, we look forward to fulfilling our strategic goals by building on past reforms that demonstrated our commitment to sound management and fiscal responsibility. We are proud of the Courts' recent achievements that include the following:

*Unqualified Audit Opinion.*—Received an "unqualified" opinion for the second year in a row in our annual independent financial audit, conducted by KPMG;

*Staffing Study.*—Initiated an independent study of staffing levels by Booz-Allen and Hamilton to provide data to facilitate the most effective deployment of limited staffing and address GAO's recommendation for a more rigorous methodology;

*Human Resources Data.*—Implemented a Human Resources Information System to provide ready access to detailed personnel information;

*Facilities Evaluation.*—Initiated a GSA Building Evaluation Report to provide a comprehensive assessment of the Courts’ physical plant and to prioritize capital improvement needs;

*IT Strategic Plan.*—Initiated an Information Technology strategic plan to focus the resources of the IT Division and ensure that IT efforts conform to the larger vision and mission of the Courts; and

*Master Plan Study.*—Initiated the Courts’ first comprehensive master space plan study to provide a blueprint for Court capital projects and space utilization for the next ten years and to identify the optimal location for the Family Court.

#### OLD COURTHOUSE

Key to efficient use of the Courts’ facilities is restoration of habitability to the Old Courthouse at 451 Indiana Avenue for use by the District of Columbia Court of Appeals. The Courts have requested, and the President recommended, funds to continue this critical project.

Last year, the Courts took a positive step toward restoring habitability to the Old Courthouse. The fiscal year 2001 appropriation provided funding for roof repairs to help prevent further deterioration of this historic structure. This work was completed in December 2001, resulting in a watertight roof that protects the neoclassical interior from the elements. In addition, measures were taken to secure the building and stabilize the interior.

The Old Courthouse now stands ready to begin restoration. Constructed in 1820, the Old Courthouse is the fourth oldest government building in the District of Columbia. Its architectural and historical significance led to its listing in the National Register of Historic Places and its designation as an Official Project of Save America’s Treasures. A GSA study of the facility found that, although the structure is sound, all major systems need to be replaced, and hazardous materials must be removed.

#### THE COURTS AND THE COMMUNITY

As part of the District of Columbia’s criminal justice system, the Courts participate in collaborative projects with other agencies, and provide many services to benefit the community at large. Some examples include the following:

- Active participation in the Criminal Justice Coordinating Council (CJCC) which seeks to improve the criminal justice system in the District. The Superior Court is currently utilizing the results of a CJCC-sponsored study in its effort to assist the District in reducing police overtime costs, thereby better using resources throughout the criminal justice system.
- The District’s award-winning Domestic Violence Project, spearheaded by the Superior Court, promotes victim safety and integrates the adjudication of both criminal and civil aspects of domestic violence cases. This project provides one central location for a victim to meet with representatives of various agencies, and permits one specially trained judge to address both civil and criminal aspects of a case.
- The Courts recently implemented a Community Court initiative to process more expeditiously “quality of life” misdemeanor cases while creating a system of more meaningful sanctions. The initiative uses diversion, community service, and treatment programs to create opportunities for same-day disposition of these minor matters, thereby reducing the criminal justice resources, such as police officer, attorney (both prosecutor and defender services), and Court time, needed to process the cases. By addressing the underlying social issues driving many of these cases (mental illness, substance abuse, homelessness, etc.) the Court also seeks to reduce recidivism and improve the quality of life in the District.
- In cooperation with the Foundation of the Bar Association of the District of Columbia, the Courts encourage District high school students to reflect on the law with an annual essay contest to celebrate National Law Day on May 1. Last year, Ms. Lyndsey Williams, of the U.S. Senate Page School, won First Place for her essay on the juvenile justice system.
- In cooperation with the D.C. Bar Association, the Courts participate in the annual D.C. Youth Law Fair in the spring. Hundreds of D.C. school students tour court facilities, participate in mock trials, and discuss legal issues of interest to youth, for example the effect of pop culture on teen violence or teen rights and responsibilities in the workplace.

## DC COURTS' FISCAL YEAR 2003 BUDGET REQUEST

The fiscal year 2003 budget request incorporates the Courts' strategic goals and strategies, and includes performance projections for all core functions. To build on past accomplishments and to support the Courts' commitment to serve the public in the District of Columbia, additional resources are essential. The Courts' three strategic goals, and the additional operating budget resources requested to help attain them in fiscal year 2003, are as follows:

- Provide fair, swift, and accessible justice by enhancing efficient case-processing capability and ensuring that the public can access Court facilities (+\$2.6 million and 13 FTE);
- Enhance public safety for metropolitan area residents and visitors (+\$7.3 million and 29 FTE); and
- Ensure public trust and confidence in the justice system through enhanced management practices and improved staff training and accountability (+\$3.8 million and 11 FTE).

To achieve these strategic goals, the Courts articulated three budget strategies for fiscal year 2003. The budget strategies would promote the Courts' strategic goals by:

- Building capacity to provide Court services (+\$10.0 million and 51 FTE);
- Investing in information technology (+\$2.7 million and 2 FTE); and
- Enhancing the skills and accountability of Court employees (+\$1.0 million).

The District of Columbia Courts are committed to carrying out the mission of administering justice in a fair, accessible, and cost-efficient manner. The additional resources in the fiscal year 2003 budget request will ensure that the Courts continue to perform this essential mission with quality, professionalism, efficiency, and fiscal integrity.

The demands on the Courts require investments in staffing, technology, infrastructure and courtroom operations. Without targeted investments in Court staffing, the quality of justice will be compromised; without remediation, the Courts' information technology will fail; and without additional capital resources, the Courts' buildings will continue to deteriorate. The fiscal year 2003 request addresses these requirements by:

*Investing in Family Court Reforms.*—Growing caseloads and new mandates applicable to the Courts through the passage of the District of Columbia Family Court Act of 2001 have made it incumbent on the Superior Court to change the way it manages, supervises, and resolves cases involving children and families in the District of Columbia. To meet these mandates, the fiscal year 2003 request includes \$25,166,000 for the Family Court, of which an increase of \$6,782,000 and 24 FTE will be dedicated to operating costs. The remaining \$17,587,000 is requested for capital improvements.

*Investing in Court Employees.*—Notwithstanding the Family Court Initiative, the fiscal year 2003 request includes \$1,589,000 in the operating budget for an additional 29 FTEs to strengthen the Courts' capacity to achieve their strategic goals. The request also includes \$407,000 for human resources initiatives to establish performance awards and Court Senior Executive programs modeled on Federal programs. To provide specialized and skill-based training for both judicial and non-judicial personnel, the fiscal year 2003 budget request includes \$267,000. These investments in the Courts' human resources are essential to improving the capacity to serve the citizens of the District of Columbia and the many visitors to our nation's capital.

*Investing in Information Technology (IT).*—To achieve the Courts' goal of a case management system that provides accurate, reliable case data across every operating area and making available appropriate data to the judiciary, the District's criminal justice community and the public, the Courts request \$2,663,000 and 2 FTE for information technology in fiscal year 2003. In addition, the Courts' capital budget request includes an additional \$4,240,000 to support the implementation of the Integrated Justice Information System (IJIS), which the Court launched in fiscal year 1999.

*Investing in Infrastructure.*—The fiscal year 2003 capital request reflects several years of underfunding and deferred maintenance of the Courts' aging facilities. In fiscal year 2001, for example, the Courts' capital appropriation of \$3.3 million was 58 percent below the fiscal year 2000 level and 82 percent below the Courts' request. To ensure the health, safety, and quality of courthouse buildings, particularly important as we relocate functions to accommodate the Family Court, the fiscal year 2003 request includes \$42,500,000 for health and safety projects and for maintaining the Court infrastructure. Included in the total is \$12,100,000 to continue restoration of the Old Courthouse at 451 Indiana Avenue for readaptive use by the District of Columbia Court of Appeals, thereby freeing space in the main courthouse

to meet the Superior Court's critical space needs, which are exacerbated by the increased staffing for the Family Court. Built from 1820 through 1881, the Old Courthouse, which has been designated as a project of Save America's Treasures, is deteriorating rapidly. The structure currently does not meet District of Columbia health and building codes and is uninhabitable. Restoring this historic landmark to meet the critical space needs of the Courts and preserving it for future generations are critical priorities for the District of Columbia Courts.

*Strengthening Financial Management.*—To adopt recommendations by the Courts' independent financial auditor, the fiscal year 2003 request includes \$900,000 for implementation of an integrated financial management system and to provide Court staff training in accounting, financial management, and budgeting. To strengthen the fiscal integrity of the Courts through the preparation of real-time financial statements, 3 additional FTEs (accountants) are requested. These positions would support the implementation of the general ledger and related components of the financial management system.

*Investing to Ensure Accurate and Complete Trial Records.*—The Courts' fiscal year 2003 request includes \$670,000 to enhance our ability to ensure that accurate and complete records are generated from court proceedings. The request includes \$390,000 for courtroom audio work; \$260,000 for contractual court reporting services; and \$20,000 for hardware maintenance.

*Strengthening Defender Services.*—In fiscal year 2000 and fiscal year 2001, the Courts devoted particular attention to improving the financial management and reforming the administration of the Defender Services programs. For example, the Courts issued Administrative Orders to ensure that Criminal Justice Act (CJA) reimbursement claims are submitted on a timely basis, are accompanied by adequate documentation of eligibility for indigent clients, and that highly qualified attorneys participate in the program.<sup>1</sup> Because the Courts' accounting system contractor, GSA, is unable to record Defender Services obligations as they are incurred, the Courts implemented an in-house automated system, which was fully operational in October 2000, to track obligations from the Courts' receipt of a voucher to its payment. A Defender Services customer service initiative allows attorneys access to electronic systems to check the status of vouchers tendered to the Court, provides dedicated staff to answer attorney inquiries on the status of payments, and solicits customer feedback through a satisfaction survey instrument. The fiscal year 2003 request builds on these efforts. Through advance funding for the Defender Services account, the Courts would ensure funding stability while gaining experience in tracking obligations in the new automated system, analyzing data on attorney appointments and voucher submission patterns, and projecting resource requirements. To assist the Courts in enhancing the financial management of the Defender Services program, the Courts have assumed responsibility for issuing vouchers from the Public Defender Service (PDS). Consolidation of responsibility for all financial management aspects of the Defender Services programs will enable the Courts to more accurately estimate program obligations throughout the voucher processing cycle. To this end, a request for 3 FTE is contained in this budget submission under the Court System section.

In the Defender Services account, the fiscal year 2003 budget request represents a net increase of \$10,703,000 over the fiscal year 2002 level of \$34,311,000. The requested increase represents appropriated funding for the hourly rate increase granted in fiscal year 2002 for attorneys and investigators who provide legal and expert services to the Defender Services programs. The first rate increase for attorneys since 1993, to \$65/hour, was funded in fiscal year 2002 through unobligated balances in the Defender Services account. Appropriated funding is essential to ensure the fiscal integrity of the Defender Services account once the unobligated balance is exhausted. In addition, the Courts request an increase in the hourly compensation rates for attorneys from \$65 to \$90, to keep pace with the rate paid court-appointed attorneys at the Federal courthouse across the street from the D.C. Courts. A decline in the number of CJA cases in recent years is expected to offset anticipated cost increases in the CCAN and Guardianship programs. Accordingly, except for the subject rate increase, the fiscal year 2003 funding request for the base program remains at the fiscal year 2002 level.

<sup>1</sup>It should be noted that court-appointed attorneys represent nearly 90 percent of indigent criminal defendants in the District (1999 figure). The balance of indigent defendants is represented pursuant to D.C. Code § 1–2702 by the Public Defender Service.

## APPROPRIATIONS LANGUAGE CHANGES

The fiscal year 2003 budget requests limited authority to transfer funds among the Courts' four appropriations to provide additional flexibility to meet the changing needs of the Courts and the community. Although more limited, this language is similar to the provision in the D.C. Appropriations Act, 2002, Sec. 109(b) authorizing the District government to transfer local funds.

In addition, the request includes language to include D.C. Courts' employees in the new federal long term care insurance program. This provision would enhance the Courts' competitiveness in the labor market by providing an additional benefit at virtually no cost to the Courts, as there is no employer share to the premium.

The fiscal year 2003 budget also requests appropriations language that would provide advance funding for the Defender Services account. In 14 of the past 22 years, the CJA program has experienced a budgetary shortfall. Advance funding for the Defender Services account would eliminate the need to augment the appropriation with supplemental appropriations or with funds from the Courts' operating budget in the event of a shortfall. In addition, as an alternative approach to address the need to augment the Defender Services account, the Courts are requesting that the Defender Services account be moved from the discretionary to mandatory side of the federal budget. We believe that mandatory treatment of Defender Services is consistent with the uncontrollable nature of obligations in this program and the GAO's determination that these are mandatory expenses.

## SEPTEMBER 11TH

Before I conclude my remarks I would like to mention one more event in the past year. Like many of our fellow Americans across the country, the Courts reacted with shock, horror and resolve to the terrorist attacks of September 11, 2001.

As at many other agencies, the attacks provided the impetus for a review of security at the Courts. Some measures to enhance security were implemented immediately, including, for example, 100 percent security checks at pedestrian entrances, installation of roll-up barriers at garage entrances, and increased screening of mail. Additional measures were planned. The Joint Committee will continue to take the steps necessary to ensure that court facilities are both secure and accessible to the community that the Courts serve.

## CONCLUSION

Madam Chairwoman, Senators, 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. We believe we are taking the administrative steps, as highlighted above, needed to enhance our operations and ensure the fair administration of justice in the District of Columbia. Adequate funding for the Courts' highest priorities in fiscal year 2003 is critical to our success, both in the next fiscal year and as we plan our strategy to continue to provide high quality service to the community in the future. Madam Chairwoman, we look forward to working with you throughout the appropriations process, and thank you for the opportunity to discuss the Courts' budget request.

Chief Judge King, Anne Wicks, the Court's Executive Officer, and I would be pleased to address any questions.

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

Senator LANDRIEU. Chief.

Chief Judge KING. Thank you, Madam Chairwoman. I am Rufus King III and I am appearing in my capacity as Chief Judge of the Superior Court of the District of Columbia. I want to thank you for the opportunity to speak to you today on our fiscal year 2003 budget and particularly on the Family Court initiative. Chief Judge Wagner, Chair of the Joint Committee on Judicial Administration, has provided you an overview on the budget.

My written testimony addressed some of the accomplishments of the Superior Court over the past year, and so I will only address the single issue. I would like to mention the partnership initiative by the court working with Women Empowered Against Violence, the Corporation Counsel, and the D.C. Coalition Against Domestic

Violence to open an intake center in Anacostia, which is where nearly 65 percent of those who seek the services of the Domestic Violence Unit reside. We hope that this will result in substantially easier and more effective service to those in this vulnerable population. We are also going to be working with our technology staff to take advantage of video-conferencing and electronic filing so that the work that goes on at that center can more easily and effectively be integrated with the work that will go on at the main courthouse.

As you know, the President signed the Family Court Act of 2001 into law on January 8, 2002 with the support of the court, the bar, and most of the stakeholders in the child advocacy community, and after much work by this subcommittee. While all of us involved in the process had some differences on some specific provisions of the bill as it went through the legislative process, we shared a goal of improving the provision of services to the abused and neglected children of the District of Columbia. The bill is a major step toward that goal.

Now that the bill is law, the debate is over and the court is committed to implementing the act as effectively and expeditiously as possible. The implementation plan under the act is due to Congress on April 8, 2002 and it will be submitted on time.

In addition, we have already made offers to five attorneys to serve as magistrate judges, as specified in the act, and they will initially handle those abuse and neglect cases that have been pending for more than 2 years. I am pleased to say that we met the statutory guideline for hiring them and have already renovated space for their offices and have begun the process of acquiring needed equipment and hiring support staff.

Of course, the full implementation of the Family Court Act will take much more time, effort, funding, and space. But I leave that to the budget justification which has been provided and which spells out in more detail the budget needs for the Family Court.

For today, I would want to raise one issue, and it has been, I note with some sense of reassurance, addressed by you, Madam Chairwoman, and that is the concern over the funding provided to the court by the appropriations act. The funding, as it now is provided, is not available to us until 30 legislative days after a 30-day period of review by the GAO. This means that funding will not be available until late June, as best we can estimate.

We have already committed nearly \$1 million in costs for hiring and making space for the five new magistrate judges. To commence design and construction of building renovations for the full Family Court, GSA says that it needs \$7 million immediately. We do not have sufficient funding available in our capital account to cover this expense, but we need to obligate the funds to GSA immediately to keep the architectural and construction work on schedule so that we can meet the act's 18-month deadline for completion of the transition. It is an urgent, critical need that the court be able to access already appropriated funds in order to cover the Family Court costs and be allowed to reimburse those accounts from the Family Court appropriation, once it becomes available.

So far, we have expended funds from the courts' operating and capital budgets for fiscal year 2002. These past expenditures will not be a problem if these Family Court expenses can subsequently

be recovered from funds appropriated for the Family Court. However, GAO has informed us that this type of reimbursement is a transfer which is not allowed without statutory transfer authority. If this is not addressed immediately, this lack of authority will require the court to choose between seriously compromising vital court safety and infrastructure needs or having the Family Court building plan fall behind schedule, which could cause the court to fail to meet the legislative deadline, an outcome we are committed to avoiding if humanly possible.

I should point out that we have had discussions with subcommittee staff on this issue and those discussions have been helpful and positive. I am also, of course, grateful for the expressions of support from you on this issue. And as well, I appreciate your support and the support of the subcommittee throughout in securing funding for the Family Court. So, at this point a legislative remedy is essential for the safe and secure operation of the Superior Court if we are remain on schedule in transitioning to the new Family Court.

#### PREPARED STATEMENT

Madam Chairwoman, thank you for the opportunity to appear before you and to talk to you about the Superior Court's fiscal requirements. I appreciate your continuing interest and strong support for our efforts and the solid working relationship that we have built. And I would be pleased to answer any questions.

[The statement follows:]

#### PREPARED STATEMENT OF RUFUS KING, III

Madam Chairwoman, Senator DeWine, members of the Subcommittee: I am Rufus G. King, III, and I am appearing in my capacity as Chief Judge of the Superior Court of the District of Columbia. I thank you for the opportunity to speak to you today. Chief Judge Wagner of the D.C. Court of Appeals, as chair of the Courts' Joint Committee on Judicial Administration, has provided an overview of our budget request and priorities. I wanted to address an issue that I thought might be of special concern to this subcommittee: the Family Court of the D.C. Superior Court.

The Superior Court of the District of Columbia was established in its current configuration as a unified court by the District of Columbia Court Reform and Criminal Procedure Act of 1970, with five major divisions: Civil, Criminal, Probate, Tax and Family. The Family Court Act of 2001, sponsored by the chairwoman and ranking member of this Subcommittee, created the Family Court within the Superior Court. A report on the Court's transition plan for implementing that legislation is due on April 8, and we expect to meet that deadline with a comprehensive plan on how to implement the Act, which will integrate the principles outlined in the legislation throughout the Family Court.

During the past year, the Superior Court has pursued a number of important initiatives. We have instituted a community court within our courthouse, to address so-called "quality of life" offenses, such as public drunkenness, panhandling, and the like. Previously, these cases were usually rescheduled for two or more court days before they were resolved. This wasted court time, police time and attorney time, with little benefit to the legal process. The new community court addresses the real issues: meaningful sanctions for the perpetrators, provision of needed services and redress of wrongs to the community. We have assigned teams of "duty attorneys" to represent these defendants, resulting in the bulk of these misdemeanor cases being heard and resolved on the first day in court. Sanctions are imposed—fines or community service—and services provided to those who need them—substance abuse education and counseling, mental health referrals and homelessness assistance.

The Domestic Violence Unit, which has received commendations nationally, is working with partners in the community to expand our intake center by opening a satellite center in Anacostia, nearer where a significant percentage of victims re-

side. Currently the center is seriously overcrowded. Establishing a second center will make it less burdensome for this vulnerable population to seek the services offered by the Court.

The Court has worked to enhance its technological capacity. We are developing a system for paying fines and fees by credit card, which will expedite those processes and enhance their convenience, both for the Court and for the community. We have enhanced our information technology (IT) security in response to the increased level of threat since last September.

While we pursued these and other efforts, our major priority has been enactment and now implementation of the Family Court Act of 2001.

Madam Chairwoman, Senator DeWine, as you know, the President signed the Family Court Act of 2001 into law on January 8, 2002 with the support of the Court, the bar and most of the stakeholders in the child advocacy community. While all of us involved in the process had some differences on specific provisions of the bill as it went through the legislative process, we shared a goal of improving the provision of services to the abused and neglected children of the District and expediting permanency for them. The bill is a major step toward that goal. And now that the bill is law, the debate over provisions is over, and the Court is preparing to implement all of its provisions as effectively and expeditiously as possible. Judge Lee Satterfield, presiding judge of the Family Court and Judge Anita Josey-Herring, deputy presiding judge have devoted countless hours to developing the transition plan for the new Family Court in a manner that reflects congressional intent and best practices, and, most importantly, provides the best possible services and protections to abused and neglected children. I commend them for their hard work on this issue. The changes that the legislation made and that our plan will incorporate will make a marked difference in the lives of children and families in the District of Columbia.

As the subcommittee well knows, the District saw a dramatic surge in abuse and neglect filings in the late 1980's and, while the most recent increases do not seem to be as significant, they have not yet leveled off. Each year, more than 1500 children are found to be neglected or abused by their parents. The Child and Family Services Agency is completing its transition out of receivership and is striving to strengthen its ability to deliver services to children and families.

The Court is beginning the transition under which cases formerly distributed among all 59 Superior Court judges after trial will be transferred to the Family Court. In addition, all new abuse and neglect cases have been retained in the Family Court since enactment of the Family Court Act. The transition plan will address how to better ensure that related cases are heard by the same judge or magistrate judge. This will require enhancing clerks' offices for those branches of the Family Court and developing the Family Court's IT capacity. It will require additional judges and magistrate judges to handle the significantly increased caseload in the Family Court. Additional judicial officers require additional administrative assistants, law clerks, courtroom clerks and other related personnel. Space needs to be constructed to house the new courtrooms, hearing rooms, chambers and support services to enable the Family Court to function optimally. Cost estimates for the construction to meet the long-term needs of the Family Court are due from GSA this month. We are working directly with the architects and will include as much information in the transition plan as is available from them.

A serious concern to us is the need to spend funds in order to comply with the Act prior to their becoming available under applicable appropriations law. The District of Columbia Appropriations Act, 2002 provides that Family Court appropriations will not be available until after a 30 day review by the GAO and a subsequent review of 30 legislative days by Congress. We estimate this will be mid or late June. In the meantime, we have extended offers to five attorneys to serve as magistrate judges; we have constructed office space for them (within existing Court space); and we have obtained the necessary furnishings and equipment. We have also reconfigured hearing rooms, added space for support staff and will soon hire those staff. Of even greater concern, we estimate that approximately \$5 million will be needed to keep the architectural and construction work on schedule so that we can meet the Act's 18 month deadline for completion of the transition. So far we have expended funds from the Courts' operating and capital budgets for fiscal year 2002. This will not be a problem if these Family Court expenses can be recovered from funds appropriated for the Family Court. However, the GAO has informed us that this type of reimbursement is a transfer, which is not allowed without statutory transfer authority. Unaddressed, the lack of this authority has the potential of requiring the Court to choose between compromising other court operations by using funds intended for them to cover costs of the Family Court and delaying in our commitment to construction contracts, which must be fully funded at signing.



This subcommittee has been very generous in securing sufficient funding for the Family Court effort. It is hoped that in timing as well as in amount the subcommittee will continue in that support.

Madam Chairwoman, Senator DeWine, thank you for the opportunity to talk about the Family Court budget request for fiscal year 2003. I appreciate your continuing interest and support and the solid working relationship we have built. I am happy to answer any questions.

Senator LANDRIEU. Thank you very much.

FAMILY COURT

As the panelists are aware, we are going to have a second hearing—and I believe it has already been scheduled—to go into some more detail about the aspects of the new Family Court and how the reforms are coming along. So, the purposes of this hearing are really just to touch on the budget issues, and I may have one or two questions about the progress of our reforms.

But let me just be clear that in your budget request for the courts, we are requesting an additional \$22.3 million above the President's 2003 budget submission. We have acceleration of the Old Courthouse, \$5.1 million, fully implemented; the integrated justice information system, \$1.5 million; general repair projects, \$5.5 million; and then 23 additional full-time staff positions requested for various functions. Is that approximately right?

Chief Judge WAGNER. That sounds about right. I would feel more comfortable relying on my figures in the book, but I think that is about right. The Family Court is \$22.9 million.

Senator LANDRIEU. This is above the President's request.

Chief Judge WAGNER. We had made a comparison chart, but we did not bring that or do not have it readily available. We can provide that.

Senator LANDRIEU. You can submit that for the record and just make sure that we have the request accurately.

[The information follows:]

D.C. COURTS FISCAL YEAR 2003 BUDGET REQUEST COMPARISON

	President's budget recommendation	Courts' request	Request above President's budget
Court of Appeals .....	\$8,352,000	\$8,640,000	\$288,000
Superior Court .....	80,140,000	81,530,000	1,390,000
Court System .....	38,902,000	40,894,000	1,992,000
Subtotal, operations .....	127,394,000	131,064,000	3,670,000
Capital .....	31,651,000	50,352,000	18,701,000
Total, Federal Payment .....	159,045,000	181,416,000	22,371,000
Defender Services .....	32,000,000	45,014,000	13,014,000

Senator LANDRIEU. Let me ask, Judge King, just a couple of general questions. Remind me now of the total number of judges. It is 59 in the court?

Chief Judge KING. That is correct, in Superior Court, 58 associate judges and a chief judge.

Senator LANDRIEU. Then of those, 15 are Family Court judges or have been designated as such?

Chief Judge KING. As it now stands, it is up to 15 can serve in the Family Court. I have at present 12 who have volunteered and are agreeing to serve the 3-year term applicable.

Senator LANDRIEU. That compromise, which we debated at some length, as it worked out, as I recall, was a 3-year term for current judges serving and then new appointees will be 5 years?

Chief Judge KING. Correct.

Senator LANDRIEU. With the opportunity to renew service if requested.

Chief Judge KING. Correct. And I would say on the basis of our experience in hiring magistrate judges, that what I had hoped would happen in that environment is that there will be some number—I would not want to predict now, but there will be some number who will do just that. They will want to extend to substantial additional amounts of time and become just the experts that the bill contemplates.

Senator LANDRIEU. So, of the current 59 judges, 12 volunteered to step into the Family Court role and take on the responsibility for 3-year terms.

Chief Judge KING. Correct.

Senator LANDRIEU. And then we can fill the remainder of those seats, which would be three additional seats, with new appointments that the President would have to make to people interested with some background in this area for 5-year terms.

Chief Judge KING. Yes.

Senator LANDRIEU. Is it your understanding the President is in the process of doing that or can you give us an update?

Chief Judge KING. The way that we are approaching this so far is that to add three judges, we will need additional space. So, we will have to be part-way down the road in our construction efforts. So, I have signaled that we do not intend to push yet for the current vacancies to be filled. They will fill other vacancies in the court and that probably, as best we can estimate now, it would be late summer when we would push for the three additional positions. I will work with the commission and the White House to see, to the extent that I can persuade them, that the criteria under the act are met in those appointments.

Senator LANDRIEU. And then how many magistrates will be attached to Family Court?

Chief Judge KING. We have just added five and we contemplate an additional four, which again we would probably reach toward the end of the summer. The magistrate judges, of course, we hire so that we can do that on our schedule. So, it is really going to be key to construction and completing the revision of our calendars and so on so that we will have the logistics worked out to take them into the Family Court.

Senator LANDRIEU. So, this will be nine magistrates for the Family Court when it is stood up.

Chief Judge KING. Correct. I should point out that we have eight already. This is in addition to eight that we have now who are already doing other things other than child dependency cases. Child support is one series of cases that are being addressed by magistrate judges. We have uncontested domestic relations calendars

and so on. So, there are cases that have already been addressed by magistrate judges, and there are eight of those.

Senator LANDRIEU. So, these nine magistrates do not do just exclusively Family Court issues or they do?

Chief Judge KING. They do.

Senator LANDRIEU. But it is a range of issues. It's abuse and neglect, domestic violence, divorce, custody.

Chief Judge KING. Correct. The nine that we are in the process of adding, the five that we have just taken in will do nothing but abuse and neglect until we have all the cases brought in from judges outside the Family Court. Their job is to help that process and make sure that those cases come in smoothly and are assigned to judges and magistrate judges in an effective way.

Senator LANDRIEU. As you know, one of the great purposes of this reform was to try to get a handle on the cases and committing one judge per family, consolidating cases, and expediting the hearings of these cases. I know it is early in these reforms. Any information that you could provide to our committee between now and the time of our next hearing about the results of that effort to date in terms of the more rapid process of reaching either conclusion of some of these cases would be very helpful.

In addition, because our staff does not seem to have this, I would really be interested in seeing how the total budget of your court, the total dollar amounts are allocated between the five divisions, which would be your civil, your criminal, your family, your probate, and your special operations division. So, if you all could get that to us. We may have it, we just did not have it handy. Take your total budget and try to tell us 40 percent of your total funds are allocated to your Civil Division, 30 percent to your Criminal Division, 10 to your Family Division, whatever the percentages are of your total budget. It would be helpful for us to have.

Chief Judge KING. Without committing to how completely that can be broken out, we will certainly get you whatever information we can on the general proportionality of expenditures.

Senator LANDRIEU. Let me ask, while the staff is getting some of the other questions organized—and this is a little off the subject. But I know that you are laying plans for the renovation of the new Family Court. As we talked when we contemplated this new facility or renovated facility, we wanted to use some of the best practice models around the Nation, about mediation, having opportunities for family counseling, to make the facility and the building work to maybe reduce the tensions of the litigation and to maximize the positive outcomes of some of these very tense and difficult situations.

Can you just comment about how that is coming along in terms of the planning for the physical construction or the physical space of the Family Court?

Chief Judge KING. We are working directly with the GSA architects to devise plans for both the short-term and longer-term arrangements for space. As part of the effort for us to cooperate with them and to inform our direction and so on, we have consulted with a number of other courts around the country. In fact, 10 days ago we went out to Santa Clara County to talk with a judge there on

how they handled the business of getting services to people who needed them in their dependency court.

We will be submitting in the transition plan our tentative space plan—and I say tentative at this point, only to the extent that I do not think the architects have fully completed their decisions about what the options are. But whatever we have available, we will include in our plan. It very much does contemplate a construction of space that is not just a collection of courtrooms and chambers. It will be waiting rooms, conference rooms, mediation facilities so that we can accomplish the immediate delivery of services in a comfortable and family friendly setting.

Senator LANDRIEU. Well, I just want to say for the record I am very certain that my ranking member feels as strongly about this as I do. But if we are going to spend any amount of money renovating and have the opportunity to either renovate or construct a facility, we would really like this to be a state-of-the-art facility. I understand that either your staff or ours or both just visited Los Angeles County, which my records show became the first in the Nation to establish a dependency courthouse designated specifically as a child sensitive facility. The courtrooms are smaller, less intimidating to children than traditional courtrooms. Special areas are designed for children to play in, engage in interesting activities, or catch a nap. These features are obviously meant to reduce as much as possible the stress and trauma associated with the child's experience with the legal system.

So, I know that our committee would be very interested in pursuing. While money is not unlimited, we want to make sure that any effort is an effort worth engaging in, that the outcome is something that we can really be proud of, and serves as a model for the Nation.

I believe that we just have gone far astray in our design of court buildings to accommodate the kinds of cases that we are speaking about here. There is a special way for civil cases to be handled when you are talking about adults and money and finance, and then there is a whole other set of accommodations when you are talking about mothers and fathers and love and hate and children who are desperate for the kind of outcomes that will affect the rest of their life. So, we need to keep that in mind.

#### LONG-TERM CARE INSURANCE

Let me ask, if I could, Judge Wagner, if you would just explain a little bit more about your long-term care benefit. I am not familiar with this. Maybe it is a benefit that Federal employees have that I am not familiar with.

Chief Judge WAGNER. Maybe I should ask Ms. Wicks to respond. She probably has a better handle on the long-term health care issue. We understand it is not quite implemented yet with the Federal Government, but it would be available. But there is no employer contribution to the program, and that would be the thing that would run the costs up for us. To the extent we could get into it without having to make an employer contribution to it, it would be of benefit.

Ms. WICKS. Chief Judge Wagner is correct. My understanding is in October of this year, it will be a benefit available to Federal em-

ployees, and I believe the employee pays the full cost of the insurance. It is long-term care insurance for once we all get older and need to take care of ourselves, so we do not burden our families.

Senator LANDRIEU. So, it is your understanding that this is a new benefit that Federal employees are going to have.

Ms. WICKS. That is correct.

Senator LANDRIEU. And you would like it extended to the courts.

Ms. WICKS. To the court employees. Court employees currently get Federal benefits for health and life insurance. So, it would just be ensuring that we have that benefit available as well.

#### INCREASING COURT-WIDE SUPPORT STAFF

Senator LANDRIEU. Judge King, you have asked for an additional 26 new positions. Is that correct? Or was that Judge Wagner? It does not matter which one of you answers.

Chief Judge KING. Yes, we have.

Senator LANDRIEU. If you could just go into some more detail about these specific positions, not each one, but just generally.

Chief Judge KING. Yes. First of all, summarily and generally, they are employees who are necessary to strengthen our existing operations. The courtroom operations and support personnel are needed simply to keep up with large caseloads. Two of them address vacancies that now need to be filled in order to bring the staff to a level really where it should be to operate effectively.

The accounting staff needs to be augmented to accommodate the new—we are doing a new automated accounting system which carries with it the need for additional people to operate. It allows us more effectively to keep track of and plan our finances.

The Defender Services Branch needs clerks to operate the voucher program which we assumed from Public Defender Service. So, this is a new obligation we undertook. We have automated it and reduced the amount of staff needed to operate it, but still we do need some staff to carry out that function.

Then for the capital infrastructure, as it now stands, we have no coverage of any of our campus buildings. If emergencies arise, we have to call out. In fact, in the recent fire, that was a factor. There was a delay in getting the fire department to the facility. We need people to add to the engineers and mechanics staff.

The project director for the Old Courthouse I believe is—I am going to defer to Chief Judge Wagner, but I think that is a self-evident need for somebody to run that project for the courts.

And then on the web application programmer, we have now been enjoying the beneficence of the D.C. Bar in operating our web page. That has been a terrific collaboration, but ultimately the bar is interested in service to lawyers and in providing service to the court of benefit to lawyers. We have a broader mandate to serve the public to provide information to jurors and members of the public that we feel merits bringing the web page operation into the court system itself, and we need someone to run that.

#### COORDINATION WITH D.C. AGENCIES

Senator LANDRIEU. I just have two additional questions, and then if there are not any from the other members.

Judge King, particularly Senator Durbin and Senator Voinovich have expressed this concern to me about the importance of the courts working with the D.C. Family Service Agency and the Metropolitan Police, as well as the public schools, to have a rather seamless or coordinate effort, particularly in the area of identifying child abuse and neglect early, stepping in at an early and appropriate stage, taking it through to the next step if the allegations are proved to be true, and then prosecuted, et cetera with the right outcome. In order for that to work in any community, there really needs to be a seamless operation between the entities most likely to identify the abuse or neglect, which would be in most instances the school systems, but not in every instance.

So, can you comment about your ongoing efforts to try to make this as coordinated and as seamless as possible? What steps has the court taken to date? What steps are you contemplating? And if you or any of the other judges that are here want to—you know, be as specific as possible about that.

Chief Judge KING. The first and most important coordination effort, of course, is with Child and Family Services Agency, since they are the first line of responsibility for acquiring services and coordinating services. I have myself had a number of meetings with Dr. Golden, the director of the agency, and I have also encouraged and in fact planned with Family Court Presiding Judge Satterfield to have biweekly meetings with her so that we never get off the same page on any issue for more than 10 days or so before we can sit down and get it fixed and coordinate our efforts.

The Child and Family Services staff were consulted in hiring the new magistrate judges. They have a social worker on our advisory committee. They are on our implementation committee, as are other city agencies, including the public schools, so that as we develop the transition plan. Then, when we move into the implementation and oversight phase, they will be right there at the table reviewing our initiatives and consulting with us as we go forward.

So, I would not agree more. I think it is critical that we work very closely with them.

Senator LANDRIEU. Well, anything that this committee can do to facilitate that working together and that cooperation we would very much like to. If there is not kind of an annual conference held and follow-up to bring leaders of the school system together, the Family Services Agency, the courts, and the police, we could help to facilitate such an annual event. We could help facilitate some additional training opportunities that would be very, very helpful. Really, in order for us to turn around the situation, which is desperate in this city—and it is not the only city that has a problem, but it is a very serious problem and of great concern to the members of many committees in Congress. Anything that we can do to facilitate that and continue. So, just because we passed the bill, just because we build the building, once we build the building, there are a lot of other pieces that have to go into creating the kind of system that I think the community can be very happy with and the Congress can be proud of.

Now, I have got to get to the floor. Is there anything else you want to add in closing?

Chief Judge WAGNER. You had mentioned in your statement that you would like us to do a presentation on the Old Courthouse. Of course, we will not have time to do that here, but it is a part of our overall master plan, which is underway, which will both identify the optimal location for the Family Court, as well as how to use all of the space in the courts' complex. We would like to come down at some point and do a presentation with both the Law Enforcement Memorial and with our court system and the U.S. Court of Appeals for the Armed Forces, because it is all on one square, as to exactly what we would be doing.

I think you would be interested in knowing that restoration of the old courthouse will free 37,000 square feet in the Moultrie Building, when the Court of Appeals moves into the restored building. The Superior Court would have space available to expand other operations and better accommodate their new Family Court and their other functions that are going to move for the Family Court immediately.

Senator LANDRIEU. Well, I would really like to set that up with the staff, a briefing for the physical complex, and we will do that as soon as our schedules allow.

I want to recognize our Shadow Senator, Paul Strauss, who is with us today.

SUBCOMMITTEE RECESS

If there are not any further questions or comments, we will adjourn the meeting.

Chief Judge WAGNER. Thank you.

Chief Judge KING. Thank you.

Senator LANDRIEU. Thank you.

[Whereupon, at 4:43 p.m., the subcommittee was recessed, to reconvene subject to the call of the Chair.]





**DISTRICT OF COLUMBIA APPROPRIATIONS  
FOR FISCAL YEAR 2003**

**TUESDAY, APRIL 16, 2002**

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

The subcommittee met at 9:45 a.m., in room SD-124, Dirksen Senate Office Building, Hon. Mary L. Landrieu (chairman) presiding.

Present: Senators Landrieu and DeWine.

**DISTRICT OF COLUMBIA**

**EDUCATION**

**STATEMENT OF PEGGY COOPER-CAFRTZ, PRESIDENT, DISTRICT OF  
COLUMBIA BOARD OF EDUCATION**

OPENING STATEMENT OF SENATOR MARY L. LANDRIEU

Senator LANDRIEU. The meeting of the subcommittee on the District of Columbia will come to order.

If the first set of witnesses would come to the front tables, if you would: Mr. Chavous and Ms. Graham and Dr. Vance and Ms. Cooper.

My staff reminds me, Kevin, that it is "Chavous."

Mr. CHAVOUS. Yes, Chavous.

Senator LANDRIEU. But because I am from Louisiana, I do the correct pronunciation, as you know. You and I have talked about this. We know about these pronunciations.

Mr. CHAVOUS. I have been called worse, Senator.

Senator LANDRIEU. So I apologize.

Let me welcome all of you all to this hearing, and I am particularly pleased that our ranking member could be with us this morning, because both for Senator DeWine and for myself, this is a very, very important issue, not only for the District and our roles as chairing and ranking member of this committee, but we have both been very, very involved at our own areas in education in our States and communities at home.

As I have said many times in this committee, as the parents of many children—together we have ten; of course, he gets the credit for eight, and I get two, so he beats me on that score—but we are in the process of raising ten children ourselves and know the—

Senator DEWINE. Not together though, right?

Senator LANDRIEU. Not together, though, yes.

Separately, yes. But we know the trials and tribulations of that. But this committee hearing we wanted to have this morning, and I have a written opening statement for the record. But I think in light of the times, to kind of get to the heart of the matter, I would like to just submit my opening statement for the record and make just a couple of brief points in summary.

Then I am going to ask you all, so that you can be thinking while I am making a few opening remarks, if you would do the same thing, to submit your testimony in writing. And then I am going to ask a question about goals and vision for the District. I am going to be asking you about your current vision, where you would like to see the school system 10 years from now and where you expect the school system to be 10 years from now.

If you could think about one example that the District has made some significant progress in the last several years and if you can begin thinking about two or three of the greatest barriers to achieving your vision. And I am going to ask each of you maybe to give 5 minutes in that regard, so that we can get a good dialogue here of questions and answers and really try to hone in.

But let me frame the beginning of this hearing by simply saying that every State and every community is struggling with how to create excellence in public schools uniformly. We all recognize that there is excellence in our public school systems in pockets throughout this Nation. And there are some extraordinary examples of schools doing extraordinary work with limited resources and very challenging circumstances.

I could cite any number of examples from Louisiana. Senator DeWine could cite examples from Ohio. We could cite examples here, and I know that you all would agree, right here in the District.

But our challenge, and you can see that it is coming from Congress in a very bipartisan way, both Democrats and Republicans, is to try to embrace public education and try to improve it and try to create a system where truly no child is left behind.

It takes a combination of things, which was the result of last year's great effort here in Congress, which is to say that systems of accountability and reform are very necessary, along with new investments, and that those things need to be matched to make sure that we really can provide excellence for each child.

A second point that I want to make is the same point that I make to every mayor that I talk to, including my own mayor in New Orleans and my mayors throughout Louisiana, and to my chambers of commerce, which is, if you are speaking about economic development and you are not speaking about excellence in school, then you are not going to have the kind of results that you might think you are going to have or intend to have, because economic development for any community and the strengthening of any community really has—the schools are one of the primary focuses of that effort.

Why do I say that? Obviously people who want to build their businesses and expand their businesses and have to hire employees want to be in communities where the schools are good and robust and excellent, so that they can then attract the employees for their companies. You know, building a strong middle class for a commu-

nity is very important. Besides having a reduced crime rate and good city services, I think the primary focus of people is to have excellent opportunities for children.

So needless to say, many of our communities and States are challenged. And we have taken, I think, a very extraordinary step, really, in Congress to begin saying to every district, and that includes the District, that the Congress has made a decision to stop funding failure. And we want to start funding success and rewarding success and investing in reform and investing in high expectations for all children. And that really is the bottom line of this, of the bill that was passed this last year.

So I can say for myself, and I think Senator DeWine will also jump in here in a moment to say it, that I want to be a partner with you in helping to fashion this plan and program for the District.

I think there are some plans that are already underway and seem to be working. Perhaps some directions have been taken that are not working. But every school district including the District is now going to be required by new Federal legislation to meet certain standards or, of course, there will be real consequences for failure.

With that, I am going to ask Senator DeWine if he has an opening statement, and then I am going to reask my question and we will start the panel.

Thank you.

[The statement follows:]

PREPARED STATEMENT OF SENATOR MARY L. LANDRIEU

The Subcommittee will come to order. Good morning and welcome to this important hearing on the status of the District of Columbia Public Schools. I want to express my appreciation for the witnesses we have on our first panel today, particularly Peggy Cooper Cafritz, President of the District's School Board and Mr. Paul Vance, Superintendent of Schools. Mr. Vance is recuperating from major surgery, so I am specially indebted to him for coming today. We also have Kevin Chavous with us today, the Chair of the City Council's Education Committee, and Carolyn Graham, the Deputy Mayor for Children, Youth and Families. I thank these witnesses for attending.

The District of Columbia is enjoying a renaissance. Once a fiscal and management nightmare, the City's budget is now in better shape than the budgets in Maryland and Virginia according to some media accounts. The City was once ruled by a control board, today the officials elected by the District's citizens are now in charge. A rampant crime rate chased citizens from District neighborhoods for the suburbs, now people are coming back. Property values are rising, new businesses are opening, and the City is working to beautify the Anacostia waterfront. I applaud Mayor Williams, the Council led by its Chairman Linda Cropp, and the people of the District of Columbia for this turnaround.

This success while in many ways remarkable is still very, very fragile. There is a long-term structural imbalance in the City's finances that Congress and the City must address and we will hold a hearing on this next month. With the on-going threat of terrorism, the Mayor remains concerned and I share this concern that the City is operating one disaster away from financial difficulty.

The school system will either play a vital role in the continuation of the District's success story or it will create additional budget woes that will threaten that success. What do I mean by that? As I said, people are coming back to D.C. They want to take advantage of what the city has to offer: restaurants, museums, sports and entertainment venues. But they will only stay for the long-term if they believe that their children can get a high quality education in the District. As long as they stay, as long as they own property and patronize businesses, pay their property taxes, the District's renaissance will continue.

I am concerned, however, that right now the schools are contributing to the fragile nature of the District's financial success. The Comprehensive Annual Financial Report (CAFR) for the District's budget projects a \$240 million shortfall in fiscal year

2002. Fortunately, the majority of the \$240 million can be covered through the use of reserves, but that will not leave a lot of reserves left over for next year. There are several reasons for the shortfall according to the CAFR: the City still needs to improve its Medicaid collections, for example. But the biggest item in the shortfall is an \$81 million projected deficit for the District of Columbia Public Schools and there is widespread agreement that the reason for this shortfall is cost overruns in special education.

Currently the District spends about one third of the total school budget on the 16 percent of all students who are in special education. I know transportation costs are a big factor here. Many of these students attend private facilities in Maryland and Virginia. There have also been reports of lawyers former public school employees gaming the special education system. The Washington Post reported on one lawyer who finds potential special education clients and refers them to a diagnostic testing service that he controls. Once the client has been diagnosed as needing special education services, the lawyer wins tuition from the school system to send the student to a private school he also controls.

This year, Congress is set to consider the re-authorization of the Individuals with Disabilities Education Act, the main Federal law on special education. Members, like myself, are anxious to use this re-authorization as an opportunity to examine what is working and what is not working in special education in America. On October 3, 2001, President George Bush established a Commission on Excellence in Special Education to collect information and study issues related to Federal, State, and local special education programs with the goal of recommending policies for improving the education performance of students with disabilities. In the 6 months since its inception, the Commission has found children are often mislabeled or under served in special education.

Some of the problems plaguing the system here in D.C. are also experienced in other school districts throughout the Nation, but some are unique. Clearly, special education has placed a tremendous strain on the education budget. Yet, are the services delivered the best and most cost effective alternatives available? No, they are not. Clearly, special education in the District of Columbia needs reform. I am concerned that without reform the City's overall financial management picture will suffer. This problem must be solved. I do not want to see the bad old days of deficits, poor services, and control boards return to the District on my watch.

I realize that all of the problems will not be solved today. If we need to hold some kind of special education summit in the near future to hammer out a solution, we can do that. As the Nation's capitol, the District of Columbia should serve as a model for other districts in America, a living testament to an ideal upon which this country was founded, equal opportunity for all.

In addition to special education, I want to discuss the District's public schools plans for implementing the No Child Left Behind Act. As many of you know, this year marks the first year in a new way in education thinking. This exciting reform, if properly implemented, has the potential to transform public education not only in the District but also in America. The District has a long way to go toward meeting the goals laid out by the No Child Left Behind Act. They need to implement a district wide accountability system complete with yearly assessments of school children grades 3 through 8; they need to put in place a system that ensures all teachers teaching in high poverty schools are fully qualified and they need to implement programs aimed at having all children proficient in reading by the third grade. While these requirements may seem onerous now, I can assure you from personal experience in my State, they will yield amazing dividends.

While this law will make a substantial investment in public education, there will be greater accountability required as well. I want to see to it that the District's public schools are not left behind in meeting the requirements of this legislation. I have seen the terrific work schools in Louisiana are doing in this area. My State had already implemented a number of the accountability reforms contained in the national legislation and they have yielded great returns. I hope we can share some of these best practices with the District and other school systems.

Today's second panel will help us to explore some of the best practices in areas that are critical to the cities ultimate success in education. We will hear from Andrew Rotherham, Director of the 21st Century Schools Project at the Progressive Policy Institute; Mr. Robert Cane, Executive Director of Friends of Choice for Urban Schools; and Virginia Walden Ford, a parent in the District and Executive Director of D.C. Parents for School Choice. I thank these witnesses for coming today.

John F. Kennedy once said, "Our progress as a Nation can be no swifter than our progress in education. The human mind is our fundamental resource." In the knowledge based economy of the 21st Century, these words are even more compelling. The

District can either accept the challenge or they can be left behind. The choice is theirs.

STATEMENT OF SENATOR MIKE DE WINE

Senator DEWINE. Well, Madam Chairman, thank you very much for holding this hearing, and I will also submit my written statement for the record.

We look forward to this hearing. All of us, we all know the horror stories about the District of Columbia school system. Quite candidly, these problems, though, can be found in many urban school districts. They might be a little different, but urban school districts are one of the major crisis points really in our country today.

If we do not, as a country, begin to address the problems of our urban schools, the future of this country and the future for our children will clearly not be what we want it to be.

In my own home State of Ohio, the graduation rate in one of our major metropolitan school districts is only about 36 percent. So this is not a problem that is totally unique to the District of Columbia.

But it is a problem the District has. The District has not performed—the school system has not performed in the past, obviously, as well as any of us would like it to.

Each year, the District spends over \$9,500 per student on education, and that is more spending per pupil than any of the 50 States. The national average is actually a little over \$7,000.

Earlier this year, Education Week gave D.C. schools a D grade in standards and accountability, and a D in improving teacher quality.

But our purpose here today is not to talk about the past. Our purpose today is to talk about the future and to talk about what has been accomplished in the last year or so. And that is really what we are looking forward to, is hearing the testimony from our witnesses.

Some ask, you know, “What role does the Federal Government play?” The chairman has, I think, outlined this a little bit. I would just add one more statistic. The Federal Government puts in about 17 percent of the money for the school district. That compares with 8 percent for schools nationwide. And we just completed a national debate about education led by the President and the Congress. And I think that was a very, very good debate.

But if it is important for what happens in Ohio when we only put in 8 percent, it is certainly equally, if not more important, for the District of Columbia, the oversight by the United States Congress.

So we are looking forward, Madam Chairman, to hearing our witnesses, to hearing what progress has been made, what vision has been made, what vision they have, and candidly what they see as the working together of the public officials and the community. I am interested in the involvement not only of the Board, not only of the mayor, but also of the parents, what has been their involvement and how do they fit into the overall scheme of putting our schools in the District of Columbia the way we would like them to be.

I thank you.

Senator LANDRIEU. Thank you.

Let me just update for the record, and Senator DeWine was putting into the record the last figures from the Department of Ed, but we just received some updated figures and I wanted to share them for the record.

It is now \$12,343, Senator, per pupil the District spends, which is the highest of any of the districts in the Nation compared to States. New York, just for reference, is second at \$10,481. Ohio is \$6,962, and Louisiana is \$5,968. So there is a great disparity.

We are trying to make sure that these are apples to apples, and oranges to oranges. This supposedly is not with Federal funds, but if you will have other figures, Peggy, we can put them into the record at that time.

So if this is not accurate, please help us to qualify that, because it is very, very important for us to have good comparative data, and we are really struggling with it. So I wanted to submit that.

In addition, I would like to say that the District should be commended in the sense of trying to increase investments in education. One of the goals of this hearing is to see if these new investments are commensurate with some of the reforms. Since 1998, the total funding has gone up from \$670,000 to over \$1 billion.

I do not have the percentage of increase, but you can see from this pie chart that it seems to be a very substantial increase in funding that has been a good decision by the local officials and with additional Federal funding.

Senator LANDRIEU. Now, if this is not accurate, then we need also to know, you know, because that is what we are working off of. We are trying to get good, good solid data.

But let us begin with the opening question. Would each one of you share your vision for the District's education system? Please begin by stating from your point of view what the schools look like today; what do you think they look like today, what should they look like in 10 years; one example of an area where you think the District has made significant progress and explain.

What are the two or three greatest barriers to excellence, uniform excellence in education facing the District as of today? And what are you or the agency that you represent doing to address these barriers?

If you could, do it in 5 minutes. First, if you would identify yourself. And, Peggy, we might want to start with you as the school board president, and I think that would be very helpful. And then we will go into a round of questions.

Ms. COOPER-CAFRTZ. Fortunately, I had your revised questions and that is what, you know, this is. I think that I will go through it quickly. I will just take some highlights from it. And then I did write down this vision thing.

[The statement follows:]

PREPARED STATEMENT OF PEGGY COOPER-CAFRTZ

Good Morning, Chairperson Landrieu and members of the Senate Appropriations Subcommittee on the District of Columbia. I am Peggy Cooper Cafritz, President of the D.C. Board of Education (Board). It is my pleasure to appear before you today to speak to the status of education in the Nation's Capital.

The board, in its role of enacting policy and providing effective oversight, has made significant progress in the first fifteen months of our existence. To name just a few of our accomplishments:

- We adopted a D.C. Public Schools (DCPS) strategic plan that has as its goal the total programmatic rebuilding of a very broken system;
- We approved a DCPS master facilities plan designed to rebuild our schools;
- For the first time in thirty years, we have broken ground on new construction or major modernization at six facilities—Miner Elementary School, Barnard Elementary School, Kelly-Miller Junior High School, Key Elementary School, Patterson Elementary School, and Randle Highlands Elementary School—and have completed construction of the new Oyster Bilingual Elementary School;
- In an effort to ensure that all District public schools provide quality instruction, we began the charter revocation process in regard to four poorly-performing charter schools and successfully completed this process in one instance. Two of the schools are challenging us in court on the issue of whether or not they are entitled to a contested case hearing in regard to the proposed revocation. While it is our position that federal law clearly requires an informal hearing only, we would appreciate Congress' further clarifying this issue to prevent the charter revocation process from being mired in legal challenges in the future;
- We approved policies for public/private partnerships, educational facilities planning, and school design and construction to ensure quality and maximize the use of private funds in our capital improvement program;
- We approved board rules requiring the superintendent to submit a performance-based budget beginning in fiscal year 2004, to enhance accountability in our school system;
- We approved the superintendent's central office transformation plan designed to streamline the DCPS central office and save DCPS \$17 million annually;
- We directed the superintendent to exclude from DCPS students with incomplete immunization records, a mandate that resulted in thousands of children being immunized. We brought the count from 41,000 unimmunized students to less than 20;
- We approved rulemaking on corporal punishment written in conjunction with DCPS unions and children's advocates, in an effort to protect the rights and well-being of both DCPS students and staff;
- We approved rules limiting reimbursement for special education independent evaluations and services, to bring these charges into line with standard costs in the field and prevent over-charging;
- For the same reason, we approved rulemaking requiring special education attorneys both to submit their bills within forty-five days and to provide proof of legal representation when they file special education due process hearing requests;
- We approved rulemaking broadening the scope of DCPS' prohibition on harassment and sexual harassment to safeguard the emotional and physical well-being of DCPS children and personnel;
- We approved a complete overhaul of the chapter of board rules regarding special education that includes a provision mandating that DCPS place students in only those private schools that have contracted with the school system unless required by court order, hearing officer's determination or settlement agreement to do otherwise. This was done in an effort to ensure DCPS' ability to control costs and effectively monitor facilities housing our students with disabilities;
- We enacted policy requiring DCPS teachers and principals to give timely notice (by April 30th) of whether or not they plan to return to the school system in the fall, to enhance our ability to project DCPS vacancies far enough in advance to allow for effective recruiting and staffing; and
- We passed a policy that allows DCPS to create special education schools for level 4 and 5 students, in partnership with private providers, and then to apply for a charter for these schools. In addition, to encourage others to apply for charters for special education schools, we compressed the amount of time it takes to get a charter for such facilities.

We are also very proud of the improvements that the superintendent has made during the new board's tenure. There is a new and better atmosphere in our schools, thanks to such improvements as dress codes for adults and children and behavioral codes for students. One of the administration's latest accomplishments is the completion of contract negotiations with the Washington Teachers' Union that will return management control to the superintendent. For example, it will enable the school system to institute a staggered bell time system, yielding millions of dollars in transportation savings. Under this agreement, our teachers will receive 5, 5, and 9 percent salary increases, but will still fall sadly short of being competitive with their counterparts in Montgomery and Arlington Counties.

We are working with Elise Baach, special master for the Petties case pertaining to DCPS special education, to develop other fiscal efficiencies in our provision of

services to students with disabilities. However, I am very concerned about the conflict between the pressure we are under to institute savings in special education and the federal law, the Individuals with Disabilities Education Act (IDEA), which prohibits any decrease in such spending from year to year. In order for us to obey the Council, the Chief Financial Officer, and Mayor, we will have to break federal law. The Board of Education seeks guidance from you on this issue.

As DCPS improves the way all children are instructed, fewer students will require the specialized services provided to children with disabilities. Statistics from our transformation schools prove this. Referrals for special education evaluations at H.D. Cooke, for example, have decreased from thirty-one last school year to one in school year 2001–2002. Similarly, referrals at Turner Elementary School are down from thirty-eight to seven and Simon Elementary School's referrals have decreased from thirty-six to eleven in a single year. The accomplishment of which I am most proud is bringing health, mental health, and social services into our schools. We are only in about 25 schools. We are severely limited by lack of funds, but hope to have this in all of our schools. Under the leadership of Deputy Mayor Carolyn Graham, Dr. Vance, and Dr. Seleznow, DCPS chief of staff, we are on our way to having the best holistic approach to education in the country.

I was deliriously happy when I discovered that one of the questions you wanted an answer to was my vision for the schools. Moving from budget crisis to budget crisis and the need to address other problems with urgency have severely limited the opportunity to discuss vision. My vision is one of a sea change that will produce students and schools on a par with Montgomery, Arlington and Fairfax Counties. My vision activates change in three phases.

First, I see an administration rebuilding the foundational infrastructure of DCPS, to include all basic systems, such as payroll and procurement. I envision this infrastructure being operated by a staff fully trained in all necessary computer programs.

I also see our master facilities plan being placed on the fastest track humanly possible. How can we expect our children to go to school in our crumbling buildings when they see what everyone else has on television or on visits to non-DCPS schools? It is a horrible message to give to already fragile young egos shunned by much of society. I have a vision of you, Senator Landrieu, taking up the battle cry for a Marshall plan for the rebuilding of D.C. public schools. We cannot wait the 15–20 years that implementation of the facilities master plan will take.

I envision us being bold, energetically solving problems, getting people like this year's Pritzker Prize winner, Glenn Murcutt, of Australia to work with DCPS to design a school or schools that are "green friendly" and environmentally sustainable, using new materials never used on schools but that are less expensive than the conventional bricks and mortar. I see us building beautiful schools that respect their surroundings and recognize that they are for students, not prisoners. The best architects charge the same fees as bad ones. The architectural firm of Devroux and Purnell just built a beautiful building for Peppo. Let's extend such architectural beauty to our schools in southeast Washington.

Second, I envision classrooms with high quality teachers who have met the requirements of the new federal education law, H.R. 1, the "Leave No Child Behind Act". These teachers are supported by a strong instructional leader, and teachers and principals are partners with parents who are engaged in their children's schools. In my vision, teachers are excited about teaching the students before them, and the students are eager to learn because their needs have been met and they are able to focus. I envision a K–12 core curriculum that ensures that each child is taught core subjects with equal rigor from neighborhood to neighborhood but also allows teachers to have enough freedom to bring their own creativity, knowledge, and magical touch to the classroom.

In the third phase of my vision, I see all of the other elements critical to a good education fall into place. As a required part of the school day K–12, I see students participating in intramural sports, fitness programs, arts programs, intellectual games, and every extracurricular activity that exists at, for example, Montgomery Blair High School in Montgomery County. I imagine our school day ending at 4:30 p.m. in elementary schools, 5:00 p.m. in middle and junior high schools, and 6:00 p.m. in high schools.

And speaking of high schools, I would abolish the institution, as we know it today! Instead, I would allow high school students to test out of core subjects. We would have a cooperative program with our colleges and universities so that our students could graduate from high school having already completed two years of college.

The core curriculum would be classically-based but would embrace afrocentrism and other racial and ethnic studies. Every high school student would take four core subjects—English, math, history and a foreign language—daily from 9:00–12:00 for four years, but would also have available a menu of additional vocational and aca-



demographic opportunities from which he or she could select an educational and career path. It might be three years of advanced history courses or it might be going to one of our state-of-the-art vocational education centers to study management information systems or it might be attending a sports agency and development program. All courses would be taught with the same rigor from southeast to northwest.

After junior high school, I see our high school teaching force becoming largely part-time (which, by the way, would help alleviate the current teaching shortage), giving DCPS the flexibility to, perhaps, have a former Senator who is now at Akin, Gump Come and teach a course in political science in a DCPS high school. The fate of the District's future rests on preparing young people to pursue all of the endeavors that being uniquely Washington requires, such as: foreign languages; tourism; federal court clerkships; and jobs as pollsters, Senate aides, or experts on terrorism. I could go on, but I hope you get the gist of my vision. It would be possible to select from many options. The city would be one big building and every DCPS high school student would own it, transversing it from the Potomac to the anacostia river, excitedly learning every day.

Let me note that I am specifically answering your question. The Board of Education has not discussed or adopted my vision. We did, as a board, adopt the superintendent's strategic plan, and I fully support that. I must also emphasize that we are a policy board, not an operations board, so it is Dr. Vance, not I, who would have to do all the work required to make my vision a reality!

Unfortunately, substantial obstacles stand in the way of DCPS' achieving my vision for the school system, most notably, a lack of resources. Despite significant increases in education funding approved by the Mayor and Council in recent years, we still fall far short of having the monies necessary to make all of the improvements required to provide our students with an education that is comparable to that provided in our surrounding jurisdictions. Just a cursory review of the numbers reveals why this is the case.

(All of the DCPS numbers in my testimony were computed by an independent financial analyst in accordance with the methodology used by the metropolitan boards of education (MABE) in producing its annual report on expenditures of school systems in the Washington metropolitan area. The MABE report is the source of my data for neighboring jurisdictions. Its numbers include local education agency expenditures and 80 percent of certain grant funds.)

While DCPS per-pupil expenditures are often described as among the highest in the country, our per pupil spending rate (\$8,637 in fiscal year 2001) is, in fact, significantly lower than that of three of our suburban counterparts (Arlington—\$11,254; Alexandria—\$10,609; and Montgomery County—\$9,063) and only slightly higher than that of Fairfax County (\$8,553). Excluding special education costs, our per pupil expenditures (\$7,031) lag even further behind.

Moreover, as an urban school system with a largely decrepit infrastructure, we are forced to spend more for security and building maintenance than our wealthier neighbors. Add to that the facts that DCPS is still recovering from the draconian cuts that we experienced in the 1990's and that our students are much needier than those in the suburbs and it is clear why a fiscal year 2003 budget of \$772 million will not make our students competitive with those of the surrounding jurisdictions.

In fact, for all of the reasons set out above, as well as the astronomical sums that DCPS is forced to pay out for private school special education tuition and related costs, DCPS expenditures for local school instruction (\$4,546 in 2000) fall far short of those of Alexandria (\$6,132), Arlington (\$6,347), and Montgomery County (\$4,826). For these same reasons, DCPS funding for local school, as opposed to private, special education services (\$5,929 in 2000) also lags behind that of Alexandria (\$6,709), Arlington (\$7,592), and Montgomery County (\$7,662).

Moreover, even as we fall farther and farther behind our neighboring jurisdictions in funding, our costs continue to soar. Implementation of the new H.R. 1, "Leave No Child Behind Act", for example, will have significant cost implications for the school system, as we strive to comply with the testing and personnel requirements in this legislation.

Some say that the school system could go a long way toward solving its money problems by disposing of its "excess" space. However, recent studies suggest that the square footage of D.C. public schools has been over-estimated. Moreover, if our schools are to become the centers of neighborhood life that District residents want and need, and if DCPS students are to be educated inside of our city limits rather than in costly suburban private placements, the school system has, in fact, little if any extra space.

Another "solution" to DCPS' underfunding that is sometimes offered is a suggestion that the school system trim its "bloated bureaucracy." A review of the numbers in this regard reveals that, in reality, DCPS spends significantly less on central ad-

ministrative costs (an average of \$574 per pupil in fiscal year 2001) than Arlington (\$2,747), Alexandria (\$2,247), or Montgomery Country (\$645).

For all of these reasons, I ask that Congress to now provide DCPS with the additional funding that we so desperately need if my vision for the school system is to begin to become reality. Other District leaders are, justifiably, appealing to you for congressional representation and a return of the federal payment, and we applaud these efforts. However, those issues fall outside of the purview of the board and the DCPS administration. Our sole responsibility is to the children of the District of Columbia. With this in mind, we urge Congress to give us the fiscal resources that we need so that we, in turn, can provide the children of our Nation's Capital with the quality education that they deserve.

We also need our own Chief Financial Officer for the school system. Dr. Vance must be able to manage well and know where every penny is spent. We, the board, cannot expect this if he does not have fiscal independence and the ability to protect DCPS coffers from the whims of the city's CFO. Most critically, however, a new plan must be devised for adequately funding District public schools.

That concludes my prepared statement. Dr. Vance and I would be happy to answer any questions that you might have.

Senator LANDRIEU. Well, that is okay. You do not have to—you can submit those answers for the record. I mean, you could just, off the top of your head, say what your vision is for the school system and one area where you think the District has made substantial progress; and then maybe just two areas that you, you know, feel we have really got to hone in on.

Ms. COOPER-CAFRTIZ. Okay.

Senator LANDRIEU. And this is just really a free flowing discussion.

#### SPECIAL EDUCATION

Ms. COOPER-CAFRTIZ. I think that the system has made significant progress in special education. The Board has completely overhauled the rules regarding special education. We are requiring private schools to have contracts with the system or they cannot be used, unless it is court ordered.

Okay, we have also come up with standard charges, so that lawyers and evaluation and, you know, service providers cannot charge us escalating and ridiculous amounts.

We have approved a way for the superintendent of the school system to engage in partnership with private providers to create schools and apply for charters. We have also created a way to compress the time that it takes to get a charter, and we are encouraging others to come through with charter applications so that we will be able to create enough beds, for example, for us to bring back from Minnesota and other far-flung places our students who are sent away in special education.

Senator LANDRIEU. Okay, if I could just ask a question. I do not know, Mike, if we want to ask questions as we go or have everybody make their statements.

Why do we not have everybody make their statements, because it may get a little bit too detailed, and we want to try to stay in the big picture. But I will make a note of some of the questions on special ed, and I think Senator DeWine—but go ahead and continue.

What are the two barriers that you might consider to the reform—two of the most significant barriers that your agency is facing?

Ms. COOPER-CAFRTZ. The two most significant barriers are the way that we are funded, which leads to tremendous misunderstanding about what we have and what we do not have. Let me see if I can find this, just so you can hear this.

Senator LANDRIEU. That would be very helpful if we could understand what that barrier is.

Ms. COOPER-CAFRTZ. While I am looking for this, another thing that I wanted to point out: With the schools that we have reformed, we only had money to do nine—they are called the T9 schools. We have had a decrease in the number of kids referred to special education because now everybody is getting a good education.

At one school, it decreased from 31 to 1, 25 to 7, and I have a whole list of that in my testimony. I just want to find this.

Ms. COOPER-CAFRTZ. Oh, okay, good.

Senator LANDRIEU. Go ahead. Take your time. If you need to, I can come back to it, if you want.

Okay.

#### SCHOOL EXPENDITURES

Ms. COOPER-CAFRTZ. I have it. Okay, all right.

Okay, let me—all of the DCPS numbers in my testimony were computed by an independent financial analyst in accordance with the methodology used by the Metropolitan Boards of Education, MABE, which is located in Montgomery County—yes, in Montgomery County.

In producing its annual report on expenditures of school systems in the Washington Metropolitan Area, the MABE report is the source of my data for neighboring jurisdictions and D.C. Its numbers include local education agency expenditures and 80 percent of grant funds.

Just so you will understand, MABE takes it takes the amounts of money that school systems spend and they break it down so that apples are compared to apples, and oranges are compared to oranges.

Senator LANDRIEU. And what is your total from that? What is your district total per student on—

Ms. COOPER-CAFRTZ. Okay. While DCPS per-pupil expenditures are often described as among the highest in the country, our per pupil spending rate, \$8,637 in 2001 is in fact significantly lower than that of our suburban counterparts.

Senator LANDRIEU. Okay. It is \$8,000 what—

Ms. COOPER-CAFRTZ. Just a moment. \$8,637.

Senator LANDRIEU. Okay. That is fine. We will just—

Ms. COOPER-CAFRTZ. Arlington—

Senator LANDRIEU. That is okay. We will just take that and try to reconcile the numbers and see.

Ms. COOPER-CAFRTZ. Okay. And I have the surrounding jurisdictions in my testimony.

Senator LANDRIEU. In your testimony, that would be great.

Ms. COOPER-CAFRTZ. Right, yes.

Senator LANDRIEU. And we can then take those numbers and try to reconcile them with ours. That is very important.

So your biggest reform is the special ed reform, and your biggest barrier is funding mechanism for the school board. Did you have a second barrier, or do you want to come back to that?

Ms. COOPER-CAFRTZ. There is—I mean, the biggest thing is funding, okay.

Senator LANDRIEU. Okay.

Ms. COOPER-CAFRTZ. And the biggest thing is the tremendous misunderstanding that exists about our funding. I mean, just for example, if I could get somebody—can I bring this up to you?

Senator LANDRIEU. Oh, get somebody to bring it up to me.

Ms. COOPER-CAFRTZ. Okay. But the—

Senator LANDRIEU. But we can come back to that, because that is part of what this hearing is about, to try to help us clarify some of these funding numbers.

Ms. COOPER-CAFRTZ. Right, right.

Senator LANDRIEU. But why do we not come back to that in the question and answers? And let me move to Dr. Vance, because we want to try to stay on schedule. If you could share that with—

Ms. COOPER-CAFRTZ. Okay. May I please, before you move on, speak to my vision?

Senator LANDRIEU. Okay. Let me come back to you, Peggy, because I want to take everybody—

Ms. COOPER-CAFRTZ. All right.

Senator LANDRIEU. I want to give everybody some time, and if we take too much—but I promise you, we will come back in the question and answer.

Dr. Vance, would you just give a brief overview of your vision, where you think the school system is now, where would like to see it and actually believe it could be in ten years? What is the greatest reform you think has been accomplished or is in the process, and what are the two barriers that you see?

**STATEMENT OF DR. PAUL L. VANCE, SUPERINTENDENT, DISTRICT OF COLUMBIA PUBLIC SCHOOLS**

Dr. VANCE. I think simply stated, my vision is one that can be shared with you, and it goes like this.

My vision is for us to have a school system where parents of children who are school age can stick their chests out and say, you know, “I am proud, because my youngsters attend a DCPS public school.” That has to be the vision.

That is the vision of every school system I have worked with. That is the vision of every school system where I have been a superintendent. And I see no reason why that cannot eventually be the vision for our school system here.

I believe we are set out on that course with, what I would consider to be, some very strategic planning. I am aware of the fact that we have made some gains.

But in a moment of candor, the longstanding, deeply entrenched challenges remain, unacceptable test scores—and they are unacceptable—inadequate infrastructure that is broken and one which we are in the process of correcting; ineffective systems that have been allowed to exist; other challenges such as the much publicized recent budget ills that have been unearthed along the way.

Yet, I insist that we are undeterred and will remain focused on the highest priority of this school system and any school system, and that has to be student achievement. And the true measure of a quality school system will always be the success of our students.

This is our motivation in school safety. It is our motivation in procurement and finances. It is our motivation in professional development and human resources. It is our motivation in transformation schools. And it is our motivation in the content of our curriculum.

So to me, this is our motivation in every dollar that we spend, and that is to facilitate classroom teaching and learning, and the success of our children with their various levels of achievement.

That, in effect, is where I think we are now. And those are some of our immediate short-range goals and some of the challenges.

But I do think that, to me, our greatest accomplishment of the past year has been the extent to which this entire city at all levels of government and higher education joined together to work with the school system to develop a strategic plan for the transformation of our school system, which placed the school system as one of the highest priorities in the continued renaissance of the District of Columbia.

Senator LANDRIEU. Yes.

Dr. VANCE. And there is a plan simply stated under the guidance of McKenzie and Company, that impacts the key building blocks in making any school system successful.

One is what you mentioned, develop, attract and retain excellent principals and teachers. Last year, in a period of 1 year, you will recall we fired almost 600 teachers who were not qualified.

Working with Teach for America and other organizations and our human resource department, we hired, we believe to be, very highly qualified teachers, over 650 of them.

We also went through the process of hiring and selecting 41 new principals. Just about 25 percent of those principals were recruited from outside of the District of Columbia. And we have programs for their continued development and induction into our school system.

[The statement follows:]

PREPARED STATEMENT OF PAUL L. VANCE

Good morning, Chairman Landrieu, members of the subcommittee, and others in attendance. I am Paul L. Vance, Superintendent of the D.C. Public Schools and am pleased to appear before you this morning to share with you the progress of our school district. In the past year, we have undertaken many administrative actions and initiatives that are effectively moving the D.C. Public Schools toward our transformational goals, the school reforms envisioned by the leaders of this city, and the vision of President Bush and Secretary Paige in which no child is left behind.

Approximately 1 year ago, our administration was steeped in a comprehensive assessment of school operations and a host of exciting new beginnings. We had just put a senior executive team in place, had kicked-off the development of our strategic business plan and had recently announced our new D.C. Teaching Fellows. We were publicizing corporate and community support for our new Technology High School at McKinley and were planning a comprehensive, extended day summer school program.

One year later, the planted seeds have yielded its first fruits. Our business plan is completed and is now guiding special education reform and the transformation of central administration. The response to the Teaching Fellows program exceeded all expectations, bringing many gifted mid-year professionals to our classrooms. The principal hired for the new Technology High School is now overseeing all phases of this project in preparation for opening in September 2003. The new Oyster Bilingual

School, our first new construction project in over 20 years and product of a creative public-private partnership, opened in September. And, our highly successful summer school program became a model for the expanded day programs and opportunities that will become standard in all transformed schools.

We are pleased, but ever so cognizant that our visible progress remains in the realm of beginnings. The long-standing, deeply entrenched challenges continue—unacceptable test scores, inadequate infrastructure and broken, ineffective systems. Other challenges, such as our recent budget ills, have been unearthed along the way. Yet, we are undeterred and remain focused on highest priority of academic achievement. The true measure of a quality school system will always be the success of its students. This is our motivation in facilities and school safety, in procurement and finances, in professional development and human resources, in our transformation schools and the content of our curriculum. This is our motivation in every dollar that we spend—to facilitate classroom instruction, to improve academic achievement and to expand educational opportunities for all students. We simply cannot claim success until the majority of our students are proficient or advanced in both reading and math and until every child's education fully enables that child to stake out his or her place in the world.

We are years from complete reform, but we have exhibited a commitment to accountability and higher expectations. This year, in the name of accountability we undertook many things—some new, others long-deferred. The successful immunization of roughly 21,000 in period of just over 2 months began with a tough decision by the Board of Education to hold ourselves accountable for the fundamental well being of children. This was a significant milestone in the perpetuation of high standards and accountability, and commitment to community and government working harmoniously.

I briefly mention other noteworthy accomplishments.

- This year, we got the school year off to a good start by certifying to the Board and Council that all ordered textbooks were delivered to every school in time for school opening;
- This school year, we enforced certification for ALL TEACHERS, even before the new ESEA authorization, and strengthened teacher recruitment so that we were successfully able to hire 527 new teachers with improved staff work, better use of technology and marketing and support from our D.C. Teaching Fellows Program and partnership with Teach for America;
- This year, we focused on schools leadership and developed, in partnership with the Council for Basic Education, the Principals Instructional Leadership Academy that included a Summer Institute for senior high principals and the 39 new principals that we hired;
- This year, we focused on high schools with our blue-ribbon panel, comprehensive assessment that yielded important recommendations to guide senior high school transformation;
- This year, our new Advanced Placement Office that has increased AP class enrollment, teacher training, and the number of students taking the SAT;
- This year, we expanded programs for girl's athletics to move us closer to Title IX equity;
- And this year, we have begun to more effectively link key components in the academic arena, e.g., state-of-the-art curriculum, standards, assessments, benchmarking, professional development and state-of-the-art technology.

The major undertakings of which we are most proud are school transformation and school facilities. The major undertaking that continues to offer the greatest challenges is special education. But, here, too, we are undaunted and are confident that we will finally put all of the pieces in place.

- For school transformation, we began operating nine transformation schools referred to as T-9 Schools. Transformation is a fast track approach reserved, initially, for the lowest performing schools so that these schools will move more quickly toward overall institutional reform. The focus of these first months has been both on literacy and professional development so that the proven instructional models that are being implemented in the T-9 schools are implemented effectively. The focus on literacy helps to establish an appropriate academic environment and is intended to give students the foundation essential to improved achievement. It is early, but we are beginning to see signs of the multi-faceted benefits of fixing the problem rather than treating the symptoms. We are anxious to assess one full year of operation as we prepare to support more schools in similar fashion;
- In the area of school construction, we have made substantial progress in rectifying the unacceptable condition of our school facilities, holding ground-breaking for six school construction and modernization projects, with several

more on the horizon. These are the first fruits of implementation of our facilities master plan which calls for the modernization and replacement of 143 facilities over a 10–12 year period and a \$2.4 billion investment in our children and in the future of this city. But, it is important to note that we continue to face challenges as we move toward our school facility improvement goals. Space in schools and former school buildings, once viewed as underutilized and surplus, is needed throughout the city for the in-house special education programs that will meet student needs, cut transportation requirements and reduce private tuition costs. Space is also needed to accommodate fluctuations in class sizes, to house wraparound service providers that will become the hallmark of transformation schools, and to serve as swing space for students displaced by new construction.

—Finally, to meet our greatest challenge of special education, we are implementing a seven-point plan for Special Education Reform. The plan has seven strategic points, each with a set of outcomes, measures, cost savings, as well as management initiatives, detailed action plans, timelines and deliverables. The seven strategic points are: Accept responsibility at all levels to serve students at their local schools; strengthen DCPS internal special education capacity and offerings; improve management of the use of non-public providers; improve management and operations within the Office of Special Education; effectively manage transportation; establish new legal, legislative and policy strategies; and build creative partnerships with other agencies.

We are currently finalizing partnerships with private providers to serve our special needs students within the city at significantly lower cost than private providers in surrounding jurisdictions. We are also just beginning to implement a staggered bell schedule for SY2002–2003, now possible after the re-negotiation of the contract with the teachers union. We continue to improve our Special Education Tracking System (SETS), which was audited at 94 percent accuracy at 128 of 152 schools earlier this year, to provide better services and funding to serve our students with special needs. And, notably, we are working with leaders from the Mayor's office, the D.C. City Council, OCFO, and other city agencies to form a Task Force on Special Education that will help to monitor, support, and implement the most complex, cross-cutting components of special education reform.

Our progress on many fronts is pursuant to our business plan and transformational goals that are essential to placing the DCPS house in order. The plan is focused on the performance and measurement that represent the imposition of high standards that will yield long-term results. This is a mode of operation—a way of doing business where by every opportunity is maximized to the advantage of students. While we cannot accomplish everything at once and as quickly as we would hope, given the urgency of our tasks, we are confident that if we stay the course, knowing what to do and how to do it will get us there. The longstanding challenges can and will be resolved with due diligence and fiscal responsibility.

We are working with the leadership and members of the Board of Education, the Council and our Mayor to build a rock solid foundation of resources and support, and to solve our budgetary woes once and for all. We are pleased with the support we are receiving from the community at large and believe that our sharing of information with our many constituencies and overall transparency are multiplying our early successes through heightened awareness and increased participation.

We move confidently toward a future, step-by-step, that is within our reach. But, beyond the range of our 3–5 year business plan and the milestones we will have passed, a new school system will emerge that is responsive and relevant to the needs of all children and the needs of our community. This will be a school district in which the students with special needs are served in such way that education for all children becomes equal opportunity and student accomplishment. This will be a school district where schools are synonymous with the enterprise of learning and those activities and services that support this process. This will be a school district where parents are truly partners, and one in which the entire community feels ownership.

We are pleased to have been given this opportunity to make a difference in this community and to do right by our children. We are appreciative of your interests and involvement and would be pleased to address any specific questions you might have.

Thank you.

Senator LANDRIEU. Okay. Let me ask this: You then stated that the greatest reform has been the unity, the development of a strategic plan and the unity around that specific plan. And then you

cited two specific examples, the hiring of 600 better qualified, more energetic, more motivated teachers, and 41 new principals.

What are the two barriers that you see, the largest, looming barriers from your view as superintendent, and how are you trying to address these two specific barriers?

Dr. VANCE. My perspective on that question is, barrier number one is that the District of Columbia and the school system are really not seen as competitive. They are really not seen as the places where bright, energetic people who, one, who are new to the profession or those who are at mid-careers and choose to make a change in their profession and to come into education, do not see the District as a viable alternative that has history to it.

Senator LANDRIEU. Yes. And what would the second one be?

Dr. VANCE. The second one would be an internal feeling amongst the school system employees, which means that "No one really loves us"——

Senator LANDRIEU. Okay.

Dr. VANCE [continuing]. Or "No one really cares for us. No one is really preoccupied over us, our well-being, and what we have been doing over the years to try and to keep the school system together." And so I would say the second serious challenge is the level of morale amongst our employees——

Senator LANDRIEU. Low morale.

Dr. VANCE [continuing]. And particularly of those of some standing and tenure in the school system.

Senator LANDRIEU. Okay. Thank you very much.

Ms. Graham.

**STATEMENT OF CAROLYN GRAHAM, DEPUTY MAYOR FOR CHILDREN,  
YOUTH AND FAMILIES, GOVERNMENT OF THE DISTRICT OF CO-  
LUMBIA**

Ms. GRAHAM. Good morning, again, Senators Landrieu and DeWine. On behalf of Mayor Williams, I want to applaud you for this hearing this morning and certainly our presence here to begin what we are hoping to be an ongoing dialogue with you and with the city around the reform of public education here.

Mayor Williams's vision for public education in the District of Columbia is that of a vital, effective system that is made up of school choice, which gives every child access to a high quality education in a safe, healthy environment.

That vision recognizes that all children must come to school prepared to learn, so we are not looking at school as beginning within the walls of the public system, but rather within the context of community, which means schools now must be linked in a new and a different way to the community process and learning.

It is a vision that recognizes that all children are taught to be responsible citizens and they make valuable contributions to their local, as well as global, communities; and that all children have access to adequate social support that will support their ongoing learning. And it is a vision of a system in which teachers and principals can both inspire and be inspired, and where parents are viewed as partners in the learning process.

It is a vision of a system where all school buildings are safe and sound and adequately equipped with modern technology. And finally, it is a vision of a system that exemplifies the health and vi-



tality of this capital city, one that can become a national, indeed an international model for success and achievement, attracting and producing the best and the brightest educators and students that the world has to offer.

We believe that the school system now is in the process of change. It is in flux. It is a system that is embracing now many of its own historical issues and problems. Actually, many of those issues have come to light.

Certainly under Dr. Vance's leadership, Mr. Chavous' leadership on the Council, and Ms. Peggy Cooper-Cafritz's leadership on the Board, the administration has begun to embrace the issues, the historically embedded issues of the system. And I believe it has begun to move, to move forward in making the necessary changes in the infrastructures that Dr. Vance alluded to.

I believe that some of, or one of the major achievements of this system over the past year and a half or so has been the unity that has emerged with all of the branches of government, committed to the one goal, and that is the reform of the overall public education system and the embrace of systems that not only begin, as I said, in community, but also transcend the walls of the public system itself, looking at the relationship between lifelong learning that finds a place in out-of-school-time activities for children and also beginning now to understand the vital role that parents play in the overall strengthening and learning process of children.

Thank you.

[The statement follows:]

PREPARED STATEMENT OF CAROLYN GRAHAM

Good morning Chairwoman Landrieu, and members of the Committee. My name is Carolyn Graham, Deputy Mayor for Children, Youth, Families and Elders in the District of Columbia, and I am here to testify on behalf of Mayor Anthony Williams. I am accompanied by Mr. Gregory McCarthy, Deputy Chief of Staff for Policy and Legislative Affairs. It is a pleasure to be here today to discuss the Mayor's vision for public education and for the children and youth of the District of Columbia.

*The Vision*

Mayor Anthony Williams' vision for public education is a vital, effective a system of traditional and charter schools that gives every child access to high quality education in healthy and safe environments. It is a system in which all students: (1) come to school ready to learn, and leave with the necessary skills to be successful in today's technologically advanced society; (2) are taught to be responsible citizens and to make valuable contributions to their local and global communities; and (3) have access to adequate social services to support their learning. It is a system in which teachers and principals can both inspire and be inspired, and where parents are partners in their children's academic development. It is a system where all school buildings are safe, sound, and adequately equipped with modern technology. And, finally, it is a system that exemplifies the health and vitality of this capital city, one that can become a national model of success and achievement, attracting and producing the best and brightest educators and students.

Recognizing that progress has been made since 1995 when Congress passed the D.C. School Reform Act, the District is still faced with many challenges. Many students enter school with developmental challenges that have not been effectively identified and addressed. Moreover, we recognize that the District must do more to improve student achievement scores in kindergarten through 12th grade. In school year (SY) 2000-2001, some 25 percent of District of Columbia Public Schools (DCPS) students scored below basic on the Stanford-9 Reading test and 36 percent scored below basic in math. The more significant challenges include a rapidly growing special education population, increasing demands for adequate facilities for both traditional and charter schools, and the need to retain a highly qualified teaching staff.

Indeed, the District is a long way from fully realizing the Mayor's vision. Mayor Williams looks forward to continued collaboration among his Administration, the

City Council, the D.C. Board of Education, the D.C. Public Charter School Board, the DCPS Superintendent, and other city leaders, to make our combined goals a reality.

*Priorities for Achieving the Vision*

Educating our children continues to be the first and foremost priority of Mayor Williams' Administration. Indeed, this is absolutely central to the Mayor's broader effort to expand our economy, attract new residents, and revitalize our neighborhoods. The Mayor is focusing on a number of goals in the area of education that will help to achieve his vision. These goals support the reform agenda and other initiatives of the Board of Education and the Superintendent, and marshal the resources of the executive branch around the following:

*Adequately Funding Public Education*

The Mayor, with the support of the City Council, approved significant budget increases for schools. Funding for public education has increased by 44 percent over the last 4 years; going from \$558 million in fiscal year 1999 to \$800 million in fiscal year 2002. Moreover, the Mayor's fiscal year 2003 proposed budget, currently before the District Council is \$906 million, another increase of 13 percent over fiscal year 2002.

The Mayor has maintained his commitment to fund public education through a transparent, sound process. Prior to the enactment of the Uniform Per Student Funding Formula ("Formula"), funding for the DCPS was based on the expressed needs of the system and the District's ability—at that time—to meet those needs within limited existing revenues. The Formula, as prescribed in the District of Columbia School Reform Act, is a budget development and execution process that was designed to protect DCPS from the public competition over scarce resources. It provides a more structured, data-driven, equitable approach to funding both DCPS and public charter schools. The fiscal year 2003 proposed funding level is largely based on an analysis of the Formula conducted by the District's State Education Office (SEO), and includes an 11 percent increase in the Formula's foundation, which is the minimum amount a funding each student receives. It also adjusts the funding level for special education services. Although the District is still behind some of our neighboring jurisdictions on per pupil spending, implementation of the revised Formula will move us closer to parity.

One of our biggest challenges with respect to financing public education is special education. The special education population is approximately 17 percent of the overall DCPS student population, while it is 11 percent of the public charter school population. The cost of educating special education students, particularly those in non-public placements outside of the District, far exceeds that of general education students. Transportation and non-public school tuition costs for special education students are a huge strain on the District's budget. However, the District is coming together to aggressively improve the operations of special education. To provide the comprehensive support that DCPS needs, the Mayor, in collaboration with Councilmember Chavous and the Board of Education, is creating a Taskforce on Special Education.

*Supporting a Vibrant System of Public School Choice*

Washington is home to one of the most vibrant charter school movements in the country. The D.C. charter school law is rated among the top five in the Nation by the Center for Education Reform. Since 1996, both the Board of Education and the D.C. Public Charter School Board, our two chartering authorities, have approved a total of 38 charters. Currently, there are 36 public charter schools operating on 39 campuses in the District with a total enrollment of more than 8,000 students.

The vitality of charter schools is testimony to the Mayor's commitment to competition within a system that give parents choice. Our charter schools offer a variety of educational programs including math and science, technology, arts, English as and Second Language (ESL) and dual language immersion, character development, public policy, and college preparatory study. They also offer many approaches to learning including individualized instruction, small academies, and schools within schools. Despite our efforts, the problem of adequate facilities to house our newest public schools still exists. The District has not been able to meet the need or demand for space, but we are working with both the public charter schools and DCPS to resolve the problem.

The charter school movement is very young and it is still too early to judge the long-term success of these institutions. We anxiously await the completion of the 5th-Year Review currently underway at two of our first charter schools. Several other schools will be up for 5th-Year Review within the next year.

*Providing Healthy, Safe, Technologically Appropriate Facilities for Every Child*

The desire for quality school facilities continues to be one of the key priorities of District citizens. The Facility Master Plan developed by DCPS in December 2000 outlines an ambitious 10 to 15 year proposal to ensure that all DCPS schools are safe, sound, educationally appropriate and efficient to operate. Currently, there are 150 operating elementary, middle, junior high, high schools and special education centers in DCPS. The average age of these schools is over 65 years, with eight schools constructed in the 19th century. Oyster Elementary School, which was completed in fall of 2000, was the first school to be built in over 20 years. Some 70 percent of DCPS schools have been determined to be in poor physical condition.

The bulk of DCPS buildings were designed for a different society. There are no health suites, no early childhood classrooms, and, in some cases, no lunchrooms. These schools were not designed with summer school in mind, many are not fully accessible to persons with disabilities, and play and parking spaces around the buildings are less than adequate. Because most of the schools were built prior to the use of modern technology, they are not wired for Internet access or outfitted to meet today's technology needs. In addition to limited technology, many schools face problems with basic systems such as windows, roofs, boilers, and ventilation systems. More importantly most schools lack educational amenities such as science labs, art rooms, and up-to-date career and technology facilities, etc.

The Facility Master Plan represents the largest school construction program in generations, and it reflects the urgency ascribed to rebuilding our schools after decades of disinvestment. The projected cost of implementing the Facility Master Plan, which will modernize or replace 143 schools over the next 10 to 15 years, is more than \$2 billion.

There is \$183.4 million in the fiscal year 2003 DCPS capital budget, and a total of \$694 million over the next 6 years. In order to align the District's capital budget with identified facility needs within the proposed 10 to 15 year timeframe, additional funding will be required in future years. Because of structural funding problems, such as the District's limited bond and debt capacity, as well as the fact that DCPS must compete with other city agencies for limited capital dollars, full funding of the Facility Master Plan will present major challenges. District leaders have begun a dialogue around ways to augment current capital funding levels. One promising solution is the Fair Federal Compensation Act (H.R. 3923) introduced by the District's Delegate, Representative Eleanor Holmes Norton and supported by Mayor Williams and District Council Chair Linda Cropp. This bill will create a dedicated infrastructure fund to be used for funding capital improvements, including school construction.

*Supporting DCPS Efforts to Attract School Leadership for the 21st Century by Recruiting and Retaining Outstanding Principals and Teachers*

Teachers are one of our city's most treasured resources. We cannot afford to lose our best teachers because they are tempted by better salaries and working conditions in neighboring counties. In an attempt to attract and retain good teachers, the Mayor has dedicated significant resources to more adequately compensate our teaching staff. He has supported a 20 percent increase in teacher salaries over the next 3 years. This proposed funding level will bring the District of Columbia closer to parity with surrounding jurisdictions.

Other efforts to improve the quality of our teaching staff include the D.C. Teaching Fellows program, which attracts professionals from a variety of careers. These new teachers bring their experiences, knowledge and record of achievement to the classroom and positively affect the lives of students. Teaching Fellows receive financial incentives including signing bonuses, reduced mortgage and low/no down payment programs for home buying, educational awards to assist with tuition costs, vouchers for classroom supplies and cancellation or deferment of student loans. In addition, under the leadership of the Board and with the support of the Mayor, DCPS has successfully implemented the LEAD Principal program, which will recruit and train a cadre of highly qualified principals.

*Supporting DCPS Efforts to Turn Around Low-Performing Schools Through Wrap-Around Services and Out-of-School Time Programming*

In support of the DCPS's Transforming Low-Performing Schools initiative, the Williams Administration launched a partnership with the DCPS, called Transforming Schools into Neighborhood Places. This effort brings together two essential goals: (1) providing an array of social services in a community-based setting; and (2) integrating social services around schools to improve the lives of children and families. With the support of the Annie E. Casey Foundation and other philan-

thropic organizations, D.C. Government agencies will provide an array of support programs including on-site mental health services, recreation programs, and literacy at nine schools that have shown four continuous years of low- or stagnated-performance on academic tests. The Department of Mental Health has already begun providing mental health services in the Spingarn cluster of the DCPS system and will expand services into each Transformation School.

An integrated data management system, called the Safe Passages Information System (SPIS) is being created to support the Transforming Schools into Neighborhood Places partnership. The Safe Passages Information System will enable the District to better track services being delivered to children throughout the District of Columbia. The effort is the initial phase of a redesign of the human services delivery system that will be focused on integration and coordination of data-sharing across agencies.

To increase the availability of structured programs available to youth during the critical hours of 3 p.m. to 8 p.m. daily, Mayor Williams created the Children and Youth Investment Trust Corporation (The Trust) in 1999, which provides out-of-school time programming to children and youth in the District. The Trust Corporation is an independent, nonprofit organization incorporated to “. . . increase the quality, quantity, and accessibility of services,” particularly in the areas of early childhood development, out-of-school time programs, and youth entrepreneurship opportunities, by leveraging public and private funds. To date, the District has provided more than \$22.5 million to the Trust, which funds more than 70 community-based organizations throughout the District. During fiscal year 2002 alone, 21 community-based organizations were added to the partnership of grantees. The Trust Corporation reports that over 1,500 children and families will be served through these new awards. Two of the programs selected this year serve as parent centers, and six were selected for literacy initiatives.

Much of the Trust Corporation's efforts center on residents east of the Anacostia River in Wards 6, 7, and 8. Each Trust grantee has specific areas of focus. Early Childhood Development grantee partners focus on parent education, social services, and the immunization and health of very young children (newborn to 5 years of age) to ensure these children are ready to learn. Out-of-School Time grantee partners engage older children and youth in stimulating and enriching curriculum in the critical hours before and after school, weekends, holidays and summers. Youth ages 12–21 benefit from the career training opportunities and personal development experience offered by Youth Entrepreneurship Trust Corporation grantee partners. These grantee partners offer a tremendous variety of innovative programs across the District, each with a unique approach to quality programming. In addition to funding the Trust, the District provided \$12 million to D.C. Public Schools to provide before and after-school programs to District youth. During the summer of 2001, day long academic and enrichment programs were available to all children in the District at more than 110 District schools.

#### *Fostering Effective, Structured Interagency Collaboration*

While the Transforming Schools Initiative is a prime example of the renewed commitment to our interagency collaboration, the District is also launching an interagency initiative designed to create a more coordinated approach to the provision of literacy services. According to the District's State Education Agency—Adult Education Office, 37 percent of the District's adult residents are reading at or below the third grade level. In an effort to ensure that adults have access to quality learning services that enable them to actively participate and fulfill their roles as parents, workers and citizens—through a combination of adult education, child education, interactive parent-child activities, and parenting classes—the District and the Workforce Investment Council (“WIC”) are spearheading city-wide family and workplace literacy initiatives. Through the partnership with WIC, a Literacy Coordinating Council will be established to use existing and new resources more effectively.

The WIC is an existing entity that was named by Mayor Williams to serve as the District's Workforce Investment Board, as required under the Workforce Investment Act. WIC is a private-public partnership comprised of key business, education, labor, government and community leaders to ensure that the District's workforce needs are met.

Agencies under the Children, Youth, Families and Elders Cluster and the WIC will continue to work collaboratively and employ a multi-facet approach to increase family and workplace literacy throughout the District of Columbia. To provide just one example of this type of collaboration—in fiscal year 2001, the Department of Human Services, D.C. Public Libraries, the District's State Education Agency, the Department of Employment Services, the Workforce Investment Council and many private sector employers held the District's first 3K Literacy Walk. A series of book

readings and reviews followed and interagency partners worked together on a regional book collection drive. The Williams Administration would like to see this type of collaboration on literacy initiatives continued and expanded upon over the next three years.

*Expanding early childhood intervention, such as increasing child care slots, and opening parent development centers*

The District has developed more than 9,261 new childcare slots for TANF and low-income families in fiscal year 2001. In fiscal year 2002 we are aiming to increase this number by approximately 500 slots. To improve the quality of programming the Office of Early Childhood Development is encouraging more child development centers to seek national accreditation by offering a Tiered Payment System that awards higher subsidy payments to centers that are nationally accredited. The Tiered system categorizes child development and Head Start centers as either Bronze, Silver and Gold based upon their implementation of accreditation standards that focus on teacher certification, information technology application and other key indicators. The Department of Parks and Recreation is leading the way by having achieved national accreditation for more than 20 of its 21 child development centers.

Parent development programs are also essential to ensuring that all children and youth live in healthy, stable and supportive families. The District, through the Department of Health and the Trust Corporation have emphasized parental readiness by offering innovative support programs for parents, especially parents of newborns. The Department of Health offers parental support through its Newborn Home Visitation programs which offers home visits to parents of newborns within 48 hours of discharge from the area's major birthing hospitals—Columbia Hospital for Women, Howard University Hospital, Georgetown Hospital, Providence Hospital, the Washington Hospital Center, Greater Southeast Hospital and George Washington Hospital. The Children Youth Investment Trust also funds 8 early childhood/parent development centers throughout the District to provide support for parents of children ages newborn to 5 years.

#### CONCLUSION

Much has changed over the last few years, as our school system emerged from crisis to steady and measurable progress. Perhaps the most significant change is that the city's elected and appointed leadership—the Schools, the Board of Education, the Executive, and the City Council—are working together closely to advance a reform agenda. The Board and Superintendent Paul Vance have made early strides in improving education and promoting a sense of hope and reform in the system. Top-level staff are similarly equipped to provide effective leadership.

I have attempted to outline the Mayor's vision for education, and how the Administration has set out to achieve these ambitious goals. To date, effective partnerships have been formed with the Board and Superintendent and the Williams Administration around critical issues in the school system such as transforming low-performing schools, child immunization, and special education. The City Council, particularly through the efforts of Councilmember Kevin Chavous, has been very supportive of this work. As we move forward, we must continue to work jointly to solve the challenges ahead of us. We will also be calling on the support of the Congress as we continue to make strides and tackle obstacles.

Thank you for the opportunity to testify before you and I welcome any questions at this time.

Senator LANDRIEU. Okay. You cited the specific advancement. What are the two barriers that, from your position, you see as substantial barriers to achieving the vision that you just outlined?

Ms. GRAHAM. We must have significant capital investments and new facilities in the system. The first new building that was built in over 20 years came on line this year in the District of Columbia, realizing the goal certainly of the capital plan to create healthy learning environments for children that are community centered and linked will be important.

The next most significant, if not maybe the first significant, issue facing this system is, of course, special education, and the relationship of that and the financing of that, and the way in which—the fact that the school system does not have, at this point in time, the adequate infrastructure to do the kind of Medicaid billing and

whatnot that supports this, the financing of special education in the City.

It is a system that has largely been over the past years defined as a system that is a special education system. We must flip that paradigm. It must be a system that embraces the needs of all children.

Senator LANDRIEU. Okay. Thank you.

Mr. Chavous.

**STATEMENT OF COUNCIL MEMBER KEVIN P. CHAVOUS, CHAIR, COMMITTEE ON EDUCATION, COUNCIL OF THE DISTRICT OF COLUMBIA**

Mr. CHAVOUS. Thank you, Senators, Senator DeWine and Madam Chair. It is good to be with you again and I thank you both for your commitment to the City.

Let me just briefly speak to my vision. The benefit of going last is you get to hear everyone else, then I can highlight and amplify some things you may have already heard.

The overall vision is that each and every child in the City has equal access to a quality education. The way I view that would mean that starting as early as age three, every child would have access to a quality based pre-K program. They would be well nourished, well supported in their homes and in their neighborhood, and we would be well on our way toward educating, not just the child, but the whole child and the whole family.

That means that our system would have to be working in tandem with the other social services entity, or entities in the government, so that we are able to, early on, diagnose and ascertain what ailments afflict not just a child, but the family, because those are the type of ailments that impact on a learning experience.

My vision would include school choice, where by the time a child enters into first grade, parents have the option of sending their children to charter schools. The District has the highest percentage of school-age children in charter schools in the country. And I think that that, in and of itself, has been a major, major reason for some of the reform initiatives.

I am a strong supporter of charter schools, and they are absolutely essential to the future survival of our overall public school system. We have to recognize that one size does not fit all.

When you talk about the parents, the frustrations that parents have, a lot of those frustrations are based on the disconnect between the bureaucracy and the school system and their every-day experiences. And my vision would include destroying that disconnect so that parents feel that they are part of a system that embraces them and that they can, you know, they can participate in it.

In terms of some of our accomplishments, I think that as you have heard from some of the other panelists, clearly the most important and significant accomplishment has been the ability of the mayor, the Council and the Board and the superintendent to all work together.

We meet on a regular basis several times a month. Some of the meetings are grueling. Some of the meetings are extremely candid, but overall they are productive. It is these types of hands-on involvement by the collective leadership in the City that will ulti-

mately reap dividends for parents and children. And that has been the single most important distinction this year as opposed to previous years.

The second accomplishment I would point to is years ago the Council led an initiative through my committee to push the system toward better school autonomy. By having a per-student funding formula, we were going through the questions about how much we spend to educate our children, and we attached all of our funding to the child, and then we attached that funding to each school.

That has led to greater control by principals over their resources. We are not where we need to be, but school autonomy is essential to progress and reform in our school district.

That leads me to the barriers. The single biggest barrier to reform, not just in this school district, but any school district in the country, is the entrenched bureaucracy. The bureaucracy is self-perpetuating, and it is the antithesis of the school autonomy that must occur in the local school level for parents to feel a part of what is going on.

We are now moving well past the days where school principals have to requisition downtown to get their books ordered and to get a principal—I mean, to get a teacher replaced. But some of those days still are with us. And school choice will not work, innovative and creative programing will not work if you have a bureaucracy that continues to feed itself at the expense of our children and our parents.

I think that is the single biggest challenge that we all have in trying to move a reform agenda forward; that is, the bureaucracy that is in existence, not just in this school system, but in others.

Second, along with Deputy Mayor Graham, I agree that special education is a huge problem right now. I think the problem is more immediate, because we have not done some of the other things that would naturally cut into the special education problem.

If we educate the whole child, if we have quality pre-K at age 3 for every child in the City, and we are able to diagnose the problems attendant with them, with those children, then that will cut into the expenses that we spend at the end of the equation with special education when we realize that at age 13 and 14 we are losing these children because we did not give them what they needed early on.

So those are just my thoughts in terms of some of the questions you raised.

[The statement follows:]

PREPARED STATEMENT OF KEVIN P. CHAVOUS

Good morning, Chairwoman Landrieu, and members of the Subcommittee. Thank you for your invitation to testify at this hearing today to discuss the vision as well as the status of education in the District of Columbia public school system, and report on the efforts and progress that the Council of the District of Columbia, the Administration, the District of Columbia Board of Education, and the Public Charter School Board have made in implementing the requirements of the District of Columbia School Reform Act of 1995.

As you are aware, we are in the midst of major school reform in the District of Columbia. With the selection of Dr. Paul Vance as Superintendent, the new School Board and the active involvement of the Mayor and the Council, I am more optimistic about the future of public education in the District than ever before. As education stakeholders, we have all formed an intimate partnership that includes regular meetings and, ultimately, policy consensus in a number of areas.

It is our vision that each and every child has equal access to a quality education. We are caretakers to our kids and this is the most sacred public trust—how we approach educating our children. With this in mind, we need to recognize some of our failures in the past—How bureaucracy, cronyism, and misplaced priorities negatively impacted our vision. Now, with our new leadership, we are collectively and aggressively working to reform the system and stay true to the needs of our children.

From the Council's perspective, specifically, through my Committee (Education, Libraries and Recreation), we have been instrumental in providing both legislative and budgetary support for our schools, as well as vigilant oversight of their activities. Over the past 5 years, we have added over \$400 million new dollars to public education. This amount includes new money for our charter schools, which I have been one of the strongest proponents for.

The Council has also passed far-reaching school reform legislation that has improved the quality of education that our children receive. For example, the composition of the School Board has been changed. We now have a hybrid School Board which is comprised of appointed and elected members. Additionally, my legislation created the State Education Office, which was designed to be an independent monitor of State related functions administered by both the District of Columbia Public Schools (DCPS) and District of Columbia Public Charter Schools (DCPCS). These successes demonstrate that we are poised to continue to implement reform efforts in the public schools.

One of the areas ripe for reform is the area of early childhood education. Last summer, I introduced legislation that would lower the compulsory school attendance age from 5 years old to 3 years old. This legislation will build upon the success that has been experienced by the Office of Early Childhood Development. To explore the viability of this unprecedented piece of legislation, I appointed the Commission on Primary Education Reform and have partnered with the American University to develop a blueprint for its implementation. This blueprint has been completed and we are reporting on the findings in city wide town hall meetings taking place throughout our city. Our third one is tomorrow evening at American University for Wards 3 and 4.

Late last year, this same panel testified in the House of Representatives on the financial crisis that faced our schools. Although we have made much progress in addressing the issue of overspending, the real solution to solving the special education problem lies in a deeper commitment to providing services to our children within the City's borders and also a more united approach to addressing the Special Education transportation problem. To this end, the Mayor and I have created a special taskforce on special education to act as a collaborative partnership to not just monitor the school system's progress in implementing its special education plan; but also to ensure that specific government agencies are there to provide the needed and immediate support.

This "across agency line collaborative" approach is significant because one of the biggest underestimated challenges confronting our children, is the social conditions in which they live. Many of our parents are not socially or financially equipped to be parents. Success, security and growth all stem from a tight social fabric at home. If that fabric is torn, our children directly suffer. Home life has a major impact on a child's ability to learn. We will continue to create partnerships and collaboratives across agency lines to ensure that the social foundation is intact. This ingredient is a critical component to achieve true education reform.

Finally, although we face daily tests in the public school system, it is of paramount importance that the good work that has been accomplished by the educational stakeholders in the District not be overlooked or minimized. The Council, the Office of the Mayor, the Superintendent of Schools, and the Board of Education are committed to transforming the state of public education in the District of Columbia. Working together, with the support of Congress, we can build a first class education system that can be a national model.

Once again, thank you for the opportunity to address the subcommittee.

Senator LANDRIEU. Excellent. I want to thank you all for giving us such good, good responses to that question, because it really helps us. Each one was able to identify one specific reform, and then two remaining barriers. And it will help us to make the next decisions, the decisions about what steps this committee might take next, to either focus in a certain area to help move along some of these reforms.



But, Peggy, I promised—Ms. Cooper-Cafritz—to get back with you, to give you some time to add to the record before we go into our questions.

Ms. COOPER-CAFRTIZ. Well, I would like to give you some sense of my vision for the schools.

Senator LANDRIEU. Okay. Can you do it in 1 minute, if you would?

Ms. COOPER-CAFRTIZ. Yes. I envision classrooms with high-quality teachers who have met the requirements of the new Federal education law, HR1, the “Leave No Child Behind” Act. These teachers are supported by a strong instructional leader; and teachers and principals are partners with parents who are engaged in their children’s schools.

In my vision, teachers are excited about teaching the students before them, and the students are eager to learn because their needs have been met, and they are able to focus. I envision a K-to-12 core curriculum that ensures that each child is taught core subjects with equal rigor from neighborhood to neighborhood, but it also allows teachers to have the freedom to continue to have their individual magic touch in each of their classrooms.

In the next phase of my vision, I see all other critical elements falling into place. As a required part of the school day, K through 12, I see students participating in intramural——

Senator LANDRIEU. We need the microphone. I am sorry. You need the microphone; is that what you are trying to tell me?

Ms. COOPER-CAFRTIZ. I am sorry.

Senator LANDRIEU. Okay. Go ahead.

Ms. COOPER-CAFRTIZ. All right. Okay.

Senator LANDRIEU. If you could just—about 30 seconds here. I know you have got a lot, but that is okay. You are doing great.

Ms. COOPER-CAFRTIZ. Okay. I know the——

Senator LANDRIEU. Just go on.

Ms. COOPER-CAFRTIZ. Okay. I envision us being bold, energetically solving problems, getting people like this year’s Pritzker prize winner Glenn Murcutt of Australia to work with DCPS to design a school or schools that are “green friendly” using materials never used on schools, but that are far less expensive on public buildings than conventional bricks and mortar.

I see us building beautiful schools that respect their surroundings and recognize that they are for students, not prisoners. The best architects charge the same fees as lousy ones. The architectural firm of Devrouax and Purnell just built a beautiful building for PEPCO. Let us extend such architectural beauty to our schools.

Senator LANDRIEU. Okay.

Ms. COOPER-CAFRTIZ. I can see all the other elements critical to a good education falling into place.

Speaking of high schools, I would abolish the institution as we know it today. Instead, I would allow high school students to test out of core subjects. We would have a cooperative program with our colleges and universities so that our students could graduate from high school having already completed two years of college.

The core curriculum would be classically based, but would embrace Afro-centrism and other racial and ethnic studies. Every high

school student would take four core subjects, English, math, history and a foreign language daily from 9:00 to 12:00 for 4 years, but would also have available a menu of additional vocational and academic opportunities from which he or she could select an educational or career path.

Senator LANDRIEU. Peggy, let me tell you, I am going to have to ask you to submit the rest for the record.

Ms. COOPER-CAFRTZ. Yes. Fine.

Senator LANDRIEU. And so we need to get some questions into the panel.

#### SPECIAL EDUCATION

Let me start, if I could, with special education. Maybe Ms. Graham could—or could anybody identify how many students we are speaking about that are in special education and what the overall cost generally of special education is, broken down per student?

I understand, and I will just tell you what I understand, but if you are getting these for the record, because it is important that we get it for the record, I understand that there are approximately 7,700 children in special ed.

I also understand that the cost can range anywhere from \$10,000 per child to over \$100,000 per child. I understand that the bulk of these children are in school outside of the public school system.

Could anyone clarify those, just facts, not opinions, but just facts for us?

Dr. VANCE. Thank you. I am going to ask Anne Gay, our assistant superintendent of special ed to come up to the table quickly. Of course, the facts I have here would indicate that our latest count indicates that there is a total of 11,666 students being served in special education.

Anne.

Mrs. GAY. Yes.

Senator LANDRIEU. Go ahead. We will pull up another chair for you, Anne, right here. Kevin is going to get it for you.

Dr. VANCE. Here, why do you not start?

Mrs. GAY. Okay. Let me just start by saying we do have 11,666 students now eligible for special education services. This is 17.04 percent of the overall school population.

Senator LANDRIEU. Okay. And how many do you have on the waiting list asking for that designation?

Mrs. GAY. We have right now a backlog of 239 students awaiting initial referrals. We are averaging about 185 new referrals, new initial referrals per month.

Senator LANDRIEU. Okay. And that is 17 percent of your district. Do you know how that compares to other comparable districts?

Mrs. GAY. In Boston, which has about 64,000 students overall, they have a little bit over 19 percent of their children in special education. So their overall population is a little bit smaller than ours.

Cambridge, Massachusetts, has about 23 percent of their population in special education.

Senator LANDRIEU. And special education, under the Federal definition includes gifted and talented as well as the whole range of special education or—

Mrs. GAY. These are all the students who are eligible under the law for special education.

Senator LANDRIEU. The Federal law, which ranges from gifted and talented to—no?

Mrs. GAY. No. No.

Senator LANDRIEU. Not gifted and talented. This is not gifted and talented. This is the children who are challenged.

Mrs. GAY. Yes, under IDEA, yes, it is the children who are identified under IDEA. Of that 11,666 we have 8,997 students in our public schools. We have 2,519 in non-public. That includes 1,916 in non-public day schools, 368 in residential and they are, as Dr. Vance alluded to, all over the country.

There are 234 students who are in what we call interagency. These are students who are in foster care in 13 surrounding counties and attending those county school programs.

Senator LANDRIEU. Okay.

Mrs. GAY. So approximately 22 percent of ours, of our children are placed outside of the public school system.

Senator LANDRIEU. And getting a range of costs per each of those students—I know this is very hard, because some are a few thousand all the way up to maybe your most critical care, but what is your range? Is my estimate accurate, \$2,000 to \$100,000?

Mrs. GAY. Yes. Yes.

Senator LANDRIEU. And can you give, you know, or submit to the committee, not today, but basically a breakdown just for our records about how many students would be in each category, like we will submit to you “Between zero and ten thousand, how many children? Ten to twenty thousand, how many children? Twenty to thirty thousand, how many children?”

It is just so that we can get a real clear picture of some of the costs associated with special ed, recognizing the Federal Government is not, for the District or for any districts, picking up the 40 percent of that cost that we intended. However, money is not always the answer to every problem. And we recognize there are some shortages.

Senator DeWine, do you have any questions? Because I would like to just maybe go back and forth with you on some things that you might have.

Senator DEWINE. Sure. Dr. Vance, can you put just kind of a face on the student that we are talking about who is a special ed student, who cannot get services close by, that you have had to contract out, and that child is in a different State?

Dr. VANCE. Yes.

Senator DEWINE. Tell me who that is.

Dr. VANCE. Well—

Senator DEWINE. Not a name, but I mean, tell me: Who are we thinking about?

Dr. VANCE. Well, I think in telling you—trying to put a profile on the youngster is to describe the conditions.

A decade ago, when school systems around the country were bringing their students home and were preparing local programs

within local school settings for a range of youngsters who had disabilities, the school system, the District school system was doing just the reverse. It was sending youngsters out of the school district.

So what we are confronted with today is a two-fold program. The problem is we have to build and develop the programs locally to see and to take care of those youngsters, while at the same time bringing them back from the private school placements.

So I do not know that there is an actual face on those youngsters, because the data would indicate, you know, they go across the range of disabilities for the—

Senator DEWINE. Well, try me. Try me, Doctor.

Dr. VANCE. Go ahead, Anne.

Senator DEWINE. Explain it to me.

Mrs. GAY. If I could assist here, our—about 47 percent of our population are children who are described as or are found eligible as learning disabled. Almost 19 percent of our population are now children who are described as being emotionally disturbed. The majority of students that we send to residential placements, about 70 percent of those students are emotionally disturbed.

I should also say that the school system is not the sole party in making the determination that these children need to go to a residential. It is often the Youth Services Administration, the Juvenile Justice System, or the foster care system that we are working with in those determinations.

The largest percentage of children who are in non-public day programs are also—and that is about 34 percent—are also emotionally disturbed. And a majority of those students come also from foster care, and either foster care children residing within the District or, again, foster care children.

About 248 of those students are foster care children attending non-public day programs, but living in Maryland or Virginia, which very much complicates the cost of transportation.

Senator DEWINE. The special ed kids consume about what percentage of your budget?

Mrs. GAY. It is about one-third with direct and indirect costs.

Senator DEWINE. So 17 percent of the population consumes about—

Dr. VANCE. One-third.

Senator DeWine [continuing]. 33 percent.

Ms. GARVEY. 33 percent.

Dr. VANCE. Yes, sir.

Senator DEWINE. It is—

Mr. CHAVOUS. If I may, Madam Chair, Senator?

Senator LANDRIEU. Yes.

Mr. CHAVOUS. One thing that we need to alert the committee to is that the mayor and the Council and the Board are working together to put in place a task force on special education, which will really work to not just hold the school system's feet to the fire in terms of meeting their goals and timetables and deliverables with respect to building local capacity to take care of these children, but just to significantly make sure that there is the full range of government agencies there to support these children.

As you heard from Mrs. Gay and Dr. Vance's testimony, the problem with special education cuts across social services lines. And even if we are going to build, for instance, if we want to build a brand-new school in the City especially designed for children with special needs, we want to make sure that there is no bottleneck in it, no bottleneck in the permitting process.

So this task force will be meeting on a regular basis. It will have representatives also from the U.S. Department of Education, a full range of involvement by parents as well, and we will hold the school system to some of their, you know, their promises. But at the same time, we will take off the table some of the excuses in terms of the government's not supporting the initiatives.

I think this is going to make a huge difference in terms of following up on some of the collaborative initiatives.

Senator DEWINE. And similarly to that, though, do you want to talk to me a little bit about the whole idea of tapping into all the other social services in the community?

I mean you have that child who has special needs. Undoubtedly, that child has multiple special needs. How well are the other agencies in the city government cooperating with the schools? How are you working together? And it is something Ms. Cooper and I were—we were talking about it earlier.

Ms. COOPER-CAFRTZ. Yes, when this board came into being in January, okay, I asked the mayor if he would buy into a plan of wrap-around services, so that our children would have access to all of this. At this point, we have those services in about 25 schools, our nine transformation schools and about 16 other schools, okay?

It is working beautifully. It is just a seamless experience for the child. And the parents are also brought in as partners in it, in this effort.

In order for us to put that in all schools, which will ultimately save a lot of money, because you can see the results in the reduction from, you know, say 31 kids being referred, to 1 kid being referred out of one school. But in order for that to happen, it is going to take new and different money. And it is going to take an understanding of that, okay, because our bureaucracy has been stripped and by the end of this week, our whole building will be transformed. The superintendent has come up with a plan, you know, to do that.

Senator DEWINE. Well, let me be very candid. I am not talking about the District of Columbia, but I will tell you that I have seen other cities and other counties where there is a wall between the school system and social services.

Ms. COOPER-CAFRTZ. Yes. Not here.

Senator DEWINE. If this child is a Children's Service's problem, this child is a mental health problem, this child is a substance abuse group problem, how do you break those walls down?

And let me ask Ms. Graham about that, because one of her responsibilities, I think, is to deal with the Children's Services or Child Welfare in the District.

Ms. GRAHAM. It is one of my responsibilities, Senator DeWine. And we are working, as Ms. Cooper-Cafritz has attested, to put in place a system that is, in fact, seamless.

This task force, I think, will—that Mr. Chavous has referenced is going to help us move pretty aggressively to realizing a dream of comprehensive community-based services for children and families. At this point, we have in place in a number of our schools, and I will get the exact number for you, mental health services for children.

Remember now that the Department of Mental Health is just coming out of receivership. And in the receivership status, these agencies, the Child Welfare Agency as well, were isolated from the other agencies. That exacerbated over time the situation in the public schools, because it meant in order for the schools to access mental health services and some of the other support services that families and children needed, they had to pursue, you know, the legal route to get those services and/or send children outside.

Now that these agencies are back, it gives us a great opportunity and we do have a plan in place that we are beginning to bring to scale now that creates schools as neighborhood places. You will find some of that information in my testimony.

We are also moving to implement the Safe Passages children's information system, which will—my staff admonishes me for using this term—but it is tracked. It will capture the data of all children beginning with those in the public schools, link to youth services. The children in the Child Welfare System, children in the court system—you all were active, I believe, in the Family Court Bill, which added a piece of—for information technology. The data for these children will now rest in what is called a Safe Passage Child Tracking System which will give and better inform the school system as well as all of the other agencies about what is—

Senator DEWINE. Let me say I appreciate that very much. And I just wish you well. I do not know that there is anything that we have discussed this morning that is more important than that.

Ms. GRAHAM. Yes.

Senator DEWINE. It is tough to implement, and you know that. And you know, all the good intentions in the world, you know, you get entrenched bureaucracies and people who are used to doing things one way. And it is tough to do.

So we are going to watch this, and the next time we have the next hearing on this subject, we are going to ask you about it and see how it is coming, because it is tough. And I am not skeptical. I just think I am a realist and know how, in the real world, how difficult it is to do, Madam Chairman.

Senator LANDRIEU. Thank you. And I appreciate that, Senator.

I am hoping because the special education piece is such a big piece of the challenge before the District, and frankly it is on the minds of Congress, we will, as soon as we move past the Energy and the Board of Security and Homeland Security, eventually get back to education. And when we get back, we are going to be on special education for the whole country. So it is quite timely.

Perhaps because of the comments by the councilman, and if Senator DeWine is amenable to this, we may have another hearing on only special education, giving your task force some time to work and come up with a plan, and then you could make that presentation, because he and I would both be very interested, I think, in that, in supporting those reform efforts.

But let me ask about charter schools for a minute, because we have got to wrap up this panel and move on to our next one.

Mr. Chavous, you gave your vision about charter schools being a catalyst for change and reform. I happen to share your enthusiasm for charter schools within the public school system, to give parents more choice, to create competition, to create what I would call a very healthy tension, so that parents do have choices and children have choices. Therefore, there is some competition to continue to be good, so you can attract good students and parents that want to help and participate.

But what are the challenges before the charter schools? What do you see as a barrier? And I specifically am interested in the ability of charter schools to get facilities—

Mr. CHAVOUS. Yes.

Senator LANDRIEU [continuing]. Capital facilities after they have proven that they can operate. And we all know some charters will fail. And I have tried to express my opinions, which may be different than others. I mean, unless you are really trying, you will not fail. So, you know, I do not mind failure if it can be a failure, regrouping, and move on, because without, you know, failure, there really is no success.

We cannot be afraid of failure. If we are too afraid of failure, we will never achieve greatness. If you want to achieve greatness, you have to realize there will be some misses and starts, but what will ultimately come out, which is what our Nation is good about producing, is the strong, and to go on, and the strengths are clear. And the weak fall by the wayside, not to be left behind, but to regroup and pull themselves up with help. And that is true of any enterprise, business or of schools.

#### CHARTER SCHOOLS

So what about the facilities of charter schools? Are they able to kind of get their feet on the ground with facilities, or what could we do to, you know, to kind of help this along, if anything?

Mr. CHAVOUS. Well, Senator, that is the largest challenge with respect to your—just quickly, parenthetically, with respect to your statement about failure, one good thing about failures of charter schools, if they do not work, they close them. I mean, there—

Senator LANDRIEU. Yes.

Mr. CHAVOUS. There are a lot of traditional schools that I would like to close, because they failed. And that is the good thing about charter schools. They have 5 years to offer up their deliverables and to meet their mission. If they do not meet their mission, they come up for periodic review, and then they are gone. And that is the essence of quality-based control.

The biggest challenge that charter schools face here in the District is the issue of facilities. As I said, we have a larger percentage of children than any place in the country that are in charter schools. And right now our charter schools are faced with the difficult prospect of not being able to grow, because they do not have the space.

That facilities problem has some of its roots in this whole bureaucracy and, as Senator DeWine said, the unwillingness to, you know, to change or to see things differently. Frankly, there was a

period of time prior to Dr. Vance's arrival where there was open hostility and declared warfare by the District of Columbia Public Schools and of the charter schools. I think that was a disservice to the parents. But the remnants of that still exist.

I think the facilities problem can be solved, in addition, in a couple of ways. One is, and we have been working closely with the mayor and the charter schools community on this, that the mayor's economic development office has to help free up some buildings that are in the inventory of the District Government. They have made strides in that regard, but they have to be more aggressive in freeing up space.

The problem is—and we all like economic development. I am a big proponent of it, but there is this tendency to want to cluster all of the economic development buildings you have in your arsenal and make these large projects. I think some of these buildings, particularly former schools, should have a priority attached to them for the charter schools.

Second, in DCPS's inventory, they have some, some buildings. And I like the idea of partnering, where you can have schools within schools. You can have one building that is under capacity. There is no reason why a charter school, if the principal at the traditional system is willing, should not be able to share that space. The charter schools will pay their way. They will pay their, you know, freight, so to speak.

So I think that there just has to be some aggressive commitment, not just verbal commitment, but aggressive commitment by both the mayor's office, as well as the school system to open up space for charter schools because these are our children as well.

Senator LANDRIEU. And one thing I want to add for the record and I think Senator DeWine is aware of this, but one excellent thing the District has done is to attach a sort of a maintenance-and-operation per child that moves to a charter school, so not only do they move with their operational funds, but they move with, I think it is, what, \$1,000 that is sort of estimated to be operations and maintenance per child.

So it is "x" amount for teaching and "x" amount—is that the way you all broke it down, or am I misled about that?

Mr. CHAVOUS. I do not know the number, but I think it is—

Ms. COOPER-CAFRTIZ. It is \$1,500.

Senator LANDRIEU. \$1,500.

Mr. CHAVOUS. Yes.

Senator LANDRIEU. So it is \$1,500 attached to each child, which basically could be allocated for some sort of, you know, building improvements.

And then how much, Peggy, is it per child for the actual teaching? What do you send with each of these charter children?

Ms. COOPER-CAFRTIZ. It is the same—

Senator LANDRIEU. Okay, what is it?

Ms. COOPER-CAFRTIZ. [continuing]. Same per pupil.

Senator LANDRIEU. So it is—so what are you sending them? \$1,500 for the maintenance—

Ms. COOPER-CAFRTIZ. Right.

Senator LANDRIEU. And then the per-pupil, which is—

Dr. VANCE. \$8,000.



Ms. COOPER-CAFRTZ. I do not know. \$8,600?

Dr. VANCE. That is—

Senator LANDRIEU. \$8,600?

Ms. COOPER-CAFRTZ. Yes, right.

Senator LANDRIEU. Okay. We are going to have to wrap this panel up.

Senator, do you have any additional—

Senator DEWINE. Yes. I have—

Senator LANDRIEU. Go ahead.

Senator DEWINE. I have one more question.

Mr. CHAVOUS, I am intrigued by your school beginning at 3 years of age. Do you envision that as being mandatory schooling?

Mr. CHAVOUS. Well, that was the original legislation I introduced, but what I did to really try to ferret out the best approach is I appointed a commission of educators, parents and administrators and partnered with American University—it was a commission on primary education reform. They just released that report. We have had townhall meetings around the City, and we have got one actually tomorrow.

Senator DEWINE. What kind of reaction do you get?

Mr. CHAVOUS. Well, it is good. Some parents are concerned, because they do not understand. We are not saying that every 3-year-old has to go into a classroom and be ready for a standardized test.

What we are saying is that we already have, under Ms. Graham's leadership, a good early childhood development program. There needs to be that marriage between an early childhood development program that is in her shop with what Dr. Vance is doing in the public schools. So early childhood development should have more quality-based pre-K instructors. Every citizen should have access to that.

Now, we know some parents do not want that. So we would exempt home schooling. We would exempt, you know, those who want to send their children to Montessori, you know, Montessori schools and private schools and religious schools and the like.

But we are seeing that too many of our children, as I have said on many occasions, enter first and second grade at age 6 and 7, and they have never seen a number or a letter block.

This goes to the special education problem. If we can identify at that young age how many children there are that are being disserved at home, then we will be able to intervene through social services so that we are not losing children to special education down the road.

So the committee came up with universal pre-K as the recommendation, and they said the goal should be universal pre-K for every 3- and 4-year-old. And mandatory may be the way to go, but they are leaving it up to the policymakers.

What I envision happening after these hearings, and Dr. Vance is being very supportive and helpful in this, is that the Council will vote on some legislation that will pave the way for more universal pre-K and put in place a pilot program that Dr. Vance and Ms. Graham have already been working on.

We want to carve out funding for this. I mean, I do—I really believe, Senator, that if we can get more of our young children to have an early start, when they run that 100-yard dash, they will

not be 50 yards behind the starting line. And that is what we are seeing now. And I think it will make a huge difference if we give our children an early start. I am glad the President and the First Lady is involved in that, are involved in this.

Senator Landrieu, I know this is one of your passions, because the problem with special education is really this problem that we failed our children at such a young age.

Senator DEWINE. While I appreciate your comments and I think we can spend all day, all year on this, on this issue, and we are not—obviously we are not going to do that, but I think we all know that early childhood development is so very, very important and, you know, whether you are a parent or whether you are a teacher or if you are just around kids, you understand what is happening and when that child is 2 years of age and 1 year of age, you know, all these are very, very important.

You know, as a society, we are going to have to work on this. And how we do it, it is going to be very, very difficult, because you do not want to supplant the parents. You do not want to violate what the parents want done.

But on the other hand, you want that child to have every advantage that we can give that child.

Senator LANDRIEU. Well, I would just—

Senator DEWINE. So that is how we work through that. It is very tough and, you know, how much do you involve the parents in that? You know, do you work more with the parents? And some States have tried that; Missouri, for example, when Senator Biden was governor. One of the programs that they initiated is still going, I understand, and is to work more with these parents.

So there are many different ways of getting at that. And I applaud you and your interest in it, and I look forward to watching and seeing how you do.

Mr. CHAVOUS. Thank you, Senator.

Senator LANDRIEU. And I would just—Ms. Graham, did you want to add something?

Ms. GRAHAM. I would like to do that. We certainly believe that parental involvement and engagement in this process is so important. We have established eight parent development centers that are directly linked to the early childhood development process as we have expanded early childhood development opportunities for families in the District of Columbia. So we are watching this very closely, recognizing that parental involvement goes hand-in-hand with child success in school.

Senator DEWINE. And it is not just in the sense of giving the parents veto or giving parents—

Ms. GRAHAM. No.

Senator DEWINE. It is also helping that parent to develop.

Ms. GRAHAM. Exactly.

Senator DEWINE. And that parent who may not know how to read or write, or that parent who may lack at the age of 17, parenting or parental skills—

Ms. GRAHAM. Right.

Senator DEWINE [continuing]. And not have that—you know, there are many different ways that we, you know, can approach

this. And I think that, you know, we all understand that we have to do it.

Senator LANDRIEU. And I would just like to ask one question, and then do a final comment.

#### PARENTAL CENTERS

Are these parental centers that you just identified, are they linked specifically to schools, neighborhood schools? Is there a partnership between those parent centers and schools, or are they independent?

Ms. GRAHAM. They are independent, because they are funded with government dollars.

Senator LANDRIEU. Yes.

Ms. GRAHAM. But they will be working with the T9 school initiative, where they are in the communities that these transforming schools are located.

Senator LANDRIEU. Because one of the links that is so important is to link your parent centers and your Head Start and Early Start programs with elementary schools, so that it is a seamless feeding system along with linking, in some instances, to universities.

The District is a little at the short end of that, because you do not have a system of public universities like in many other cities, but you know, we are working on that. But still there are other private universities that could serve the same, you know, function here in the District, so that you have got your universities linked to your elementary schools, and your elementary schools with links out to your parental centers and your Head Start and your Early Start.

But one comment about mandatory early childhood education, I would be very committed to the creation of universal options, but not mandatory. Some parents feel very strongly about keeping their children home until the age of 5 or 6 and doing a lot of that development at home, and some parents are more than capable of doing that across the spectrum.

Then some parents need choices and really are desperate for choices to send children to quality programs at the age of 3 and 4, because many parents are working and absolutely have to have some sort of alternative other than, you know, mediocre at-home care or mediocre neighborhood care. But I would just caution us and—to keep on the side of giving, providing it and letting parents make choices, because it is very empowering when parents have choices and are not, you know, forced and because, you know, one shoe does not fit all and it is a very independent individual choice for families.

But moving to having it offered universally for every 3- or 4-year-old is spectacular. I am not sure there is a State that has met that goal. I think there are States for 4-year-olds. I think Georgia has a 4-year-old program and maybe Texas. But I do not know anybody that has gotten it together enough for the funding for the 3-year-olds as well, which would be extraordinary.

Then, Dr. Vance, you wanted to end with just a comment. And then we will close this panel.

Dr. VANCE. Our commitment to the early childhood education initiative and our work with Ms. Graham and Mr. Chavous is really

steeped in the most recent brain development research, which has come out of the laboratories, research laboratories in this section of the country. And it is heavily steeped in that.

One of the compelling features of that research, which really made me a convert was that the possibility exists with many of our youngsters, because of environments over which they have no control by the time they are three, and certainly by the time they are 4 years old, we may have already lost them. And in developing a research model that is closely akin to the recommendations that came out of that research, I believe here in the District on a pilot basis, giving parents options. We certainly can render a service to our student population, and a student population which dramatically needs that service.

When we set about to make certain that we had immunized 41,000 youngsters who were in our public schools who had not been immunized, and then this year we had reduced that figure to 21,000, it was just dramatic.

Ms. Graham can talk about this as well as I can. The conditions we found with young people, and particularly the very young, young people, and in talking with the nurses that had come over from Health and Human Services to work with us and to support us, they just were shattered.

They came and they met with me, and they said, "Dr. Vance, you know, we are talking with youngsters who are in high school who have never been to a primary care provider in their lives, a doctor," and we are just appalled at that.

But we are taking steps to correct them with Federal funding and nutrition and health and continuing this assault. And by the way, that number of youngsters that have not been immunized is down to 80, and we are convinced that before the school year is over, we are going to somehow capture them and immunize them.

I just wanted to make those comments about the research model that we have worked on collaboratively.

Senator LANDRIEU. Thank you. And just real quick.

Ms. COOPER-CAFRTZ. Thirty-seven percent of the adult population in D.C. is illiterate, and one of the things we have approached the mayor on is using the Federal literacy money so that we can have, you know, family literacy, and link them, you know, together that way. It is a very difficult nut to crack.

Senator LANDRIEU. Many districts are doing that. It is an excellent concept. Thank you. This panel has been terrific.

We are going to take a 5-minute break before our next panel.

Ms. COOPER-CAFRTZ. Thank you.

Senator LANDRIEU. Thank you all very much.

## NONDEPARTMENTAL WITNESSES

Senator LANDRIEU. Okay. Welcome to our second panel. We have Mr. Andrew Rotherham, Director of 21st Century Schools Project for the Progressive Policy Institute. Welcome.

We have Mr. Robert Cane, Executive Director of Friends of Choice in Urban Schools; Ms. Virginia Walden-Ford, Executive Director for D.C. Parents for School Choice.

All of you have been deeply involved in the issue of public schools and school excellence in the District. We are looking forward to hearing your testimony. And if we can begin, obviously, you know, your testimony as you have written it will be submitted to the record. So if you will, just summarize it. And each one of you will have 5 minutes, and then we will have a round of questioning.

Unfortunately, we are going to have to close this hearing at 11:30, so our time is a little bit short, but please proceed.

### **STATEMENT OF ANDREW ROTHERHAM, DIRECTOR, 21ST CENTURY SCHOOLS PROJECT, PROGRESSIVE POLICY INSTITUTE**

Mr. ROTHERHAM. Great. Thank you, Senator; Senator DeWine, as well. I appreciate the opportunity to testify today. I will be brief and submit my testimony for the record.

Special education is an issue that bears on students around the country whether or not they have special needs, and that is true here in Washington as well.

I do not come before you today as an expert on the District of Columbia's schools, but rather as an analyst on special education and education generally, and I do believe some of the work we have done at Progressive Policy Institute will be of great use to the committee as you consider these issues.

In advance of the current reauthorization for the Individuals with Disabilities and Education Act, IDEA, the Progressive Policy Institute partnered with the Thomas B. Fordham Foundation to examine special education a quarter century after the passage of IDEA and, as I said, in advance of this current reauthorization.

We initiated this project, because while PPI and Fordham, while we have some common goals on education, we are certainly not ideological soul mates on this issue, but we felt that by bringing people together from across a diverse spectrum to examine these issues, we could stimulate some fresh thinking.

The result of that was a 2-day conference and the publication of this book, "Rethinking Special Education for a New Century." I will certainly not submit that for the record, but it is available to you and your staff.

In short, we found that special education and IDEA have accomplished a tremendous amount for students with special needs. The legislation was ground-breaking, and it not only opened our school

to students with special needs, but became a catalyst for a major culture shift with regard to these students.

But despite these accomplishments, we also found that IDEA has developed some problems that demand the attention of policy-makers. Rather than go through all of the 14 papers and our recommendations and analysis, I am going to focus on three that I think particularly bear on the issues that we are discussing today. Those are the over-identification of students, and minority students in particular, for special education; inadequate student outcomes; and financial issues.

It is important to remember that as opposed to other policy areas, where the bulk of policy is fundamentally State and locally developed, special education policy is overwhelmingly dictated by this law, by the IDEA law, which is a Federal law.

In terms of over-identification, there are several findings that I think the committee should keep in mind. First is a counter-intuitive finding that researchers Matthew Ladner and Christopher Hammons found. They found that there is an over-identification problem, but they have had a very counter-intuitive finding that, first of all, race is the primary predictor for identification for special education, which should trouble all of us.

However, they found that as minority enrollment in a school district declined, special education identification of minority students increased. And that is a counter-intuitive finding and a very troubling finding.

Subsequent to that, the civil rights project at Harvard and the National Research Council elaborated on these issues. The NRC report found that while nationwide African-American students comprised 17 percent of the student population, they account for 20 percent of students identified for special education and 33 percent of those identified as mentally retarded, and 27 percent of those identified as having emotional disturbances. Those are troubling issues.

The larger over-identification problem is exacerbated by inadequate reading instruction, as the first panel highlighted, and also problems with access to prenatal care, health care for women and so forth, and inadequate pre-K preparation as Councilman Chavous said on the first panel.

In terms of student performance, I think everybody would agree that the outcome for too many students nationwide and in Washington are unacceptable. Nationwide in 1998, only about 55 percent of students with disabilities left high school with a diploma. That is an increase of about 4 percent during the last decade, which is encouraging; but at the same time, that means that almost half of students with special needs are entering the knowledge economy without even the basic credential of a high school diploma.

These days, I think we would argue at the Progressive Policy Institute that we must view civil rights in education not only as an issue of access, and IDEA has made tremendous gains of access, but also as an issue of quality. And if you look at special ed, and I think that some of the problems that D.C. has exemplify this, it is a system that penalizes and rewards schools based on compliance rather than performance. Schools are naturally going to re-

spond to those incentives, and that comes at the expense of performance.

The cost issue—there is some new research that is in my testimony on costs, and I think in D.C. you can see the cost problem. The three ideas that I come before you with, very briefly, the first one is the issue of teacher quality. The other two witnesses this morning are going to testify about charter schools and choice.

We strongly support public charter schools and public school choice, but it is important to remember Adam Smith's rules do not differentiate among various things in the education universe. Teachers, as well, will respond to competitive incentives, and we need to attract and retain special education teachers in the City.

We are, quite simply, going to have to pay them more. What we have right now is an untenable situation where teachers come to D.C. and then they leave for the suburbs. D.C. should be commended, unfortunately, for offering a tremendous training and recruiting service for the suburban districts that ring this city. That is not the situation that we want.

This is, in part, a working conditions issue. Special education teachers spend 5 hours a week on paperwork. That is as much as they spend on lesson preparations and ten times more than they spend communicating with parents. But it is also an issue of breaking away from the salary scale and paying professionals more.

As I said, pre-K is a huge issue. There is a gap in pre-K participation in the City. I share your concern about making it mandatory, but access is key. That will go a long way towards preventing these issues, as will better health care.

Then finally two very D.C. specific issues: I do think that some cap on routine legal fees is going to have to be put in place in the City to get special education costs under control. At the same time, the school district, they have a seven-point plan. It is going to seriously have to implement efforts to improve the capacity of the school system to serve these kids.

Quite frankly, the capacity is not there to serve a range of students with special needs. That is unacceptable. It leads to an unacceptable number of children being served in private placements and contributes to this out-of-control cost structure.

The rest of my testimony is in here. Well-intentioned people can disagree about issues with special education, with issues about the District of Columbia, but I think it is clear that special education in the District of Columbia is not going to improve until the general education situation does as well. But likewise, reforming special education is a key step in improving overall education quality.

Thank you. I look forward to your questions.

[The statement follows:]

PREPARED STATEMENT OF ANDREW J. ROTHERHAM

Chairwoman Landrieu and members of the subcommittee, thank you for the opportunity to testify before you this morning about an issue of such importance—ensuring high quality education for students with special needs. Senator Landrieu, I would like to acknowledge, for the record, all of your efforts on education in the Senate. I've been consistently impressed at your willingness to tackle the tough and controversial issues that don't lend themselves to easy or simple solutions.

Special education is an issue that bears on students around the country whether or not they have special needs. While I am not an expert on the District of Columbia Public Schools (DCPS), as an analyst of special education the Progressive Policy In-

stitute's (PPI) work should be useful to the subcommittee as you consider the issue of education, and special education in particular, in the District of Columbia.

In advance of the current reauthorization cycle for the Individuals with Disabilities in Education Act (IDEA), PPI partnered with the Thomas B. Fordham Foundation to examine special education a quarter-century after the passage of IDEA. While we share some common goals, PPI and Fordham are certainly not ideological soulmates on the issue of education. But we believed that by coming together to jointly investigate this issue we could stimulate some fresh thinking about IDEA and helping students with special needs and demonstrate that addressing the challenges they face need not be ideologically divisive. The initial result of our collaboration was a two-day conference and the subsequent publication of *Rethinking Special Education for a New Century*. *Rethinking* is a volume of 14 original papers along with analysis and preliminary recommendations from PPI and Fordham. On behalf of trees everywhere I will not submit *Rethinking* for the record but it is publicly available and widely cited and we would be happy to furnish committee staff with copies if you would like.

Not surprisingly, we found that special education and IDEA have accomplished a tremendous amount for students with special needs. This groundbreaking legislation not only opened our schools to students with special needs but also literally became the catalyst for a major culture shift that opened the doors of opportunity for these youngsters. However, despite these accomplishments, we also found that IDEA has developed problems that demand the attention of policymakers. These problems are not the fault of any particular policymaker or lobby but are rather the consequence of an inevitable collision between complex procedural legislation, changes in the educational landscape in this country, and advances in research. More to the point, it's important to remember in the context of what we're discussing today that many of the problems with special education are outgrowths of larger problems with education generally and must be treated as such. It's no coincidence that many of the communities struggling with special education challenges are the same communities plagued by general education deficiencies.

Rather than go through all of the analysis and recommendations in *Rethinking*, today I will focus on three points that are national issues and also issues DCPS should consider with regard to special education. These are over-identification of students and minority students in particular for special education, inadequate student outcomes, and fiscal issues. As opposed to other policy areas in education where the bulk of policy is largely determined at the State and local level, it is important to remember that most, but not all, special education policy is derived from Federal statutes, particularly IDEA.

#### OVER-IDENTIFICATION FOR SPECIAL EDUCATION

The issue of over-identification of minority students for special education is not a new concern and has been discussed in special education literature for some time. However, renewed attention to the achievement of minority students has sparked increased attention and research into this issue. In the District of Columbia, according to the most recent data we found, a slightly higher percentage of students were enrolled in special education than the national average of 12 percent.

As part of the PPI-Fordham special education conference researchers Matthew Ladner and Christopher Hammons presented a paper analyzing over-identification and found that race predicts identification for special education more than any other variable they examined including class size, spending, and poverty. Most significantly, Ladner and Hammons found that as minority enrollment in a school district declined, special education identification for minorities increased. This is a counter-intuitive and important finding. The paper is included as a chapter in *Rethinking*.

Subsequently, research from the Civil Rights Project at Harvard University and the National Research Council (NRC) elaborated on these issues. The NRC recently issued a report by a commission headed by former Council for Basic Education president and Bush Administration education official Christopher T. Cross. The NRC found that there are, "biological and social or contextual contributors to early development that vary by race and ethnicity." Specifically the NRC report pointed out that minority students are disproportionately poor and thus more likely to be exposed to effects of poverty such as, "higher rates of exposure to harmful toxins, including lead, alcohol, and tobacco." However, like the Ladner-Hammons study, the NRC also found that school experiences contribute to differences in special education participation among various racial and ethnic groups.

According to the NRC report, while African-American students comprise 17 percent of the student population they account for 20 percent of students identified for special education. More troubling, black students account for 33 percent of those



identified as mentally retarded as well as 27 percent of those identified with emotional disturbances.

This means that an African-American student is 2.28 times more likely to be identified as mentally retarded and 1.58 times more likely to be identified as emotionally disturbed than a white student. Thus while a higher incidence of disabilities may be partly explained by poverty and related factors, the data clearly indicate a more substantial education problem as well.

The larger over-identification problem is exacerbated by inadequate reading instruction, which I will discuss in a moment, and also insufficient attention to health and prenatal care for women and children in too many communities.

#### STUDENT PERFORMANCE

Special education has accomplished a great deal with regard to student performance. Increased access to the general curriculum and an increased emphasis on performance is helping to improve achievement for students with special needs. Nonetheless, substantial challenges remain.

The high school graduation rate for students with special needs is unacceptably low. According to the Department of Education in 1998 only about 55 percent of students with disabilities left high school with a diploma. It should be noted that this is almost a 4 percent rise since 1994, but it still leaves almost half of special needs students facing life in the knowledge economy without a high school diploma.

Further, while more special needs students are participating in assessments of performance—a key accountability tool—their performance is still disappointing. According to the National Center on Educational Outcomes at the University of Minnesota, in only 15 States are special needs students performing better on assessments than in previous years. In 18 States performance is unchanged and it is lower in 4 States. Thirteen States lacked this data illustrating that despite the 1997 law, data about special education participation and outcomes are still too frequently incomplete. While some of the problems here in Washington are extreme, DCPS are not alone in terms of inadequate data collection and analysis for special education.

While IDEA has largely accomplished the goal of ensuring access to schools, that accomplishment remains insufficient: The goal is ensuring access to education.

We must now view civil rights in education as an issue of quality not only of access. In *Rethinking* we conclude that some of the problems with performance exist because current special education policy rewards and penalizes schools for compliance rather than outcomes and schools are responding to these incentives at the expense of performance and quality.

#### COSTS

Surprisingly, despite the attention to special education spending over the past few years, only recently have well documented spending numbers emerged. In *Rethinking*, after reviewing several estimates and analyses we concluded that spending is in the \$35-\$60 billion range annually. Last month, the American Institutes for Research (AIR) released a study stating that special education spending is approximately \$50 billion annually. This means that the cost of educating students with special needs is 21.4 percent of K-12 spending in the United States.

When thinking about special education costs it is important to remember that the lowest incidence disabilities that carry the highest costs. Thus, anecdotal and apocryphal stories about students who cost tens or even hundreds of thousands to educate must be viewed in the appropriate context. Nevertheless, for small and rural districts these students can present enormous fiscal problems because while funding for special education is dispersed based on identification-neutral formulas, educational costs for a particular high-cost child are concentrated in the particular school or school district where that child resides. Although it is beyond the scope of this subcommittee, PPI believes that some mechanism for direct payments for students with severe disabilities should be incorporated into IDEA. *Rethinking* included this recommendation as well.

In addition, the category of special education identification that has grown the most during the past 25 years carries with it, generally speaking, lower costs than other disabilities. This is the learning disabilities category that has ballooned from 21.6 percent of students identified for special education in 1977 to 46.2 percent in 1998 and is now over 50 percent. As Wade Horn and Douglas Tynan pointed out in *Rethinking*, this 233 percent growth stands in contrast to 13 percent growth among all other special education categories combined. Some of this expansion can be explained by more sophisticated diagnostic measures but there are also clearly more complex issues involved not all of which are understood. One that policy-makers can deal with from an evidence-based standpoint is reading problems among

young children—too many of whom end up in special education needing remedial help that could have been avoided with proper instruction. This is a teaching disability rather than a learning one, and better training for teachers, research-based reading practices, and high-quality early childhood programs with early screening for problems will help address this issue.

There is currently no analysis of the net fiscal and special education enrollment impact of a better emphasis on prevention of reading problems (including more robust pre-k education) coupled with better screening to identify those who do have genuine learning disabilities but now go undiagnosed. It is counterproductive to withhold increased funding for IDEA pending resolution of these issues but IDEA funding should be considered in the context of these broader reforms.

#### CONSIDERATIONS FOR DCPS

##### *Teacher Quality*

First, a common thread that runs through many special education issues and K-12 education overall is teacher quality. Although a generalized problem, this issue is particularly acute with regard to special education. Today other witnesses are testifying about how competition in public education through charter schools and public school choice can improve education. PPI strongly supports public school choice and charter schools. However, policymakers must remember that Adam Smith's rules do not apply only to some parts of the education universe and not to others. Teachers too will respond to competitive incentives.

A shortage of special education teachers means that extra incentives must be in place to attract and retain these teachers in challenging positions. In part this is a working conditions issue, particularly with regard to paperwork issues. According to the Department of Education, the average special education teacher spends 5 hours a week on paperwork compared to 2 hours per week for general education teachers. This is as much time as special education teachers report spending on lesson preparation, five times as much as they report spending on professional collaboration and ten times as much as they do communicating with parents. In large part, however, addressing this challenge is a money issue. Attracting scarce professionals to these positions requires breaking away from an antiquated single-salary scale based on degrees and experience and instead compensating teachers with skills that are in high demand through increased compensation. Special education teachers are clearly in this category. In addition, as increasing attention is rightly focused on pre-k education it's important to remember that salaries are a key part of addressing teacher quality problems in that area as well. According to Bureau of Labor Statistics figures, the mean salary for pre-k teachers is \$20,100 annually or \$9.66 per hour.

The 7-point plan for special education improvement that DCPS developed includes measures to increase the emphasis on training general education teachers about special education issues. This is a key component of reform. Too often special education and general education operate in isolation from one another and too few teacher preparation programs adequately address special education for general education teachers.

##### *Pre-K and Prevention*

The DCPS have made an effort to ensure access to pre-k and kindergarten programs. In fact, an irony in the debate over choice in the District of Columbia is that while voucher proponents focus on the plight of parents seeking to exit the public school system; some parents from other jurisdictions seek to illegally enroll their children because of DCPS' full-day kindergarten program

However, according to DCPS statistics, for the 1999-2000 school year pre-k enrollment was only 55 percent of kindergarten enrollment. That's a gap that should concern policymakers. Ample research shows that high quality early childhood education is an important step toward giving students a strong start in school and lessening the effects of poverty. Most recently, a longitudinal study funded by the National Institutes of Health and the Department of Education and conducted by the University of Wisconsin examined early childhood programs in Chicago. The researchers found that low-income children who attended quality early-childhood education programs were more likely to complete high school and less likely to be in trouble with the law than their peers. In terms of special education, the study found that 14.4 percent of the students participating in high quality early childhood programs were later enrolled in special education programs compared with 24.6 percent of comparable students. Although outcomes for these students were still not on par with more affluent youngsters the results show that quality pre-k programs can help address disparities in opportunity.

The behavior of affluent parents indicates that they understand the importance of early-childhood education. The Department of Education found that nationally 65 percent of children from families with incomes over \$50,000 go to preschool compared with only 37 percent of children from families with incomes under \$10,000. But the opportunity gap is frequently starker than these numbers suggest because of differences in the quality of programs available to low-income parents.

In *Rethinking*, Drs. Reid Lyon, Jack Fletcher and others argue that early-childhood programs, along with strong literacy instruction in the early grades, can play a key preventative role with regard to special education. But, they caution that, "A major problem with such efforts is that special educators who typically provide instruction to children with [learning disabilities] have not been integrated into the early identification and prevention initiatives and have not had a role in efforts to design and implement early prevention programs. It is important that both regular and special education embrace these efforts and view prevention as part of their mission."

To help prevent the need for special education, the District of Columbia should focus on ensuring quality and enhancing access to pre-k programs. Beyond helping students before they fall behind, greater prevention has the potential for cost savings and allows special educators in the District more effectively to concentrate their efforts.

Finally, although it is beyond the scope of this morning's hearing, an emphasis in public policy on prenatal and health care issues for women and children is essential to addressing these issues as well.

#### *Costs and Performance*

Improving the performance of special needs students is embedded in the 7-point plan the DCPS has developed to improve its special education program. However, because of the nature of the current IDEA, compliance and regulatory issues also feature prominently. A focus on improving data collection and tracking is an absolutely necessary step. But, it is essential that officials remember the overarching goal of special education—improving the performance of special needs youngsters.

Two steps we recommend with regard to costs and performance are:

- Restore a cap on routine legal fees so that special education dollars are spent on education while allowing larger fees in extraordinary cases;
- Expand and enhance DCPS' capacity to offer special education services and programs to lessen the need for private placements and improve quality.

A key problem with IDEA is that despite admirable and well-intentioned efforts, too many low-income parents are at a disadvantage in terms of accessing IDEA's procedural safeguards. In the case of Washington, there is no evidence that removing the caps helps address this problem. As School Board Chair Peggy Cooper Cafritz has pointed out in the *Washington Post*, the fee cap does not seem to impact private placements for poor African American students.

Moreover, Washington has a well-documented problem with abuses of the special education system. Most recently Justin Blum of the *Washington Post* documented rampant conflict of interest and abuse of the special education process by a private company. The cap should also apply to public charter schools.

The amount of money DCPS spends on private placements is appalling. By some estimates it is as much as \$100 million per year. In 1999, a *Washington Monthly* article estimated the costs of private placements as at least \$56 million. That alone would account for \$791 per DCPS student in spending (assuming an enrollment of 70,762). Some of these placements are necessary because as in most communities there are students who have exceptional needs that the school system cannot meet. However, a combination of poor services and abuse of the system creates an untenable situation that thwarts reform. The ultimate victims are all students in DCPS.

The issues of capacity, legal costs, and private placements are interrelated and must be dealt with in concert. DCPS must deal with the issue of private placements by upgrading its own special education programs and capacity to legitimately serve students with special needs as well as retooling its administrative and legal approach to special education to avoid abuse. Curbing the torrent of money spent on legal costs is a difficult but important step in this process. Expanding the number of charter schools and other options for serving special needs students is another positive step if these schools and their programs are well designed and implemented and not a new incarnation of present shortcomings.

#### CONCLUSION

Reasonable and well-intentioned people can disagree about particular special education reforms in the District of Columbia and nationally. Nonetheless, it's clear that special education in the District of Columbia will not improve until the general

education situation does as well. However, improvement of general education is also linked to special education reform in DCPS and around the country. Again, Senator Landrieu I applaud you for discussing these tough issues and appreciate the opportunity to testify before this subcommittee. I look forward to your questions and those of the other senators.

Senator LANDRIEU. Okay. Let me ask you one, and then I will come back.

Is there anything in the District law or Federal law that prevents the District right now from paying special education teachers more than other teachers or paying teachers that teach in difficult schools more than in less challenging schools?

Mr. ROTHERHAM. That is a great question, Senator. In terms of Federal law, no, there is nothing. In D.C., there is a collective bargaining arrangement, which I am not an expert on, but in many areas, it does restrict the flexibility the school officials have and when they do have flexibility, it is usually simply moving somebody up a ladder. That is as in other districts. As I said, I am not familiar with Washington.

But there is nothing concrete in policy that cannot be changed to address—to either have bonuses, better pay. The system we use to pay teachers now is almost 100 years old, and it was designed for a time that is long gone.

Senator LANDRIEU. So basically if the teachers and their associations agreed with the concept, that teachers who teach in more challenging and difficult situations should be paid more and others should be paid less, that could be implemented without anything other than a decision on the part of the school board and the teachers.

Mr. ROTHERHAM. Well, I think the school board would have to change its policy as well. But there is disagreement among education associations in this country about the wisdom of this course. Some support differential pay and paying people who work in more challenging circumstances in the harder-to-serve areas like the hard sciences or special ed, paying them more. Some others do not.

I think in education, we have sometimes made the mistake of equating equality with equity, and that is not necessarily the case and paying all teachers equally in D.C. is not going to provide equity for special needs students who simply do not have the teachers that they deserve.

Senator LANDRIEU. Excellent point.

Mr. Cane.

**STATEMENT OF ROBERT CANE, EXECUTIVE DIRECTOR, FRIENDS OF CHOICE IN URBAN SCHOOLS**

Mr. CANE. Thank you, Senator. It is nice to meet you. My name is Robert Cane.

Senator LANDRIEU. Mr. Robert Cane.

Mr. CANE. I am executive director of Friends of Choice in Urban Schools. We are a non-profit grassroots support organization for the District of Columbia Public Schools.

Much of what is in my written testimony has already been said by others, panelists and yourself, and it is wonderful to hear you all saying it. So I should be able to be very brief.

I just want to highlight a couple of things. You have already heard about the great popularity with parents of the public charter

schools in the District. I would just like to say that after only 5 years, one out of seven of all public school students in the District now attend public charter schools.

New schools will be coming on line next year, and we expect this figure to go up. The public charter schools are in the process, I should say, of revitalizing education and public education in the District in a number of ways. I have talked about four of these ways in my testimony, but I just want to highlight parts of two of them.

First, the public charter schools are bringing to their students innovative approaches to learning, and the kinds of academic programs previously reserved for the well-to-do. Several of our charter schools employ cutting edge whole school design models. Others offer curricula focused on a particular subject theme, such as fine and performing arts, foreign language immersion, environmental studies or technology.

Many target niche markets such as students who are several years behind grade level, children in the juvenile justice system, many children who have dropped out of school and are coming back, and even adult learners. And D.C. had the first public urban boarding school in the United States in the form of a charter school.

Another innovation that was talked about a little earlier is that the public charter schools have brought real accountability to public education in the District. You had a colloquy with Mr. Chavous about the closing of public charter schools, but there is another element of this accountability that I think is very important to highlight. And that is that since the advent of the public charter schools, all public schools operating funds in the District go through something called the uniform per student funding formula.

What this means is that every child in the District gets the same level of funding. And even more important, the schools are only paid for those students who are actually enrolled in their schools, and there is an independent audit every year.

So a child that walks to a particular public charter school and is there on audit day, that charter school gets his or her funds. All the money goes into DCPS, which then divides its money up. But the audit also applies to DCPS.

So what we have here is a double form of accountability. The closure of schools as you indicated only applies to the public charter schools, but it is very, very important. The idea of the charter school law in the District, which is a very liberal law and encourages the creation of lots of charter schools is that you find creative, dedicated people. You give them a chance to do better and if they succeed, you support them. If they fail, you take that charter and give it to someone else.

It seems to me that this is a really rational way to approach public schooling, and it also creates powerful incentives for the schools to pay attention to the needs of the students and the desires of the parents.

You asked the other panelists about barriers facing public education in the District, and you heard much about the facilities crisis that is facing the public charter schools. In fact, you asked about it. I just wanted to say that I do not really have anything

to add to what Mr. Chavous said about this, except that this really is a crisis in the truest sense of the word.

We have two successful public charter schools that will close at the end of this year if they do not find new facilities, because they are losing their lease. We have what we hope will be a very good school with 400 students. It is supposed to open with 400 students in the fall. It can only open with 40 students, because that is all the space they could find.

Senator LANDRIEU. What are the two that are scheduled to close without new facilities?

Mr. CANE. One is Washington Math, Science and Technology, and the other is Tech World. And these are both in the Waterside Mall in Southwest, and they have been there for a few years. And they have lost their lease.

Senator LANDRIEU. And what is the one that wants to open with only 40 slots?

Mr. CANE. It is called Barbara—no, no. It is called Tri-Community. I apologize.

Senator LANDRIEU. Okay.

Mr. CANE. Tri-Community.

Senator LANDRIEU. Continue, please.

Mr. CANE. We have other schools. One of our most prominent schools is Cesar Chavez School, which has received national recognition. It is at its maximum of 240 students in a woefully inadequate space. And they are going to actually have to shrink down next year because they cannot continue to do a good job with their students in that space.

In closing, I would just like to mention a related issue that the Congress has helped us with in the past, and we hope may be able to help us with again, and that is the issue of the financing of purchase or leasehold improvements.

If the charter schools are lucky enough to find a building, they have to—and the next step is to convince the bank, you know, to finance what generally are major costs in the millions of dollars. And many of these charter schools are new. Their founders are not people of great wealth. They cannot provide personal guarantees.

Well, a couple of years ago the Congress set up a credit enhancement fund and found \$5 million to put in it for the charter schools in the District. And this has enabled—so far, we have had four schools receive about \$2 million in credit enhancement, which they have been able to use to leverage \$9 million in purchase and improvements.

For this to serve all the charter schools that will need it over the next few years, we need to have about an additional \$15 million in that fund. And this fund is administered by a committee appointed by the mayor. They have had some problems getting the money out fast enough, but they seem to be improving and, with some help, could improve more. And this would be a wonderful way to make sure that we do not have this artificial barrier to the charter school success, which would frustrate the will of the parents.

I will be happy to answer any questions you have.

Senator LANDRIEU. Thank you very much.

[The statement follows:]

## PREPARED STATEMENT OF ROBERT I. CANE

Good morning Senator Landrieu. My name is Robert Cane, and I'm executive director of Friends of Choice in Urban Schools, a D.C. grassroots non-profit that supports D.C.'s public charter schools. Thank you for holding this hearing and for your interest in public schooling in the District of Columbia.

D.C. has the most successful public charter school program of any city in the United States. Just 5 years after the first school opened, 14 percent of all D.C. public school students attend school on 41 public charter school campuses. Three new schools are scheduled to open next fall and enrollment, now just under 11,000, is expected to grow to around 13,000.

## IMPACT OF THE PUBLIC CHARTER SCHOOLS ON PUBLIC EDUCATION IN THE DISTRICT

These public charter schools are revitalizing public education in the District in a number of important ways.

- They are giving D.C.'s most disadvantaged families alternatives to troubled schools. Ninety-nine percent of the District's public charter school students are members of minority groups. Public charter schools are located in seven of the District's eight wards and are more frequently located in tracts with lower incomes and higher poverty rates than are traditional public schools. Nearly two-thirds of public charter school students qualify for free and reduced lunch.
- They are bringing to these students innovative approaches to learning and the kinds of academic programs previously reserved for the well-to-do. Several of our charter schools employ cutting-edge whole-school design models. Others offer curricula focused on a particular subject theme, such as fine or performing arts, foreign language immersion, environmental studies, or technology. The remainder target niche markets, such as students who are several years behind grade level, children in the juvenile justice system, or adult learners. One D.C. charter was the first public, urban boarding school in the United States.
- They are involving parents in their children's education to an unprecedented degree. By law, two parents of enrolled students must be on the board of trustees of every public charter school in the District. What's more, our public charter schools pride themselves on being parent-friendly and open to parental involvement at all levels. A recent survey sponsored by the National Science Foundation found that parents of D.C. public charter school students are much more favorably inclined toward their children's schools than are parents of children in the traditional schools.
- They have brought real accountability to public education in the District. Since the advent of the public charter schools all operating funds of the school system and the individual charter schools are provided through a uniform per-pupil funding formula. Under the Formula DCPS and the public charter schools receive funding only for those students that an independent audit shows are actually enrolled in their schools. This creates competition for students and the funds they bring with them and puts pressure on the public charter schools and the school system alike to improve their schools. The pressure is especially intense on the individual public charter schools, which will close down if they do not attract and hold enough students.

The District's public charter schools are accountable to parents and the public in another significant way. Schools whose students do not show sufficient academic progress or which mismanage public funds can be closed down. This very real threat of closure provides a powerful incentive for school improvement.

## PROBLEMS FACED BY THE DISTRICT'S PUBLIC CHARTER SCHOOLS

Two related problems have the potential to bring the public charter school movement to its knees.

The first is a lack of suitable facilities, a problem that has reached crisis proportions. The second is that many of the public charter schools that do find facilities lack the wherewithal to obtain financing to acquire and improve them.

## THE FACILITIES CRISIS

Two public charter schools will have to close their doors at the end of this year if they do not find new facilities. Several others will not be able to add promised grades. A new school scheduled to open with 400 students will have only 40 because that's the only space they could find.

Meanwhile, two dozen DCPS schools are more than half empty. The Board of Education could defuse the charter school facilities crisis by permitting the charter schools that need facilities most urgently to lease space in some of these buildings.

Similarly, the District of Columbia administration controls nearly 30 former school buildings. Under the School Reform Act passed by Congress in 1996, the public charter schools have a preference to acquire these buildings.

Unfortunately, neither DCPS nor the administration has taken on the responsibility to solve this problem. What is needed is for District government to treat public charter school children the same way they do DCPS children and make sure they have decent places to go to school. If they do not do so soon the charter school movement will run into a brick wall.

#### LACK OF FINANCING

Most of the public charter schools start out with just a few grades and a relatively small number of students, usually in temporary space. After two or 3 years they outgrow that space and need to acquire new—preferably permanent—space. If they are lucky enough to find a suitable building they run into the next problem: convincing a bank to put up the money needed to buy it or to make leasehold improvements.

Most who start public charter schools are people of modest means who can't provide personal loan guarantees. Thanks to the Congress, 2 years ago the District established a "credit enhancement fund" for D.C. public charter schools. This \$5,000,000.00 revolving loan fund, administered by a committee appointed by the mayor, has so far enhanced the credit of four schools to the tune of \$2,000,000, and applications from other schools are pending. The two million provided so far has been leveraged into \$9 million worth of loans.

In order to serve all the schools that will need credit enhancement over the next few years, this fund needs to be increased by approximately \$15 million. I've attached to my testimony the calculations that support this figure. We would be most grateful for your support in helping to build the fund to an appropriate level.

Thank you. I'll be happy to answer any questions you may have.

Senator LANDRIEU. Ms. Ford.

#### **STATEMENT OF VIRGINIA WALDEN-FORD, EXECUTIVE DIRECTOR, D.C. PARENTS FOR SCHOOL CHOICE**

Ms. WALDEN-FORD. Good morning. Thank you for this opportunity to be here, and it is really nice to meet you.

I came into this whole terrible problem as a parent. One of my own children was failing in the D.C. Public Schools. And we got a scholarship to take him out. I saw the turnaround in him and, as a result, felt like I needed to do something to give back to the community because we had a happy ending.

So I started an organization called D.C. Parents for School Choice, which is an information dissemination organization for parents. We represent parents. We speak on behalf of parents, so today I would like to share with you some of the things those parents have been saying to us.

We work primarily with low-income parents in parts of the City that oftentimes are neglected, and they feel that way. We hear from parents who have really bright children who are behind in math and reading. And they know they are behind. They may not have the same kind of education, but they want the best for their children.

We also hear a great deal from parents who have children that are in special education that they many times feel have been mislabeled and feel like the schools have just really given up on those children and thrown them into, you know, the pit, as you will.

We are also hearing from parents more and more about children dropping out or are beginning to prepare to drop out in middle school. I mean, I hear stories from parents about their seventh and eighth graders coming home because their schools are not giving



them what they believe they need, and they start missing school and that is just a preparation for dropping out.

Then, of course, when they get to high schools, which in a lot of cases are not serving the needs of the children, then that becomes a reality to those children.

Many parents that call us, and we have hundreds and hundreds of parents that call us, tell us stories of how they fear for those children's lives and how they understand that in Washington, D.C. when children drop out of school, then they do not go back and they do not get GEDs, and then in most cases, they end up in jail or worse.

We have found that the public charter schools have offered some degree of solution to these problems. More and more we are getting calls from parents telling us that they have taken advantage of some of the charter schools, and of all of the charter schools and have found this is the first time in their children's lives that they have had a positive educational experience.

We would like to see more charter schools in the neighborhoods that we believe are being left behind by the reform efforts of the DCPS and which really concern us. We visit a lot of schools. We visit a lot of parents, and we have not seen a change in the fixing of the schools. And we want to know how long those parents will have to wait for those changes. And they want to know, and we cannot tell them.

So we direct them constantly to charter schools. But that is always an issue, because the charter schools tend to be in communities away from the worst schools in the District. And a lot of those parents—even though, you know, we do not think about it, we kind of take it for granted that it costs \$1.10 to ride across town. \$1.10 for many of the parents that we serve is for 5 days back and forth is just an incredibly large amount of money that they cannot find.

So their children end up being forced to stay in bad schools in high-crime communities. And we just spent a lot of time visiting housing projects in Southeast. And a lot of those parents feel there is nothing that is ever going to be done. They feel very hopeless and helpless about what is happening as far as the reform efforts for their schools. They feel like they will be the last ones, and their children will be lost if something is not done immediately for those people.

Parents have been really—my staff and I spend a lot of time counseling and talking to parents just trying to make them feel less frustrated about what is going on, and trying to give them some solutions to what has happened with their children in education. But we are quickly running out of solutions to give them. It has become more and more difficult.

[The statement follows:]

PREPARED STATEMENT OF VIRGINIA WALDEN-FORD

STATUS OF EDUCATION IN THE DISTRICT OF COLUMBIA

Thank you, Chairman Byrd, for this opportunity to speak on behalf of so many desperate parents in the District of Columbia.

My name is Virginia Walden-Ford. Several years ago, I was a single mother with a son in 9th grade. When my son started having problems in and out of school, I

knew I did not want him to continue attending Roosevelt High School, a D.C. public school that had (and still has) many problems of its own.

Thanks to a neighbor's financial help, I was able to send my son to a private High School, where his grades and attitude immediately began to improve. He has now graduated and is serving in the U.S. Marine Corp and doing very well. I still shudder to think how very different his life would have been had he not been able to attend a school that offered a strong academic program and an environment that inspired him to succeed.

You have no idea what it is like to be trapped in poor performing schools like the ones in some of our neighborhoods here in DC. For years DC parents have been told to wait and reform would come. But is it right to sacrifice the educational future of our children by waiting four more or 6 more years and seeing no changes or changes that come so slowly they are impossible to see.

I lead D.C. Parents for School Choice and counsel many low-income parents, and I know that being low-income does not mean caring any less about a child's education. We hear from parents who have bright children but those children are behind in reading and math based on the documented performance of many schools in the poorest communities in DC. Other children in those same neighborhoods, especially African American male children, have been inappropriately labeled Emotionally Handicapped or Learning Disabled and sentenced to a special education system that is one of the worst in the nation.

Children in some of the worst high schools in the city have begun to acclimate themselves to the "drop-out" culture that pervades their schools. They will begin to expect to drop out the way many of their friends have. Tragically, parents are beginning to see the same attitudes even in our city's middle schools students. Parents have begun fearing for their children's lives. In our neighborhoods, when young males drop out they often end up in prison or worse.

We have a system which leaves hundreds of thousands of low-income predominantly minority children in terrible schools with low academic achievement and high rates of crime.

I have been an advocate of public charter schools since the inception of the public charter school law because it provides parents an alternative to failing neighborhood schools. We have received hundreds of calls from parents who were seeking to help their children and many felt as though they had no place to go.

The DC Public Charter Schools offer parents a choice. Because they are open to children from all over the city and have different curriculums and themes, parents have an opportunity to find a school that can capture their child's interest. Charter schools are an excellent alternative for some families. Parents have continually called us back to report that for the first time they feel as though their children have a chance to benefit from quality educational facilities.

As we have observed the operating public charter schools and listened to the parents and children they serve, we have seen that, for these families, a renewed involvement in their children's education is growing stronger. It is exciting for us to see that children who were not learning are now engaged and excited about their educational experience.

In 1999, I got married and became stepparent to two youngsters, 14 and 12 year old boys. I had to decide where they would be educated here in the District. The DC public charter schools offered us ideal opportunities finding placement for the boys in schools that met their particular needs.

Parents here in the District are daily expressing their frustration in a school system that is taking too long to fix itself. Many of them have come to the point where they feel hopeless and helpless, which is often interpreted as not caring about their children. However, we have seen that, when children are placed in nurturing educational environments, they succeed and their parents become active and involved.

We believe that DC Public School leaders have to listen to all parents and take their concerns and complaints seriously as they look to fixing the school system. Parents are tired of waiting. How many more children will we sacrifice?

Thank you very much.

Senator LANDRIEU. Let me ask on that, because we have just got a few more, and I could stay on this panel all afternoon. But let me ask you: In terms of trying to give some immediate help to parents, would it be of any assistance whatsoever to just provide some transportation to some of these parents, since there are no schools in their area, just so that they can get to some schools that might have space?

Or is the problem that there is no space anywhere, even if they could get there, that there are more people in line to get in charter schools than there is space provided? Could somebody try to shed some light on that?

Ms. WALDEN-FORD. I would like to answer that if I could.

Senator LANDRIEU. Okay.

Ms. WALDEN-FORD. Both. I think that we need to work with the charter schools so they will have the facilities where they can expand and make more space available for children. And once that has been done, I think some kind of transportation allowance would be really practical for the poorest families.

Then those are the ones that are least served by most programs, and those are the ones that people often say are not concerned about the education of their children, but oftentimes, the problems in their lives are so overwhelming that that is one problem that is so big that they often cannot express it. You know, we counsel parents about that, so I believe that it is both.

Senator LANDRIEU. And then the ultimate solution would be, of course, to have more options so that every neighborhood—and I think this committee took some action to help fund a specific start-up for Thurgood Marshall which is going to be the first charter high school in the Anacostia area, I understand.

Mr. CANE. Well, it is not the first. We now have about 29 percent of the high school students who are in Anacostia are in charter schools. But many people think that it should be easy to find space east of the river, and it is just not. And so we have many of our schools, in fact, most of our schools want to locate over there, but have not been successful. You have heard of the Kip Academy. They are sitting in Ward Six, because they have not been able to find a place in Ward Eight.

So I agree with Ms. Walden. The problem facilities problem is at the root of so much of this.

Senator LANDRIEU. Right. If we could help you all solve that, then a lot of the other problems may work themselves out.

Mr. CANE. Right.

Ms. WALDEN-FORD. Well, I mean I just totally think that once the facility issues has been solved and we have more availability of space for kids, but then I think we still need to go to the people in those areas that are least served by this city, the poorest of the poor, and do some educating.

You know, our experience has been that many of them do not know about what is available for them, so we spend a lot of time just providing information.

Senator LANDRIEU. That is a very good service. Let me ask you: Ms. Ford, you said that you were able to get a scholarship and get out. Could you explain that to me, for your own child?

Ms. WALDEN-FORD. I was a single parent raising three kids in Washington, and my last child was attending a D.C. Public High School that was just absolutely failing him and, you know, many people want to say it is because the parent is not involved. I was probably one of the most involved parents at the school, and could not figure out how to save my own child.

I got a scholarship from a neighbor who saw some potential in my son. He had cut his grass and talked to him and we did not

have a father in our home, so my son William had kind of gravitated towards this guy who was young and out there, and you know, he had a young child, so he liked having these teenagers around. And he and two of his friends paid his tuition to a Catholic school, where I saw him dramatically turn around. I mean not in a month, not in 2 months, but immediately; I mean, in a week, I saw a difference in this child.

This was the child that the final straw had been the police brought him home because he did not go to school, and I came home to my son handcuffed to the porch. And I do not have any frame of reference for that. I am from Arkansas. I mean, I just did not get it.

Then I found that he felt that nobody was taking care of him. And then this child graduated top of his class and is now in the Marine Corps serving his country in California. So, you know, the happy endings can happen.

Oftentimes, parents like me, and I was not out there and vocal and visible. I was a parent. And I was a young struggling parent, and oftentimes parents when provided with the information and resources and a little bit of help, you know, I mean a little bit of personal attention, all kinds of things can happen.

I mean, I cannot even imagine where I would be or what would have happened to my child, had it not been for that scholarship.

Senator LANDRIEU. Yes. Well, so that is an excellent way to end this, to end with this panel.

#### SUBCOMMITTEE RECESS

You have all been terrific. I thank you for your interest and your commitment in giving your personal time and your personal stories. And we are committed to working, this committee, with all of you, both on our second and first panel, to help fashion a school system and district that our whole Nation can be proud of, and recognize these challenges are not unique to this area, that all systems face challenges, but there are solutions, and there are happy endings.

Thank you. God bless you all.

[Whereupon, at 11:30 a.m., Tuesday, April 16, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

**DISTRICT OF COLUMBIA APPROPRIATIONS  
FOR FISCAL YEAR 2003**

WEDNESDAY, APRIL 24, 2002

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

The subcommittee met at 9:44 a.m., in room SD-116, Dirksen Senate Office Building, Hon. Mary L. Landrieu (chairman) presiding.

Present: Senators Landrieu and DeWine.

**PUTTING FAMILIES FIRST: THE ROAD TO REFORM OF THE  
D.C. FAMILY COURT**

**STATEMENT OF CORNELIA ASHBY, DIRECTOR OF EDUCATION, WORK-  
FORCE AND INCOME SECURITY, GENERAL ACCOUNTING OFFICE**

OPENING STATEMENT OF SENATOR MARY L. LANDRIEU

Senator LANDRIEU. Our subcommittee meeting will come to order.

I thank our panelists for attending and for being with us. And I think the arrangements of this room will give us an opportunity to have a little bit more informal exchange, which might be helpful as we work with you and as a team to set up what we hope will be the finest family court in the country, because there is a tremendous amount of interest on our side of the table, and I think on your side in accomplishing that goal.

PREPARED STATEMENT

Let me welcome our panelists this morning. I am going to submit my opening statement for the record, because we only have about an hour and half of time, and I find that—that is helpful.

I have got an extensive statement for the record, which I will submit.

[The statement follows:]

PREPARED STATEMENT OF SENATOR MARY L. LANDRIEU

The Subcommittee will come to order. Good morning. Welcome to this hearing on Putting Families First: the Road to Reform of the D.C. Family Court.

Just the other day, I had the good fortune to participate in the National Day of Hope hosted by an organization that I am sure everyone in this room is familiar with, CASA—the Court Appointed Special Advocates. On this day, CASA invited members of the Washington, D.C. community to come and light 8,775 candles of hope, representing all of the children who are abused each day in the United States. That is a staggering statistic when you stop to think about it. What struck me most, however, was the irony of the situation. Here we were in the Nation's Capital,

standing before the U.S. Capitol building where laws on child abuse are passed and programs to prevent abuse are funded—yet everyday nearly 9,000 children are still abused. So what does that tell us?

As a long time advocate for children, I have come to learn that any positive, long term change in policy relating to children does not come from just one law, one program or one change in policy. Rather it comes from a community-based, collaborative effort that focuses on working together toward the achievement of shared goals. Effective reform plans involve creating a role and establishing connections between all related agencies, from schools and hospitals to law enforcement officers and business leaders.

Early this year, the President signed into law the District of Columbia Family Court Act of 2001. This is historic legislation for the D.C. Courts because it will bring about the first change in the Courts's organization in 3 decades. With this law comes the unique opportunity for the District to start anew and to put in place a system that can serve as a model for the rest of the country.

The core organizing principle of the Family Court Act is to establish a "One Judge/One Family" system. Too many children have fallen through the cracks because they get a different judge with every hearing. Add to this the fact that a child could have multiple social workers involved in their cases at different times and the results can be heartbreaking. We need to redevelop the D.C. court system so that it becomes a helpful intervention in the lives of at-risk families. A place where children can feel safe and protected. A place committed to ensuring that each and every child it meets has the chance to grow up in permanent, loving homes.

A second organizing principle of the Family Court Act is that those working to protect the families of Washington should have a strong background and experience in working with families. A simple concept really. Under the new plan, the judges and associated magistrates asked to serve on this court will have experience and expertise in every facet of the District's family law and child welfare system. They will receive ongoing training in areas such as early childhood development and family dynamics so that they will be better equipped to protect children and nurture and support families.

Third, the Act calls for the D.C. Courts to create family-friendly court facilities and to establish an information technology system for handling cases. Some people may think that the facility that a family court operates in is not all that important. I beg to differ. I think that the facility can be the linchpin to the court's success. A well designed, family and child friendly facility is a living testament to the principles that the court is built on, both figuratively and literally. If a court is truly committed to putting families first, then the building they work in should reflect that.

Finally, the One Judge/One Family structure will not work if the information system for managing cases will not support it. Currently, the D.C. Courts use 18 information systems in its operations, covering the wide range of cases it hears whether criminal, civil, probate, or family, as well as the courts's administrative functions. Think about it: if a child comes before a judge on an adoption matter, the judge has to go to 18 different places to find out whether that child or that child's family have any other cases pending in the system. Add to this the complicating factor that the D.C. Courts's current systems are not integrated with other city agencies such as Child and Family Services and the Metropolitan Police Department, and it is no wonder that children fall through the cracks.

The Family Court Act requires the Courts to report on its transition to the new Family Court. The witnesses today are Cornelia Ashby, Director for Education, Workforce, and Income Security for the General Accounting Office (GAO). GAO has reviewed the transition plan and will make a report to the Subcommittee on that review. Chief Judge Rufus King, III and Deputy Judge Lee Satterfield, Presiding Judge of the Family Court, will talk about where things stand with the transition from their perspective. We will also hear from experts in the area of family courts who will give us examples of best practices: Matthew Fraidin, Legal Director of the Children's Law Center; Ms. Deborah Luxenberg, Chair of the Children in the Courts Committee of the Council on Court Excellence; and Ms. Jacqueline Dolan from the California Partnership for Children.

I have three goals for the successful implementation of the Family Court Act that I want to discuss at this hearing. First, I want the District of Columbia to have a Family Court that serves and protects the best interests of the children and the families whose circumstances place them within the Court's jurisdiction. One Judge/One Family will help make that happen. Second, the new Family Court must be accountable and must implement evaluation systems based not only on the nuts and bolts of effective case administration, timing, computer systems, and paperwork processing, but evaluations based on the long-term outcomes for children and fami-

lies. Finally, it is essential to me that the Family Court feels like home. For many of the children in the child welfare system, the Family Court may be the one constant in their lives. It must be welcoming, not frightening; a friendly place, not a sad one. It should be something a child looks forward to, not something the child has to “get through” like a medical examination.

As I mentioned at the beginning of my remarks, the Family Court Act is an historic opportunity for the District of Columbia Courts. I hope the judges and city officials seize this moment as a starting point for fixing child welfare as we have known it. While I know getting the new Family Court up and running efficiently and effectively will take time, and fixing the child welfare system will take even longer, we cannot afford to wait to start.

Senator LANDRIEU. I will ask my ranking member, Senator DeWine, if he wanted to make some statements in just a moment.

Senator DEWINE. Yes. I will submit my statement as well.

Senator LANDRIEU. Okay. Thank you, Senator, for including you or statement in the record.

[The statement follows:]

PREPARED STATEMENT OF SENATOR MIKE DEWINE

Madame Chairman, I would like to thank you for holding this very important hearing today on the District’s Family Court transition plan. As I have said over and over again, it is absolutely imperative that we protect all children in the District—especially those caught in the child welfare and foster care system. That is why the Chairman and I introduced the DC Family Court Act of 2001, which President Bush signed into law in January. Our law contains reforms that are crucial for children and families in the District.

When we were drafting that legislation, we realized that in order to have real reform in the District’s Family Court, Congress would have to accept some financial responsibility.

And so, as Chairman and Ranking Member of this Committee, Senator Landrieu and I were able to allocate roughly \$24 million for the DC Superior Court. But, through our Family Court Act, we stipulated that in order for the Court to access these funds, it must submit a transition plan to Congress within 90 days of the Family Court Act being signed into law. And that is why we are here today—to examine that plan for transition.

I recognize that everyone involved in drafting this transition plan shares a common objective of ensuring that the children who come into contact with the DC child welfare system are placed in safe and stable environments. Part of that objective also is to ensure that children are not “reabused” by the very system designed to protect them. And so, as we try to assess the effectiveness of the District’s plans to create the Family Court and its ability to meet these objectives, I am left with many questions and am anxious to hear from the panel today.

I want to thank all of our witnesses for taking such an interest in the families and children in the District. Judge King and Judge Satterfield—I know you have made reforming the Family Division of the DC Court your number-one priority, and I look forward to continuing to work with both of you. Additionally, I would like to thank Cornelia Ashby from the General Accounting Office, Deborah Luxenberg from the Council for Court Excellence, Matthew Fraidin [fray-den] from the Children’s Law Center, and Jacqueline Dolan from the California Partnership for Children. Your expertise and dedication to this process are vital.

As we discuss the District’s transition plans, I would like to remind the Committee and the panel of the reform that I find most important—and that is the One-Judge/One-Family provision. The implementation of this policy will ensure that the same judge—a judge who knows the history of a family and who knows the child—will be making the decisions that will forever affect a child’s life.

This is vital for those hard cases involving abuse and neglect.

Additionally, when there are multiple allegations and issues, the practice of One-Judge/One-Family would ensure that the same judge would hear the more complicated cases. A judge would no longer see only a piece of the puzzle, but rather would see entire picture. A judge needs to be aware of all of the issues—the entire situation not just a fragment.

It was our intention when drafting the Family Court law that when the Court implemented the One-Judge/One-Family policy, a child removed from his or her home would be assigned to the same judge from the initial intake hearing to the child’s ultimate placement. That same judge would hold an adjudication hearing re-

garding the abuse or neglect charges against a child's parent(s). This judge would be well informed and able to make the difficult decision about whether to reunify the child with his/her parent(s) or whether other permanency options need to be evaluated.

All of these efforts are designed to help stop the practice of bouncing children from judge to judge to judge.

Right now, it is unclear to me from the transition plan that this tragic practice will cease. We have given the Court the latitude to develop the One Judge/One Family System that will work best in the District. But, what that system will look like is still unclear to me. By the conclusion of this hearing, I am optimistic that I can say otherwise.

Once again, I would like to thank you, Madame Chairman, for holding this hearing today. I am very interested to hear from our witnesses.

Senator LANDRIEU. And let us get right in, if we could, to our panel. We have Cornelia Ashby with the General Accounting Office, the GAO, that has just completed a report, who is here to give us her testimony.

We thought we would begin, Ms. Ashby, with your report, which should take about 10 or 15 minutes. And then we will hear from Chief Judge King, Judge Satterfield, who are respectively the chief judge and the presiding judge of the Family Court.

We will then have some question-and-answer time for the judges, and then hear from Matt Fraidin of the Children's Law Center, who is a legal advocacy group for children here in the District; and Deborah Luxenberg, Council for Court Excellence. The Council for Court Excellence is a D.C. non-profit organization that works to improve justice in the region's local and Federal courts.

And then Jackie Dolan from the California Partnership for Children—Ms. Dolan is a children's advocate who has worked extensively on developing family-friendly, less intimidating legal environments for children. She was actively involved in the design of the Edelman Courthouse in Los Angeles County, which I understand is a real success story. We are anxious to hear from her.

But why do we not begin with the General Accounting Office study summary? Ms. Ashby.

Ms. ASHBY. Good morning.

Senator LANDRIEU. Good morning.

Ms. ASHBY. Madam Chairman and Senator DeWine, I am pleased to be here today to discuss the progress made by the District of Columbia Superior Court in transitioning its family division to a Family Court.

The District of Columbia Family Court Act of 2001 required the chief judge of the Superior Court to submit to the President and the Congress a transition plan outlining the proposed operation of the Family Court. The Congress also required that, within 30 calendar days after submission of the plan by the Superior Court, GAO submit to the President and the Congress an analysis of the contents and effectiveness of the plan in meeting requirements of the Family Court Act.

My testimony today is based on our analysis of the transition plan. Our final report will be submitted to the President and the Congress by Monday, May 6th, 2002.

In summary, the Superior Court has made progress in planning the transition to a family court; but in implementing the plan, the Superior Court and the Family Court will face challenges.



Completion of the transition hinges on timely completion of a complex series of interrelated, interdependent plans intended to obtain and renovate physical space to house the court and its functions. In addition the development and application of the District of Columbia Court's Integrated Justice Information System, known as IJIS, will be critical for the Family Court to be able to operate effectively. The Superior Court's transition plan addresses most, but not all, of the 10 required elements specified in the Act. Before I discuss the elements that are not fully addressed in the plan, I would like to briefly mention some of the processes the court outlined in the plan for transitioning to the one-family/one-judge approach required by the Family Court Act.

I want to mention these processes because they form the foundation for the other determinations that were to be explained in the elements of the plan and of the challenges the court faces.

The one-family/one-judge approach involves two processes: transferring back to the Family Court child abuse and neglect cases pending before judges in other divisions of the Superior Court; and, case flow management for cases in the Family Court.

With respect to the transfer of cases back to the Family Court, the Family Court intends to have all child abuse and neglect cases, pending before judges serving in other divisions of the Superior Court, closed or transferred into the Family Court by June 2003.

Some cases are to be transferred immediately, that is by June 2002. Cases that the court believes may not be candidates for transfer by June 2002, include those for which transfer could delay permanency.

According to the plan, the court has asked each Superior Court judge to review his or her caseload to identify those cases that meet the criteria established by the court for immediate transfer to the Family Court.

In this regard, magistrates recently hired under the expedited appointment process mandated by the Family Court Act are to assist the Superior Court judges with the transfer of child abuse and neglect cases back to the Family Court. The court estimates that 1,500 cases could be candidates for immediate transfer.

With respect to case flow management for cases within the Family Court, the plan indicates the Family Court will implement the one-family/one-judge approach by assigning all cases involving the same family to one judicial team, comprised of a Family Court judge and a magistrate.

This assignment will begin with the initial hearing by the magistrate on the team and continue throughout the life of the case. To facilitate this approach, the court plans to centralize intake.

As part of centralized intake, case coordinators are to identify any related cases that may exist in the Family Court. To do this, the coordinator is to ensure that a new intake cross-reference form is completed for the parties involved in the case, and also check the 18 computer systems currently serving the Family Court.

Closely associated with the successful transition to the one-family/one-judge approach is an effective performance evaluation system. The evaluation measures developed to assess the court's progress in reforming its operations could include additional measures that reflect outcomes for children. The evaluation measures

listed in the plan are oriented more toward the court's processes, such as whether hearings are held on time, than on outcomes.

According to a court expert, measures must account for outcomes that result in achievements for children. Measures could include the number of finalized adoptions, that is, that did not disrupt, reunifications that did not fail, children who remain safe and are not abused again while under court jurisdiction or in foster care, and the proportion of children who successfully achieve permanency.

In addition, the court will need to determine how it will gather the data necessary to measure each team's progress in ensuring such outcomes and in meeting the requirements of the Adoption and Safe Families Act. Further, the court has not established a baseline from which to judge its performance.

With regard to the requirements that were not fully addressed in the plan, the transition plan addresses the number and roles of judicial officers, but other human capital issues remain unclear. For example, the plan states that the court has determined that 15 judges are needed to carry out the duties of the court and that 12 judges have volunteered to serve on the court. However, the plan does not include a request that the Judicial Nomination Commission recruit, and the President nominate, the additional three judges to serve on the Superior Court, as required by the Family Court Act.

In addition, the plan does not address the qualifications of the 12 judges who volunteered for the Family Court. Although the plan states that these judges have agreed to serve full terms of service, according to the act, the chief judge of the Superior Court may not assign an individual to serve on the Family Court unless the individual also has training or expertise in family law and certifies that he or she will participate in the ongoing training programs conducted for judges in the Family Court.

Further, the plan does not include the number of non-judicial staff needed. The court acknowledges that while it budgeted for a certain number of non-judicial personnel based on current operating practices, determining the number of different types of personnel needed to operate the Family Court effectively is pending completion of a study.

Finally, although specifically required by the act, the plan does not state how the court determined the number of magistrates to be hired under the expedited process.

Of course, the transition plan is only a blueprint, a beginning. Full transition to the Family Court in a timely, effective manner is dependent on two critical factors: obtaining and renovating appropriate space for all new Family Court personnel; and, the development and installation of a new automated information system, currently planned as part of the D.C. Court's IJIS system.

The transition plan states that there are a number of risks associated with the space plan. These include a very aggressive implementation schedule and a design that makes each part of the plan interdependent with other parts of the plan.

The transition plan further states that the desired results cannot be reached if each plan increment does not take place in a timely fashion.

The Family Court is currently housed in the H. Carl Moultrie Courthouse, and plans call for expanding and renovating additional space in this courthouse to accommodate the additional judges, magistrates, and staff who will help implement the D.C. Family Court Act.

The court estimates that accommodating these judges, magistrates, and staff requires an additional 29,700 occupiable square feet, plus an undetermined amount for security and other amenities.

Obtaining this space will require non-related D.C. court entities to vacate space to allow renovations, as well as require tenants in other buildings to move to house the staff who have been displaced.

The plan calls for renovations under tight deadlines and all required space might not be available, as currently planned.

As we reported in February 2002, a number of factors significantly increased the risk associated with acquiring and managing IJIS. Prior to issuing our February 2002 report, we discussed our findings with D.C. Courts officials, who generally concurred with our findings and stated their commitment to only go forward with the project when the necessary actions had taken place to reduce the risk to acceptable levels.

In this report, we made several recommendations designed to reduce the risk associated with this effort. In April 2002, we met with D.C. Courts officials to discuss the actions taken on our recommendations and found that significant actions had been initiated, and if properly implemented, they should reduce risk.

In addition, D.C. Courts officials told us that they are developing a separate transition plan that will allow them to use the existing systems, should the IJIS project experience delays.

We will review the plan once it is made available to us. Although they recognize that maintaining two systems concurrently is expensive and causes additional resource needs, such as additional staff and training for them, these officials believe that the two systems are needed to mitigate the risks associated with any delays in system implementation.

Although these are positive steps forward, D.C. Courts still faces many challenges in its efforts to develop a system that will meet its needs and fulfill the goals established by the Family Court Act.

Examples of these include ensuring that the systems interfacing with IJIS do not become the weak link; by that we mean that deficiencies in the other systems will not inhibit the ability of IJIS to operate effectively.

Other examples include effectively implementing the discipline processes necessary to reduce the risks associated with IJIS to acceptable levels, ensuring that the requirements used to acquire IJIS contain the necessary specificity to reduce requirement-related defects to acceptable levels, ensuring that users receive adequate training, and avoiding a schedule-driven effort. We believe the effort should be event driven and not schedule driven.

#### PREPARED STATEMENT

In conclusion, on the whole, even though some important issues are not addressed, the transition plan represents a good effort at outlining the steps the Superior Court will take to implement a

Family Court. However, as I have just explained, the court still faces key challenges to ensuring that its implementation will occur in a timely and effective manner.

Madam Chairman, this concludes my statement. I will be happy to respond to any questions you have.

[The statement follows:]

PREPARED STATEMENT OF CORNELIA M. ASHBY

Madam Chairman and Members of the Subcommittee: I am pleased to be here today to discuss the progress made by the District of Columbia Superior Court in transitioning its Family Division to a Family Court. In January 2002, the District of Columbia Family Court Act of 2001 (Public Law 107-114) was enacted to, among other things, (1) redesignate the Family Division of the Superior Court of the District of Columbia as the Family Court of the Superior Court, (2) recruit trained and experienced judges to serve in the Family Court, and (3) promote consistency and efficiency in the assignment of judges to the Family Court and in the consideration of actions and proceedings in the Family Court. The passage of this act represented the first major overhaul of the Superior Court's Family Division in 3 decades. The Congress, in considering such an overhaul, found that poor communication between participants in the child welfare system, a weak organizational structure, and a lack of case management were serious problems plaguing the Family Division.

As a first step in initiating changes to the Family Division, the Family Court Act required the chief judge of the Superior Court to submit to the president and the Congress a transition plan outlining the proposed operation of the Family Court. The Congress also required that the chief judge submit the transition plan to the U.S. General Accounting Office (GAO) and that, within 30 calendar days after submission of the plan by the Superior Court, we submit to the president and the Congress an analysis of the contents and effectiveness of the plan in meeting the requirements of the Family Court Act. My testimony is based on our analysis of the transition plan, including discussions with court and child welfare experts,<sup>1</sup> juvenile and family court judges across the country, and officials from the District of Columbia Superior Court and the Family Court. To supplement our analysis of the transition plan, we also asked several court experts to examine the plan and highlight its strengths and areas that may need more attention. Our final report will be submitted to the president and the Congress by May 5, 2002.

In summary, the District of Columbia Superior Court has made progress in planning the transition of its Family Division to a Family Court, but some challenges remain. The Superior Court's transition plan addresses most, but not all, of the required elements outlined in the act. Significantly, the completion of the transition hinges on timely completion of a complex series of interdependent plans intended to obtain and renovate physical space to house the court and its functions. For example, the plan explains how the abuse and neglect cases currently being heard by judges in other divisions of the Superior Court will be closed or transferred to the Family Court; however, the plan states that the complete transfer of these cases can only occur if additional judges and magistrates are hired, trained, and housed in appropriate space. All required space may not be available, as currently planned, to support the additional judges the Family Court needs to perform its work in accordance with the act, making it uncertain as to when the court can fully complete its transition. Finally, the development and application of the District of Columbia Courts'<sup>2</sup> Integrated Justice Information System (IJIS)<sup>3</sup> will be critical for the Fam-

<sup>1</sup>We interviewed officials of a variety of organizations, such as the National Council of Juvenile and Family Court Judges; the National Center for State Courts; the Center for Families, Children and the Courts at the University of Baltimore; and the Child Welfare League of America.

<sup>2</sup>The D.C. Courts includes three main entities—the Superior Court, the Court of Appeals, and the Executive Office—and provides the overall organizational framework for judicial operations. The Superior Court contains five components: Civil Division, Criminal Division, Family Court, Probate Division, and the Tax Division. The Court of Appeals, among other responsibilities, handles appellate functions referred to it from the Superior Court. The Executive Office performs various administrative management functions.

<sup>3</sup>Faced with a myriad of nonintegrated systems that do not provide the necessary information to support its overall mission, the D.C. Courts is in the process of acquiring a replacement system called IJIS. See U.S. General Accounting Office, *DC Courts: Disciplined Processes Critical to Successful System Acquisition*, GAO-02-316, (Washington, D.C.: 2002) for more details on the court's planning of IJIS.

ily Court to be able to operate effectively, evaluate its performance, and meet its judicial goals in the context of the changes mandated by the Family Court Act.

#### BACKGROUND

The District of Columbia Family Court Act of 2001 (Public Law 107–114) was enacted on January 8, 2002. The act stated that, not later than 90 days after the date of the enactment, the chief judge of the Superior Court shall submit to the president and Congress a transition plan for the Family Court of the Superior Court, and shall include in the plan the following:

- The chief judge’s determination of the role and function of the presiding judge of the Family Court.
- The chief judge’s determination of the number of judges needed to serve on the Family Court.
- The chief judge’s determination of the number of magistrates<sup>4</sup> of the Family Court needed for appointment under Section 11–1732, District of Columbia Code.
- The chief judge’s determination of the appropriate functions of such magistrates, together with the compensation of and other personnel matters pertaining to such magistrates.
- A plan for case flow, case management, and staffing needs (including the needs of both judicial and nonjudicial personnel) for the Family Court, including a description of how the Superior Court will handle the one family/one judge requirement pursuant to Section 11–1104(a) for all cases and proceedings assigned to the Family Court.
- A plan for space, equipment, and other physical needs and requirements during the transition, as determined in consultation with the administrator of General Services.
- An analysis of the number of magistrates needed under the expedited appointment procedures established under Section 6(d) in reducing the number of pending actions and proceedings within the jurisdiction of the Family Court.
- A proposal for the disposition or transfer to the Family Court of child abuse and neglect actions pending as of the date of enactment of the act (which were initiated in the Family Division but remain pending before judges serving in other divisions of the Superior Court as of such date) in a manner consistent with applicable Federal and District of Columbia law and best practices, including best practices developed by the American Bar Association and the National Council of Juvenile and Family Court Judges.
- An estimate of the number of cases for which the deadline for disposition or transfer to the Family Court cannot be met and the reasons why such deadline cannot be met.
- The chief judge’s determination of the number of individuals serving as judges of the Superior Court who meet the qualifications for judges of the Family Court and are willing and able to serve on the Family Court. If the chief judge determines that the number of individuals described in the act is less than 15, the plan is to include a request that the Judicial Nomination Commission recruit and the president nominate additional individuals to serve on the Superior Court who meet the qualifications for judges of the Family Court, as may be required to enable the chief judge to make the required number of assignments.

The Family Court Act states that the number of judges serving on the Family Court of the Superior Court cannot exceed 15. These judges must meet certain qualifications, such as having training or expertise in family law, certifying to the chief judge of the Superior Court that he or she intends to serve the full term of service and that he or she will participate in the ongoing training programs conducted for judges of the Family Court. The act also allows the court to hire and use magistrates to hear family court cases. Magistrates must also meet certain qualifications, such as holding U.S. citizenship, being an active member of the D.C. Bar, and having not fewer than 3 years of training or experience in the practice of family law as a lawyer or judicial officer. The act further states that the chief judge shall appoint individuals to serve as magistrates not later than 60 days after the date of enactment of the act. The magistrates hired under this expedited appointment process are to assist in implementing the transition plan, and in particular, assist with the transition or disposal of child abuse and neglect proceedings not currently assigned to judges in the Family Court.

<sup>4</sup>A magistrate is a local judicial official entrusted with the administration of the law, but whose jurisdiction may be limited.

The Superior Court submitted its transition plan on April 5, 2002. The plan consists of three volumes. Volume I contains information on how the court will address case management issues, including organizational and human capital requirements. Volume II contains information on the development of IJIS and its planned applications. Volume III addresses the physical space the court needs to house and operate the Family Court. Courts interact with various organizations and operate in the context of many different programmatic requirements. In the District of Columbia, the Family Court frequently interacts with the child welfare agency—the Child and Family Services Agency (CFSA)—a key organization responsible for helping children obtain permanent homes. CFSA must comply with Federal laws and other requirements, including the Adoption and Safe Families Act (ASFA), which placed new responsibilities on child welfare agencies nationwide.<sup>5</sup> ASFA introduced new time periods for moving children who have been removed from their homes to permanent home arrangements and penalties for noncompliance. For example, the act requires States to hold a permanency planning hearing not later than 12 months after the child is considered to have entered foster care. Permanent placements include the child's return home and the child's adoption.

TRANSITION PLAN CONTAINS MOST, BUT NOT ALL, REQUIRED ELEMENTS OF THE FAMILY COURT ACT

The Family Court transition plan provides information on most, but not all, of the elements required by the Family Court Act. For example, the plan describes the Family Court's method for transferring child abuse and neglect cases to the Family Court, its one family/one judge case management principle,<sup>6</sup> and the number and roles of judges and magistrates.<sup>7</sup> However, the plan does not (1) indicate if the 12 judges who volunteered for the Family Court meet all of the qualifications outlined in the act, (2) include a request for judicial nomination, and (3) state how the number of magistrates to hire under the expedited process was determined. In addition, the court could consider taking additional actions, such as using a full range of measures by which the court can evaluate its progress in ensuring better outcomes for children.

*The Transition Plan Includes a Description of the Court's Plan for Transferring Abuse and Neglect Cases to the Family Court*

The transition plan establishes criteria for transferring cases to the Family Court and states that the Family Court intends to have all child abuse and neglect cases pending before judges serving in other divisions of the Superior Court closed or transferred into the Family Court by June 2003. According to the plan, the court has asked each Superior Court judge to review his or her caseload to identify those cases that meet the criteria established by the court for transferring or not transferring cases. Cases identified for transfer include those in which (1) the child is 18 years of age and older, the case is being monitored primarily for the delivery of services, and no recent allegations of abuse or neglect exist; and (2) the child is committed to the child welfare agency and is placed with a relative in a kinship care program. Cases that the court believes may not be candidates for transfer by June 2002 include those with respect to which the judge believes transferring the case would delay permanency. The court expects that older cases will first be reviewed for possible closure and expects to transfer the entire abuse and neglect caseloads of several judges serving in other divisions of the Superior Court to the Family Court. Using the established criteria to review cases, the court estimates that 1,500 cases could be candidates for immediate transfer.

The act also requires the court to estimate the number of cases that cannot be transferred into the Family Court in the timeframes specified. The plan provides no estimate because the court's proposed transfer process assumes all cases will be

<sup>5</sup> For additional details on the challenges facing the District of Columbia's child welfare system and the implementation of ASFA, see U.S. General Accounting Office, District of Columbia Child Welfare: Long-Term Challenges to Ensuring Children's Well-Being, GAO-01-191, (Washington, D.C.: 2000) and Foster Care: States' Early Experiences Implementing the Adoption and Safe Families Act, GAO/HEHS-00-1, (Washington, D.C.: 1999).

<sup>6</sup> The Family Court Act requires the Family Court, to the greatest extent practicable, feasible, and lawful, to assign one judge to handle a case from initial filing to final disposition, as well as to handle related family cases that are subsequently filed.

<sup>7</sup> In the Family Court, two Family Court judges—the presiding and deputy presiding judges—will primarily handle the administrative functions of the court. Family Court judges are judges of the Superior Court who have received training or have expertise in family law. These judges will hear a variety of cases in the court. Family Court magistrates are qualified individuals with expertise and training in family law. These magistrates will also hear various Family Court cases.

closed or transferred, based on the outlined criteria. However, the plan states that the full transfer of all cases is partially contingent on hiring three new judges.

*The Transition Plan Describes The Family Court's Approach to Managing Its Cases, But The Court Could Consider Additional Approaches to Assessing Implementation*

The transition plan identifies the way in which the Family Court will implement the one family/one judge approach and improve its case management practices; however, the evaluation measures developed to assess the court's progress in reforming its operations could include additional measures that reflect outcomes for children. The plan indicates that the Family Court will implement the one family/one judge approach by assigning all cases involving the same family to one judicial team—comprised of a Family Court judge and a magistrate. This assignment will begin with the initial hearing by the magistrate on the team and continue throughout the life of the case. Juvenile and family court experts indicated that this team approach is realistic and a good model of judicial collaboration. One expert said that such an approach provides for continuity if either team member is absent. Another expert said that, given the volume of cases that must be heard, the team approach can ease the burden on judicial resources by permitting the magistrate to make recommendations and decisions, thereby allowing the Family Court judge time to schedule and hear trials and other proceedings more quickly. Court experts also praised the proposed staggered terms for judicial officials—newly-hired judges, magistrates, and judges who are already serving on the Superior Court will be appointed to the Family Court for varying numbers of years—which can provide continuity while recognizing the need to rotate among divisions in the Superior Court.

In addition, the plan identifies actions the court plans to take to improve case management. First, the Family Court plans to centralize intake. According to the plan, a central office will encompass all the functions that various clerks' offices—such as juvenile, domestic relations, paternity and support, and mental health—in the Family Court currently carry out. As part of centralized intake, case coordinators<sup>8</sup> will identify any related cases that may exist in the Family Court. To do this, the coordinator will ensure that a new "Intake/Cross Reference Form" will be completed by various parties to a case and also check the 18 current computer systems serving the Family Court. Second, the court plans to use alternative dispute resolution to resolve cases more quickly and expand initial hearings to address many of the issues that the court previously handled later in the life of the case. Last, the plan states that the Family Court will provide all affected parties speedy notice of court proceedings and implement strict policies for the handling of cases—such as those for granting continuances—<sup>9</sup>although it does not indicate who is responsible for developing the policies or the status of their development.

The plan states that the court will conduct evaluations to assess whether components of the Family Court were implemented as planned and whether modifications are necessary; the court could consider using additional measures to focus on outcomes for children. For example, evaluation measures listed in the plan are oriented more toward the court's processes, such as whether hearings are held on time, than on outcomes. According to a court expert, measures must also account for outcomes the court achieves for children. Measures could include the number of finalized adoptions that did not disrupt, reunifications that do not fail, children who remain safe and are not abused again while under court jurisdiction or in foster care, and the proportion of children who successfully achieve permanency. In addition, the court will need to determine how it will gather the data necessary to measure each team's progress in ensuring such outcomes or in meeting the requirements of ASFA, and the court has not yet established a baseline from which to judge its performance.

*The Transition Plan Addresses the Number and Roles of Judicial Officers, But Other Human Capital Issues Remain Unclear*

The transition plan states that the court has determined that 15 judges are needed to carry out the duties of the court and that 12 judges have volunteered to serve on the court, but does not address recruitment and the nomination of the three additional judges. Court experts said that the court's analysis to identify the appropriate number of judges is based on best practices identified by highly credible national organizations and is, therefore, pragmatic and realistic. The plan, however,

<sup>8</sup>Coordinators will provide day-to-day liaison between judges and magistrates, legal counsel, litigants, court clerks, and the child welfare agency. They will also be responsible for monitoring the cases for ASFA compliance.

<sup>9</sup>When a continuance is granted by the judge, the case is rescheduled for another day.

does not include a request that the Judicial Nomination Commission recruit and the president nominate the additional three individuals to serve on the Superior Court, as required by the Family Court Act.

The Superior Court does not provide in the plan its determination of the number of nonjudicial staff needed. The court acknowledges that while it budgeted for a certain number of nonjudicial personnel based on current operating practices, determining the number of different types of personnel needed to operate the Family Court effectively is pending completion of a staffing study.<sup>10</sup>

Furthermore, the plan does not address the qualifications of the 12 judges who volunteered for the court. Although the plan states that these judges have agreed to serve full terms of service, according to the act, the chief judge of the Superior Court may not assign an individual to serve on the Family Court unless the individual also has training or expertise in family law and certifies that he or she will participate in the ongoing training programs conducted for judges of the Family Court.

The transition plan describes the duties of judges assigned to the Family Court, as required by the act. Specifically, the plan describes the roles of the designated presiding judge, the deputy presiding judge, and the magistrates. The plan states that the presiding and deputy presiding judges will handle the administrative functions of the Family Court, ensure the implementation of the alternative dispute resolution projects, oversee grant-funded projects, and serve as back-up judges to all Family Court judges. These judges will also have a post-disposition<sup>11</sup> abuse and neglect caseload of more than 80 cases and will continue to consult and coordinate with other organizations (such as the child welfare agency), primarily by serving on 19 committees.<sup>12</sup> One court expert has observed that the list of committees to which the judges are assigned seems overwhelming and added that strong leadership by the judges could result in the consolidation of some of the committees' efforts.

The plan also describes the duties of the magistrates, but does not provide all the information required by the act. Magistrates will be responsible for initial hearings in new child abuse and neglect cases, and the resolution of cases assigned to them by the Family Court judge to whose team they are assigned. They will also be assigned initial hearings in juvenile cases, noncomplex abuse and neglect trials, and the subsequent review and permanency hearings,<sup>13</sup> as well as a variety of other matters related to domestic violence, paternity and support, mental competency, and other domestic relations cases. As noted previously, one court expert said that the proposed use of the magistrates would ease the burden on judicial resources by permitting these magistrates to make recommendations and decisions. However, although specifically required by the act, the transition plan does not state how the court determined the number of magistrates to be hired under the expedited process. In addition, while the act outlines the required qualifications of magistrates, it does not specifically require a discussion of qualifications of the newly hired magistrates in the transition plan. As a result, none was provided and whether these magistrates meet the qualifications outlined in the act is unknown.

A discussion of how the court will provide initial and ongoing training for its judicial and nonjudicial staff is also not required by the act, although the court does include relevant information about training. For example, the plan states that the Family Court will develop and implement a quarterly training program for Family Court judges, magistrates, and staff covering a variety of topics and that it will promote and encourage participation in cross-training.<sup>14</sup> In addition, the plan states new judges and magistrates will participate in a 2 to 3 week intensive training pro-

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<sup>10</sup>D.C. Courts has hired Booz-Allen & Hamilton to conduct a workforce planning analysis over a 6 month period. The analysis and the development of a customized automated tool for ongoing workforce planning and analysis is scheduled to be complete by May 15, 2002. The courts contracted for this project in response to our report, D.C. Courts: Staffing Level Determination Could Be More Rigorous, GAO/GGD-99-162, (Washington, D.C.: Aug. 27, 1999).

<sup>11</sup>At the disposition hearing, a decision is made regarding who will have custody and control of the child, and a review is conducted of the reasonable efforts made to prevent removal of the child from the home.

<sup>12</sup>These committees include the Child Welfare Leadership Team, the Mayor's Advisory Committee on Child Abuse and Neglect, and the Mayor's Advisory Committee on Permanent Families for Children.

<sup>13</sup>Review hearings are held to review case progress to ensure children spend the least possible time in temporary placement and to modify the family's case plan, as necessary. Permanency hearings decide the permanent placement of the child, such as returning home or being placed for adoption.

<sup>14</sup>Cross-training refers to the practice of bringing together various participants in the child welfare system to learn each other's roles and responsibilities. The act requires the court to use the resources of lawyers and legal professionals, social workers, and experts in the field of child development and other related fields in developing its cross-training program.



gram, although it does not provide details on the content of such training for the five magistrates hired under the expedited process, even though they were scheduled to begin working at the court on April 8, 2002. One court expert said that a standard curriculum for all court-related staff and judicial officers should be developed and that judges should have manuals available outlining procedures for all categories of cases. In a September 2000 report on human capital, we said that an explicit link between the organization's training offerings and curricula and the competencies identified by the organization for mission accomplishment is essential.<sup>15</sup> Likewise, organizations should make fact-based determinations of the impact of its training and development programs to provide feedback for continuous improvement and ensure that these programs improve performance and help achieve organizational results.

CHALLENGES IN OBTAINING THE NECESSARY PHYSICAL SPACE AND IN DEVELOPING A NEW INFORMATION SYSTEM COULD IMPEDE FAMILY COURT IMPLEMENTATION

Two factors are critical to fully transitioning to the Family Court in a timely and effective manner: obtaining and renovating appropriate space for all new Family Court personnel and the development and installation of a new automated information system, currently planned as part of the D.C. Courts IJIS system. The court acknowledges that its implementation plans may be slowed if appropriate space cannot be obtained in a timely manner. For example, the plan addresses how the abuse and neglect cases currently being heard by judges in other divisions of the Superior Court will be transferred to the Family Court, but states that the complete transfer of cases hinges on the court's ability to hire, train, and provide appropriate space for additional judges and magistrates. In addition, the Family Court's current reliance on nonintegrated automated information systems that do not fully support planned court operations, such as the one family/one judge approach to case management, constrains its transition to a Family Court.

*The Plan for Obtaining the Necessary Space and Facilities Carries a Number of Project Risks*

The transition plan states that the interim space plan<sup>16</sup> carries a number of project risks. These include a very aggressive implementation schedule and a design that makes each part of the plan interdependent with other parts of the plan. The transition plan further states that the desired results cannot be reached if each plan increment does not take place in a timely fashion. For example, obtaining and renovating the almost 30,000 occupiable square feet of new court space needed requires a complex series of interrelated steps—from moving current tenants in some buildings to temporary space, to renovating the John Marshall level of the H. Carl Moultrie Courthouse by July 2003.

The Family Court of the Superior Court is currently housed in the H. Carl Moultrie Courthouse, and interim plans call for expanding and renovating additional space in this courthouse to accommodate the additional judges, magistrates, and staff who will help implement the D.C. Family Court Act. The court estimates that accommodating these judges, magistrates, and staff requires an additional 29,700 occupiable square feet, plus an undetermined amount for security and other amenities. Obtaining this space will require nonrelated D.C. Courts entities to vacate space to allow renovations, as well as require tenants in other buildings to move to house the staff who have been displaced.

The plan calls for renovations under tight deadlines and all required space may not be available, as currently planned, to support the additional judges the Family Court needs to perform its work in accordance with the act, making it uncertain as to when the court can fully complete its transition. For example, D.C. Courts recommends that a portion of the John Marshall level of the H. Carl Moultrie Courthouse, currently occupied by civil court functions, be vacated and redesigned for the new courtrooms and court-related support facilities. Although some space is available on the fourth floor of the courthouse for the four magistrates to be hired by December 2002, renovations to the John Marshall level are tentatively scheduled for completion in July 2003—2 months after the court anticipates having three additional Family Court judges on board. Another D.C. Courts building—Building B—would be partially vacated by non-court tenants and altered for use by displaced civil courts functions and other units temporarily displaced in future renovations.

<sup>15</sup>U.S. General Accounting Office, Human Capital: A Self-Assessment Checklist for Agency Leaders, GAO/OCG-00-14G, (Washington, D.C.: Sept. 2000).

<sup>16</sup>The interim space plan addresses facility needs of the Family Court in response to the act. D.C. Courts is also developing a comprehensive master plan to address the needs of the courts through 2012.

Renovations to Building B are scheduled to be complete by August 2002. Space for 30 additional Family Court-related staff, approximately 3,300 occupiable square feet, would be created in the H. Carl Moultrie Courthouse in an as yet undetermined location.

*Reducing Risks in Developing the New Information System Critical to Meeting Family Court Goals*

The Family Court act calls for an integrated information technology system to support the goals it outlines, but a number of factors significantly increase the risks associated with this effort, as we reported in February 2002.<sup>17</sup> For example:

- The D.C. Courts had not yet implemented the disciplined processes necessary to reduce the risks associated with acquiring and managing IJIS to acceptable levels. A disciplined software development and acquisition effort maximizes the likelihood of achieving the intended results (performance) on schedule using available resources (costs).
- The requirements<sup>18</sup> contained in a draft Request for Proposal (RFP) lacked the necessary specificity to ensure that any defects in these requirements had been reduced to acceptable levels<sup>19</sup> and that the system would meet its users' needs. Studies have shown that problems associated with requirements definition are key factors in software projects that do not meet their cost, schedule, and performance goals.
- The requirements contained in the D.C. Courts' draft RFP did not directly relate to industry standards. As a result, inadequate information was available for prospective vendors and others to readily map systems built upon these standards to the needs of the D.C. Courts.

Prior to issuing our February 2002 report, we discussed our findings with D.C. Courts officials, who generally concurred with our findings and stated their commitment to only go forward with the project when the necessary actions had been taken to reduce the risks to acceptable levels. In that report, we made several recommendations designed to reduce the risks associated with this effort to acceptable levels. In April 2002, we met with D.C. Courts officials to discuss the actions taken on our recommendations and found that significant actions have been initiated that, if properly implemented, will help reduce the risks associated with this effort. For example, D.C. Courts is:

- beginning the work to provide the needed specificity for its system requirements. This includes soliciting requirements from the users and ensuring that the requirements are properly sourced (e.g., traced back to their origin). According to D.C. Courts officials, this work has identified significant deficiencies in the original requirements that we discussed in our February 2002 report.
- issuing a Request for Information to obtain additional information on commercial products that should be considered by the D.C. Courts during its acquisition efforts. This helps the requirements management process by identifying requirements that are not supported by commercial products so that the courts can re-evaluate whether it needs to (1) keep the requirement or revise it to be in greater conformance with industry practices or (2) undertake a development effort to achieve the needed capability.
- developing a systems engineering life-cycle process for managing the D.C. Courts information technology efforts. This will help define the processes and events that should be performed from the time that a system is conceived until the system is no longer needed. Examples of processes used include requirements development, testing, and implementation.
- developing policies and procedures that will help ensure that the courts' information technology investments are consistent with the requirements of the Clinger-Cohen Act of 1996 (Public Law 104-106);<sup>20</sup> and

<sup>17</sup> U.S. General Accounting Office, DC Courts: Disciplined Processes Critical to Successful System Acquisition, GAO-02-316, (Washington, D.C.: February 2002).

<sup>18</sup> Requirements represent the blueprint that system developers and program managers use to design, develop, and acquire a system. Requirements should be consistent with one another, verifiable, and directly traceable to higher-level business or functional requirements.

<sup>19</sup> Although all projects of this size can be expected to have some requirements-related defects, the goal is to reduce the number of such defects so that they do not significantly affect cost, schedule, or performance.

<sup>20</sup> D.C. Courts has decided to apply this act to its investments even though it is not required to do so. The Clinger-Cohen Act requires Federal executive agencies to establish a process to maximize the value and assess and manage the risks of information technology investments. This process is to provide for, among other things, identifying for a proposed investment quantifiable measurements for determining the net benefits and risks of the investment, and minimum criteria for undertaking a particular investment, including specific quantitative and quali-

—developing the processes that will enable the D.C. Courts to achieve a level 2 rating—this means basic project management processes are established to track performance, cost, and schedule—on the Software Engineering Institute’s<sup>21</sup> Capability Maturity Model.<sup>22</sup>

In addition, D.C. Courts officials told us that they are developing a separate transition plan that will allow them to use the existing (legacy) systems should the IJIS project experience delays. We will review the plan once it is made available to us. Although they recognize that maintaining two systems concurrently is expensive and causes additional resource needs, such as additional staff and training for them, these officials believe that they are needed to mitigate the risk associated with any delays in system implementation.

Although these are positive steps forward, D.C. Courts still faces many challenges in its efforts to develop an IJIS system that will meet its needs and fulfill the goals established by the act. Examples of these include:

*Ensuring that the systems interfacing with IJIS do not become the weak link.*—The act calls for effectively interfacing information technology systems operated by the District government with IJIS. According to D.C. Courts officials, at least 14 District systems will need to interface with IJIS. However, several of our reviews have noted problems in the District’s ability to develop, acquire, and implement new systems.<sup>23</sup> The District’s difficulties in effectively managing its information technology investments could lead to adverse impacts on the IJIS system. For example, the interface systems may not be able to provide the quality of data necessary to fully utilize IJIS’s capabilities or provide the necessary data to support IJIS’s needs. The D.C. Courts will need to ensure that adequate controls and processes have been implemented to mitigate the potential impacts associated with these risks.

*Effectively implementing the disciplined processes necessary to reduce the risks associated with IJIS to acceptable levels.*—The key to having a disciplined effort is to have disciplined processes in multiple areas. This is a complex task and will require the D.C. Courts to maintain its management commitment to implementing the necessary processes. In our February 2002 report, we highlighted several processes, such as requirements management, risk management, and testing that appeared critical to the IJIS effort.

*Ensuring that the requirements used to acquire IJIS contain the necessary specificity to reduce requirement related defects to acceptable levels.*—Although D.C. Courts officials have said that they are adopting a requirements management process that will address the concerns expressed in our February 2002 report, maintaining such a process will require management commitment and discipline.

Court experts report that effective technological support is critical to effective family court case management. One expert said that minimal system functionality should include the identification of parties and their relationships; the tracking of case processing events through on-line inquiry; the generation of orders, forms, summons, and notices; and statistical reports. The State Justice Institute’s report on how courts are coordinating family cases<sup>24</sup> states that automated information systems, programmed to inform a court system of a family’s prior cases, are a vital ingredient of case coordination efforts. The National Council of Juvenile and Family Court Judges echoes these findings by stating that effective management systems (1) have standard procedures for collecting data; (2) collect data about individual cases, aggregate caseload by judge, and the systemwide caseload; (3) assign an indi-

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tative criteria for comparing and prioritizing alternative systems investment projects. Only by comparing the costs, benefits, and risks of a full range of technical options can agencies ensure that the best approaches are selected.

<sup>21</sup>The Software Engineering Institute is recognized for its experience in software development and acquisition processes. It has also developed methods and models that can be used to define disciplined processes and determine whether an organization has implemented them.

<sup>22</sup>Capability Maturity Model<sup>SM</sup> (a service mark of Carnegie Mellon University, and CMM<sup>®</sup> is registered in the U. S. Patent and Trademark Office) provides a logical and widely accepted framework for baselining an organization’s current process capabilities (i.e., strengths and weaknesses) and assessing whether an organization has the necessary process discipline in place to repeat earlier successes on similar projects.

<sup>23</sup>For example, see U.S. General Accounting Office, District of Columbia: Weaknesses in Financial Management System Implementation, GAO-01-489, (Washington, D.C.: April 30, 2001); District of Columbia: The District Has Not Adequately Planned for and Managed Its New Personnel and Payroll System, GAO/AIMD-00-19, (Washington, D.C.: Dec. 17, 1999); and District of Columbia: Software Acquisition Processes for A New Financial Management System, GAO/AIMD-98-88, (Washington, D.C.: April 30, 1998).

<sup>24</sup>Flango, Carol R., Flango, Victor E., and Rubin, H. Ted, “How are Courts Coordinating Family Cases?” State Justice Institute, National Center for State Courts (Alexandria, VA: 1999).

vidual the responsibility of monitoring case processing; and (4) are user-friendly.<sup>25</sup> While anticipating technological enhancements through IJIS, Superior Court officials stated that the current information systems do not have the functionality required to implement the Family Court's one family/one judge case management principle.

*Ensuring that users receive adequate training.*—As with any new system, adequately training the users is critical to its success. As we reported in April 2001,<sup>26</sup> one problem that hindered the implementation of the District's financial management system was its difficulty in adequately training the users.

*Avoiding a schedule-driven effort.*—According to D.C. Courts officials, the act establishes ambitious timeframes to convert to a family court. Although schedules are important, it is critical that the D.C. Courts follows an event-driven acquisition and development program rather than adopting a schedule-driven approach. Organizations that are schedule-driven tend to cut out or inadequately complete activities such as business process reengineering and requirements analysis. These tasks are frequently not considered "important" since many people view "getting the application in the hands of the user" as one of the more productive activities. However, the results of this approach are very predictable. Projects that do not perform planning and requirements functions well typically have to redo that work later. However, the costs associated with delaying the critical planning and requirements activities is anywhere from 10 to 100 times the cost of doing it correctly in the first place.<sup>27</sup>

#### CONCLUDING OBSERVATIONS

On the whole, even though some important issues are not discussed, the Superior Court's transition plan represents a good effort at outlining the steps it will take to implement a family court. However, the court still faces key challenges in ensuring that its implementation will occur in a timely and efficient manner. The court recognizes that its plan for obtaining and renovating needed physical space warrants close attention to reduce the risk of project delays. In addition, the court has taken important steps that begin to address many of the shortcomings we identified in our February 2002 report on its proposed information system. The court's actions reflect their recognition that developing an automated information system for the Family Court will play a pivotal role in the court's ability to implement its improved case management framework. Our final report on the transition plan may discuss some additional actions the court might take to further enhance its ability to implement the Family Court Act as required.

Madam Chairman, this concludes my prepared statement. I will be happy to respond to any questions that you or other members of the subcommittee may have.

#### GAO CONTACT AND ACKNOWLEDGMENTS

For further contacts regarding this testimony, please call Cornelia M. Ashby at (202) 512-8403. Individuals making key contributions to this testimony included Diana Pietrowiak, Mark Ward, Nila Garcés-Osorio, Steven J. Berke, Patrick DiBattista, William Doherty, John C. Martin, Susan Ragland, and Norma Samuel.

#### *Related GAO Products*

DC Courts: Disciplined Processes Critical to Successful System Acquisition. Washington, D.C.: 2002.

District of Columbia: Weaknesses in Financial Management System Implementation. Washington, D.C.: 2001.

District of Columbia Child Welfare: Long-Term Challenges to Ensuring Children's Well-Being. Washington, D.C.: 2000.

Foster Care: Status of the District of Columbia's Child Welfare System Reform Efforts. Washington, D.C.: 2000.

Foster Care: States' Early Experiences Implementing the Adoption and Safe Families Act. Washington, D.C.: 2000.

Human Capital: A Self-Assessment Checklist for Agency Leaders. Washington, D.C.: 2000.

D.C. Courts: Staffing Level Determination Could Be More Rigorous. Washington, D.C.: 1999.

<sup>25</sup> National Council of Juvenile and Family Court Judges, Information Management: A Critical Component of Good Practice in Child Abuse and Neglect Cases, Technical Assistance Bulletin, Vol. II, No. 8 (Reno, NV: Dec. 1998).

<sup>26</sup> U.S. General Accounting Office, District of Columbia: Weaknesses in Financial Management System Implementation, GAO-01-489, (Washington, D.C.: April 30, 2001).

<sup>27</sup> Rapid Development: Taming Wild Software Schedules, Bruce McConnell, (Microsoft Press).

District of Columbia: The District Has Not Adequately Planned for and Managed Its New Personnel and Payroll System. Washington, D.C.: 1999.

Management Reform: Elements of Successful Improvement Efforts. Washington, D.C.: 1999.

District of Columbia: Software Acquisition Processes for A New Financial Management System. Washington, D.C.: 1998.

Senator LANDRIEU. Thank you very much for that excellent summary. Now is the time basically for the questions to the judges to respond to that report. I have prepared some and Senator DeWine has some, but let me just give you my general comments from the report that I have now read and reviewed and now heard.

I want to try to remain encouraged about the progress and the challenges that are before us. And the reason I want to try to remain encouraged is because I continue to remember and think and remind myself of the over 200 children who have died in care of this system over the last 7 years. We have lost over 200 children. So, there is an imperative for us to get this right, get it right as quickly as possible, and to be very clear.

I am encouraged by the fact that a plan has been presented, and I am encouraged because we have stepped onto the road and are hopefully moving, at least, in a direction. And I am encouraged because there seems to be some unity among all the factors about really wanting to see the change.

But let me tell you what I heard in terms of weaknesses of the system, which greatly concern me. One was the summary by Ms. Ashby, that we are very clear on process but very short on outcomes. The other weakness that I heard, that concerns me a great deal, is there doesn't seem to be any clear baseline so that we can tell the progress if we are making some or not.

I am also concerned about the lack of clarity, about the certification of the judges who have volunteered. I am particularly concerned, and I share this concern with other members, particularly I will say for the record Senator Durbin, who has spoken to me on numerous occasions about his concern of a lack of focus on court assistance, particularly from social workers recognizing that a team approach, including a judge, a magistrate, and other administrative personnel is very important.

We hear a lot about the judges. We hear some things about magistrates, and we hear virtually nothing about the other personnel necessary to handle these kinds of very complicated cases in the new time requirements set by Congress, which are now mandates.

I am concerned about, the building plans seem very complicated to me and I am not clear that it is going to facilitate or lend itself to smooth operations, while some of these moves are going on in a system that is already very fragile. I am not sure how it could sustain any more stress to it in terms of renovations and moving, et cetera. That is not clear to me.

And finally, a weakness is still this computer and information system that I have no confidence at this point and have not been given enough evidence that it is going to work. And its working means life or death for children, so I am going to be very, very tough about this tracking system working.

So, those are some of the weaknesses that I have heard. I have tried also to give you some of the strengths.

Senator DeWine may have some comments or questions at this point and then I will have some questions to the judges.

Senator DEWINE. No, Madam Chairman, I am going to wait.

Senator LANDRIEU. Okay.

Senator DEWINE. And I will just hear the rest of the witnesses, and then I do have questions.

Senator LANDRIEU. All right. If you all would submit, Chief Judge King and Judge Satterfield, your statements for the record. But why do I not begin by asking you all to comment on some of the weaknesses and strengths that I have outlined, and also either take that chart that is up there, which came from your plan, which is the new plan, and walk us through, if you wanted to bring that up, take us through one case, give us an example of one case.

And if my staff could give me a little version of it, so I could see it more clearly. Yes, I have got it right here.

First, I want you to comment on the strengths and weaknesses that you have heard, and then, Judge Satterfield, since you are the presiding judge, I would like you to start with a petition filed and just sort of make up a case in your head about how this system would work within the 18-month time frame that is now required by law.

Once a child hits the system and becomes identified by the system, we have, in every district now in the nation, a law that says you have 18 months to either have that child back with the family which they were taken from, or they have to be with an adoptive family, or they have to have permanency in guardianship.

The days of long-term foster care are thankfully coming to a halt in this nation. They are going to be slowly phased out. We are not going to have long-term foster care in the country. We are going to either have permanency and reunification or adoption with a new family or permanent guardianship. And that is a new law that Congress initiated; and the District will abide by that law, as will every other district in the country.

So why do you not start, Judge, and give me your comments about the strengths and weaknesses and then walk us through a specific case and the time lines.

**STATEMENT OF JUDGE LEE SATTERFIELD, PRESIDING JUDGE, FAMILY COURT, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
ACCOMPANIED BY RUFUS G. KING, III, CHIEF JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA**

Judge SATTERFIELD. All right. Thank you. And let me thank you, Madam Chairman, for the opportunity to talk about the transition plan today; and you too, Senator DeWine for that opportunity. And I will go right to some of the weaknesses that we cited, or some of the problems that were cited by the GAO in terms of our transition plan.

Let me say that first it is a transition plan. It is a plan that is—

Senator LANDRIEU. Pull the mike a little closer.

Judge SATTERFIELD. I am sorry.

It is a plan that is not final, because this is an ongoing process that we have undertaken under the Family Court Act and it is going to take some time to get to the point where we are satisfied with everything that is being implemented in the act.

In terms of the sum of the outcomes, a comment was that the report is sort of process-driven and not outcome-driven, with respect to the children that we serve in those cases.

We feel that the processes that are put in place are designed for good outcomes for children. I think that in terms of having a baseline, we are currently working on having a baseline, because we understand that we have to have a baseline in order to evaluate what those outcomes are for the children. And so we are in the process of establishing that baseline.

Senator LANDRIEU. Could I ask you just some comments about what in your mind a baseline would look like? I mean, what would you have in a baseline, so we could tell if we were making progress?

Judge SATTERFIELD. We want to know how long the children are staying in the court system for one. We want to know what that average is because I think some of the positive results that we expect to see is that that time will go down if we are successful in implementing some of the reforms of the Family Court Act.

We want to know whether or not we are meeting all of the time lines, not just through the Federal ASFA, but also through the D.C. ASFA, because those time lines are designed so that the case of a child can move forward to permanency quicker.

But we also want to make sure that we are also providing quality to the case itself, because these are children and even though there are time lines, we have to make sure and ensure that these children are safe and that we are achieving permanency.

But the time lines are there so that we can expedite permanency for the children. So we want to make sure that we are doing that.

So we want to establish a baseline of where we are on those time lines.

Senator DEWINE. Judge—

Senator LANDRIEU. Go ahead.

Senator DEWINE. Madam Chairman, if I could just interrupt?

Senator LANDRIEU. Go ahead.

Senator DEWINE. Judge, I think what I am saying—I do not know whether the Chairman is saying this—is why is that not in the plan? You are telling us today what you want to do, and those are all very good things and we appreciate that.

Why is that not a part of a plan that is in writing that you can get your hands on, and then you can measure it?

Judge SATTERFIELD. Because we do not have the baseline. Now, that is correct; that is why we are establishing that. If we had the baseline, we would have included that part of it in the plan so that we can show where we are starting from.

We recognize that we do not have the baseline. We are starting to develop that so that we are able to show to you what the baseline is, so we can report to you what our progress is.

Senator DEWINE. I wonder if the GAO has got a response to that?

Ms. ASHBY. Well, more of a question than a response. Given that we are now implementing the Family Court, how do you at this point develop a baseline if you do not already have it? You know, the baseline would have been what happened last year or what happened over the last 2 or 3 years.

Once you start implementing the new system, it is kind of late, I think, to establish a baseline.

Senator DEWINE. So, see, you already have the statistics.

Judge KING. May I? If I may?

Senator LANDRIEU. Go ahead, Chief Judge King.

Judge KING. One of the key elements of the transition plan is the development of an effective Integrated Justice Information System (IJIS). We do not have an effective IJIS. We have to pull all that data together so, of course, we are doing that.

We are pulling together data by hand in some cases and by very arduous, slightly automated, processes in others, to establish a baseline. We are taking an historical look but we just do not have it done yet.

Senator LANDRIEU. Yes, okay.

Judge KING. In the plan, we will get to a point where if you asked us today what our baseline was in 1999, we could go back and have it to you by noon. But we are just not there yet.

Senator DEWINE. But does the plan say what specifically should be measured and how it is going to be measured?

Ms. ASHBY. No, it—

Judge KING. Yes, we have some criteria.

Senator DEWINE. Well, I am getting a no and I am getting a yes.

Senator LANDRIEU. She says no and you are saying—

Senator DEWINE. And that is why we are having the hearing.

Judge KING. Okay. It does not elaborate and I think we need to establish—and frankly, the comments of GAO have been helpful and instructive for us. We will develop criteria, which by consensus, with the consensus of GAO and with agreement of the Bar



and other participants in our process, are a good way of measuring “Are we doing better for children?”

Senator LANDRIEU. Okay. Let me ask this, and if I could just—because this is a very important starting point, I think, and would be worth some time to discuss in some detail with everyone’s input. It seems to me that we could go one of two ways, and let me just clarify the facts for the record.

Is it true or can somebody tell me how many cases are in this universe? Are we talking about 4,500, 4,200, or 3,800? Do we have an official number of cases that we have identified as belonging to this new Family Court?

Judge SATTERFIELD. We have an official number. We cited these statistics—

Senator LANDRIEU. What is that number?

Judge SATTERFIELD. Well, I have to turn to what we cited as of the end of this year, which is in one of the appendices. I cannot give it to you off the top of my head, but we—

Senator LANDRIEU. Okay. Does anybody in the audience know what the number is?

Judge SATTERFIELD. Well, I have it here.

Senator LANDRIEU. Does GAO know?

Ms. ASHBY. I believe in the appendix it is 5,000-and-some cases.

Judge SATTERFIELD. Well, you are talking about the child welfare cases, but—

Senator LANDRIEU. I am talking about the cases that have now been identified—

Judge SATTERFIELD. Right, right.

Senator LANDRIEU [continuing]. As having to be dealt with that we are trying to get our hands around.

Judge SATTERFIELD. So you are talking about the cases of children, the child welfare cases—

Senator LANDRIEU. Yes.

Judge SATTERFIELD [continuing]. That are the ones that are either coming back into—

Senator LANDRIEU. That are going to be in the new Family Court.

Judge SATTERFIELD. Right. That number of—

Senator LANDRIEU. Okay. I have here in the exhibit, just for the record: pending divorce cases, 6,663; paternity and support, 8,497; juvenile delinquency, 825; mental health and retardation, 2,436; child abuse and neglect, 5,145; adoption, 807; for a total of 24,000. However, I am going to assume that some of these cases are double-counted; is that a good assumption?

Judge SATTERFIELD. No, they are not double-counted.

Senator LANDRIEU. And so, they are all individual cases?

Judge SATTERFIELD. Yes.

Senator LANDRIEU. These are all individual children, all for the families.

Judge SATTERFIELD. Well, all of the child abuse and neglect cases are all individual children. Actually, the only—some of the—let me backtrack on that. The double counting, if there is some, would be in some of the child abuse and neglect cases are pending adoption, so there would be some double counting there; not anywhere else.

Senator LANDRIEU. And it would not overlap with mental health and retardation?

Judge SATTERFIELD. No.

Senator LANDRIEU. So, none of your child abuse and neglect cases would involve a child that had mental illness or mental retardation?

Judge SATTERFIELD. It would not involve a mental health or mental retardation cases. We have those types of issues in our child abuse cases. We just do not have a separate case jacket for that child.

We deal with that in the child welfare case, so that would not mean any double numbers there.

Senator LANDRIEU. Maybe GAO can help me, because what I am trying to get a handle on, which is a very important starting place, is how many cases we are talking about. Because if it is 24,000 as opposed to 5,000, then the plan is going to look a lot different, I suggest. I mean, that is a big difference in number.

Judge SATTERFIELD. No. There are 5,000 cases, or 5,100 cases as of the end of last year, of children in our abuse and neglect system.

Senator LANDRIEU. And those are the only cases that are going to go to this new Family Court?

Judge SATTERFIELD. No. All of these cases are in the Family Court. All of these cases, but specifically for the ones of children, we are looking at the child abuse and neglect and the juvenile delinquency cases and the adoption cases. And of those cases, we have identified the numbers, and each number represents one child.

Senator LANDRIEU. Okay. Your plan in broad terms is to take these 24,000 cases and divide them among the 15 judges and—17 magistrates?

Ms. ASHBY. Ultimately.

Senator LANDRIEU. Ultimately.

Judge SATTERFIELD. Yes.

Senator LANDRIEU. So, you are going to take 24,000 and divide these cases all to these judges?

Judge SATTERFIELD. They will not be divided evenly because some of the cases are weighted differently, meaning that some of them take longer to process. And we have to—we look at which ones and what they are processed for. A juvenile trial can take up to 5 days in some respects. A divorce or custody trial can take longer. And so they will not be divided evenly, but—

Senator LANDRIEU. That is okay. They do not have to be divided evenly, but they will be identified to a particular judge, because the founding principle of this act is one-judge/one-family.

And so the most important mandate in this act is for these cases to be distributed however you all see fit. But once the case is given to the judge and to that court, it is going to stay there until it is handled from beginning to end, and not moved from judge to judge, or magistrate to magistrate, or lawyer to lawyer. So the families get a real quality service.

Judge SATTERFIELD. We propose and I agree that that is the overarching principle of the act, is the one-judge/one-family, and we propose to implement that in phases as we set forth in the transition plan, starting with the child welfare cases. Of the child welfare

cases, in that 5,100 number, we are talking about approximately 3,500 of those cases that are not assigned to judges in Family Court. Those are the cases that we are bringing back home to Family Court.

Senator LANDRIEU. Senator DeWine and I would be very interested to see written clearly on paper, the time lines for assigning these cases and to what judges they are going to go to of the 5,145, and how quickly either you or GAO think that you can clearly identify what cases are staying with what judges. And I understand that none of this is automated.

Judge SATTERFIELD. True—

Senator LANDRIEU. I understand that these are all in jackets, in files that have to be sorted by hand. I am clear about that. There is no computer system that will help us to sort, but this is my point, we have a decision to make together.

We can either spend the next couple of years automating the system and then do the sort, which puts some more months and years with these children in limbo, or we can do a hand sort, get the cases moving, and then develop the automated system.

Judge SATTERFIELD. Well, we completely agree with you.

Senator LANDRIEU. Okay.

Judge SATTERFIELD. We are moving those cases now. In fact, up to 1,500 of those cases are going to go throughout the month of May, to the new magistrate judges that are finishing their training this week and will start sitting on cases next week. So we totally agree. We are not waiting for automation to do that.

Senator LANDRIEU. That's good. Okay.

Judge SATTERFIELD. And I can go to some of the major milestones in terms of the transition, if you would like. We expect to get in 1,500 to start, and that is of the 3,500 cases that are outside of the Family Court. The remaining of that 1,500 are already in and being served by judges now.

Senator LANDRIEU. It would be helpful if you could simply submit, maybe within 60 days, Judge, a specific written time frame about what cases are moving to what courts, in what time frame and how long it will take?

Judge SATTERFIELD. I can—

Senator LANDRIEU. If you do not have that now—

Judge SATTERFIELD. I can tell you now what we expect to happen with respect to the transition of all those cases that are outside the Family Court.

Senator LANDRIEU. Well, why do you not tell us now and then submit it in writing?

Judge SATTERFIELD. Because we truly believe that we will get them in before the transition period is over, if we can work out some of the challenges we have with respect to space, because right now we are having to put in a stop order, because of the lack of the money coming forth, so that we can start building out the space. And we are getting very close to doing that.

But we truly believe if that resolves itself, which we hope that it will, that we will get these cases in. We expect the first 1,500 to come in during the months of May and June. Then when we bring on four additional magistrate judges later in the year, we expect to bring another 1,200 kids back into Family Court.

Senator LANDRIEU. Later in the year would be what month?

Judge SATTERFIELD. What we are looking in terms of getting the space built out, we are looking at the earliest as December. In the interim, though, we expect that when children's cases close, of the first 1,500 cases that go in, some of those cases we hope—because we are targeting it for certain reasons—will close. As they close, we will continue to give those new magistrate judges that are already on board additional cases from judges who are outside of Family Court.

We told them your case load, you will not be able to measure your success by whether you get your numbers down. You will measure your success by the outcome you achieve with a child. And each time you achieve a good outcome for a child, we are going to bring you another child in from outside the Family Court, so that you could do the same thing there.

So even in the interim, we have two goals and two dates in which we are going to have a larger number of children's cases coming in. But in the interim, in that period in between, as they close these cases, we bring in additional cases to them.

Senator LANDRIEU. Would GAO like to comment on that?

Ms. ASHBY. Well, the numbers, the 1,500 and the 1,200 later this year and early next year are in the plan. The difficulty we had in accounting for total numbers were, number one, we were not sure that the 5,000 listed here, how that connected with the numbers in the narrative of the plan. But just looking at the numbers, there were gaps. And it was not clear in some cases whether—it sounded from the narrative as if some cases would not transfer back into the Family Court, because they would be closed before that would happen.

But we were not clear in terms of numbers. The 3,500 seemed to be brought forward in the narrative as coming back into the court. But as I said, there was a discussion about some cases being closed outside of the Family Court, so there was some confusion.

Senator LANDRIEU. Okay. I would like to try to unravel this confusion; because I think as a starting point it is very important and I am not sure what to suggest. I do not want to take too much time on this one point, but perhaps you all could meet with GAO and see if you could resolve that, and submit to this committee, in writing, specifically, the cases that are going to be resolved by the current system, which I think we allowed in the law.

We did not say all the cases would have to move immediately, because we did not want to cause even yet another disruption for some of these cases. So some of the judges who are not Family Court judges are going to resolve the cases that were in their court. They are going to transfer only a portion of the 5,000 cases to the new judges, and then—

Judge SATTERFIELD. Of the 3,500 cases. I am sorry.

Senator LANDRIEU. Of the 3,500 cases, a portion—

Judge SATTERFIELD. Coming back in.

Senator LANDRIEU. Oh, there are 3,500 coming back in and about 1,500—

Judge SATTERFIELD. Right.

Senator LANDRIEU [continuing]. Staying with the—

Judge SATTERFIELD. That they are already being handled by—

Judge SATTERFIELD [continuing]. The Family Court jurisdiction officers.

Senator LANDRIEU. Okay. So, are there any cases remaining with judges who are part of the court, but not Family Court judges?

Judge SATTERFIELD. That is the 3,500 cases that you are talking about. They are the ones that are with the judges outside of Family Court.

Senator LANDRIEU. Are not some of those judges keeping some of their cases?

Judge SATTERFIELD. They will not. We have asked them to identify if the case has a child reaching majority before the end of the year, that case will be closed before the end of the year.

We have asked them to keep a case where they know that the adoption will go through before the end of the year, because that case does not need the services and intense scrutiny of the magistrate judges that are coming on board.

We have asked them that if in June, when we want this particular case to come in, you are dealing with a major crisis with your child, and you want some continuity to resolve that crisis, resolve that crisis; and then that case that has been identified to come back in, we will bring that case back in, after you have done that.

So, we have only asked and given them very limited exceptions as to what types of cases would stay out. And we only—and, of course, there has to be some of that, because of the capacity that we have, but—

Senator LANDRIEU. Okay. That is fine. Let me ask you what we would like for our records. We would like GAO to help us identify what cases have been held by what judges and what specific cases have moved to the new court and identify each court and each magistrate and their basic caseload as the baseline.

You have to have a starting point.

Judge SATTERFIELD. Well, we have that, and we can give you that, because we have identified the cases. The only reason that we have not attached them to the magistrate judge yet is because we are trying to work out something with Child and Family Services, where we would have these cases that are coming back in assigned to magistrate judges based on who the social workers are, so that a number of social workers would only have to appear in front of one judge, which would free up their time to do other things in court.

So we are working on that with Child and Family Services. We have the cases, that are coming back in, identified.

Senator LANDRIEU. So let us talk about that for a minute. GAO can step in any time, but your plan is having some difficulty assigning these cases, because you want to put the same social workers together with the magistrate?

Judge SATTERFIELD. It is not difficulty. We have offered Child and Family Services that, if they can identify for us clusters of social workers, we were willing to assign those cases according to who the social worker is.

That is not our difficulty. We can assign them right now by just—

Senator LANDRIEU. But you are waiting for them?

Judge SATTERFIELD. We are just waiting for them, and they have given me an answer yesterday, that they think we are going to be able to do that. And part of the problem is, as you identified already, our computer systems do not talk, so a lot of things have to happen; it is labor-intensive to get that process going.

We can assign these cases right now. We have identified them. We have identified the categories. We have 1,500.

We can give them to the magistrate judges right now. We expect to start doing that next week in any event, because they will have stopped their training at the end of this week. But we have been trying to work out a system where we can also accomplish the scheduling goal of trying to free up additional time, because Child and Family Services says they would like additional time obviously to do what they need to do, because they are so overloaded with their cases and the lack of social workers. So, we are trying to do that with them to accomplish that goal, as well.

Senator LANDRIEU. That is a very good goal and I want to encourage you. This cooperation between these agencies is so important. Maybe our committee could help by sending a letter to the city urging them to try to get back to you as quickly as possible with their cluster groups of social workers. When you assign these cases, you are keeping social workers that have been working on the cases together with these new magistrates.

We know it is not going to be perfect. But that is how we develop a baseline: how many cases, what the teams look like, and how long it has taken us to adjudicate these cases in the past.

As you build the Family Court over the next couple of years, we hope to see that the process has become more efficient, outcomes have improved, the quality of service has improved, et cetera, et cetera. You are going in the right direction.

Otherwise, we can spend a lot of time talking and not a lot of improvement.

Ms. ASHBY. Yes. I just wanted to add that—actually, that is reasonable given that ultimately the team would go beyond the judge and the magistrate—and as I understand it from the plan—would include perhaps a person from child welfare, a worker and attorneys and—

Senator LANDRIEU. Let us talk about that now for the record. Judge Satterfield—how do you envision structuring your Family Court teams? Who is on a team?

Judge SATTERFIELD. We expect to have the judge—associate judge and magistrate judge, and I am an associate judge, and new magistrate judges on a team, along with—and that is how this team will begin. Because we can group them together now, and because that is something that the court has control over.

Then we have asked the other stakeholders that are involved in this process, like the city's attorney, that we would like to see them assigning their assistant corporation counsel attorneys to particular teams. And they have to do a number of things to do that, as well. And so we have asked them to do that.

Then we are looking for adding some of the other attorneys, the private attorneys that represent the children as guardians ad litem, and the parents' attorneys to participate and appear in front

of a certain team set of judges, a magistrate judge and associate judge on the child welfare cases of the children.

And then we are asking that the—we do that through social workers as well. That takes some time only because you have to coordinate with the other agencies to get this accomplished; and I can give you an example.

When we start to bring these cases together and there are many cases where the city's attorney is involved in the case, if I have an abuse and neglect case, I have one city attorney. If I bring in the juvenile case, there is another city attorney that handles the juvenile case. If I bring in the related domestic violence case, there is another city attorney that may handle that.

They have to work on, as well, the cross-training, so that you do not have 10 lawyers in front of you, not accomplishing anything but hearing a lot of noise. You have to work on the cross-training there as well. And then we have to work on bringing the social worker in, and bringing that team in.

And the social workers change sometimes, depending upon where the child is through the process. And so, those are some of the things that we have to coordinate to accomplish this team approach. And that is why we say by the end of June, 2003, we hope to have this whole team together.

Senator LANDRIEU. Okay. Let me ask you this, to facilitate that, have we established either by law or by administrative directive a task force that is responsible for carrying out this interagency coordination?

Judge SATTERFIELD. Well, we have—we, by law—

Senator LANDRIEU. Not within the court—not within the court.

Judge SATTERFIELD. But you—

Senator LANDRIEU. The—something that sits that can sort of help the court—

Judge SATTERFIELD. But we have been—

Senator LANDRIEU [continuing]. And the social welfare, and the prosecutors basically—

Judge SATTERFIELD. Sure.

Senator LANDRIEU [continuing]. To do this.

Judge SATTERFIELD. We have been working with the child welfare team, which is a team that is facilitated by the court—Council for Court Excellence for some time. That team has been in place prior to the enactment of the Family Court Act. And all the players that I am talking about are members of that team.

Senator LANDRIEU. Okay.

Judge SATTERFIELD. And so we have had these discussions. I am not saying we are not—we are working together on it, Dr. Golden and the others. And everybody recognizes it, but it is just those types of obstacles and challenges that we have to take on to move this thing along, and we are moving it along. It just takes some time for others to reorganize, to complement what we are trying to do in Family Court.

Judge KING. If I may just add, one of the first things, when the bill came into effect, is that I issued two administrative orders establishing an internal oversight team and an external working group, which is overseeing this.

So we have our own group, which does include people from the outside agencies as an oversight group, working on this.

Judge KING. Because we obviously have to work step—

Senator LANDRIEU. I realize that which is why I said one of the strengths that I see is that everybody is really trying to work in a unified manner, and I think that is very, very good.

I think the unity is a tremendous strength. What concerns me is that any time you are trying to do a fairly complicated task there has to be significant coordination. If all groups do not do what they are supposed to do on time, submit their plans, do their work, it holds everybody else up.

So my question is: which agency is forcing everybody to meet their deadlines, have their teams organized so that everybody can work together? Because if that is this committee, I need to know about that.

If it is somebody else, then I can help them to get the resources they need to do that, so that we have all very positive outcomes and we meet our time lines, which are tight. These time lines are tight.

Judge KING. But we—I mean we are leading in this, because this is the plan that we put together in collaboration with the other groups.

Senator LANDRIEU. Okay. So you will tell me if there is a team or group that are not doing what they are supposed to do, or the child welfare agency is not doing it, you will come and tell this committee.

Judge KING. We are happy to do that.

Senator LANDRIEU. Okay. Because we are going to hold you all accountable.

Judge KING. I know. So we are happy to do that.

Senator LANDRIEU. All right. All right. So we will hold you all accountable. You will tell us and we are clear about—you know, so I do not want to hear “We could not do it because so-and-so did not do what they were supposed to do,” because we will—okay?

Judge KING. I think that is the clear—I think from the very beginning of the discussions—

Senator LANDRIEU. Okay.

Judge KING [continuing]. And the Act, it was clear that the court is the ultimate arbiter—ultimately, we are the ones who are responsible for making the thing go.

Senator LANDRIEU. Okay.

Judge KING. And I believe we have put in place the proper team to carry out that vision.

Senator LANDRIEU. Okay. Would you walk me through, and then Senator DeWine probably has a comment or a question—will you walk me through that flow chart, and show us and go through a specific, you know, just a made-up case of how the petition is filed, because there are no time lines? What I noticed on here is not only is it—

Judge SATTERFIELD. We have added them on there—because we noticed that, too.

Senator LANDRIEU. Okay. Would you go—

Judge SATTERFIELD [continuing]. Because we noticed that, too.



Senator LANDRIEU. Would you write the time lines up there, or have somebody write them up there?

Judge SATTERFIELD. They are up there. They are up there now. They are not in the one that is in the transition plan.

Senator LANDRIEU. Okay. In the book.

Judge SATTERFIELD. But we understand that was a concern. You wanted to see those, so we have added them to the one that is on here.

Senator LANDRIEU. Okay. Could I have a new copy then with time lines?

Judge KING. This one is current.

Senator LANDRIEU. And Senator DeWine would like one, too.

So the first one, we did not have time lines, which is very important; and the second one we now have time lines.

Judge SATTERFIELD. That is right.

Senator LANDRIEU. Because we have 18 months from the time this petition is filed until down here and I—just for my purposes, I would like to say, “Child go home,” or “Child adopted” would be the two—you know, either—either home, guardianship, or adoption are the three outcomes that are on the bottom of this sheet.

We have 18 months from the time the petition is filed to get to those three outcomes; so Judge Satterfield, why do you not walk us through this, if you would?

Judge SATTERFIELD. So if a child case comes into our court, it is going to come in on a petition filed by the attorney from the city. Within 24 hours of the child being removed, we are going to have what we call the initial hearing, and that is to determine the legal basis for the removal of the child.

After the initial hearing, within 30 days of that initial hearing, one of two things will occur. We have a child protection mediation program, that is ongoing, that has been grant-funded through the Council for Court Excellence, and being evaluated by the National Council of Juvenile and Family Court Judges.

We are sending 50 percent of our cases involving children, our new cases as of January through that. By the end of the year, we will know, because it is being evaluated; all appropriate cases that should go through that, and we will increase that number with all appropriate cases once that evaluation is completed.

Senator LANDRIEU. And let me be clear, because Senator DeWine and I, I think, are big supporters of this. But this is an opportunity, within 30 days of a child being removed to have a counseling session with the extended family?

Judge SATTERFIELD. No. I am sorry. This is not family counseling, which is something that the agency is trying to do. This is a child—this is a mediation with all of the lawyers present, the guardian ad litem, the parents’ attorneys, in a hope to resolving the child’s case in terms of an adjudication, so that there would not need to be a trial, and so that we can get ahead of all the time lines, because there will not be a need for a trial.

So, they are trying to mediate the resolution, because we need an admission of neglect for us to gain the jurisdiction to move forward with the other aspects of—

Senator LANDRIEU. Let me just tell you my comments about this. And Senator DeWine is truly an expert, because he was a prosecutor.

But what I have tried to figure out about this is that, some time after a child is removed from a home, there should be, and there might not be in our law, but we could create it—it may not be legal, I am not sure—but in my mind, I think that there should be a time where the lawyers or the court personnel bring together some opportunity for the extended family to make a family decision about what should happen to this child—people who know the child and know the family.

Now, while it is important to have lawyers involved because lawyers know a lot about the law, sometimes the lawyers do not know about the children. They do not know about the family. They are not familiar enough.

So I am not suggesting that we not do this. I am just suggesting that let us just, really, search for the very best system. And in my mind, and I have heard about other systems doing this, there is a time for input from the grandmother, the aunt, the next-door neighbor, the principal, the second-grade teacher, who know this child and who know the situation.

They do not need to investigate. They know. They come together and it is a facilitated discussion about, “You all who know this child the best, what do you think would be the best?”

If those things work successfully, you could reduce your caseload substantially, because a lot of times a resolution will come out right then, within 30 days and that group will say, “We know this child. We have watched this child suffer for 4 years. We know and we are strongly recommending that this child be adopted by the aunt or the sister or the grandmother” or “We are strongly recommending a guardianship of the neighbor, who has been raising this child basically since it was born.” Or, you know, the teacher says, “I really have a solution.”

And I want to press you all to that kind of system. And if you need laws changed or you need us to do anything, you know, we can help you facilitate it.

And then the idea is to keep a third—maybe 40, maybe 50 percent of these cases from ever getting to the court system itself where it is adversarial, the way is not clear, there is not a consensus. And then you really have no alternative but to go to some court system where people have to take sides; and then it takes longer.

Judge SATTERFIELD. Can I comment on that, though, because I think—

Senator LANDRIEU. Yes.

Judge SATTERFIELD [continuing]. Some of what you said occurs before it comes to our court system, or needs to occur before it comes to our court system.

The other part of it is we try to do things at the initial hearing to identify relatives. We ask the social workers, “Start identifying the relatives,” so that in 30 days for the mediation, while they may not be in the mediation room as a party to the case, they are available.

We expect that they have talked to the social workers, so that we can do just what you are saying, resolve these cases in an expedited way, which results in some future permanency for the child and safety for the child, by using relatives. And some of that can be accomplished through the child protection mediation in 30 days.

Senator LANDRIEU. Let me recognize Senator DeWine, and I will be right back.

Senator DEWINE. Okay.

Judge KING. Yes. I would like to finish that answer or finish up his answer—

Senator LANDRIEU. Go ahead.

Senator DEWINE. Go ahead. Go ahead, Judge.

Judge KING. You mentioned something in your example of maybe—a neighbor could be a guardian. And it is a subject near and dear to my heart.

Our guardianship law would not allow us to do that. And one of the things I have spoken informally on with the City Council, perhaps a letter of encouragement or support might help.

Senator DEWINE. It is your D.C. law?

Judge KING. We need to change the law in order to allow us to have that option, because I agree; I believe that that would be a very big help in closing cases, a group of cases, not all of them. But there is a group of cases that could be closed by that legal provision, if we had it available.

Senator DEWINE. Let me get back to the issue of fundamental policy, and how it pertains to this time line, and how it pertains to the plan that you have submitted.

As you know, under the Federal law, the ASFA law, there are certain instances where reasonable efforts are not required to reunite the family—a child with a family; the parent who has murdered another child would be an extreme horrible example.

On your time line, when will the determination be made as to whether or not reasonable efforts are required at all? You know, if reasonable efforts are not appropriate, the Federal law requires a permanency hearing within 30 days. Does that time line cover that?

Judge SATTERFIELD. Well, if it is a case where “reasonable efforts” is not required, we would have to get it to trial within a certain period of time in order to have it adjudicated, that the child has been neglected, to give us the jurisdiction to move forward with some other permanency goal of adoption or guardianship or whatever it would be.

Senator DEWINE. But you are going to have to make a determination, an initial determination. I mean, you know, obviously, someone in the system has to make that initial determination, at least in your mind; then you move forward.

I mean, just where does it show—just show me up there, walk up there and just show me where it fits in.

Judge SATTERFIELD. There are two—there are two areas where it can be initially—in the initial hearing when we are looking at the type of case it is in terms of—and under the law it is usually made at the disposition hearing, which is under the adjudication block where we indicate that no reasonable efforts were necessary, or in the permanency hearing where we indicate that no reasonable

efforts were necessary because of the nature of the crime, as you said for one that involves sort of abuse-type crimes.

Senator DEWINE. So, we are covered?

Judge SATTERFIELD. I think we are covered, yes.

Senator DEWINE. Okay.

Judge KING. I would also point out—

Senator DEWINE. Sure, Judge.

Judge KING [continuing]. That it depends on the nature of the circumstance. Obviously, in a case where a sibling has been murdered, you do not need 30 days to figure that out. That gets done at the initial hearing, in terms of where that case is ultimately going to go. But this covers all of the instances where we would ultimately determine that there are not—

Senator DEWINE. Speaking of the initial hearing, tell me, the initial hearing, who hears that?

Judge SATTERFIELD. We have a magistrate judge hearing and our proposal in the plan by January is to have the magistrate member of the judicial team to rotate through there when they pick up cases of children during the week that they pick up cases of children, and they conduct the initial hearing.

Senator DEWINE. So the assignment—but the case assignment goes before that hearing? In other words—

Judge SATTERFIELD. No. The case is assigned—

Senator DEWINE. Am I going to have—my question is, just to make it real simple—

Judge SATTERFIELD. Sure.

Senator DEWINE. Am I am going to have, from a simplistic point of view, am I going to have one magistrate at the initial hearing and then a determination is going to be made where we are going or—and then we go to somebody else?

Judge SATTERFIELD. We are doing that now. And that is how we have done it in the past.

Senator DEWINE. Yes, I know.

Judge SATTERFIELD. But we are moving from that to have the magistrate judge—

Senator DEWINE. Okay. So we immediately then have the continuity?

Judge SATTERFIELD. Right. We are going to—

Senator DEWINE. The second hearing is going to be with the first—the same person that had it—

Judge SATTERFIELD. The second hearing will be either with the magistrate judge assigned to the team that will conduct the initial hearing or—

Senator DEWINE. Yes.

Judge SATTERFIELD [continuing]. That judicial officer assigned to that same judicial team. And that is what we are moving toward, and we propose implementing that in January of next year.

Senator DEWINE. We have discussed, I believe, in the past this issue, but I want to revisit again. It is my understanding that the court will not terminate parental rights for a child unless an adoptive parent has already been identified. Is that true?

Judge SATTERFIELD. No. I mean, I think there is some case law that we have with the Court of Appeals that talks about that being one factor that we should look at, but we do not have a statute

such as they have in California, which is inconsistent with the Federal ASFA, where they will not—

Senator DEWINE. So that is not your—that is not your policy?

Judge SATTERFIELD. No. No. We do not have a policy in any way close to that.

Senator DEWINE. Well, what is the policy?

Judge SATTERFIELD. Well, the policy is to look at it on the merits of the case and see whether or not the standard has been met in order to terminate the rights. But the fact that there is no adoptive parent involved, or parents involved, at the time is not a factor that could—that would preclude the termination of parental rights in the case.

We typically have done the termination through our adoption case in order to expedite it, because the appeal process with respect to adoption was different and the outcome for the child with respect to adoption was different than if we did it through the termination of parental rights petition.

So a lot of our cases—because you will see that our termination of parental right numbers are down in terms of cases, because most of that is done through the adoption case, without a petition to terminate it being filed.

I understand that in order to meet ASFA in the spring or summer, or at least summer, that we expect a substantial influx of motions to terminate parental rights being filed by the agency through their counsel, because they have to comply with that requirement that, you know, 15 out of the 22 months the child is in foster care.

But we have never had the position or a law that says we do not terminate unless there is an adoptive family that is involved. We obviously want one involved, because otherwise the child does not have anywhere to go once the rights are terminated, if we have not identified an adoptive family.

Senator DEWINE. You—well, yes, we want one, but do we not also have the situation that parents—people—prospective parents are not willing to come forward if they do not have some assurance, I mean, that you are going to have that child—that that child is going to be able to be adopted?

Judge KING. If I can—

Senator DEWINE. That is what experts tell me across the country when I talk to them.

Judge KING. If I can jump in, the emphasis here is that there has to be a merits determination for a particular child. So, for example, and I do not mean these are—none of this is hard law; it is all decisional law in our Court of Appeals.

But if you have, for example, an infant—a healthy infant, well that would certainly point generally in the direction of “go ahead and terminate rights,” because the likelihood of rather easily finding a good permanent solution is up there.

Senator DEWINE. It is pretty easy, yes.

Judge KING. If you have, on the other hand, a troubled 13-year-old who has got a number of medical issues and maybe already some substance abuse issues, and they have a long relationship, however troubled, with their parents, then you have to look at that when you make a decision.

Senator DEWINE. Sure.

Judge KING. So it is a merits determination. And those are the kinds of things that might come into it.

Judge SATTERFIELD. And our 14-year-olds, under the law, have the right to object to going forward with adoption. So, if they were in foster care for that time period, and we terminated the rights of their parents, which under that time period we are required to do, they may not be adopted either. So that is what I mean when I say—

Senator DEWINE. Yes. Okay.

Judge SATTERFIELD [continuing]. That we hope to have an adoptive family.

Senator LANDRIEU. But let me pursue this for a moment, because we are all learning about the—this whole new world of adoption. Sometimes a child thinks that terminating parent—parental rights is the same thing as terminating their ability to ever see the parent again. And it is two completely different things.

And sometimes we do not tell children the truth about that. And the facts are we could create a system where you would terminate the rights of a parent who has proven, time after time after time after time, to be unable or unwilling, or a combination of both, to be the kind of support and nurturing that that child needs.

And so the court has to make a decision even if the child is 13 and troubled and in difficulty, or 10, or 14, or 15, that this child needs a functioning parent; this child needs a functioning guardian.

And so that has to be the determination that the only thing in the court's mind is the fact that children cannot raise themselves. That is not why they were created; they have to be raised by someone. And so, you could then terminate the rights of that parent but allow for a visitation, allow for rigorous, you know, interaction between the parent, you know, the parents, or put them under sort of what I think is allowed in your law, a legal guardianship, which even gives, I think, greater rights to—well, not greater rights, but greater opportunity for the parents to stay involved, the biological parents to stay involved with the child's life over a long period of time. So the—

Judge SATTERFIELD. We will set those goals, no question about that; that is our mandate. We will do that, but we need the agency, we need the community, we need them to bring us the guardian. We do not make the guardian. They need to bring them to us, so that once we set that goal, we have a place for that child to go.

Senator LANDRIEU. That is why I get back to my point, within 30 days of removing that child—and I heard that it is not legal right now in the system—that one good thing to do is to bring an extended family, or people who know the child well, together. Your chances of identifying a guardian, a permanent guardian or a potential adoptive family, are highly increased by just that exchange, and that interchange.

So I do not want to take too much time on this particular point, because we have others to go forward, but can I assume that this chart with the, now, time lines fits the 18-month new requirement by law without going through each—

Judge SATTERFIELD. Yes. And there are even stricter time lines, because D.C. has to have stricter time lines for the—

Senator LANDRIEU. What are those time lines?

Judge SATTERFIELD. Well, for us to get the case to adjudication, it is written on here we have to do it within 45 days of the petition being filed if the child is not removed, within 105 days if the child is removed. And then the other time lines are pretty much consistent with Federal ASFA, so, yes, I think you can see—we have identified that for you.

[The statements follow:]

PREPARED STATEMENT OF RUFUS KING, III CHIEF JUDGE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Madam Chairwoman, Senator DeWine, members of the Subcommittee: I am Rufus G. King, III, Chief Judge of the Superior Court of the District of Columbia. I thank you for the opportunity to speak to you today. Judge Lee Satterfield, Presiding Judge of the Family Court of the Superior Court, joins me today in testifying about our Family Court Transition Plan. We are pleased to have this opportunity to update you on the progress we have made so far and the plans we have for the future.

To begin with, Madam Chairwoman and Senator DeWine, I would like to thank you both for drafting, negotiating and shepherding the Family Court Act of 2001 through to passage. It involved tremendous effort on your parts and on the part of your able staff, and we are most appreciative.

Judge Satterfield, along with the Deputy Presiding Judge of the Family Court, Anita Josey-Herring, led a team that created the case management plan for the Family Court—a plan that will dramatically enhance our ability to serve the abused and neglected children of the District of Columbia. I want to thank them for their hard work and commend them for their leadership in a truly collaborative planning effort that included input from and discussion with all stakeholders. The kind of cooperation displayed during preparation of the plan will substantially improve the ability of all to deliver services to children and families.

BACKGROUND

The President signed the Family Court Act of 2001 into law on January 8, 2002 with the support of the Court, the bar and most of the stakeholders in the child advocacy community. We shared a goal of improving the provision of services to the abused and neglected children of the District and expediting permanency for them. The bill is a major step toward that goal. And now that the bill is law, the Court is preparing to implement all of its provisions as effectively and expeditiously as possible.

PROGRESS TO DATE

To that end, we submitted the plan—3 days before its due date—and appointed the five magistrate judges for the Family Court within 2 months, as the bill required. The magistrate judges are finishing their month-long training this week and will begin hearing cases next week. We have already begun implementing the “one family/one judge” concept by keeping all cases within the Family Court for review once disposition had been reached, as opposed to the previous practice of referring many of them to judges outside the Family Division. In addition, when each new child comes into the system, we check whether there are Family Court cases involving any member of the child’s family. If so, we assign the child’s case to the same judge.

I have asked Judge Satterfield to present testimony on the case management part of the Family Court plan and I will provide you with an overview of the space and facilities part of the plan, as well as the information technology needs.

SPACE AND FACILITIES

In September 2001, the Courts initiated a master space plan study to provide a blueprint for Court capital projects and space utilization for the next 10 years and to identify the optimal location for the Family Court. The General Services Administration (GSA) is conducting the study and has developed the Interim Facilities Plan for Family Court Transition, which is contained in Volume III of the Family Court Plan. With GSA’s assistance, we have completed Step 1 to provide space for the five new magistrate judges, at a cost of approximately \$600,000. We reconfigured the existing magistrate judges’ office suite, expanding it by shifting other operations within the Courts’ facilities. To provide hearing rooms for these magistrate judges when

they begin hearing cases next week, we have recommissioned three hearing rooms in the main courthouse and modified assignments for others.

Step 2 of the interim plan accommodates the space needs of the four additional magistrate judges and three additional associate judges that the Family Court will require. The plan is to renovate the JM level of the main courthouse and construct 3 new courtrooms, 4 new hearing rooms, and a Family Services Center. This will be the office from which court and District social services will be coordinated. The 12 existing hearing and courtrooms on that level will be used by the Family Court, and the whole area will be modified to impart a separate identity for the Family Court. GSA estimates the cost of Step 2 of the interim plan, including providing space for the courtrooms that currently occupy the JM level, at \$11.4 million, and we plan to have this work completed by deadline—18 months after submission of the Transition Plan, or early October, 2003.

Ultimately, we plan to co-locate the entire Family Court and supporting mediation and Court Social Services space on the JM and 1st level and provide a separate entrance. The existing clerks' offices for the different branches of the Family Court would also be consolidated to provide a central location for filing all cases within the Family Court, from Mental Health and Domestic Relations to Juvenile and Abuse & Neglect. The architects have done some preliminary feasibility studies and report that by modifying the C street side and the Indiana Avenue entrance of the Moultrie Building there will be enough space to accommodate all of these functions in contiguous space on the JM and first floor levels of the courthouse.

As I mentioned at our hearing last month, a pressing concern for the Court is the need to obligate funds in order to comply with the Act prior to the funds becoming available under applicable appropriations law. The District of Columbia Appropriations Act, 2002 provides that the Family Court appropriation becomes available only after a 30 day GAO review followed by a Congressional review of 30 legislative days, which we estimate will be completed by mid or late June. In the interim, we expect to obligate approximately \$1 million for the new magistrate judges for personnel costs and the construction I mentioned above. To date, we have utilized funds from the Courts' fiscal year 2002 operating and capital budgets. These obligations will not pose a problem if funds appropriated for the Family Court can be used as reimbursement. However, the GAO has informed us that this reimbursement would constitute a transfer, for which statutory authority is required.

Of even greater concern, to keep the architectural and construction work on schedule for completing the transition, we estimate that most of the Interim Plan funds (up to \$11.4 million) must be obligated during this review period. If the Courts were authorized to obligate a part of the Family Court funds in advance, the work in the Interim Plan could proceed without delay. The lack of this authority could potentially place the Courts in the untenable position of requiring us to choose between compromising fundamental health and safety needs of the public using the courthouse, and delaying time-sensitive construction contracts to keep the Family Court on schedule.

This subcommittee has been very generous in securing sufficient funding for the Family Court effort. We hope that the Subcommittee will continue its support with these timing issues as it has in providing funds to implement the Family Court Act.

#### INFORMATION TECHNOLOGY

The Courts were already in the planning stages of an integrated information system when the Family Court Act was proposed. The first phase of this system will be built in the Family Court. This system is a key element of meeting the Act's requirements for serving children and families and for tracking and reporting on our progress.

The Courts' Integrated Justice Information System (IJIS) is a 3-year project, estimated to cost approximately \$7 million, 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 that will eliminate the current fragmented system, consisting of over 18 separate databases. IJIS began as part of a District-wide effort to improve information technology within and among the District's criminal justice agencies, and this information sharing focus will help the Court coordinate with District agencies that serve children and families.

The initial planning phase of IJIS was completed in December 2000 and resulted in the production of a written requirements analysis by an independent contractor, the National Center for State Courts (NCSC). In its analysis, the NCSC proposed that the Courts acquire a commercially available off-the-shelf software package, as well as integrated modules to handle specific divisions and/or case categories and to implement these modules by segments, including training, during the next three



fiscal years. Following the submission of the detailed plan for IJIS to Congress in May 2001, the Comptroller General (GAO) reviewed the project. GAO's constructive recommendations, which we are implementing, will strengthen the project, helping to ensure that IJIS serves the Court most effectively.

IJIS is critical to the success of Family Court implementation. IJIS will automate identification of cases involving the same family so we can assign them to the same judicial officer and implement "One Family/One Judge" more effectively and efficiently. Unlike many existing systems, IJIS will not merely facilitate scheduling, but will provide performance data to permit us to track our progress and to compile the reports required by the Act.

Overall, IJIS will improve Court operations and services in many ways:

- Improve the identification of related cases (not only in the Family Court) thereby enhancing the information available to judges responsible for case resolution;
- Facilitate scheduling/calendar management, thereby reducing waiting time in court for police, attorneys, litigants and the public;
- Reduce the flow of paper across and within operating divisions and the statistical reporting unit of the Court;
- Eliminate redundant data entry at the Courts and throughout the District's child welfare and criminal justice agencies;
- Improve management reports and provide enhanced decision support for court managers, including the ability to effectively monitor operations, identify needed improvements and develop budgets; and
- Enhance public access to court information and services.

#### CONCLUSION

Judge Satterfield, Presiding Judge of the Family Court, will provide you with details about the case management aspects of our Family Court Transition Plan. We would both be pleased to answer any questions you may have.

#### PREPARED STATEMENT OF JUDGE LEE F. SATTERFIELD

Madam Chairwoman, Senator DeWine, members of the Subcommittee, I want to thank you for the opportunity to testify today and to provide you with a summary of the Family Court Transition Plan's case management approach. I hope to be able to answer any questions you have about it, address any concerns, and listen if you have some suggestions on how we could improve it.

#### INTRODUCTION

As Chief Judge King said in his testimony, the Family Court Act of 2001 was the result of hours of work, discussion, deliberation, and sometimes even vigorous persuasion. But in the end we have a law that all of us agree will improve the operations of what is now the Family Court of the Superior Court of the District of Columbia. The time for debate is over and the time for action is at hand. To that end, as Chief Judge King mentioned, Judge Josey-Herring and I have been devoted to developing a plan that will implement both the spirit and the letter of the law, and will allow all interested parties to best address the needs of children and families in the District.

#### BACKGROUND

As the subcommittee well knows, the District saw a dramatic surge in abuse and neglect filings in the late 1980's and, while the most recent increases do not seem to be as significant, they have not yet leveled off. Each year, more than 1,500 children are alleged to be neglected or abused by their parents. The Child and Family Services Agency is completing its transition out of receivership and is striving to strengthen its ability to deliver services to children and families.

The Court is beginning the transition under which cases of neglected and abused children being reviewed by judges outside the Family Court will be transferred to judges within the Family Court. In addition, since January, all new abuse and neglect cases have been retained in the Family Court.

#### THE FAMILY COURT ACT

The District of Columbia Family Court Act of 2001 fundamentally changed the way the Superior Court serves children and families. The Act elevated the Family Division, creating a Family Court within the Superior Court, set out principles for processing children's cases, and established judges' terms and the position of Magistrate Judge. The Act emphasized that the guiding principle behind all decisions,

procedures, and policies must be to make the safety, permanency, and well being of the child of paramount importance.

As required by the Act, we submitted to Congress a report on how we will implement the provisions of the Act. Chief Judge Rufus G. King III designated me, along with Deputy Presiding Judge Anita Josey-Herring to develop the processes, protocols, calendars, and staffing plan that would enable the Family Court to meet the legislative mandates. The plan follows the “one-family/one judge” principle, ensures greater resources will be devoted to expeditious resolution of family cases, and is a blueprint for how we will improve the family law and child development skills of all those who handle Family Court cases.

#### THE FAMILY COURT TRANSITION PLAN

The Family Court Transition Plan provides a phased-in transition by which all cases outside of the Family Court will be returned to judges within it and the one family/one judge approach will be fully implemented. The plan proposes teams each composed of one associate judge and one magistrate judge, so that one member of the team hears most aspects of each child’s case, but the other keeps apprised of all cases assigned to the team, to provide back-up and to cover during transitions at the end of a judge’s term. The team approach will ensure that each family’s dynamics are well known to a judge and builds in redundancy so that the additional team member knows the children and their families and can make very well-informed decisions at any stage of the case, if needed.

We have already begun to implement the one family/one judge approach by ending the practice of referring cases to judges outside the Family Court for the review stage, the continuing review of the child’s case after a judicial determination that abuse or neglect occurred. In addition, we plan to transfer 1,500 of these review cases to the Family Court by June of this year, as the five new magistrate judges begin hearing the older cases.

There are several other aspects of the family court plan that are essential to its success. First, we look forward to the implementation of the Integrated Justice Information System, IJIS, which will enable us to better track and monitor the progress of cases. Most importantly, IJIS will allow us to determine, when a child comes into the abuse and neglect system, whether other family members or household members have cases before the Family Court, so we can assign their case to the same judicial team, the team already familiar with that family’s dynamics.

The plan also suggests centralizing intake for all of the branches of the Family Court—mental health and retardation, domestic relations, paternity and child support, juvenile delinquency and abuse & neglect—in a single location. This would be easier for those filing cases and enhance the Court’s ability to accomplish the one family/one judge mandate.

Further, we plan to establish a Family Services Center within the Family Court, to provide a centralized location with referral to services that the District and the Court offers. For many parents, it is crucial to have available treatment, or at least a referral or appointment, when they are in the courthouse. Follow-up is less likely when the parents have to make the calls and locate available services themselves. The Act’s provision requiring that District agencies provide on-site representatives provides a wonderful addition to the services already available to children and families through the Court’s Social Services Division.

Enhanced training is another crucial element of the statute and the plan. The Court has already begun to increase training. We held a three-week training course for all magistrate judges entering Family Court for the first time and plan periodic training sessions for judges, as well as staff in the Family Court and Social Services Division. In addition, we will provide mandatory quarterly interdisciplinary training (“crosstraining”) for Family Court judges, case-coordinators, attorney advisors and other staff. Lastly, we plan to hold periodic cross-training programs for stakeholders responsible for child welfare and related family issues, and hope to secure sponsorship of an annual training conference held here in the District for judges, court personnel, attorneys, social workers and other stakeholders.

We are also pleased with the expanded role that ADR—alternative dispute resolution—or mediation will play in the new Family Court. We have already begun, through a grant from the Council for Court Excellence, to refer half of all cases to our mediation program, the Multi-Door Dispute Resolution Office. Our goal is to determine, at the end of one year, which cases are most assisted by mediation and then to use that experience to speed resolution of cases in the future by utilizing mediation in those cases where it promises to be most effective.

Perhaps most important is continuous, close coordination between the Family Court, Child & Family Services Agency (CFSA), and the Office of Corporation Coun-

sel (OCC). We are working with those two agencies so that the team approach involves not just judges and children, but also social workers and attorneys. We are working together to determine the best method of assigning cases to judicial teams so as to allow their staff to work in the team approach as well.

This is an ambitious plan. However, as you well know, Madam Chairwoman and Senator DeWine, these changes are important. They worth any effort if they can bring children into permanent, safe, and loving homes sooner. We at the Court are excited about the new Family Court and implementing the plan. I was gratified to find that ten of my colleagues—excellent, enthusiastic judges with a wealth of family law experience—chose to join Judge Josey-Herring and myself as the first twelve Family Court judges. I was also very impressed with the caliber of applicants for the five new magistrate judges positions. The five who were chosen and have already been installed—Carol Dalton, Pam Gray, Noel Johnson, Alec Haniford Deull and Juliet McKenna—are truly top-notch family law practitioners with a level of commitment to family cases and dedication to children that I find inspiring.

#### CONCLUSION

In closing, please let me thank you, Chairwoman Landrieu and Senator DeWine, for all you have done to establish and support the Family Court. I appreciate the opportunity to testify today to discuss the Family Court Transition Plan and tell you about changes already underway. I am happy to answer any questions.

Senator LANDRIEU. Yes. Okay.

Let me ask some of the other panelists here, and I know that you have got statements for the record, but would you all like to comment on some of the practices or best practices that you have heard about in other places that could be helpful to this discussion?

Matt Fraidin, we will start with you.

Mr. FRAIDIN. Well, thank you.

#### STATEMENT OF MATTHEW FRAIDIN, LEGAL DIRECTOR, THE CHILDREN'S LAW CENTER

Mr. FRAIDIN. Thank you, Chairperson Landrieu and Senator DeWine. My name is Matt Fraidin, I am the legal director of the Children's Law Center here in D.C.

And we help at-risk children find safe, permanent homes, and the education, health, and social services they need to flourish, by providing comprehensive legal services to children, their families, and foster and kinship caregivers.

All of that means that I have plenty of opportunity to appear in front of these judges, almost on a daily basis. And as I have said in written statement, I spend plenty of time arguing with them and disagreeing with them.

And so I feel sort of specially qualified to say that I am very cheered by the plan as I see it, and feel a sort of distinct level of energy and commitment that comes from the court and comes from the plan that I think bodes very well for the future.

There are a few things that I think could be taken from other jurisdictions, and one very specific thing that we have mentioned in our written statement is—applies to training. I mean, it—I apologize that it is not specifically on the subjects that you have been addressing, but I think that as the Court moves toward reforming all of its processes and toward achieving better results for children, that training both of judges and of the lawyers who practice before the court is going to be just a very important part of making sure everybody is on the same page, that everybody has the knowledge base and the skills base that is required to push these cases through and to get the good outcome for children.

[The statement follows:]

## PREPARED STATEMENT OF MATTHEW I. FRAIDIN

## INTRODUCTION

Good morning, Chairperson Landrieu and members of the Committee. My name is Matthew Fraidin, and I am the Legal Director of The Children's Law Center here in Washington, D.C. The Children's Law Center helps at-risk children in the District of Columbia find safe, permanent homes and the education, health and social services they need to flourish by providing comprehensive legal services to children, their families and foster and kinship caregivers.

Thank you for the opportunity to speak with you today about the Family Court Transition Plan and its impact on children and families in the District of Columbia, a subject of great concern to us all.

I would like to preface my remarks with an observation borne of my experience appearing almost daily in front of District of Columbia Superior Court judges. Although I have argued strenuously, and frequently disagreed, with judges in individual cases, there can be no doubt that the judges in Superior Court care deeply about children. It is my hope that the Family Court Act of 2001 and the Transition Plan that implements it will give these judges the structure, tools, and support they need to ensure that their decisions improve the lives of the abused and neglected children whose interests they protect.

Having reviewed the Family Court Act of 2001 and the Transition Plan, it is my opinion that the Transition Plan appropriately addresses the core components of the Act. I believe that the Act challenged the Court to engage in careful scrutiny of its own strengths and weaknesses, and that the Transition Plan reflects a sober assessment of those and an aggressive attempt to capitalize on the opportunity for change.

I would like in the following minutes to outline several very positive aspects of the Transition Plan, and comment on a few areas that could benefit from additional consideration. I will do this by addressing the Plan's approach to problem-solving with respect to three important actors in the child welfare system: the Court itself; the attorneys who represent children, parents and caregivers; and the District of Columbia Child and Family Services Agency.

The message I hope to convey is that the Court is devoted to improving the welfare of children, and the Transition Plan represents a tremendous commitment to step up to the plate. But I also hope the Committee and the Court will hear another message: The Court must go one step further. We know from experience that judges cannot protect children unless lawyers and the Child and Family Services Agency provide them with accurate information. Judges must use their authority to ensure that lawyers and CFSA do their job. Judges need the help of attorneys and CFSA, and can make sure—by convening hearings, issuing orders and demanding adequate performance—that the others contribute to the process the information and representation required to protect children.

## THE TRANSITION PLAN AND THE COURT

First and foremost, the Plan comprehensively focuses on routinizing and professionalizing the Court's own structures and procedures. The Plan sets forth a methodical approach to consolidating abuse and neglect cases within the Family Court. The Plan also describes steps that are being taken to ensure that families benefit from the consistency and knowledge provided by a "one family-one judge" approach. I note in this regard that the one family-one judge approach already is standard practice in the Court's Domestic Violence Unit and is the subject of one of the Unit's governing rules of practice. In addition, it is our recent experience that judges throughout the Family Court have embraced this approach and have been applying it already as they become aware of multiple proceedings involving the same family.

We applaud the Plan's emphasis on collaboration and training. Innovations such as the Family Services Center and the centralized filing and intake center will make information more readily accessible and facilitate planning and implementation of services. Comprehensive, accurate information that is available in a centralized, user-friendly location will help avoid the delays and uncertainties that can plague planning. I am a member of the Court's new committee on judicial training, and believe that the committee represents a valuable cross-section of knowledgeable practitioners from varied fields whose insights will provide substantial benefits.

I note that the performance measures listed in the Plan all relate to dates, timelines, and other easily measurable numerical goals. We recognize that Federal statutes require substantial attention to achievement of specified timelines and other quantifiable objectives. In addition, we recognize that it is difficult to measure and evaluate the quality of outcomes. Nonetheless, it is important to remember that implementation of efficient systems and achievement of quantitative targets must

not overshadow judges' duty to look at the specific needs of each individual child, and to achieve the right result for every child in every case. Focusing on systemic improvements creates the risk that children will be seen as "cases," docket numbers, statistics, generalizations. Any Plan, and any Family Court, for that matter, must allow judges to see children as people, with distinct lives and needs and strengths. As the court looks to streamline its processes, it must do so in the service of children, not at their expense.

I note that the Plan does not mention the role of foster parents—who represent the backbone of the abuse and neglect system. They are the bridge from a child's past to her future, the glue that holds together the badly-strained present. Foster parents are entitled by existing law to notice of court hearings and an opportunity to be heard on the subject of the children in their care. In fact, foster parents receive notice of hearings only sporadically, and then only informally from the social worker assigned to monitor the child. The Children's Law Center urges the Court to recognize the invaluable service provided by foster parents, and the valuable information they can provide to the Court, by taking responsibility for providing notice to foster parents as it does to other parties in the case.

#### THE TRANSITION PLAN AND ATTORNEYS

The Children's Law Center fully supports the Court's efforts to impose and enforce practice standards and training requirements on attorneys. We also suggest that the Court consider strategies to provide additional supports to abuse and neglect attorneys.

With respect to training, the Court should consider following the practice of other jurisdictions, such as Chicago, where the court actually closes one afternoon each month to permit attorneys to attend regular in-service training sessions.

In addition, the Court should consider the special needs of solo practitioners, who make up the vast majority of abuse and neglect attorneys. Solo practitioners often do not have access to the latest technologies, or the means to maintain legal research tools and resource data. The Children's Law Center is attempting to step into the breach by providing information and resources on our website, by hosting the Probono.net website, and by providing materials and technical support to practitioners and service providers. But the Court should enhance the efforts of the dedicated abuse and neglect attorneys by ensuring that attorneys have the support they need. At the same time, the Court should continue to advocate for improved compensation for abuse and neglect attorneys.

Finally, the child welfare system depends on the active, high-quality efforts of abuse and neglect attorneys who represent children and parents. Judges cannot step down off the bench and visit children and families in their homes. They rely on the information brought to them by the attorneys. If, as is sometimes the case, an attorney for a child has had insufficient contact with the child to ascertain the child's needs and identify services and service providers to address those needs, judges cannot reasonably be expected to know what is required to meet the needs of the child and to ensure that it is provided. When parents' attorneys fail to maintain contact with their clients between hearings, and fail to advocate for the services that might help the parents remedy the deficiencies that caused the child to be removed from the family's home, judges legitimately cannot reunify children with their biological families.

It is thus in the Court's interest and in the interest of children that the attorney practice standards promised in the Transition Plan be promulgated and enforced. The Court must satisfy its commitment to improve the service provided by attorneys in abuse and neglect cases.

#### THE TRANSITION PLAN AND THE CHILD AND FAMILY SERVICES AGENCY

The Plan recognizes the Child and Family Services Agency's unique position and statutory duty to assist judges in identifying and implementing strategies that will serve children's best interests. The Plan also implicitly acknowledges that the Agency often fails in its mission. Judges, whether individually or collectively, cannot reform the Child and Family Services Agency. This task falls to the Mayor and the people of the District of Columbia. Judges can and must, however, use their authority to require the Agency to act properly on behalf of individual children.

The Transition Plan reflects new and creative ways in which the Court is holding the Child and Family Services Agency accountable. An important element of the Plan is its promise to continue implementing the Court's philosophy of expediting abuse and neglect cases by setting a tone of aggressive, creative, and thorough problem-solving from the outset of the case. The Plan mentions several ways in which the Court has begun considering issues at the initial hearing stage that previously

were ignored until later in the life-cycle of neglect cases. These include resolution of issues such as paternity, notice, and establishing deadlines for filing motions. The Court should consider expanding that list further, by, for example, requiring in every appropriate case that the Child and Family Services Agency create a family tree and investigate all possible relative placements within 21 days.

It is worth noting that these strategies—like the performance measures mentioned earlier—relate to the speedy and effective processing of cases. We urge the Court to consider measures more directly related to the children themselves. For example, the Court could consider establishing as a matter of policy a presumption that all initial hearing orders include a requirement that the Agency coordinate within 48 hours a visit between a removed child and his or her brothers and sisters, and that the Agency ensure within 48 hours that a removed child has been enrolled in school, if the child has been placed in a new school district. Imposition of specific requirements would help hold the Agency accountable for promptly addressing the traumatic impact on children of being uprooted from home. The Agency is not taking these actions on behalf of children, and only the Court can make sure that it happens.

The Court also should require compliance by CFSA with statutorily-imposed duties such as providing case reports to the court and all counsel 10 days prior to hearings. Finally, the Court should never accept as part of the ordinary course of business the non-appearance at a hearing of a social worker.

#### CONCLUSION

The Transition Plan is an excellent beginning and reflects what we perceive at The Children's Law Center as the Court's genuine commitment to providing the best possible protections for the children in its care. The Court must follow through by implementing the Plan expeditiously. And the Court must do what already is within its power: ensure that the lawyers and the Child and Family Services Agency help the Court do its work.

The child welfare system is like a three-legged stool—the court, the lawyers and social services are the three legs. No matter how strong we make the court leg, the stool will fall down if the other two legs are broken. Without good lawyers and an effective Child and Family Services Agency, the court cannot do its job.

The changes occasioned by the Family Court Act are enormous; implementation of the Act's mandates will require ongoing support by all stakeholders and policymakers here on Capitol Hill. I urge this Committee to provide the court with the resources it needs to implement the Act and to give our most vulnerable citizens a chance to be raised in healthy, loving families and to become productive members of our community.

We must all be vigilant in ensuring that our ultimate focus remains the best interests of each individual child. New organizational charts and creative redistribution of responsibility are not enough; we need new practices and renewed energy to safely, humanely, and responsively provide every child with the benefits of a permanent home.

Senator LANDRIEU. Do you have specific suggestions about training that is being conducted somewhere in the country that would be helpful, or should we establish our own training program?

Mr. FRAIDIN. Well, one example that I am aware of is that in Chicago, the court closes down one afternoon every month and specifically—it is specifically devoted to allow lawyers to be trained.

I know that the plan itself calls for regular, I believe, quarterly training of the judges.

Senator LANDRIEU. Yes.

Mr. FRAIDIN. And I am very supportive of that. And the magistrate judges are all getting 3 weeks of intensive training before they start. So we think that they have—that the court has paid appropriate attention to that issue. But as you have said, best practices from around the country certainly can be helpful.

Senator LANDRIEU. Well, I would like to—we just had a vote called. I am going to ask Senator DeWine—

Senator DEWINE. I will go first.

Senator LANDRIEU [continuing]. If he can go vote and then come back, so we can keep the hearing going. And when he comes back, then I will go and vote. And we will try to keep this hearing going until 11:30—okay.

Well, I would like the courts to take that suggestion under consideration actually, you know, a monthly, at least within the first year to kind of, you know, mandatory training, sort of built-in service time, the same way that teachers in a school will go into an in-service training day as an opportunity. I think that is a very good suggestion.

And it leads me to my second question to the judge about the plan. There was a requirement of the new magistrates for 3 weeks of training. There is a certification for the new judges, but of the 12 judges that volunteered, there does not seem to be, and GAO raised this, any certification of training. Are we just assuming, because they volunteered they want to do it and they are qualified, or what assumptions have we made?

Judge SATTERFIELD. No. Maybe we should not have assumed, because we did not put it in our plan, but the assumption, I guess, we made is that we are judges and we follow your law. We would not have put them in the court if they were not, in our view, qualified—or willing to serve, because that is what the law says. Every one of those judges that have volunteered—

Senator LANDRIEU. The current judges will meet the qualifications?

Judge SATTERFIELD [continuing]. Meet the qualifications and have come forward because they wanted to be a part of this process and knew the process of reform that we are going through with the court.

So they are very willing. They meet the qualifications either through training or experience or both, and they are continuing to receive the training as we go through the course of this year.

So they meet the qualifications. We did not include that in there. They have indicated their willingness to stay the required term or more and do ongoing training.

Senator LANDRIEU. Deborah Luxenberg, let me ask you and then Jacqueline Dolan, we will come back to some of the other panelists, but any comments about the organization, the time frame, the universe, the training, the staffing that you would just briefly like to make on what you have heard or what you could suggest?

**STATEMENT OF DEBORAH LUXENBERG, CHAIR, CHILDREN IN THE COURTS COMMITTEE, COUNCIL ON COURT EXCELLENCE**

Ms. LUXENBERG. Thank you, Chairwoman Landrieu. First of all, before making comments about some of those issues—

Senator LANDRIEU. Speak into the mike, if you would.

Ms. LUXENBERG [continuing]. I do have to—now, I really spoke into the mike. I really do want to commend the court under the leadership of Chief Judge King. I think they have done a really thoughtful job, a really admirable job. And one thing that we have all been incredibly heartened and encouraged by is the nature of the collaborative effort; that the court has involved not only other agencies that they need to work with, but the whole legal commu-

nity and universe of this community, that are concerned about children and families.

Now, there is one issue that the court acknowledged itself in the plan, in volume one of the plan, which is what we primarily been focusing on that they are still working on, and that is the issue of staffing. And it—and the GAO has also mentioned that the particular numbers of personnel that are needed have not been identified.

Now, the staffing is critical, not only to the time lines that we are talking about here, but to the whole process. And the staffing issue is one that is critical; but everybody knows that. And the court staff have been doing an excellent job within the constraints that they have had.

Alone in the domestic relations division of the court, the clerk, Paul Trudeau, is just a fabulous person, very energetic, and doing the best job he can possibly do. He has 11 people down from 20. And this is under the old organization of the court.

We all feel that it is really critical to have the same new energetic look at the clerk's office and the staffing office so that that can be given the same new look and new view. And we would really recommend and—"request," I guess, is the better word—that the Congress consider appropriating additional funds to the court so that they can really undertake a systematic approach in looking and doing a creative look at the clerk's office; because that clerk's office across the board is the backbone of this system.

And if the judges all are doing the great job that they are going to be doing with the teams and the cases, if the court notices do not go out on time, the court orders and the files disappear because people are increasingly faced with more complex situations when they are trying to coordinate all of these cases in a way so that we really do get to the one-judge/one-family concept, they need the support of a really good clerk's office. And I think they need the assistance to be able to complete that.

They have recognized it. They have identified that is something that they are working on. And I know that the court feels very strongly about that as well.

[The statement follows:]

#### PREPARED STATEMENT OF DEBORAH LUXENBERG

Good morning, Chairwoman Landrieu, Senator DeWine, and other members of the U.S. Senate Appropriations Subcommittee on the District of Columbia. Thank you for inviting the Council for Court Excellence to provide testimony at today's hearing on the subject of review of the Transition Plan of the District of Columbia Family Court. My name is Deborah Luxenberg, and I serve as Chair of the Council for Court Excellence's Children in the Courts Committee. I have been a family law practitioner in the DC Superior Court for more than 25 years.

I am honored to present the views of the Council for Court Excellence to this Committee. Our organization has been engaged over the past 2 years in facilitating the joint work by the city's public officials to reform the child welfare system, and specifically to meet the challenge of implementing the Adoption and Safe Families Act of 1997. We believe that work and our familiarity with the legislative history of the Family Court Act of 2001 give us a good perspective on the issues before this Committee.

For the record, let me summarize the mission of the Council for Court Excellence. The Council for Court Excellence is a District of Columbia-based non-partisan, non-profit civic organization that works to improve the administration of justice in the local and federal courts and related agencies in the Washington, D.C. area. Since 1982, the Council for Court Excellence has been a unique resource for our commu-



nity, bringing together members of the civic, legal, business, and judicial communities to work jointly to improve the administration of justice. We have worked closely with Senate and House DC Subcommittees in the past on such issues as the DC Jury System Act of 1986 (setting the One Day/One Trial term of jury service), the DC Criminal Justice Coordinating Council and, throughout the past year, the development of the DC Family Court Act of 2001.

No judicial member of the Council for Court Excellence participated in or contributed to the formulation of our testimony here today.

Today's hearing focuses on the DC Superior Court's Family Court Transition Plan, submitted for Congressional review on April 5, 2002, as required by section 3 of the Family Court Act. My testimony refers only to Volume I of that Plan, on Case Management. The Council for Court Excellence has not yet seen Volumes II and III, on information technology and space and facilities, and thus we cannot comment on them at this time.

In summary and with the qualification just noted, we believe that the DC Superior Court has done an excellent job preparing this case management plan, and that the plan provides a clear initial blueprint for implementation of the new Family Court. We commend the Court both for the inclusive, collaborative process they followed in developing the plan and for the quality of the resulting document. The case management plan, in our opinion, fully embraces both the letter and the spirit of the Family Court Act of 2001. Once fully implemented, this plan should yield better, more consistent, and more expeditious service to everyone who has business before the Family Court, especially the city's abused and neglected children. We support the prompt approval of this case management plan and authorization to start its implementation.

The DC Family Court Act of 2001 called for dramatic changes in structure and policy in the DC Superior Court's Family Court, with a special emphasis on the handling of child abuse and neglect cases. In particular, four key policy cornerstones were specified, all drawn from tested "best practices" in various family courts around the country. First, only judges who volunteered for substantial terms of service in the Family Court could serve. Second, all judicial officers serving in the Family Court must have prior experience in family law and must receive regular training during their service. Third, all family law cases must be handled from start to finish by judicial officers assigned to the Family Court. Fourth, the Family Court must assign and manage cases by the one judge/one family approach, in which one judicial officer hears all types of family law matters relating to any member of the same family. The Act provides an 18-month phase-in period after submission of the plan under review today to complete the implementation of these many changes.

In our opinion, both the Superior Court's actions to date in assigning judges and selecting magistrate judges for the Family Court, and the Court's case management and training plans laid out in the document under review today match the Act's policy requirements. Furthermore, the Court proposes to complete the phase-in of all case management changes several months before the October 2003 18-month implementation deadline. For all of this, we applaud the Court, and especially Chief Judge Rufus King, Family Court Presiding Judge Lee Satterfield, and Family Court Deputy Presiding Judge Anita Josey-Herring, for their strong leadership and commitment to the success of this planning process.

The Court has made an excellent start and is building momentum, which we believe should be supported by the Congress. But it is important to realize that many details remain to be worked out and there is a long way to go to capitalize on the promise of the changes already specified. Three areas are of particular interest to the Council for Court Excellence, based on our work over the past 2 years. First, calendaring practices of the judicial officers. Second, support staffing and business process re-engineering. Third, training and cross-training programs.

When we study the Court's transition plan, we and others want to know more detail about how the Family Court plans to manage the judicial officers' mixed-caseload calendars. While Congress is primarily interested in child abuse and neglect cases, those cases represent only 22 percent of the Family Court caseload, according to the Court's transition plan, and thus many court users are focused on other portions of the Family Court's overall caseload. The detail of the Family Court's calendaring, or case scheduling, practices will determine whether service improves or declines for the 78 percent of the Family Court caseload which is not child abuse and neglect.

As to the child abuse and neglect system, the court's calendaring practices will also determine how frequently Child and Family Services Agency (CFSA) social workers and Office of Corporation Counsel (OCC) attorneys will need to be in each of the 25 courtrooms (15 judges and 10 magistrate judges) handling child abuse and neglect cases. The way the Court organizes for Family Court judicial hearings has

a great impact on the resource needs and management practices of CFSA and OCC, and on how much time CFSA social workers will have available for their primary responsibility: to provide direct services to our city's children and families.

Make no mistake, Madame Chair, the DC child welfare system will not improve unless the plans and reforms of the Court, CFSA, and OCC are fully synchronized, and unless the performance of all participants in the DC child welfare system improves. Over the past year, we at the Council for Court Excellence have been eyewitnesses to a new positive spirit of genuinely shared responsibility among the leaders of the Family Court and DC executive branch agencies. This makes us quite hopeful that, over the next 14 months, the remaining important details of calendaring DC Family Courtrooms, reducing the number of courtrooms hearing abuse and neglect cases from 60 to less than 25, and matching judicial teams with social worker and attorney teams will be worked out in a manner and on a timetable which meets each agency's needs and results in improved productivity and service to city residents. We urge the Congress and this Committee to review progress on this matter periodically over the next 18 months of implementation, and we pledge that, to the best of our ability, the Council for Court Excellence will do likewise.

Our second area of remaining concern is Family Court support staffing and business process re-engineering. The Court's transition plan emphasizes the organization and assignment of the caseload among the judicial officers, with little description of the Family Court support staffing infrastructure and case management processes. This initial focus is understandable, given both the 90-day deadline and the plan topics mandated in the statute. Yet lawyers, other court users, and concerned civic groups like the Council for Court Excellence have a strong interest in the staffing and processing topics, and we read the plan to understand how it will work "on the ground" on a daily basis.

The "quality of life" for DC Family Court users (and presumably for judicial officers as well) is affected as much by what happens outside the courtroom as by what happens within it. The plan (at page 35) simply lists the various job titles within the Family Court, with brief descriptions of general functions, and notes: "The Court is preparing an estimate of the number of different types of personnel, pending the completion of a staffing study now in progress." We are unaware if that staffing study includes a full examination of the business processes followed within the Family Court. If it does not, we would urge the Court and Congress to seek such an examination to determine if re-engineering those "back-office" Family Court Clerk's Office processes could yield efficiencies, economies of scale, improved morale and job satisfaction, and better service to the public and court users alike. We offer any appropriate assistance from the Council for Court Excellence to ensure that such a management study can take place promptly. And we urge that the Court offer a timetable for completing the back-office planning process.

Our third and final topic of concern is training and cross-training. We commend the Court for laying out in its transition plan an ambitious agenda of training topics and training initiatives. The Court plans quarterly in-house training for Family Court judicial officers and staff. Court-appointed attorneys who practice in the Family Court will also be required to participate in periodic training. In addition, cross-training will be planned and presented for Court and stakeholder personnel. Many details and logistics must be worked out to maximize the efficiency and the effectiveness of all of this training, including how it will all be jointly scheduled well in advance to accommodate all participants' planning. We suggest this as a further topic for Congress and this Committee to review periodically over the next 18 months of implementation. The Council for Court Excellence has already offered to provide any appropriate help to the Court and other Child Welfare Leadership Team stakeholders to plan these training initiatives and to carry out the plans.

We thank this Subcommittee for your policy and fiscal leadership of the effort to create a state-of-the-art Family Court in the DC Superior Court, we thank the Court for the promising plans it has laid out for itself, and we look forward to working with the Court and you over the next several years to bring the planned reforms to fruition. I would be happy to answer your questions at this time.

Senator LANDRIEU. Well, this committee would be very inclined to do that if we could see a specific plan from you and your organization and the courts in writing about the specific recommendations of upgrades, personnel, job qualifications, slots, and money associated. And if you all have that in the works, get it to us. If it is part of the plan, we will receive it today. And if not, you can get it to us in the future.

Judge KING. We have made that a—

Senator LANDRIEU. A part of the plan?

Judge KING. We are doing a staffing study now, which will give us more articulation, but we have made the critical shortage in support staff a part of our presentation in the fiscal year 2003 budget presentation.

This is well known to us and—it is an urgent need for the court. We need this—we need the staff filled out.

Senator LANDRIEU. Let me just ask the staff something.

Okay. We have in the file, as you can see, a request for a \$6 million increase, in addition to the \$6 million current operating costs budget. We need some more details of how that would be utilized.

Judge KING. We would be happy to provide that.

Senator LANDRIEU. Specifically how many positions, job descriptions, you know, responsibilities, and it would be helpful if it could come jointly.

Judge SATTERFIELD. And I think what you are saying is that—a number of things that was being said, we are implementing a re-engineering process in addition to that work study. The things we are trying to do, including the intakes, the essential intake center for the clerk's office and the new case management, as well as our IJIS computer system, are going to require that we have those type of processes in place in order to accomplish what we are hearing here today.

Senator LANDRIEU. And, Ms. Luxenberg, you had a question about the mixed case loads for judges and you said supporting staff, business management training and cross-training. Could you make just brief comments about that?

And then, Ms. Dolan, I am going to ask you to comment.

And then I am going to go vote and come back.

Ms. LUXENBERG. All right. And there is one other thing I am going to try to jam in there as well, but the mixed case load, the issue of the mixed case load, you actually alluded to in the beginning, and that is that we are talking about not just abuse and neglect cases, but the divorce and custody and support cases, and how all of those things are going to work and jell together.

It is going to be a complicated process and needs to be given more look, which I know the court is working on. But we want to just reiterate that—that focus needs to be there, that we have been focusing a lot on the abuse and neglect situation, but there are a lot of other cases.

Senator LANDRIEU. Okay. Is there any court in the country that organizes a family's cases around a serious case of child abuse and neglect, where the child becomes the focal point of the case, so the family's cases go before the judge on the child abuse and neglect case?

If, in fact, that child is being beaten every night—his parents are in the middle of the divorce, and there is also an older brother in the family who has problems with drugs and the law, is there some way that the system could be that the whole family situation goes to the judge that is trying to protect that child, so that protecting the child becomes the focus? And then the same judge just deals with the divorce. They deal with the older child's problem and they save this child from being beaten to death. Is that possible?

Ms. LUXENBERG. I believe that the assistant director of the Council for Court Excellence is aware of the plan.

Senator LANDRIEU. Is that the plan? Judge Satterfield or Chief Judge, is that the plan?

Judge SATTERFIELD. It is child-focused. And that is why we start out with the one-judge/one-family in the child welfare cases.

Senator LANDRIEU. And that is how it will work?

Judge SATTERFIELD. Except for the criminal cases that are outside of Family Court; they will not come in. But when you are talking about the abuse case, if another case comes in Family Court that is related, such as the custody or the divorce of the parents or something to that effect, we are focusing on the child's case and bringing that family's case in, if it is going to help us resolve the child's case, expedite permanency, not delay permanency, and keep the child safe.

So we have a child focus, one-judge/one-family plan that we plan to implement.

Senator LANDRIEU. Okay. But to be very clear, since domestic abuse is also a crime and not just child abuse, what you just said is the domestic abuse, if it is a crime could be before a different judge than the child who is being abused. If the mother is also being abused, she is before one judge; the child is before another judge. And yet again, the older teenage boy who is having problems, legal problems, is yet before another judge. Is that possible under the plan?

Judge SATTERFIELD. Well, if it is a teenage boy, that boy—child's case can come, because it would be a juvenile case within our jurisdiction. If it is an adult—

Senator LANDRIEU. To the same judge—

Judge SATTERFIELD. To the same judge.

Senator LANDRIEU [continuing]. That the younger child is with?

Judge SATTERFIELD. Yes. If there is an adult case, it is criminal charges, and that is not within the Family Court.

Senator LANDRIEU. I realize that.

Judge SATTERFIELD. That is what I am saying. That is not within the Family Court jurisdiction, but—and so that case, although we are aware of it and we can consult and find out where it is.

Senator LANDRIEU. That is fine. But under the juvenile—you could pull in the mother who is being abused to that judge—

Judge SATTERFIELD. Yes.

Senator LANDRIEU [continuing]. The child, the other juvenile that is having problems—

Judge SATTERFIELD. Yes.

Senator LANDRIEU [continuing]. And the little child that is getting beaten up?

Judge SATTERFIELD. Yes.

Senator LANDRIEU. All before one judge?

Judge SATTERFIELD. Yes.

Senator LANDRIEU. Okay. That is good. All right.

Okay. I would like to turn to Ms. Dolan for comments.

**STATEMENT OF JACQUELINE DOLAN, CALIFORNIA PARTNERSHIP  
FOR CHILDREN**

Ms. DOLAN. You know, I would just like to address the issue that you were talking about, the family conferencing. California has been doing—

Senator LANDRIEU. Go ahead.

Ms. DOLAN [continuing]. Has been doing some of that family conferencing models. It was taken from the New Zealand model. I do not know if you are familiar with that, but Judge Edwards and I gave Judge King that, his information, has been doing the family conferencing in Santa Clara County.

We are doing it in part of our county. And we are struggling to—because it is difficult for us to get the family together in—

Senator LANDRIEU. So, tell me a little about this. How long have you been doing family conferences? How many sort of families? Just give us a little flavor for the process.

Ms. DOLAN. We are on the fringes.

Senator LANDRIEU. Fringes of it, okay.

Ms. DOLAN. We are—if you talk to some people, they will say it is implemented.

Senator LANDRIEU. Right.

Ms. DOLAN. You know, the person you can get some information from is The Annie Casey Foundation in Seattle—

Senator LANDRIEU. Okay.

Ms. DOLAN [continuing]. Because they are—

Senator LANDRIEU. Promoting it?

Ms. DOLAN. They are funding a number of the startups.

Senator LANDRIEU. Because I would be willing—

Ms. DOLAN. And they are also studying the outcomes from it.

Senator LANDRIEU. I would be willing to help fund for you all sort of a traditional mediation model and the sort of non-traditional pushing-the-envelope mediation model, and to test for you, you know, which one—

Ms. DOLAN. I think—

Senator LANDRIEU [continuing]. Would work the best; or maybe you could use both of them, or maybe you will decide after trying for a year that, you know, one is too complicated and we would just as soon stick with kind of the regular mediation.

So if you all want to discuss that and present that in your budget, I would be happy to, because I think it is very important.

Ms. DOLAN. I would be real interested to see what—we have family preservation services, and I would be really interested to see how family preservation and family conferencing could mold itself together.

[The statement follows:]

PREPARED STATEMENT OF JACQUELINE DOLAN

CHILD SENSITIVE COURTS

My name is Jacqueline Dolan and I live in Pasadena, California. I am an advocate for children who have been neglected and/or abused by the adults who are either unable or unwilling to care for them. I currently work with the California Partnership for Children based in Sacramento, California. I welcome this invitation to speak before you about the issue of Child Sensitive Courts.

For a moment, that for you will go away, I would like you to imagine that you are a child whose parents having been drinking or using drugs and fighting all

night. A neighbor who has heard this many times before becomes fearful for you and your four siblings. She calls the authorities and soon there after, the police are at your home and you are taken away. Now you know that police take only the “bad guys” away. In the dark of night, with the feeling that you have done something very wrong, you are placed in the home of a stranger. There is room in that home for just you and you have no idea where your four siblings have gone. Within 72 hours you will be picked up by a transportation worker, another stranger from the Children’s Services Office, and escorted to the court where decisions will be made that will change your life forever.

Just picture yourself in a foreboding Court building and now a court room filled with many more strangers who will speak in legalese—the minor this, and the minor that—hereinafter referred to as—according to W&I Section . . . . You will meet your Social Worker and if she has time, she might explain what has happened as you are returned to the emergency shelter home. You are no longer in the same school, you have no family and no friends, and you have no idea how your brother and sisters are faring.

Now imagine the difference, instead of a foreboding building, you are taken to a Children’s Courthouse that is clean and freshly painted. In the entry way there are drawings done by children, there are seats just your size. In the waiting area there are games to play, books to read, art projects to take your mind off the unknown. The people who work in these nice surroundings are pleasant and caring, they are concerned and ask if they can answer any questions you might have. Inside the court room the Judges’ bench is elevated only slightly, so as not to be overpowering to the child but enough to indicate authority to the offending adults. The pictures on the walls are of interest to and about children, creating a warm and safe feeling. Once the case is heard the judge invites the child to choose from an array of stuffed animals, one to take home.

We can stop imaging now! The picture should be very clear how the beginning of protecting these children whose cases must come to court, get off to a much better start in a child sensitive environment. A place where the caring for those children, who have had no one else to care for them, begins.

We advocates in Los Angeles are very proud of our Edelman Children’s Court, named after a now retired member of the Los Angeles County Board of Supervisors, who took the time to listen, and then to provide the leadership to see that this children’s courthouse was built with all the features that provide the children with a sense of safety. To see that it also enabled, those who need to process the children’s cases, with adequate space: The Department of Children and Family Services; the Court Appointed Special Advocates (CASA) office, known in Los Angeles as The Child Advocates Office; The Los Angeles Unified School District; The County Counsel; The Dependency Court Legal Services; The Department of Mental Health, Free Arts for Abused Children; Info Line (provides referral) and several community based organizations.

In preparation for this testimony, I spoke with the Presiding Judge of the Juvenile Court, the Honorable Michael Nash. He stated that the recurring theme is to minimize the child’s anxiety by providing many diversions. Because the surroundings are pleasant and the space is adequate the staff function more effectively.

The Honorable Judge Paul Boland who was the Presiding Judge who served on the design committee for the Children’s Courthouse and is now serving as a California Appellate Court Judge, recently took 50 research attorney’s to view the Dependency Court process. Judge Boland reported that these attorneys were in awe of the process they observed. The judge stated that a child sensitive court can accomplish what law, court rules, and protocols are not able to accomplish by themselves. This change in environment for all concerned, changes the culture of what courts decide for society’s most serious and far reaching cases. Judge Boland continued by observing that court personnel are more courteous and lawyers less adversarial and children are not as intimidated and therefore feel comfortable. Parents are respected and offered dignity and are therefore more motivated to follow and participate in needed services.

This exemplary court house came about because many people showed deep concerns for the way we were treating the most needy of our society. Funding for the building is the result of a unique partnership effort that included the Los Angeles County Board of Supervisors, the Los Angeles Superior Court, the state of California, the business community, local community organizations and the academic world.

If this can happen in a large, sprawling and diverse community such as Los Angeles County, it can happen anywhere. All that is needed is the will to improve the lives of our children, and the commitment to leave no child behind.

Senator LANDRIEU. Yes.

Judge KING. Let me just be very clear.

Senator LANDRIEU. Go ahead.

Judge KING. I think I heard you say you would be willing to fund the——

Senator LANDRIEU. Yes, I did.

See, he always hears these things. I mean, really——

Judge KING. I am ready. I am ready to start designing that program next week.

Senator LANDRIEU. You mean this afternoon.

Judge KING. Get started, yes.

Senator LANDRIEU. All right.

Judge SATTERFIELD. You know, I have spoken to Judge Edwards in San Jose and a number of other judges because we are a part of the Model Court Initiative sponsored by the National Council of Juvenile and Family Court Judges. So I am familiar with what they are trying to do there, in terms of family counseling in his jurisdiction.

Ms. DOLAN. I think it is probably more easily done in a smaller community than it is in a sprawling area like Los Angeles or Chicago or New York.

Senator LANDRIEU. Okay.

Mr. FRAIDIN. You know, and I would just say that I am aware that the Child and Family Services Agency already is trying to do that on some limited scale. Having participated in one such conference——

Senator LANDRIEU. Yes.

Mr. FRAIDIN [continuing]. I can say that it was successful and it really did get a very large extended family together to address issues that I think had been lingering for some time. And they were all able to come up with a resolution that was——

Senator LANDRIEU. And just for anecdotal purposes, what was the outcome of that particular conference that you experienced?

Mr. FRAIDIN. The outcome of that family case conference was reunification, with——

Senator LANDRIEU. With the biological——

Mr. FRAIDIN. Of the child with the biological mother.

Senator LANDRIEU [continuing]. Mother. Okay.

Mr. FRAIDIN. That is correct.

Senator LANDRIEU. All right. I am going to have to leave to go vote in a minute. I am waiting for Senator DeWine.

But I would like to move a line of questioning about the physical renovations of this court. And I, unfortunately, have not toured the site, but I have been given this diagram of several court buildings. And the idea that the Family Court would be in this, is it the Moultrie Building?

Judge KING. Moultrie.

Judge SATTERFIELD. Moultrie.

Senator LANDRIEU. Moultrie Building.

Judge SATTERFIELD. The building you attended during the adoption ceremony.

Senator LANDRIEU. Oh, good. Okay. Well, I have been there——

Judge SATTERFIELD. Yes.

Senator LANDRIEU [continuing]. To that atrium-type——

Judge KING. There is a small diagram, but if I might stand and kind of walk you through that a little bit?

Senator LANDRIEU. Okay. Oh, we're holding—all right, Judge. You know, what, Judge? I am going to have to go vote—

Judge KING. All right.

Senator LANDRIEU [continuing]. Because they are holding the vote, we will have to take a 2-minute break.

As soon as Senator DeWine comes back, he can resume questions.

Judge KING. At your pleasure, I would be happy to walk you through this.

Senator LANDRIEU. All right.

Senator DEWINE. She will be right back.

I just have several additional questions and if it works out right, I will be done with my questions by the time Senator Landrieu gets back.

Let me direct the questions to the judges. The plan is really—seems to me based on a number of things. Well, three of the things it is based on is a computer system, the three additional judges, and having the facility that Senator Landrieu was starting to ask you about a moment ago.

And I guess I would like to go through and ask how realistic it is that each one of these will be on line when you believe they will be, because it seems to me the plan is pretty much based on that. And let me start by asking GAO what your assessment is of the computer system, the plan, where we—where they are going in. Enlighten us please.

Ms. ASHBY. Well, I do not know how much I can enlighten you, because there are still a number of unknowns. As I said in my short statement and as we elaborate on in our official statement for the record, we did review the system and the IJIS is really a D.C. Courts' system of which part of it will serve the purposes of the Family Court, the first phase of the system.

In our initial review—in our review that culminated in our report last February—we found basically a lack of discipline in terms of determining requirements, making sure that user needs are actually going to be accommodated, that life cycle management, which is so important to any systems development project, actually is used.

It is time consuming, but the time is put up front as opposed to later when you try to implement the system and see that it does not work or does not meet needs.

The courts agreed with our recommendations and agreed to implement them, and we believe we are in the process of implementing them. Part of that implementation is to come up with a new statement of requirements. And they are in the process of doing that. So we, of course, have not seen the result.

So we would hope that there would be more specificity, more concern about users needs, more inclusion of users needs, more discipline, the life-cycle management steps will be adhered to, but we have not seen the result of that. So not having seen that, we cannot really comment on the scheduling.

Senator DEWINE. Judge Satterfield, Judge King.



Judge KING. We have worked closely with GAO from the referral end. I think it was originally referred in May of last year. And then in November, we came up with a set of requirements that GAO felt we needed to address. We have been working as closely and as vigorously as we can with GAO.

Mr. Ken Foor, our IT director, is present in the room with us, today. We have tried to meet their—

Senator DEWINE. Who is present? I am sorry.

Judge KING. Our information technology director, who is responsible for the effort.

Senator DEWINE. He is welcome—you are welcome to bring him up here, if you want to do that.

Judge KING. I am happy to. I am not—

Mr. FOOR. Good morning.

Senator DEWINE. Good morning. You are welcome to join us. We—it looks like we have plenty of room still left.

Judge KING. Right. All right. Join the fun.

Senator DEWINE. And for the record, would you state your name?

Mr. FOOR. Yes. My name is Kenneth Foor. I am the information technology director for the court.

Senator DEWINE. And, again, I—I guess rephrase or restate the question. You have had the—you were in the room and you had the opportunity to hear the comments that were made by the representative of GAO; is that correct?

Mr. FOOR. Yes, sir. That is correct.

Senator DEWINE. And you—now, you all can respond however you wish.

Judge KING. All right. Well, I wanted to say is simply that—

Senator DEWINE. Right, sure.

Judge KING [continuing]. At all times from two-and-a-half years ago, we have tried to work with consultants. We had one disappointing situation with a consultant that did not give us the product we had hoped for.

We have surmounted that. We have gone around it now. We are moving forward. And I am going to let Mr. Foor paint in some of the details of our effort to prosecute that conversion expeditiously, but at the same time staying in step with GAO, so that we—and I think GAO made the very apt comment, in this area more than any of the other areas you can do it right the first time or you can do it faster and maybe not get it right and then you go into many multiples of the cost of doing it as opposed to doing it right the first time.

But I am going to let Mr. Foor paint in some of the details.

Mr. FOOR. Some of the issues were identified as the specificity of our requirements. What we have done is we have brought in a team of subject matter experts and actually sat down and identified all the stakeholders, not only within the court, but externally as well.

And we have conducted extensive interviews. And they will be completed by the end of this week.

The documentation for those interviews will actually be placed into some software tools, which actually relate the requirements, the legalities back with the specifications themselves. That is the—

that product will produce our request for proposals for a computerized system.

GAO also recommended that we do a request for information from existing vendors. Because we personally believe that there is a commercial off-the-shelf system out there that will meet our needs, especially in the core requirements area.

This is especially important, because along with the commercial off-the-shelf system, it minimizes the amount of modifications or customization that will be required. It is already existing and running in other court systems.

Additionally, in our budget, we plan for approximately \$800,000 worth of training. Training is a very critical component dealing with any kind of computer system or a change in culture.

Right now, we are very manually driven by paper, by case jackets with some automation in terms of being able to generate calendars, schedules, notices, and reports.

Our transition.—We actually have, in addition to the IJIS system, we have developed transitional software to do the ASFA reporting and the other types of monitoring that will be required until the IJIS system is actually available.

Senator DEWINE. Well, given all that, when do you feel the system will be operable?

Mr. FOOR. Making the assumptions that we put into our plan, we are looking at September of 2003 to be fully operational.

Now, part of the plan also tasks, or looks at the possibility of implementing abuse and neglect. Part of the issue that we have and difficulty—one of our challenges is running multiple systems at a time. That is why we are really planning a transitional system, and then a cut-over to the integrated system.

Senator DEWINE. Ms. Ashby, do you want to comment at all on that on the response that you just heard? I do not know that—I do not know that you do. I just want to give you the opportunity if you do. We are just trying to be enlightened and sometimes I find the best way to be enlightened is to go back and forth.

Ms. ASHBY. I will just reiterate what we said in our statement and what I said in my opening remarks, running a dual system is expensive. And we do not know very much about the software that you want to use as your second system.

We really were not clear whether that was really some type of new system that should run parallel to IJIS, or whether it was simply combining the manual checking of the 18 legacy systems that are currently there.

We were not clear. The plan was not clear.

Senator DEWINE. Is it clear now?

Ms. ASHBY. It sounds like you have actually come up with something in addition to what is in the plan, that there is some software that you think you can use along with IJIS.

Senator DEWINE. Sure, go ahead.

Judge KING. If I can just jump in with the—where we want to end up is one unified system that runs the entire court system.

Senator DEWINE. Sure. Sure.

Judge KING. We have already taken the steps of, for example, locking in the Oracle platform, which is the almost universal standard. It is also the standard that the rest of the city is using.

So we are already doing what we can to make sure that what we build out for the court, first of all, fully serves the court's needs, but also leaves us in a position to facilitate, to the maximum degree possible, connecting up with other city users and city agencies. That is the charter that Mr. Foor has.

Senator DEWINE. Anything to add?

Mr. FOOR. Yes. We are not actually dealing here with 18 systems. Predominantly we are dealing with three systems. And we are, in fact, modifying the three existing systems so that they support our transition program.

And it is from that modification of the existing transition program that will migrate into the final system, that will integrate fully with the other court operations; criminal, civil and so forth.

Senator DEWINE. Well, you know, the reason we are spending some time talking about this, obviously this is a crucial issue and it is an integral part of—a very important part of your plan. You know, one of the things, just to take an example, one of the things that—to follow the theory of the one child in one right—with one judge idea, is the ability to identify the siblings of a child.

Now do you have the ability to identify the siblings of a child? Now do you have the ability to—you cannot do that now?

Mr. FOOR. That is correct, we cannot do it now.

Senator DEWINE. And is—

Mr. FOOR. We are in the process of working to identify common identifiers and possibly cross-referencing so that, in fact, that can happen.

Senator DEWINE. And you think you can do that by 2003, September, is that—

Mr. FOOR. That is correct.

Senator DEWINE [continuing]. That is the idea? Judge.

Judge KING. That is through the technology, though. We are working on doing it with labor manually to—

Senator DEWINE. Right. Right.

Judge KING. Because that is so important. So we are moving forward, even though the technology that is going to help us do it better is not there yet.

Senator DEWINE. Let me turn, if I could, to the second component of the—the piece. The first one was the computer system that I questioned and candidly, you know, I hope you are right. The GAO report is troubling about where we are on that.

But let me turn to the—

Judge KING. May I just add—

Senator DEWINE. Sure.

Judge KING [continuing]. Add one thing?

Senator DEWINE. Sure.

Judge KING. There is one thing no matter how accountable we want to be and intend to be, we cannot avoid some risk in the procurement process. If we do not get the right responses, or that process takes a little more time, it is so imperative that that be done right and that we do it carefully that we have now planned to accomplish that within the 18 months.

But are there any guarantees in life? No. That is going to depend. We will do the best we can to pursue it vigorously, but we cannot guarantee that there will not be glitches in procurement.

Senator LANDRIEU. Well, let me follow up on that, before Senator DeWine gets onto another subject. We have got to wrap this up in the next 10 or 15 minutes at the latest.

But I want to just go over just a couple of things to be clear that we are trying to design this IJIS system that is a district-wide, city-wide, technology-based system, that all city agencies—all agencies including the court at every level try to interface. Is that the general thrust?

Judge KING. If I can—

Senator LANDRIEU. No or yes?

Judge KING. Can I clarify that?

Senator LANDRIEU. I mean, I hear yes from here and no from the audience. So—

Judge KING. Can I clarify that?

Senator DEWINE. It is more than no from the audience. There is groaning out there.

Senator LANDRIEU. Groaning, yes.

Judge SATTERFIELD. They want us to get it right.

Senator LANDRIEU. Okay. What is it?

Judge KING. Can I clarify that? We obviously do not—we truly do not have responsibility for the other city computer systems. We just do not have that authority.

Senator LANDRIEU. Correct.

Judge KING. What we are doing is we are designing first a system which will fully support what the court needs and particularly, initially, the Family Court. That has to be our priority that we are responsible for.

It needs to identify children. It needs to tell us where they are. It needs to tell us what related cases there are. It needs to be instantly and easily accessible by people who are non-computer sophisticated. That is what we are going to start with.

Senator LANDRIEU. Yes.

Judge KING. The rest of the city is working on various pieces of their system of information. So what we can do to make sure—the piece that we can control is that we will design our system so that it is as close to a universal connector as we can get, so that when corporation counsel is ready, we are ready to go.

Senator LANDRIEU. I am greatly relieved.

Judge KING. When CFSÁ is along, we are ready to connect up, and they will not have a large amount of difficulty.

Senator LANDRIEU. I am greatly relieved to hear that.

Judge KING. We cannot—if we design—if we wait until the entire city has designed a system, we are going to be having this conversation in 2010.

Senator LANDRIEU. Yes.

Judge KING. We need to move ahead and design the court system and build it out—

Senator LANDRIEU. Okay.

Judge KING. But what we will commit to you is that we will do that in a fashion which will—to the maximum extent that we are capable, it will facilitate the city connecting with us and having the right exchange of information.

Senator LANDRIEU. That is very good. My final question is: have we identified another entity existing in the United States of Amer-

ica that has successfully designed such a program, that we have looked at, and that we are confident that, if we just did what they did, it would work?

Judge KING. We have done it here in—well, there are two pieces to that question. There are other computer systems that—and I think, I am going to let Ken tell you which—

Senator LANDRIEU. Which system—yes.

Judge KING [continuing]. In court—inside the court. But then I want to answer the city-wide part.

Senator LANDRIEU. But my question was specifically: Have you identified one other jurisdiction in the United States of America where this computer system is up, running, created, working, the judges are happy with it, so that we can just take that and make it happen in the District of Columbia?

Mr. FOOR. That is part of our criteria for actually going out for proposal. And, yes, we have identified four different computer systems—

Senator LANDRIEU. And what would those be?

Mr. FOOR [continuing]. That are potentially—

Senator LANDRIEU. What would those be if you can say what they are?

Mr. FOOR. I can tell you the vendors' names. I cannot tell you—

Senator LANDRIEU. Okay. What are their names?

Mr. FOOR [continuing]. What jurisdiction they are in.

Senator LANDRIEU. What are their names?

Mr. FOOR. ACS is one.

Senator LANDRIEU. Okay.

Mr. FOOR. Tyler Technologies is the second.

Senator LANDRIEU. All right.

Mr. FOOR. Maximus is the third. The fourth one does not come right off the top of my head.

Senator LANDRIEU. Okay. But you have four and I would like you tell those—you know, get that fourth one to GAO.

And they are going to identify for us where those systems are operating and set up in the country. If they are or not, because before we start, I just want to know that. Because it is a big difference.

If there is one already operating and it has already been done, it gives us a greater confidence it can be redone and we can put you on a shorter time frame.

If we are starting from scratch and developing it just on the basis of what vendors say they can do, then we are in a whole other ball game and, you know, I have been doing this for 25 years, and so has Senator DeWine.

Mr. FOOR. We also do have the jurisdictions those systems are running in.

Senator LANDRIEU. Okay.

Mr. FOOR. So I would be happy to share that.

Senator LANDRIEU. All right.

Senator, go ahead and I have some questions on physical facilities. Go ahead.

Senator DEWINE. And I will be brief. The plan calls for three additional judges.

Judge KING. Are we—is Mr. Foor finished or do you—

Senator LANDRIEU. Yes.

Senator DEWINE. Well, for now. He can go relax for now. Good luck. We will wish him luck.

Senator LANDRIEU. Yes.

Senator DEWINE. That we will do.

Three judges, how are we coming on that?

Judge KING. As you will notice from this schedule—or it is on the board, here.

Senator DEWINE. Right.

Judge KING. The appointment process begins when I make a request in September 2002. I make the request for the three additional judges.

The reason for that is that, right now, I already have fewer courtrooms than I have judges who need them and no chambers facilities. So, until we can—

Senator DEWINE. We cannot—cannot make the request and say, “Here is when we are going to need them”?

Judge KING. Well, I have already done that informally. But it—but there is a process that once they kick it in, there are some time deadlines they have to comply with. And it is typically 6 to 9 months.

So if I asked for them now, we would have judges at the end of the year with no place to go and no place to work.

Senator DEWINE. Do you have—how confident are you that that procedure will work if you make that work in the time that we need them?

Judge KING. I have good confidence, if we start in September, the likelihood of having them by this time of the year, or between now and the end of May next year, is very, very consistent with past experience.

Senator DEWINE. Do you want them all in court when?

Judge KING. By—

Judge SATTERFIELD. By June and July when we expect to have the partial build-out completed in the Moultrie building—

Judge KING. Right.

Judge SATTERFIELD [continuing]. So that we can house them and they can start hearing cases.

Senator DEWINE. But the—which brings me to my third question, which is the facility.

Judge KING. Yes.

Senator DEWINE. What assurance do we have that this is going to be on line? What impediments do you see?

Judge KING. Well—

Senator DEWINE. What are the road blocks?

Judge KING. There are two pieces of it. Obviously, our goal is to have a place that really is a substantial departure from what we have now. We want a facility that has meeting rooms and conference rooms and waiting rooms that are not intimidating to children.

Senator DEWINE. Sure.

Judge KING. We want the service resource center. There is a lot that we want to put into this.

Senator LANDRIEU. Judge King, can I ask you, if I could just have a minute to interrupt at this moment? Because Ms. Dolan has

come to testify specifically on this point about the kinds of child-friendly courtroom spaces and what they look like. And I would like to ask her, if she would, just for three or four minutes—

Ms. DOLAN. I am going to deter from my written statement—

Senator LANDRIEU. Okay. That would be fine. And just generally—

Ms. DOLAN [continuing]. And just address the issues that were raised here today.

Senator LANDRIEU [continuing]. So that we can come back and then ask questions about what the space requirements are. I know we do not have pictures, but kind of describe to us what it looks like.

Ms. DOLAN. There actually are some pictures in your—and some—you know, I was involved in getting the building designed—

Senator LANDRIEU. Yes.

Ms. DOLAN [continuing]. From an advocate and from a child's perspective. I am not an architect, nor a designer. But our courtrooms are warm and friendly and—

Senator LANDRIEU. All right.

Ms. DOLAN [continuing]. Just even approaching the building, we have the house effect that—from a child's drawing. And we used a consultant from Berkeley, California, who is mentioned in there, to add the child focus within our courthouse.

The seats are children-sized. The bathrooms are designed for families, so that there are changing tables, whatnot.

What you are holding up there is a meeting room where the children meet with their attorneys. In California, and especially in Los Angeles, all children come to court from 4 years of age and up, so that they have their opportunity to speak to the judge.

These courtrooms and—those pictures are of empty courtrooms when we first designed them. They are now filled with teddy bears and pictures of things that interest children.

And we have a shelter care area where the children wait that has games, pool, foosball. All of those were supplied by foundation money and monies raised by our Rotary five in Los Angeles. Over, oh, almost close to \$2 million now has been raised to keep the extra activities going.

The courthouse costs \$52 million, almost \$53 million to build. That was in 1980, 1990—1992, we opened, but—

Senator LANDRIEU. But how big is your system? How many people does this serve?

Ms. DOLAN. Well, we have—

Senator LANDRIEU. Los Angeles is—

Ms. DOLAN. Unfortunately, I hate to say this, we have—when the courtroom was—courthouse was designed, we had 52,000 children under court supervision. We are down to 36,000, which is not small.

Senator LANDRIEU. Okay, 36,000 cases.

Ms. DOLAN. Yes.

Senator LANDRIEU. And it cost you \$52 million in 1980?

Ms. DOLAN. Then, yes.

Senator LANDRIEU. We have how many cases?

Judge SATTERFIELD. Well, in total for Family Court, 24,000, a little bit more than—

Senator LANDRIEU. Is that apples to apples, or is it—or are you—is that child abuse?

Judge KING. No. She is talking about—

Ms. DOLAN. We are just talking child abuse. We have a separate Family Court—

Senator LANDRIEU. Okay. What is the number here—Okay. Well, let me just stick with this, 52,000 cases, \$52 million. How many cases are in the District?

Judge SATTERFIELD. We have 5,100 cases of children—

Senator LANDRIEU. 5,100 cases.

Judge SATTERFIELD [continuing]. And 3,500 of those cases are outside of Family Court.

Senator LANDRIEU. Okay. But 5,100 cases to—I mean, what is it?

Ms. DOLAN. 36,000.

Senator LANDRIEU. 36,000, okay. So, somewhere is—you can get a reference point of the kind of money that we are going to have to—

Ms. DOLAN. You need money—

Senator LANDRIEU [continuing]. Have for this facility.

Ms. DOLAN [continuing]. Because you just need money. You really need money.

Senator LANDRIEU. But we need money, but we also need creativity, will—

Ms. DOLAN. Right, well spent.

Senator LANDRIEU [continuing]. Commitment, money well spent and a system to get private sector contributions to do the extras that the government just cannot, with the other obligations that we have to—

Ms. DOLAN. I will tell you that I did not put in my testimony, we did—we attempted to build this courthouse with private dollars. We did a feasibility study and found that the world thought that courthouses were supposed to be built by government. And the—

Senator LANDRIEU. That is true.

Ms. DOLAN. But by asking these questions—it is funny what you do when you go out to the public and you inform them of what is happening to children. They said, “But we would fund”—

Senator LANDRIEU. Yes.

Ms. DOLAN [continuing]. “Making it more pleasant.”

Senator LANDRIEU. Yes.

Ms. DOLAN. So the extra things have been funded by private.

Senator LANDRIEU. And I would like to ask about that in general. We can come back now to the questions about what is our overall plan to building something similar to the Edelman Children’s Court, including public/private partnerships. Where are we in designing child-friendly space?

Judge KING. Let me just, I hope, slow down one train—

Senator LANDRIEU. Go ahead.

Judge KING [continuing]. Before it gets out of the station. The thrust of your comments suggested that, “Well, if they spent \$50 million, we are going to be able to do it for \$4 million,” or something.

Ms. DOLAN. Less than that now, but no. It is 10 years later.



Judge KING. We spent to accommodate the five new magistrate judges, that is to build-out, take some existing space, move a couple of offices, build-out their offices and furnish them, we spent approximately \$1 million.

So, we are not going to be able to do this in a way that anybody is going to want to acknowledge as their work product.

Ms. DOLAN. Well, I think reconstruction costs more than starting from scratch.

Judge KING. It does. And that is—I mean, we are—

Senator LANDRIEU. Okay. That is why I want to suggest that we are clear about where we are going, because I am not sure there is a consensus.

Judge KING. Well, I had—

Senator LANDRIEU. It is important for Senator DeWine and I to be clear. I just want to know what our options are.

Judge KING. All right.

Senator LANDRIEU. If we can build a brand new building—

Judge KING. I agree with—

Senator LANDRIEU [continuing]. And a brand new space, we might get the political will and the private sector contributions to do that. If we want to try to do that, we are not too far down the line to get that done.

If the answer is no, we cannot muster that, then we can renovate the best building we can. But I want the outcome to be a very good outcome. And you will not have a good outcome unless you know what you are getting when you get started.

Judge KING. Right.

Senator LANDRIEU. And I am just saying we are unclear about what we are going to get. And I am hoping to get something as close to the Los Angeles Children's Court as possible, realizing that we may not get exactly that caliber facility.

Judge KING. Right.

Senator LANDRIEU. But I do not want to end up 5 years or 10 years from now, having spent a lot of money—

Judge KING. And I think—

Senator LANDRIEU [continuing]. And not getting anywhere near where we want to be.

Judge SATTERFIELD. And we are familiar with that, because we have the same packet that you have. Plus, I have spoken to Judge Nash who is the presiding out there, on a number of occasions through that project I was telling you about.

And we are scheduled to see him in May of this year to take a walk-through, because that is the one thing we have not done with his courtroom, to see how his courtrooms are structured, because if you—even if you do it without building another building, you want to make the courtrooms and the settings and all that appropriate for children. And I think the Chief has more on how we are going to—

Senator LANDRIEU. Okay. So, Chief Judge, go ahead.

Judge KING. There are two—obviously, the implication of your question, there are two directions we can go. We have worked with GSA and their architects to do the first space requirements and the options, a development of options.

The problem is that to remain anywhere near the justice campus, which is what you were looking at before we broke——

Senator LANDRIEU. Right, this.

Judge KING [continuing]. You will see the—if I can just do corresponding ones here, at the bottom of the diagram, your diagram is the Moultrie building. Then all of the buildings in this whole kind of center area here are all court buildings with the metro and accessible to the court, with the exception of the United States Court of Appeals for the Armed Forces.

To build out any of those buildings, one of my preferences would have been to take what we call building B, which is up here, and simply start over, double the building in size.

What we run into are the historical preservation concerns. Apparently, there is a huge amount of interest in keeping this looking much like it does now. I have had very preliminary discussions with the Freedom Forum, which is putting up a Newseum across C Street from——

Senator LANDRIEU. It is a magnificent building. It is going to be beautiful. I have seen a sketch of it.

Judge KING. They have a section of that building, which is now slated for residential use, and it occurred to me that—that could be our courthouse, because it is right across the street. It would be an easy way to do it. Again, we run into some local interest in bringing in residential into the area.

Senator LANDRIEU. Okay. We have 11 minutes to a vote, and we are not going to be able to come back.

Judge KING. I will finish in three.

Senator LANDRIEU. So finish in three.

Judge KING. I will finish in three.

Senator LANDRIEU. And then we are going to have to close the hearing.

Judge KING. It is—if we talk, as I am told, I am led to believe, and this is coming from the architects——

Senator LANDRIEU. Yes.

Judge KING [continuing]. I do not—you know, I do not do this every day. As soon as we start talking a separate building, we are adding a couple of years to our time line. So, what they were originally told to do is keep it in the justice campus somewhere and do it by—do it in 18 months.

Senator LANDRIEU. Yes.

Judge KING. They have come up with what they consider to be the option, which will meet that deadline, and that is the plan that you have heard about, where we are going to take two floors.

And let me just show you—here is a floor plan of the principal level of the Moultrie Building. The bottom one of that page—the bottom floor plan on that page that I just handed to you is the John Marshall level of our courthouse. And you will see a large shaded area on the right.

That is currently occupied by our small claims and landlord/tenant courts. They are being moved out to the building on the top of the page, which is building B.

Senator LANDRIEU. Okay. And we do not have to go through all the general detail.

Judge KING. We do not need all of that.

Senator LANDRIEU. But you are just moving people around and trying to end up with a family court space.

Judge KING. We have to move it out, so that we can come up with enough space, then down the road, we can finish in 18 months getting everybody on board and getting the thing functioning.

To get to where Los Angeles is takes one more step. And that is putting a sleeve on the C Street side of the Moultrie Building, and expanding the space.

Senator LANDRIEU. Okay. But let me be clear, because we only have a few minutes, and we may have to just follow up with questions. But when you say within 18 months, I want to know, generally, the square footage and the number of courtrooms and the number of judges that you have in your plan in 18 months, just in that order.

What is the square footage that you have envisioned generally?

Judge KING. Family Court will require ultimately 140,000 square feet.

Senator LANDRIEU. So you think in 18 months under your plan, you will have 140,000 square feet. How many courtrooms?

Judge KING. Ultimately, we need 32 courtrooms or hearing rooms.

Senator LANDRIEU. But will you have that in 18 months?

Judge KING. We already have most of them, so this is adding to what we have.

Senator LANDRIEU. Okay. So you will have, in 18 months, 32 courtrooms and 140,000 square feet of space for the Family Court.

Judge SATTERFIELD. We will have the courtrooms, but we will not have the complete build out, because that takes building out on part of the court for all the other service centers.

Senator LANDRIEU. Okay.

Judge SATTERFIELD. But for the judicial officers to hear the cases, we will have—

Judge KING. We will be functioning and we will have everybody aboard and functioning in courtrooms in 18 months.

Now, there is a caveat, though. And if I can just very quickly—I know I have talked about this and so I do not need to be at great length, but we do not now have access to the funds to begin the build out process.

The GSA has said that they will not—they will not be able to obligate any funds to begin that construction process until they have the money from us.

We do not have—they are telling us they need \$11 million in order to get started. So we are now in a period when we cannot do anything anyway under the law.

That period ends on May 5. Beginning May 5 until we have access to the money is a delay that will be attributable to the money availability.

Senator LANDRIEU. Okay.

Judge KING. And I am told by the architects that we are already jeopardizing the 18 months. In other words, not starting now is already jeopardizing the 18 months.

So with that caveat, obviously we are going to work as hard and as fast as we can, but we cannot control when the funding will be available.

Meanwhile, GAO is going to be asked to go get some additional information and fill in some of the blanks of the report, and I thank you all. I think it has been a very helpful hearing.

#### ADDITIONAL COMMITTEE STATEMENTS

In addition, I would like to include in the record the statements of Mr. Paul Strauss, the Shadow Senator of the District of Columbia and Ms. Susan Golstman, a child-friendly courthouse architect.

[The statements follow:]

#### PREPARED STATEMENT OF PAUL STRAUSS, SHADOW SENATOR, DISTRICT OF COLUMBIA

Good afternoon, Chairwoman Landrieu and Senator DeWine. I want to thank you for the opportunity to present testimony today. My name is Paul Strauss and as you know, I am the United States Senator representing the District of Columbia. My role as the District's elected U.S. Senator is to be an advocate on issues of importance to the citizens of the District of Columbia that are before the Senate. It is in this role that I provide testimony in support of the District's Family Court.

I am pleased to have the opportunity to speak on the transition of the Family Courts since the passage of the District of Columbia Family Court Act of 2001. In addition to my role as a United States Senator, I am also currently involved in the Family Court System representing abused and neglected children. I value any opportunity made within the Family Court that benefits the children it serves. The D.C. Family Court Reform legislation reflects the need to correct deficiencies in the management of child abuse and neglect cases in the existing system. This legislation represents a valuable effort put forth to identify the specific deficiencies within the existing Family Court to better serve children of the District of Columbia.

The reform plan established by the District of Columbia has outlined many needed changes such as the need for a "One Judge/One Family" system, training staff working with families in the District, and providing family-friendly facilities. In addition, the need for a centralized information technology system has been identified to allow those working in the Family Courts access to client information to better provide services.

In an effort to correct the problem of children falling through the cracks, this legislation introduces the One Judge/One Family program to the management of child abuse and neglect cases. This program aims to correct the problem of cases being seen by several judges and passed around with little coordination amongst the host of actors involved in managing the case. Too many children in the District of Columbia have faced several judges managing their case and a severe disconnect between the results of one court hearing versus the next. This program mandates that the same judge follows a family through the life of their case. Under this program, the likelihood that a child could fall through the cracks is highly improbable, which is an absolutely imperative provision of the legislation. Decisions regarding the child's welfare are more likely to be consistent and in the true interest of the child under the One Judge/One Family program. The sharing of knowledge and institutional capacity to support this objective must be established very early in the reform process in order for this provision to be met with success.

A second major advancement under this legislation concerns training the staff working with families in the District. Progress continues toward providing training opportunities for all individuals involved in case management to continually update these professionals as to the latest developments in child abuse and neglect monitoring as well as developments in this area specific to the District. Training services are to be provided to judges and staff in the Family Court and Social Services Division. Meetings will be held that bring together all of the actors in this process to promote "cross-training", a process whereby case management professionals share their knowledge and expertise regarding each case to better coordinate the entire experience and ultimate result of the case across the system. The actors involved in these training sessions will include, Family Court judges, case-coordinators, attorney advisors, staff, and stakeholders. It is suggested that funds be sought from all available avenues to promote the regular continuation of all aspects of the training program agenda. This effort is the crucial link between all actors involved to ensure that coordination is smooth and successful leading to the most effective and expeditious resolve leading to a better quality of life for the children affected.

Additionally, the enhanced role of alternative dispute resolution in, the process of case management is a step forward in giving families an avenue to resolve their problems that does not involve a court appearance. This method is preferable for

many families involving child that have already experienced a traumatic situation at home and do not desire to be subjected to any further stress involving having to testify in front of a judge regarding the trauma they have undergone. This process is much friendlier to the children involved and often promotes more congenial relations amongst the participants leading to a more effective resolve more likely to be in the best interest of all involved due to the fact that the involved actors have conferred to develop the resolution themselves. I advocate a wider use of this process for more families. This process is the least intense for the children and often leads to a quicker more successful solution for all involved.

Another key aspect of this legislation promoting improvement involves the provision of family-friendly facilities in the case management process. The entire process is designed to be more family-friendly in every way; however, special attention is given to improving the quality of the experience for the children in particular. Provisions such as an automatic granted visit with siblings within 48 hours after placement out of the home, child-friendly environments in the institutional spaces where their cases are managed and improved morale and job satisfaction for the case management professionals to ensure that they are prepared to courteously deliver effective service in a caring manner are included in the current legislation. These improvements are difficult to quantify. Improvements are not realized in achievement of an ultimate goal. The provisions outlined in this legislation laid the groundwork for great things to develop to improve, the quality of the process for children, families, and professionals alike. However, continual assessment of this aspect of the process must be a cornerstone to improvement in the future.

The final aspect of the legislation leading to advancement of the Family Court Reform process involves the provision of information technology to ease the coordination of the case management process across a variety of actors. The provision calls for an integrated information system charged with the task of tracking and reporting progress in each case in the District. This Integrated Justice Information System (IJIS) will be a welcomed replacement of the ailing computer infrastructure currently in place. The ability to coordinate the process of case management under one judge for each family is enhanced by the technological infrastructure to provide the involved actors with all of the information regarding the case at hand coupled with the ability to continually update this information to provide everyone with the most current events and advancements related to the case.

The Family Court Reform Act in this reform plan is totally judicially focused. Of course, these are important steps, but many are concerned that the efforts to reform the child welfare system and family court processes will stop with the judiciary. Even if we have the wisest judges in the world presiding in the best facilities, we still will not have accomplished anything significant without quality attorneys representing children and families and a strong network of social services, including social workers with a manageable caseload. I know this committee will do what is required to ensure that the necessary resources are in place to implement meaningful reform.

I believe that the current plan that has been set in motion by the District of Columbia Family Court Act of 2001 is beneficial to the District and the families that reside within its boundaries. I want to take this time to thank Chief Judge Rufus King, III for his work in the Family Courts. Again, I want to thank Chairwoman Landrieu and the committee for the opportunity to speak before you today regarding the Family Courts of the District of Columbia.

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PREPARED STATEMENT OF SUSAN GOLSTMAN, A CHILD-FRIENDLY COURTHOUSE  
ARCHITECT

EDMUND D. EDELMAN CHILDREN'S COURTHOUSE, COUNTY OF LOS ANGELES, CALIFORNIA

The Edmund D. Edelman Children's Court is the newest facility in the Los Angeles Superior Court System. The first courthouse of its kind in the United States, it is specifically designed to handle Juvenile Dependency Court cases. The Children's Court provides a dignified, yet child-sensitive atmosphere where abused and neglected children and their families can begin the all-important process of recovery and family reunification.

The physical environment of such facility could either demonstrate sensitivity to the needs of the children and parents, or add immeasurably to the trauma of a court experience. While responding to children's needs, the design of this facility also had to communicate serious messages to abusive parents, as well as provide a comfortable and functional workplace. This balancing act was a singular challenge to the design team.

### *Guiding the Design*

Essential to the facility's success was the establishment and implementation of design guidelines for child-and-family-sensitive settings. The guidelines were developed at the request of the Children's Courthouse Design Committee and Kajima Associates, the architects of the facility (Goltsman, et al, 1991). The firm of Moore Iacofano Goltsman, Inc. developed the guidelines based on a series of interviews and working sessions with children, parents, court staff, attorneys, judges, child advocates, Department of Children's Services staff, and other involved in the Dependency Court process. The guidelines offered recommendations for providing efficient working spaces and facilitate Court operations while creating an environment sensitive to the needs of the children.

### *Defining Conditions*

The user survey and field observation methods used to gather information on existing conditions included: open-ended interviews; a user questionnaire; focus groups and workshops with judges, children and youth in shelter care, social workers, youth in foster care, and attorneys; and field observations of both people and spaces, as well as a full-scale simulation of the new courtroom arrangements.

### *Changing Environments and Programs*

A child-sensitive facility must center on programs, which express caring attitudes, policies and actions; the physical design reinforces program goals and reminds everyone that the facility is a place for children. The setting, mass, scale and a configuration of spaces send critical messages about purpose and process. In translating the child and family-sensitive concept into physical design, spaces and elements were introduced that are distinctly for children, evidenced by the creative use of light, color, form, textures and activity areas, which protect, nurture and stimulate.

### *System Implications*

The court is only one aspect of a complex set of dependency services that a child in the social services system is effected by. To "fix" one part of the system understanding the entire system and how all parts interact is problematic. Although the entire system cannot be improved by building a new courthouse facility, the facility design process, if handled correctly, can be used to raise critical issues about the system that are more difficult to address otherwise.

In the court facility, all the players in the system come together for the hearing. This is an opportunity to make the connections necessary to improve the life of the child and their family. At the hearings, a variety of activities occur that set the system into motion. For example, the judge may order the parents to take counseling. If the court design included a social service station, it could facilitate getting parents help by immediately scheduling the court-ordered counseling and arranging transportation to the appointment. Ultimately, this helps the goal of reunification of the parent(s) with their child. If the designer understands the system, design can be used to make the system work better.

### *Courthouse Features*

Some examples of amenities in the courthouse are:

*The Entry.*—The entry to the lobby is a not monumental as in traditional court facilities. The entry is scaled down to have a more "residential" character. The colors are in soft neutral shades with bright accents. The lighting in the lobby is primarily natural with accents on the features to draw people through the lobby to the court floors.

*Family Visiting Area.*—Off the lobby, beside a palm street sculpture, is the family visiting area. Here, children who have been removed from their homes and are in foster care can visit with their parents and sibling(s) if the Court permits. The environment is designed as several small, intimate living rooms, with couches, chairs, art, non-institutional lighting, and plants. Each room has a large picture window with outside shutter details to help create a "home-like" atmosphere as well as provide for supervision.

*The Waiting Area.*—The four court floors encompass 25 courtrooms. Each courtroom has its own distinct scaled-down entrance with doors that appear home-like and architectural details that make the entry familiar. Each courtroom has a small waiting area in front with a variety of loose seating and small tables at which children can read or color. Each area has video monitors showing programs designed to inform viewers about the court process, teach parents skills, and educate or entertain children.

People may have to wait in the areas for up to eight hours a day because of the nature of the court scheduling. To provide a less confining environment, this area

was also designed to have the best view to the outside. (In traditional court facilities, judges' chambers would have the best view).

A "sun" sculpture on the pillars is part of a signage system throughout the building. Each floor is represented by a different symbol, which appears in the lobby directory, at each elevator and in each elevator lobby. Symbols, instead of words, were used to convey location for easier understanding by children as well as non-English language speakers.

*The Courtroom.*—The courtroom is downsized and the judge's bench is lowered. Extensive research was conducted to determine the furniture configuration, seating adjacencies and a simpler symbology in the courtroom. Each courtroom is staffed by a judge, court reporter, two clerks, a bailiff, two social workers, and five to eight attorneys. A case remains with the same court staff for its duration, up to 18 months.

*The Shelter Care Area.*—Children who are in protective custody wait in the Shelter Care for up to eight hours a day. It is a 10,000-square-foot interior play space and an 8,000 sq. ft. outdoor facility. No one can enter this space except children, caregivers, social workers, child advocates, and the child's attorney. The area is divided into attorney interview rooms, a play area for children 4–11 year old, a play area, eating area, and administrative offices.

The area for the younger children has a games area with Velcro walls for throwing, a dramatic play area with child-size house, a quiet area, a science/computer area, a dress area, a blocks and construction area, arts and crafts area, a theater, personal storage, and restrooms.

#### *Result*

The result of this design process is a facility that was conceived from the needs and perspective of children to fulfill the difficult role of creating a positive environment, for a child in the legal system while providing a good work place for the business of the court.

#### ADDITIONAL COMMITTEE QUESTIONS

Senator LANDRIEU. Okay. Well, let me just say, this has been an excellent hearing. We have gotten a lot of good things on the record. We have some challenges ahead. There is a lot of unity, but there are some additional pieces that have to be put into place.

I thank all of you very much. We will continue to work. And because of this constraint of funding and reform based on space, we are going to either call another hearing or at least another meeting to kind of hammer out the physical facility and plan.

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

#### QUESTIONS SUBMITTED BY SENATOR MARY L. LANDRIEU

*Question.* While we are not opposed to the designation of a Deputy Presiding Judge, the Family Court Act does not specifically call for one. We would appreciate further clarification on how the Presiding Judge and the Deputy Presiding Judge will interact? Which of the duties outlined in the Family Court Act will remain as the Presiding Judge's responsibility? Which duties will be delegated to the Deputy Presiding Judge? What plans are there for coordination between these two officers of the Court?

*Answer.* Consistent with long standing practice in Superior Court of appointing both a presiding and deputy presiding judge for each of the Court's divisions, the chief judge appointed Judge Anita Josey-Herring as the Deputy Presiding Judge of the Family Court to serve with Presiding Judge Lee F. Satterfield. As indicated on page 24 of the transition plan, the Deputy Presiding Judge will assist the Presiding Judge in carrying out his duties to serve children and families.

The Deputy Presiding Judge will assist in implementing the Family Court Transition Plan and overseeing the goals and objectives of the Family Court. She will assist the Presiding Judge in coordinating training for Family Court judicial officers and cross training with stakeholders, and in ensuring development and implementation of attorney practice standards. In addition, the Deputy Presiding Judge will assist the Presiding Judge in carrying out other duties and responsibilities that are

not specified in the Family Court Act, many of which are set forth in the Court's Transition Plan, such as: serving on the Mayor's committees related to children and families, leading the Court's Family Treatment Court initiative, and overseeing grant funded projects in the Family Court.

In carrying out these functions, the Presiding and Deputy Presiding Judges will work very closely together, meeting on an as needed basis to ensure the efficient and effective operation of the Family Court to best serve the District's children and families.

*Question.* On page 48 of the plan, you indicate the intake office will be responsible for assigning a case before a judge or magistrate judge. While the plan does indicate that preference will be given to the judicial officer who has the most experience, it is not clear from the plan whether the Court intends to give preference to judges when a case requires the attention of a more experienced judicial officer. More specifically, does the court intend to place the more difficult cases, (i.e. cases where there is an allegation of homicide, criminal child abuse and neglect, or severe mental illness) with a family court judge?

*Answer.* As indicated in the Plan, case coordinators will screen all new cases filed in the Family Court to determine whether there is a related case(s). If so, the intake office will assign the new case to the judicial team already hearing the related case, and consequently, most familiar with the dynamics of the particular family. Beginning January 2003, the magistrate judge assigned to the team will conduct the initial hearing for all abused and neglected children assigned to that team, and using criteria developed for the assignment of cases between team members, will distribute the new cases between the judge and the magistrate judge. In general, the magistrate judge will take abuse and neglect cases alleging neglect while cases alleging either physical or sexual abuse will be assigned to the team Family Court judge. Please note that if there is a criminal case related to an abuse and neglect case, for example, a case involving allegations of homicide or criminal child abuse, the criminal case would be heard in the Superior Court's Criminal Division. In those instances, the Family Court judge hearing the abuse and neglect case would coordinate with the Superior Court judge handling the criminal case.

*Question.* On April 8, 2002, the Court hired five magistrate judges through the expedited appointment process. The Court indicated that these magistrates went through three weeks of intensive training. What was the process the court used for designing this training? In addition, we would like to have details of the training they received, including: who provided the training; where the training took place; and whether magistrates received a training manual for their ongoing review.

*Answer.* Training for magistrate judges hired under the expedited process was designed by the Presiding and Deputy Presiding Judges of the Family Court in conjunction with the Court's Judicial Education Committee, which conducts training for all judicial officers on a regular basis. At the conclusion of the training, conducted at Superior Court, the magistrate judges received manuals covering the subjects under Family Court jurisdiction as well as other materials prepared by program facilitators.

The content of the training provided to the magistrate judges hired under the expedited process is listed below in three categories: (1) issues involving children and families (2) guidance on how to conduct court hearings in cases of children and families and (3) general and administrative matters.

#### CATEGORY ONE

The magistrate judges received training on the following topics:

- Child development
- Substance abuse
- Mental health
- Public benefits
- School enrollment and special education
- Abuse and neglect law
- Domestic relations law
- Guardianship law
- Adoption law
- Juvenile law
- Child support law
- Domestic violence law
- Contempt Powers
- Adoption and Safe Families Act (ASFA)
- Interstate Compact for the Placement of Children (ICPC)
- Probate issues in abuse and neglect cases



- Role of community collaboratives
- Role of social workers
- Services provided through Child and Family Services Agency
- Services provided through Superior Court Social Services Division
- Issues related to children with both abuse and neglect cases and juvenile cases
- Child mediation programs

## CATEGORY TWO

The magistrate judges received training on how to conduct the following types of hearings:

- Initial hearings in abuse and neglect cases
- Pretrial conferences in abuse and neglect cases
- Trials in abuse and neglect cases
- Disposition hearings in abuse and neglect cases
- Review hearings in abuse and neglect cases
- Permanency hearings in abuse and neglect cases
- Hearings on guardianship petitions arising out of abuse and neglect cases

## CATEGORY THREE

The general and administrative topics included:

- Court personal security
- Court interpreter services and special needs
- Relations with the press
- Court technology
- Relations with courtroom clerk
- Judicial ethics
- Relations with the Court of Appeals

The training took place at Superior Court. The magistrate judges also observed experienced Family Court judges in court hearings. They attended and continue to attend Family Court weekly meetings at which they are able to discuss issues with their judicial team members and other Family Court judges. They toured facilities such as group homes for children and the St. Ann's Infant Home.

The training faculty consisted of Family Court judicial officers with expertise in family law and issues relating to children and families; representatives from the Georgetown University Child Development Center; social workers and managers from the Child and Family Services Agency (CFSA); members of the community collaboratives; representatives from the American Public Human Services Association, including ICPC administrators from the State of Maryland, the Commonwealth of Virginia and the District of Columbia; and attorneys from the Legal Aid Society, the Office of Corporation Counsel (OCC) and the Georgetown University Law Center Legal Clinic.

*Question.* The Family Court Act specifically states that upon the date of enactment (January 2002), all new cases filed with the court would be subject to its protections. Yet, it doesn't appear from the court's transition plan that new cases (i.e. cases opened after January 8, 2002) are receiving all of the services outlined in the Family Court Act of 2001. We are particularly concerned with new cases not being afforded the full protections of the principle of One-Judge/One-Family until June of 2003. To help us better understand the distinction between the case flow plan for new and pending cases, we would appreciate it if you would explain, in detail, how each of the following hypothetical cases would be managed if they were filed in the court today?

*Case A.*—A baby is abandoned at birth at a local hospital. Neither the biological parents nor any family members can be located. Permanency goal recommended by CFSA: Adoption.

*Case B.*—A family with three children, ages 3, 7, and 11, loses their housing and is living on the District's streets. The parents voluntarily place their children in foster care until such time as they can provide their children with a suitable home. While in foster care the 11-year-old is caught shoplifting candy from a convenience store. Permanency goal recommended by CFSA: Reunification.

*Case C.*—A single mother with a severe drug problem is charged with neglect for leaving her 13-month-old and four-year-old child at home unattended. The mother pleads guilty to the neglect charge and requests assistance from the court for her drug problem. The mother is inconsistent in attending her supervised visits and although in treatment, continues to test positive for drug use. Eighteen months have passed since CFSA removed the children. They have been with the same foster parents, yet the foster parents are not interested in adopting them. Recommended goal of CFSA: Reunification.

Answer. Given the volume and broad range of cases filed in the Family Court, the Court determined, in consultation with OCC and CFSA, that the gradual implementation of the one family one judge concept would be the most feasible and practicable in this jurisdiction (see page 10 of the Transition Plan). The Transition Plan, as designed, progressively consolidates the cases related to a child before a single judicial team.

Effective June 2002, each judicial team is responsible for all case management in their new abuse and neglect cases following the child's initial hearing. This includes any subsequent actions arising out of the child's abuse and neglect case such as guardianship, termination of parental rights, custody, adoption, or civil domestic violence, as well as the coordination of all cases involving brothers and sisters.

In January 2003, we will begin consolidating other cases related to children, such as child support and post-disposition juvenile cases, with the same judicial team responsible for the original abuse and neglect case, provided that the consolidation is likely to contribute to the child's safety or well-being and does not delay permanency for the child.

In March 2003, related Family Court cases not arising from the abuse and neglect case, such as domestic relations or mental health cases of immediate family or household members, will be assigned to the same judicial team.

In June 2003, the Family Court will expand the judicial teams serving abused and neglected children to include social workers, assistant corporation counsel, Guardians Ad Litem (GALs) and parents' attorneys who routinely appear before the judicial team on abuse and neglect cases.

Based on our experience, consultations with the Child and Family Services Agency and the Office of the Corporation Counsel, and best practices, we believe that a gradual approach is the most effective method to ensure safety and permanency for children.

Consistent with the one family one judge provision of the Family Court Act and without rendering any advisory rulings on factual scenarios that frequently are before the Court, the Family Court would manage the hypothetical cases under the following procedures:

*Case A.*—At the initial hearing, the baby's case would be assigned to either the associate judge or magistrate judge in a judicial team. The assigned judicial officer would conduct all hearings consistent with the timelines in D.C. and Federal ASFAs. If, during a permanency hearing, the goal of adoption were determined to be the appropriate permanency plan for the baby, and a subsequent adoption petition were filed, the associate judge on the team would preside over the adoption matter.

*Case B.*—At the initial hearing, these children's cases would be assigned to either the associate judge or magistrate judge in a judicial team. The assigned judicial officer would conduct all hearings consistent with the timelines in D.C. and Federal ASFAs. If, during a permanency hearing for the children, the goal of reunification were determined to be the appropriate permanency plan, the children's case would remain with the assigned judicial officer until the family could be reunited. Appropriate services to accomplish that goal would be ordered. If a charge of shoplifting were filed against the 11 year old child, the juvenile case would be assigned to a different Family Court judge for trial only and then returned to the judicial officer handling the neglect case for all post-adjudication purposes.

*Case C.*—At the initial hearing, these children's cases would be assigned to either the associate judge or magistrate judge in a judicial team. The assigned judicial officer would conduct all hearings for the children consistent with the timelines in D.C. and Federal ASFAs. At a permanency hearing, the appropriate goal for the children would be determined. If the goal were adoption or custody and a subsequent petition for adoption or custody were filed, the children's cases would be handled by the associate judge of the team. If the goal were reunification or guardianship, then the assigned judicial officer, whether an associate judge or magistrate judge, would continue to hear the children's cases and the petition for guardianship.

*Question.* The Family Court Act of 2001 created a very limited criterion for cases not to be transferred or disposed of into the Family Court. Section 11-908A (b)(1) (1) requires the court's transition plan to estimate the number of cases for which the deadline for disposition or transfer to the Family Court cannot be met and the reasons why such deadline cannot be met. It does not appear that this requirement is complied with in the Court's plan. Can you please provide further clarification of this point?

Answer. As indicated on pages 12-13 of our transition plan, before the end of the transition period, the Court intends to transfer into Family Court or dispose of all cases assigned to judges outside the Family Court. Accordingly, the Court estimates that there will not be any Family Court cases remaining outside the Family Court

at the end of the transition period. To date, more than 1,500 children whose cases were assigned to judges outside the Family Court have had their cases transferred to Family Court judicial officers.

*Question.* The D.C. Superior Court currently assigned 12 judges to the Family Court who reportedly have expertise and/or training in Family Law. Since the plan does not specify their qualifications in full, we are left to assume that the fact that these judges served in the Family Division of the Superior Court is what is being used to satisfy the expertise and background requirement? How many are qualified for reasons other than previous service on the family court? Have any of these judges received specialized training in the last six months? How many hours of training did they receive? What was the curriculum? From whom did they receive this training?

*Answer.* The Court considered three factors when assigning judges to the Family Court: (1) experience and training; (2) positive interest in serving; and (3) willingness to participate in the extended training required under the Act. All 12-associate judges who volunteered to serve on the Family Court met all three of the selection criteria. They have certified that they intend to serve the full term of service and to participate in ongoing specialized training programs for Family Court judges. Nearly all of these judges served in the Family Division at some time prior to the enactment of the District of Columbia Family Court Act of 2001. All of these judges are qualified by virtue of family law training or experience or both, and all have participated in training on family law issues prior to becoming a Family Court judge. In addition, judges who began their judicial careers in the Family Court or Family Division participated in a two week pre-service training program, which focused on family law and issues related to children and families.

In May 2000, judges participated in a training program entitled "Enhancing Judicial Skills in Domestic Violence Cases," which included presentations on the dynamics of domestic violence, its effect on children who witness domestic violence, decision-making skills in domestic violence and the cultural aspects of domestic violence. In May 2001, judges participated in a training program entitled "New Developments in the Law of Child Abuse and Neglect." Topics included ASFA, the implications of substance abuse in abuse and neglect cases, child development, risk assessments and reunification efforts, special education, and mental health intervention in the abuse and neglect system. Finally, since the enactment of ASFA, the Court has conducted several training programs for judges on the requirements of ASFA, including sessions in March 1999, May 2001 and December 2001. Faculty members at each program consisted of national and local experts on issues affecting children and families. Additionally, in December 2001, the judges in the Family Court received 3 full days of training that included many of the topics listed in response to Question 3.

Detailed below are summaries of the family law training and experience of the judges who volunteered to serve in Family Court.

*Lee F. Satterfield, Presiding Judge, Family Court.*—Judge Satterfield was appointed an associate judge in November 1992. He joined the Family Division in June 2001 and has served there continuously since then. He has handled abuse and neglect cases of children for over nine years. He currently presides over abuse and neglect, paternity and support and mental health cases. He was appointed Presiding Judge of the Family Division in November 2001 and designated Presiding Judge of the Family Court after the enactment of the District of Columbia Family Court Act of 2001.

Judge Satterfield has served in every Division of the court except the Probate Division. He served as the Presiding Judge of the Domestic Violence Unit for two years from 1998 to 1999. While in that position he handled civil, custody and criminal cases involving domestic violence and the administrative duties of a presiding judge. He also served as a Drug Court judge where he handled numerous cases of adults with substance abuse problems. As a judge and a former assistant United States attorney, Judge Satterfield has handled numerous criminal cases involving children as witnesses and victims.

Judge Satterfield serves on many court and community committees relating to children and families, such as the Mayor's Advisory Committee on Child Abuse and Neglect and the Mayor's Advisory Committee on Permanent Families. He also serves as the court's lead judge on the Model Courts initiative of the National Council of Juvenile and Family Court Judges. He serves on the Judicial Education Committee and the Superior Court Rules Committee. He is chair of the Family Court Implementation Committee, co-chair of the Family Court Organization and Management Oversight Team and chair of the Family Court Advisory Rules Committee. He formerly chaired the Superior Court Domestic Violence Coordinating Council and the Domestic Violence Unit Implementation Committee. He also served on a na-

tional domestic violence advisory committee, which drafted model court criteria for domestic violence courts.

Judge Satterfield has attended, as a participant and faculty member, numerous training programs relating to issues involving children and families. These programs were sponsored by the National Council of Juvenile and Family Court Judges, the American Humane Society, the Family Violence Prevention Fund and various law schools. He also has participated in training programs conducted by the Court on family law and domestic violence including the May 2000 program on domestic violence and the May 2001 program on abuse and neglect. He served as program chair of the Court's May 2000, training program entitled "Enhancing Judicial Skills in Domestic Violence Cases." He also attended the court training programs on ASFA.

*Anita Josey-Herring, Deputy Presiding Judge, Family Court.*—Judge Josey-Herring was appointed an associate judge in September 1997 and began her judicial career in the Family Division, where she has remained since. She was appointed Deputy Presiding Judge of the Family Division in September 2000, and designated Deputy Presiding Judge of the Family Court after the enactment of the District of Columbia Family Court Act of 2001. She has handled a variety of family law cases involving abuse and neglect, paternity and support, mental health, juvenile delinquency and domestic relations. She currently presides over abuse and neglect, juvenile drug court and mental health cases.

Judge Josey-Herring has chaired and participated in numerous committees which deal with issues affecting the welfare of children and which seek to improve the court process, such as the Family Drug Court Planning Committee, the Mayor's Child Fatality Review Committee, the Mayor's Advisory Committee on Child Abuse and Neglect and the Mayor's Interagency Task Force on Substance Abuse Prevention, Treatment and Control. She is a member of the Family Court Implementation Committee and is co-chair of the Family Court Organization and Management Oversight Team.

Judge Josey-Herring has attended numerous training programs on issues related to children and families and family law. These programs were conducted by the Court and local and national organizations such as the District of Columbia Children's Trust Fund, the National Council of Juvenile and Family Court Judges, and the American Humane Society. She has coordinated court-wide family law training such as training on ASFA in December 2001 and has spoken about family law issues at local seminars.

Judge Josey-Herring's prior experience includes serving as the Deputy Director of the Public Defender Service for the District of Columbia for three years. While in that position, Judge Josey-Herring managed and supervised attorneys who handled mental health and juvenile delinquency cases. Before becoming the Deputy Director, she handled criminal and juvenile delinquency cases in the Superior Court and argued appeals in juvenile delinquency cases before the District of Columbia Court of Appeals. She also served as a member of the Domestic Violence Coordinating Council, which was responsible for planning the Superior Court Domestic Violence Unit.

*Nan R. Shuker, Associate Judge.*—Judge Shuker was appointed an associate judge in December 1983. Since that date she has served in the Civil Division, Criminal Division and Family Division. She joined the Family Court in January 2000 and currently presides over adoption cases and abuse and neglect cases. She began to handle abuse and neglect cases in 1987 when she was assigned to the Family Division and has presided over juvenile delinquency cases and complex domestic relations cases during several years since then. In 1990, she was appointed Deputy Presiding Judge of the Civil Division and from 1993 to 1996, she served as Presiding Judge of the Civil Division.

She has chaired or served on numerous Court committees relating to issues of families and children, such as the Family Court Implementation Committee where she is chair of the subcommittee on abuse and neglect and adoptions, the Family Court Advisory Rules Committee and the Family Drug Court Planning Committee. She has chaired the committees that developed court procedures for the Child Mediation Program and that developed court procedures and forms to implement the Guardianship law. Judge Shuker has also developed court forms in adoption cases and served on a committee chaired by the Deputy Presiding Judge that is developing revised forms for abuse and neglect cases.

Judge Shuker has participated in numerous training programs on issues involving children and families. She has served as a faculty member in most Family Court programs including the court's pre-assignment and pre-service training programs and training for the new magistrate judges appointed under the Family Court Act. Prior to becoming a judge, as an assistant corporation counsel, Judge Shuker participated in the training of new Superior Court judges as they entered the Family

Division for the first time. She also trained police and social workers in the investigation of abuse and neglect cases and the giving of testimony in such cases.

Judge Shuker began her legal career at American University in 1969 where she assisted Dr. Nicholas Kittrie in creating a new program for the Center for the Administration of Justice. Many of the new courses developed in this program dealt with issues such as domestic violence, child abuse and juvenile matters.

In 1972, Judge Shuker joined the Office of Corporation Counsel as a staff attorney in the Juvenile Section. She served as Assistant Chief and Chief of the Juvenile Section. While an Assistant Corporation Counsel, Judge Shuker developed and obtained first funding for a project for the identification of child abuse in the District of Columbia from the Office of Criminal Justice Plans and Analysis. This included the development of a team approach with social workers, Assistant Corporation Counsel, police and the Children Hospital's child abuse team. She also developed the first neglect and abuse unit in a local prosecutor's office and led it for several years. Judge Shuker was Co-Director of the Child Abuse and Child Safety Project. Her responsibilities included implementation of a physicians consulting service in conjunction with area hospitals, training of physicians and other child-care professionals in the detection and reporting of child abuse and assisting two other co-directors in the administration of an interdisciplinary team approach to child abuse. She was designated by the Corporation Counsel to assist City Counsel member Polly Shackleton in drafting the 1978 child abuse and neglect law. Finally, Judge Shuker served for two years on the National Advisory Committee for the United States Department of Health, Education and Welfare on the drafting a model law for the reporting and court handling of abuse and neglect cases.

*Linda D. Turner, Associate Judge.*—Judge Turner was appointed as an associate judge in September 1990 and began her judicial career in the Family Division. While assigned to the Family Division, Judge Turner handled juvenile and neglect and abuse cases. She presided over abuse and neglect cases since her appointment as a judge. She also served in the Criminal and Civil Divisions. Judge Turner has served as Drug Court judge in the Criminal Division. She rejoined the Family Division (now Family Court) in January 2002. She currently presides over abuse and neglect cases.

Judge Turner has participated in numerous court training programs on issues involving children and families including the pre-service and pre-assignment training programs, the programs on ASFA, the May 2001 program on abuse and neglect cases and the May 2000 program on domestic violence cases.

*Judith Bartnoff, Associate Judge.*—Judge Bartnoff was appointed an associate judge in August 1994. She began her judicial career in the Family Division. She has presided over abuse and neglect cases since 1994. While in her first assignment to the Family Division, she presided over domestic relation cases, mental health cases, paternity and support cases and civil domestic violence cases. Judge Bartnoff served in the Criminal and Civil Divisions and then returned to the Family Division in January 2001. She currently presides over abuse and neglect cases and complex domestic relation cases.

Judge Bartnoff is chair of the court's benchbook committee, which is responsible for drafting and updating legal manuals that judges rely on in handling cases. While a member of the committee, she rewrote and updated the benchbook on abuse and neglect.

Judge Bartnoff has attended a variety of judicial training programs on issues relating to children and families, including pre-service and pre-assignment training programs, the May 2001 program on abuse and neglect, the May 2000 program on domestic violence and the programs on ASFA. Judge Bartnoff's assignment to the Criminal Division provided her with an opportunity to learn a great deal about substance abuse problems and treatment. Her assignment to the Civil Division provided invaluable experience in preparing her to handle the complex domestic relation cases.

Judge Bartnoff's prior experience includes working as an Associate Deputy Attorney General at the United States Department of Justice. Her responsibilities in that position included overseeing matters relating to the United States Marshals Service, including issues of custody and visitation in the Witness Protection Program. She served as an assistant United States Attorney in the Civil Division of the United States Attorney's Office for the District of Columbia. Judge Bartnoff also was in private practice where she handled aspects of custody and adoption cases on a pro bono basis.

*Ronna L. Beck, Associate Judge.*—Judge Beck was appointed an associate judge in June 1995. She began her judicial career in the Family Division. She has presided over abuse and neglect cases since 1995. During her first assignment to the Family Division, she presided over domestic relations, mental health, civil domestic

violence and paternity and support cases. She served in the Criminal and Civil Divisions. While in the Criminal Division, she handled criminal cases involving drug abuse issues. She returned to the Family Division in January 2002. She currently presides over abuse and neglect and domestic relations cases.

Judge Beck is co-chair of the Family Court Panels Committee which is responsible for creating panels of qualified attorneys for court appointment to children in abuse and neglect and juvenile delinquency cases, and parents in abuse and neglect cases. She served as a member of the Court's Criminal Justice Act Committee, which created panels of qualified attorneys who are appointed to represent indigent defendants in criminal cases.

Judge Beck has participated in numerous court training programs on family law and issues related to children and families including pre-service and pre-assignment programs, the court programs on ASFA, the May 2001 program on abuse and neglect and the May 2000 program on domestic violence. She also participated in an ASFA training session conducted at Howard University.

Judge Beck's prior experience includes working as a psychiatric nursing assistant at a mental hospital. She was in private practice where she handled custody, divorce and adoption cases. She worked at the District of Columbia Public Defender Service where she represented juvenile offenders. Judge Beck also took courses in psychology, psychopathology and family law while in college and law school. While in law school, she audited a yearlong child development course at the Baltimore-District of Columbia Psychoanalytic Institute.

*Linda Kay Davis, Associate Judge.*—Judge Davis was appointed an associate judge in June 1995. She began her judicial career in the Family Division and has presided over abuse and neglect cases since 1995. She served in the Criminal and Civil Divisions and in the Domestic Violence Unit. While in the Criminal Division, Judge Davis handled criminal cases involving drug abuse issues. While in the Domestic Violence Unit for two years, she handled civil, domestic relations and criminal cases involving domestic violence. She also served as Acting Presiding Judge of the Unit when the Presiding Judge was on extended medical leave. She rejoined the Family Division in January 2002. She currently handles neglect and abuse cases and domestic relations cases.

Judge Davis has participated in court training programs on family law and issues related to children and families including pre-service and pre-assignment programs, the court programs on ASFA, the May 2001 program on abuse and neglect and the May 2000 program on domestic violence. In 1996, she attended the National Symposium on Child Victimization, a four-day conference that focused on child sexual and physical abuse. She also attended a regional conference on family violence and child sexual abuse which was hosted by the Fairfax Circuit Court and the Metropolitan Washington Council of Governments.

Judge Davis' prior experience includes working at the Public Defender Service as a staff attorney where she represented juvenile offenders. She also served in the Civil Rights Division of the United States Department Justice.

*Robert Morin, Associate Judge.*—Judge Morin was appointed an associate judge in September 1996. He has presided over abuse and neglect cases since 1996. He joined the Family Division in January 2001 and has presided over mental health, domestic relations, juvenile delinquency and paternity and support cases. He currently presides over abuse and neglect and domestic relations cases. Judge Morin served in the Criminal Division where he handled criminal cases involving drug abuse issues.

Judge Morin serves on the Family Court Implementation Committee and is chair of its subcommittee on Domestic Relations and Paternity and Support. He also serves on the Family Court Panels Committee.

Judge Morin has participated in numerous court training programs on issues involving children and families including pre-service and pre-assignment programs, court programs on ASFA, the May 2001 program on abuse and neglect and the May 2000 program on domestic violence.

*Hiram E. Puig-Lugo, Associate Judge.*—Judge Puig-Lugo was appointed an associate judge in July 1999. He began his judicial career in the Family Division and has presided over abuse and neglect cases since 1999. During his first assignment to the Family Division, he also presided over juvenile delinquency cases. He served on the Domestic Violence Unit where he handled civil, domestic relations and criminal cases involving domestic violence. He returned to the Family Division in January 2002.

Judge Puig-Lugo serves on the Family Court Panels Committee. Judge Puig-Lugo has participated in numerous court training programs on family law and issues related to children and families, including pre-service and pre-assignment programs,

court programs on ASFA, the May 2001 program on abuse and neglect and the May 2000 program on domestic violence.

Judge Puig-Lugo's prior experience includes working at the Civil Rights Division of the United States Department of Justice and as a staff attorney for the District of Columbia Public Defender Service where he represented juvenile offenders.

*John McAdam Mott, Associate Judge.*—Judge Mott was appointed as an associate judge in July 2000 and began his judicial career in the Family Division. He has presided over juvenile delinquency, mental health and paternity and support cases. He currently handles abuse and neglect and domestic relations cases.

Judge Mott serves on the Family Court Panels Committee. Judge Mott has participated in numerous court training programs on family law and issues related to children and families, including pre-service and pre-assignment programs, court programs on ASFA, and the May 2001 program on abuse and neglect. He also participated in a two-week training program at the National Judicial College, which covered a wide variety of topics, including family law.

Judge Mott's prior experience includes working as a staff attorney at the District of Columbia Public Defender Service where he represented juvenile offenders and in the Civil Rights Division of the United States Department of Justice.

*John Ramsey Johnson, Associate Judge.*—Judge Johnson was appointed an associate judge in November 2000 and began his judicial career in the Family Division. He presides over juvenile delinquency and abuse and neglect cases.

Judge Johnson is co-chair of the Family Court Panels Committee. He has participated in court training programs that focused on family law and on issues related to children and families, including pre-service and pre-assignment programs, court programs on ASFA and the May 2001 program on abuse and neglect.

Judge Johnson's prior experience included 25 years in the United States Attorney's Office for the District of Columbia. He has served in various supervisory capacities including the Interim United States Attorney. During his years as an assistant United States attorney, Judge Johnson was instrumental in establishing both a drug court and domestic violence unit in the Superior Court. Both of those efforts required an in depth understanding of the twin evils of drug abuse and domestic violence as they affect families and children.

*Odessa F. Vincent, Associate Judge.*—Judge Vincent was appointed an associate judge in January 2002 and began her judicial career in the Family Division. She currently handles juvenile delinquency and abuse and neglect cases.

Judge Vincent has attended court training programs that focused on family law and on issues related to children and families including pre-service and pre-assignment programs and a court program on ASFA. She also attended a session involving presentations from CFSA at the pre-service training program for the new magistrate judges appointed in April 2002.

Judge Vincent's prior experience includes working as an assistant United States attorney in the Sex Offense Unit. While in that position, she participated in training programs on issues of physical, mental and sexual abuse of children, resources for children that are victim of crimes and how to work with child victims and child witnesses. She investigated and prosecuted numerous child abuse and child sex abuse cases. She also attended seminars on the following topics: child sex abuse and exploitation, domestic violence victims, and child maltreatment.

*Question.* The Court's transition plan indicated that all judges serving on the Family Court certified that they would serve the entire three-year term. However, the Court's transition plan does not identify which of the 12 volunteers had already been serving in the Family Division prior to the Act nor can the minimum remaining term length for each volunteer be determined from the plan. We are requesting that the Court please provide this information.

*Answer.* All of the judges currently assigned to Family Court have certified that they will serve at least a term of three consecutive years. In the absence of an extension of service pursuant to §3(a) of the Act (codified at D.C. Code sec. 11-908A(c)(3) or (4)), each judge will serve for three years from the commencement date shown below:

Commencement of Service on Family Court

- Judge Satterfield—June 2001
- Judge Josey-Herring—September 2000
- Judge Shuker—January 2000
- Judge Turner—January 2002
- Judge Bartnoff—January 2001
- Judge Beck—January 2002
- Judge Davis—January 2002
- Judge Morin—January 2001
- Judge Puig-Lugo—January 2002

—Judge Mott—July 2000  
 —Judge Johnson—January 2001  
 —Judge Vincent—January 2002

*Question.* In Judge King's letter to Cornelia Ashby at the General Accounting Office he indicated that the Court's Remedial project examined case processing times in abuse and neglect cases for calendar year 2001 (post ASFA). Can you please provide us with a copy of the report on the Court's Remedial Project? What are the Court's benchmarks for 2001? How long did it take to process abuse and neglect cases from initial hearing until the case was closed? How many cases in 2001 were out of compliance with the timelines established by ASFA?

*Answer.* Attached are the two most recent reports prepared by the Council for Court Excellence as part of our remedial project. The reports provide information on compliance with statutory guidelines established under D.C. and Federal ASFAs for processing abuse and neglect cases.

Data from the most recent report, reviewing cases filed between 2/1/01 and 1/31/02, indicate that compliance with the statutory requirement to hold an initial hearing within 24 hours was uniformly met. The median time from filing to stipulation was 102 days and the median time from filing to trial was 148 days. The median time from filing to disposition was 205 days. These median times are higher than our statutory requirements. A review of cases filed since the project's inception that were still open indicated that 60 percent of the cases were in compliance with the 14-month permanency hearing requirement under ASFA, a significant improvement over the 40 percent compliance rate found in October 2001 and the 24 percent compliance rate found in July 2001. As indicated in the Transition Plan, the Court plans to hire two attorney advisors who will assist the Presiding Judge in monitoring all cases for compliance with ASFA.

#### MEMORANDUM

To: Child Welfare Leadership Team  
 From: Andrea J. Larry, Senior Policy Analyst, Council for Court Excellence  
 Subject: New Referrals, Compliance with Statutory Deadlines—Quarterly Report  
 Date: May 2, 2002

The computer data which serves as the basis for this summary report and the attached tables is available upon request.

#### *Methodology*

This is CCE's first quarterly report for the year 2002. The methodology we used is slightly different than what we used in past reports. We analyzed the cases filed in each of the three years since the implementation of ASFA as three separate groups of individuals or "cohorts." We tracked and reported on the occurrence and timeliness of case milestones for each of the three groups separately, e.g. Year 1 Kids, Year 2 Kids, and Year 3 Kids, then compared the groups to determine whether progress has been made. The data for each of the three groups will likely change over time as cases continue to achieve milestones. The results to date are shown in Tables 1 and 2.

#### *Summary of Results*

The data is consistent with what our earlier reports have shown. Although the city is not in compliance with ASFA statutory deadlines, we are beginning to see a downward trend in the amount of time it takes to reach major case milestones, particularly stipulation, trial, and disposition.

#### *Trials/Stipulations*

It took Year 2 Kids a median of 102 days to reach a stipulation compared to 118 days for Year 1 Kids. It took Year 2 Kids significantly longer to get to trial, a median of 148 days. However, this is less than it took Year 1 Kids to get to trial, a median of 193 days. There is insufficient data on Year 3 Kids to draw any conclusions yet—no trials and only 40 stipulations have been recorded.

Data on Year 1, 2, and 3 Kids shows that cases are much more likely to stipulate than go to trial. In Year 1 and Year 2 case stipulations are approximately three times more common than trials.

#### *Dispositions*

It took Year 2 Kids a median of 165 days to reach disposition compared to 205 days for Year 1 Kids. However, 236 Year 2 Kids are still pending disposition and the data from these cases could significantly affect the Year 2 Kids data. Again, the data on Year 3 Kids is insufficient to draw any conclusions.



*Review/Permanency Planning*

There appears to be a significant reduction in the amount of time it took Year 2 Kids to reach the 1st review or permanency planning hearing—241 days—as compared to 328 days for Year 1 Kids. Surprisingly, however, more than one-half of the Year 2 Kid's cases have not yet had a review or permanency planning hearing. It is very likely that the Year 2 Kids figure—241 days—will increase significantly over time as fixture review and permanency planning hearings take place.

*Permanency Hearings*

The permanency hearing data is consistent with our earlier reports. Approximately 60 percent of Year 1 Kids cases are in compliance with ASFA's 14 month permanency hearing deadline via a permanency hearing or dismissal prior to 14 months. See CCE's March 7, 2002 Report. Few of Year 2 and none of Year 3 cases have been pending long enough to reach ASFA's 14 month deadline.

*Other Observations:*

- The city consistently complies with the statutory deadline for conducting initial hearings.
- The number of cases dismissed without a trial or stipulation is fairly consistent from Year 1 to 2—about 10 to 15 percent of the caseload.

**TABLE I**  
**NUMBER OF CASES ACHIEVING MILESTONES**  
 (Includes Tracks I, II, & III)

CASE MILESTONE	STATUTORY DEADLINE	YEAR 1 KIDS 1132 Cases filed Between 2/1/00 - 1/31/01	YEAR 2 KIDS 1105 Cases Filed Between 2/1/01 - 1/31/02	YEAR 3 KIDS 198 Cases Filed Between 2/1/02 - 4/30/02 (1 <sup>st</sup> Quarter)
L.H. Suit/Pre-Trial	L.H. - 24 hrs/5 days if child not removed	I.H. 1132 Status/P/Tr 1106	I.H. 1105 Status/P/Tr 999	I.H. 198 Status/P/Tr 58
Trial/Stipulation	45 Days - up to 30 day extension for good cause (DC/ASFA)	Trials 255 Slips 696 Dismiss w/o 144 Pending w/o 37 NP 1132	Trials 146 Slips 635 Dismiss w/o 164 Pending w/o 60 NP 1105	Trials 0 Slips 40 Dismiss w/o 0 Pending w/o 86 SP 72 NP 198
Disposition (1st)	45 Days - up to 45 day extension for good cause (DC/ASFA)	Dispo 887 Dismiss w/o 189 Pending w/o 56 NP 1132	Dispo 670 Dismiss w/o 199 Pending w/o 236 NP 1105	Dispo 18 Dismiss w/o 0 Pending w/o 92 SP 88 NP 198
Review/Permanency Plan Hearing	180 Days (Federal/ASFA)	Rev/PPH 769 Dismiss w/o 242 Pending w/o 121 NP 1132	Rev/PPH 240 Dismiss w/o 217 Pending w/o 106 SP 542 NP 1105	Rev/PPH 0 Dismissed w/o 0 Pending w/o 198 SP
Permanency Hearing	420 Days (14 months) firm removal (Federal/ASFA)	Perman. Hrg 317 Dismiss w/o 371 Pending w/o 444 NP 1132	Perman. Hrg 56 Dismissed w/o 226 Pending w/o 782 SP 41 NP 1105	Perman. Hrg 0 Dismissed w/o 0 Pending w/o 198 SP
Dismiss/Pending	None	Total Dismiss 383 Total Pending 749 1132	Total Dismiss 231 Total Pending 874 1105	Total Dismiss 0 Total Pending 198 198

SP - still possible to comply with statutory deadline  
 NP - not possible to comply with statutory deadline

**TABLE 2**  
**TRACKING CASE MILESTONES AGAINST STATUTORY DEADLINES**  
 (Includes Tracks I, II, & III)

CASE MILESTONE	STATUTORY DEADLINE	YEAR 1 KIDS 1132 Cases filed Between 2/1/00 - 1/31/01	YEAR 2 KIDS Cases filed Between 2/1/01 - 1/31/02	YEAR 3 KIDS Cases Filed Between 2/1/02 - 4/30/02 (1 <sup>st</sup> Quarter)
Initial Hrg	24 hrs/5 days if child not removed	Median 0 Mean 0	Median 0 Mean 0	Median 0 Mean 0
Status/Pre-Trial Hrg	None	Median 33 Mean 34	Median 43 Mean 43	Median 37 Mean 38
Trial/Supplication	45 Days - up to 30 day extension for good cause (DC/ASFA)	Trial: median 193 mean 198 Stip: median 118 mean 131	Trial: median 148 mean 163 Stip: median 102 mean 108	Trial: 0 trials Stip: median 31 mean 32
Trial/Stip to Dispo	15 Days after Trial/Stip for good cause (DC ASFA)	Trial: median 66 mean 86 Stip: median 66 mean 85	Trial: median 49 mean 48 Stip: median 55 mean 59	Trial: 0 trials Stip: median 22 mean 25
Disposition (1st)	45 Days - up to 45 day extension for good cause (DC/ASFA)	Median 205 Mean 231	Median 165 Mean 173	Median 57 Mean 62
Review/Permanency Plan Hrg	180 Days (Federal ASFA)	Median 328 Mean 337	Median 241 Mean 242	N/A
Permanency Hrg	420 Days (14 Months) from removal (Federal ASFA)	Median 439 Mean 457	Median 341 Mean 324	N/A
Dismissal	None	Median 309 Mean 324	Median 144 Mean 168	N/A

## MEMORANDUM

To: Child Welfare Leadership Team  
From: Andrea J. Larry, Senior Policy Analyst, Council for Court Excellence  
Subject: New Referrals, Permanency Hearings—Compliance with ASFA—Latest Comparison Chart; Tracking Against Care Protocols & Statutory Deadlines—Summary Comparison Chart—Year 1 & Year 2.  
Date: March 7, 2002

The computer data which serves as the basis for this summary report and the attached charts is available upon request.

*Permanency Hearings.—Compliance with 14 Month ASFA Permanency Hearing Deadline*

The results of CCE's latest permanency hearing analysis are displayed in the last column of the attached comparison chart—Chart A. The data shows significant improvement over previous analyses. Of the 860 cases that were filed 14 months ago or earlier, 60 percent are in compliance with ASFA's permanency hearing requirement, via permanency hearing or dismissal prior to 14 months. This is a tremendous improvement over the 40 percent compliance rate of 5 months ago and the 24 percent compliance rate of eight months ago. The Leadership Team has done an excellent job of responding to this issue. Your continued attention and diligence will be required, however, to achieve a 100 percent a compliance rate which is necessary to achieve maximum federal reimbursement. CCE will do its part by continuing to provide monthly permanency hearing ticklers.

The proto-typical data tracking system does not provide an adequate means of recording the date of a child's removal, i.e., the date from which time generally begins to run toward ASFA's 14 month permanency hearing deadline. Therefore, we tracked time from the date of the petition rather than the date of removal. We realize, however, that not all children are removed from home at the petition date or any other date. To compensate for this we have tried to eliminate from the total population of cases those in which the child has not been removed, i.e., is in protective supervision.

One of the obstacles to full compliance with the permanency hearing requirement is the lack of uniformity in the orders used by the various judges. There are approximately one-half dozen different orders in use and not all of these orders contain the necessary elements of a permanency hearing, i.e., (1) a decision as to what the child's permanency plan will be; and (2) a time frame for accomplishment of the plan. Indeed, one of the most frequent omissions is a time frame for accomplishment of the permanency plan—an element specifically required by the ASFA statute. The lack of uniformity sometimes makes it difficult for CCE's data entry specialists to recognize permanency hearings.

*Tracking Against Case Protocols & Statutory Deadlines*

As promised, CCE has completed a year-end analysis of Track II cases filed in "Year 2" of the New Referrals Project, i.e., between February 1, 2001 and January 31, 2002. We then compared the results to data obtained from CCE's February 28, 2001 year-end analysis report of Track II cases filed in "Year 1," i.e., between February 1, 2000 and January 31, 2001. Our intent was to compare performance in the first 12 months with performance in the second 12 months to determine whether progress has been made. Specifically, we measured the number of cases that reached critical case milestones and the median and average length of time it took to reach those milestones.

The results, which are displayed in Chart B, show that the District of Columbia is not in compliance with protocol or statutory deadlines. Indeed, the median and average amount of time it takes to reach certain case milestones has increased. On the positive side, the data shows that more status/pre-trial hearings; trials/stipulations, dispositions and dismissals occurred in Year 2 than occurred in Year 1 in approximately the same or slightly longer amount of time. For example, 609 trials/stipulations were conducted in Year 2 in a median amount of time of 103 days from filing of the petition compared to 439 trials in Year 1 in a median of 105 days from filing of the petition. Also, 460 dispositions were conducted in Year 2 in a median of 171 days from filing of the petition compared to 270 dispositions in Year 1 in a median of 155 days from filing of the petition.

Interestingly, fewer review and/or permanency planning hearings were conducted in Year 2—47 compared to 100 review hearings in Year 1. The fact that the Court is conducting comprehensive permanency planning hearings rather than perfunctory review hearings may account for this difference.

Compliance with 14 Month ASFA Permanency Hearing Deadline  
 Track II Cases - Filed 14 Months Ago or Earlier  
 March 1, 2002

Number of Cases	June 2001	July 2001	August 2001	September 2001	March 2002
In Compliance via Perm Hearing or Dismissal	31 / (24%)	164 / (39%)	194 / (38%)	219 / (40%)	520 / (60%) 190 - Perm Hrgs 330 - Dismissed
Noncompliant	96 / (76%)	260 / (61%)	315 / (62%)	334 / (60%)	340 / (40%)
Total # of Cases	127 (Cases filed in 2/00 only)	424	509	553	860

CHART A

## 12 MONTH COMPARISON OF YEAR 1 &amp; YEAR 2 TRACK III CASES

CASE MILESTONE	PROTOCOL DEADLINE <i>Admin. Order #</i>	STATUTORY DEADLINE	YEAR 1 901 Cases filed Between 2/1/00 - 1/31/01 <i>Data as of 2/28/01</i>	YEAR 2 986 Cases Filed Between 2/1/01 - 1/31/02 <i>Data as of 3/1/02</i>
Status/Pre-Trial Hearings	30 Days	None	816 Status Hearings held Days from petition: Median - 34 Mean - 34	887 Status Hearings held Days from petition: Median - 43 Mean - 43
Trial/Stipulation	70 Days	45 Days - 30 day extension for good cause ( <i>DC ASFA</i> )	439 Trial/Stip held Days from petition: Median - 105 Mean - 109	609 Trial/Stip held Days from petition: Median - 103 Mean - 116
Disposition	90 Days	45 Days - up to 45 day extension for good cause ( <i>DC ASFA</i> )	270 Dispositions held Days from petition: Median: 155 Mean: 152	460 Dispositions held Days from petition: Median: 171 Mean: 176
Review/Permanency Planning	90 Days	180 Days ( <i>federal ASFA</i> )	100 Reviews held Days from petition: Median: 237 Mean: 239	47 Reviews/Perm Plan Hrg held Days from petition: Median: 290 Mean: 267
Permanency Hearing	180 Days	14 Months from removal ( <i>federal ASFA</i> )	0 Permanency Hearings held	11 Permanency Hearings held
Dismissal	None	None	101 Cases Dismissed Days from petition: Median - 150 Mean - 150	163 Cases Dismissed Days from petition: Median - 143 Mean - 158

CHART B

SUBCOMMITTEE RECESS

Senator LANDRIEU. Thank you very much. We will stand in recess.

[Whereupon, at 11:49 a.m., Wednesday, April 24, the subcommittee was recessed, to reconvene subject to the call of the Chair.]





**DISTRICT OF COLUMBIA APPROPRIATIONS  
FOR FISCAL YEAR 2003**

**TUESDAY, JUNE 11, 2002**

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

The subcommittee met at 9:40 a.m., in room SD-192, Dirksen Senate Office Building, Hon. Mary L. Landrieu (chairman) presiding.

Present: Senators Landrieu and Hutchison.

**DISTRICT OF COLUMBIA**

**STATEMENT OF ANTHONY A. WILLIAMS, MAYOR  
ACCOMPANIED BY MARGARET KELLEMS, DEPUTY MAYOR FOR PUBLIC SAFETY**

**OPENING STATEMENT OF SENATOR MARY L. LANDRIEU**

Senator LANDRIEU. Good morning and let me welcome everyone to the Committee on Appropriations, Subcommittee on the District of Columbia.

We are pleased this morning to have two panels that will be testifying on the first local budget for the District of Columbia and the local funds budget. The second panel will be on the Anacostia Waterfront Initiative.

Let me first welcome our panelists, Mayor Williams, Chairperson Linda Cropp, and Dr. Julia Friedman, who is the Deputy Chief Financial Officer, testifying on behalf of the CFO, Dr. Gandhi, who is unable to be with us this morning.

Let me begin with just some brief opening remarks, Mr. Mayor, and then we will call on you in the order that you all were introduced. And I thank you for being a part of this hearing this morning.

But as you all know, our main purpose is to discuss the District of Columbia's budget. I am particularly interested in how the city plans to build on the progress that we have made together so far in improving city services and balancing the budget. You have approved a budget, the Mayor and the council, of \$3.7 billion, an increase of \$168 million, a 4.7 percent increase above the 2002 fiscal year. All of the money in this budget, as you all well know, was raised from local revenue sources, income taxes, and sales and business taxes, fees and private funds. All cities collect these types of funds from their residents and visitors. The District should spend these funds in the same manner as any other city through

a locally generated and approved budget. And that is what we are reviewing here this morning.

I hope that my colleagues both in the Senate and the House will take a fair look at legislation that supports treating D.C.'s locally generated funds just as our home cities are treated.

The city's elected leadership, including you, Mr. Mayor, and the members of the council, deserve congratulations for your hard work to create a fiscally responsible budget plan. Your noteworthy efforts should be congratulated.

The fiscal stewardship by local officials is due in part to your leadership, as well as the strong partnerships that I think you have created here with Members of Congress. Washington, D.C., despite the setbacks of September 11, is enjoying the challenges ahead a renaissance of a certain sort.

However, there are great challenges that we know we continue to face, and this is not an exhaustive list, but just to mention three. The public education system in the District of Columbia is still facing many serious challenges and obstacles in terms of implementing reforms in the classroom. I understand there are only one of three or four districts in the whole Nation that have been designated as not complying with new Federal standards required, as you know, under our new ESA reforms that have been put into place. Also, in that category special education costs seem to be expanding and we need to get a handle on that particular budget.

The child welfare system, which you all have worked very closely with us on, is another area of concern, and obviously the long-term infrastructure and financial issues facing the District.

So, despite these and other challenges, I remain optimistic. I want to congratulate you on your efforts.

Unfortunately, our ranking member, Senator DeWine, will not be with us this morning, but Senator Hutchison is here with us, and we are hoping the Senator Reed will be able to step in for just a few minutes.

I would like to ask Senator Hutchison now if she has any opening statements and we would like to keep those short so that we can get on to the panel and hear your presentation of the budget.

[The statement follows:]

PREPARED STATEMENT OF SENATOR MARY L. LANDRIEU

The Subcommittee will come to order. Good morning and welcome to this hearing of the District of Columbia Appropriations Subcommittee. This is the second Subcommittee hearing this year to aide us in developing the fiscal year 2003 appropriations bill. On March 21 we held a hearing on the budget requests of the two Federal agencies that serve the District: the District of Columbia Courts and the Court Services and Offender Supervision Agency (CSOSA). These agencies receive 100 percent of their resources in Federal funds. The purpose of today's hearing is to examine the budget of the D.C. government, funded primarily with locally-generated funds. The local budget supports all of the city services that impact the quality of life in the District. Our witnesses on the First Panel today are Mayor Anthony Williams, City Council Chairman Linda Cropp, and Dr. Julia Friedman, Acting Chief Financial Officer. I would like to thank all of the witnesses for coming today.

There will be a second panel at today's hearing to discuss the City's plans for the development of the Anacostia River. This is an exciting project to turn the City's forgotten river into a valuable resource. I had the opportunity to tour the Southeast Federal Center site, part of the development plans along the river. The Federal Center will bring government offices, shops, and housing to the area right next to the Washington Navy Yard. The City is working with the Navy and a number of other federal agencies that own property along the Anacostia to beautify parks, add walk-

ing and biking trails, create nature preserves, and bring a host of other improvements to the river. I encourage my colleagues to stay for the second panel and learn about the revitalization of the waterfront. Our witnesses will be Mayor Williams; the City's Director of Planning Andrew Altman; and Jerry Johnson, the Director of the District's Water and Sewer Authority.

Our main purpose for being here this morning is to discuss the District of Columbia local budget. And I want to discuss how the city plans to build on the progress made so far in balancing city services and balancing the budget. The City has approved a balanced budget of \$3.78 billion to fund its operations and services in fiscal year 2003, an increase of \$168 million or 4.7 percent above the 2002 fiscal year. This budget covers local funding for local programs like public safety, education, public works, parks and recreation. All of the money in this budget was raised from local revenue sources: income taxes, sales and business taxes, fees and private funds. These are the same type of funds collected by any other city in the country from their residents and tourists and the District should spend these funds in the same manner as any other city through a locally-generated and approved budget. The District's local-funds budget should not be tampered with, which is why I have supported budget autonomy for the District in authorizing legislation this year. I hope my colleagues will take a fair look at that legislation and support treating D.C.'s locally-generated funds just as their home cities are treated.

However, the Congress, in its oversight capacity is interested in how the local budget is developed and how it best serves the partnership we have: to maintain a balanced budget and excellent services to the citizens and visitors to the District. In addition, the Congress has the responsibility to see that Federal funds provided to the District are used wisely and appropriately. Beyond the small amount of Federally-appropriated funds, the City receives Federal grants and formula funds totaling \$1.7 billion, about 30 percent of the total spending for the year that are directed toward particular purposes. All together, the City's fiscal year 2003 budget totals \$6.56 billion.

This budget deserves a high degree of respect because the District has achieved the Congressional requirements of the Control Board Act, so this is the first budget in several years that was created and approved by the City without a Control Board in effect. The process was driven and directed by the locally-elected representatives of the citizens of Washington, D.C. without the involvement of the Control Board. This budget opens a new chapter of fiscal responsibility in the City's history.

I want to congratulate Mayor Williams and Council Chairman Cropp, and all of the other elected officials involved for their hard work to create a fiscally-responsible plan to meet their citizens's needs. I would also like to recognize the extraordinary work of the Chief Financial Officer, Natwar Gandhi for his efforts to ensure that the City has accurate information about the status of its finances, so that we can examine this budget with confidence, and for creating a true picture of the City's health. Dr. Gandhi is not able to be here today, we hope he is doing well, and we welcome Dr. Julia Friedman to testify on behalf of the Office of the Chief Financial Officer.

Due in part to the fiscal stewardship of local officials, Washington, D.C. has enjoyed a renaissance. People are beginning to move back into the City after years of declining population. The real estate market is booming. Crime is far below the levels of ten years ago. Throughout the region, the City has become a favored destination for shopping, dining, and entertainment. It has even begun to recover from the shock of September 11.

The City does face serious challenges that may threaten its continued budgetary and economic success, however. Public education in the District of Columbia has severe problems implementing reform in the classroom. Special education costs threw the Public Schools budget into deficit in fiscal year 2002. Part of this is certainly due to the fact that many families seek legal redress to have their children placed in costly private schools for special education services. But there is also a management failure at work here: the failure to collect all of the Medicaid reimbursements due to the District Public Schools for special education has exacerbated this problem. Nor has the school system developed adequate special education programs as an alternative to private placements. I am particularly interested to learn about the city's proposed Medicaid Special Education Reform Fund and how the city and school district will work together to make the most of this unique funding opportunity.

The child welfare system is another area of concern. Too many children are, staying in foster care situations for too long at great expense, or they are placed in dangerous settings. Last year, Congress established a Family Court for the District that will hopefully improve matters, but the City still needs more social workers and better placement screening. This Subcommittee invested in the from of the Family

Court, and has contributed to hiring social workers who will support children as they maneuver through the Courts to permanency. I look forward to an update from the City on how the funds provided in fiscal year 2002 are being expended.

Some of the long term fiscal problems facing the District are due to the unique status the City has as the Nation's Capital. More than half of the City's property cannot be taxed because it is owned by the Federal government or other tax-exempt entities. Much of the income earned in the City is not subject to taxation. The City still pays for a variety of functions that could be considered "state" responsibilities. Other cities do not support services to the same degree or in the same manner. Public education will be 21 percent of the District's fiscal year 2003 local budget, an expense many other cities do not have. We reviewed the budgets for Seattle, New Orleans, and Milwaukee all about the same size as the District and none of them had a line item in their budgets for schools. Education is often a shared cost between the state and possibly direct local taxes or bonds.

I am also interested in the state of infrastructure in the District. Every city suffers from degrading schools and government buildings. However, the District, and the Congress before it, have continually deferred capital improvements, maintenance was deprived due to poor management, leaving every aspect of infrastructure lacking. The result is not only a depleted capital stock, but beleaguered citizens seeking clean parks, safe roads, a sewer system that can handle heavy rain and modernized schools.

The General Accounting Office is examining these factors, believed to reflect a structural imbalance in the District, and a report is forthcoming. I had hoped that GAO's work would be finished in time for this hearing, but the detailed analysis required to make this report useful to Congress will take longer than anticipated.

Despite all the difficulties that remain, I believe that the City is up to the challenge. The Chief Financial Officer has taken appropriate steps to resolve some \$250 million in spending pressures in fiscal year 2002. The Mayor and the City Council took the brave step of suspending a scheduled income tax rate reduction in order to have adequate resources on hand in the future to meet the City's needs. In this budget, the City has put off some capital projects in order to make ends meet. These are the kinds of responsible steps any group of city officials must take in meeting fiscal challenges.

I believe the District of Columbia has a bright future. The renaissance will continue and expand to reach all of the city. I commend all of the elected officials for their focus on the City's continued financial success. Mayor Williams has tackled the most difficult management problems and is working to fix them. The Council, under the leadership of Chairman Cropp, has shown its seriousness of purpose by getting the budget out on time and by its active oversight over city operations. Natwar Gandhi and his team have fixed a broken revenue system and are doing a terrific job advising the Mayor and the Council on the City's overall fiscal health. Most importantly, all of these people are working together to continue the Washington success story. With sound fiscal management and a vision to revitalize areas like the Anacostia, Washingtonians can be proud of the work that is being done by their elected representatives.

Thank you all for your time today. I look forward to hearing from our witnesses.

#### STATEMENT OF SENATOR KAY BAILEY HUTCHISON

Senator HUTCHISON. Thank you, Madam Chairman.

Welcome, Mayor, and welcome, council leader Linda Cropp.

I want to say that I am very interested in hearing your testimony. I have been looking at what you have been doing, and I am very pleased, in general, with the way the city is going. You know that when I was chairman of this subcommittee, we created a cash reserve system that we hoped would be solid so that the city would have its rainy day funds in the event of an emergency. Certainly with the hard economic times we have had this year, you have had to dip into those funds, and I am glad that we had a bit of an excess.

Also, my purpose was to strengthen the city's bond rating so that the costs of borrowing would be less and it would save borrowing costs in the long run. Therefore, I am pleased to see that you are on schedule for filling the reserve fund, but I would also like to

have your testimony about how you are going to refill the money used from reserve funds last year.

Also, I am very concerned about the situation with the lifting of the caps on the school system's attorney's fees last year. As you know, I fought this because I felt that the millions that were put into attorney's fees could go for serving the school children in the District. I am sorry to say that lifting the caps will cost the city's school district millions of dollars. I would like to pursue this issue with you to see what your view is and if you believe that we should do something to try to keep some kind of cap on attorney's fees without jeopardizing a child's or parent's right to sue, but at the same time making sure that it does not become a business. The Washington Post certainly pointed out that it has become a business.

I thank you, Madam Chairman, and look forward to continuing to work with the city.

Senator LANDRIEU. Thank you.

Mr. Mayor, if we could start with your opening statements, and we are asking you to keep them to 5 minutes each, and then we will have a round of questions.

#### STATEMENT OF MAYOR ANTHONY A. WILLIAMS

Mr. WILLIAMS. Well, thank you, Chairman Landrieu and Senator Hutchison. What I will do is I will submit my testimony for the record and try to abbreviate my testimony and give you the highlights of it here in my opening statement so we can get to questions and answers that I look forward to eagerly.

This is the first budget that we have developed after the sunset of the Control Board, and I am proud to report that it is a balanced budget. It reflects the priorities of our citizens and begins a new era of cooperation among locally elected leaders of the District of Columbia. At a time when economic and security challenges face our city and our Nation, elected leaders must be especially disciplined and resourceful and must make tough decisions among competing priorities. This budget reflects such choices. It includes small but important investments in areas of high priority to citizens. It includes sacrifices in other areas, as needed, to preserve the city's strong financial recovery.

Throughout our budget formulation process, three central goals guided our decision making at this significant time in the District's development: one, investing in key priorities; two, reducing spending; and three, obtaining relief from Federal barriers to the District's financial recovery.

In the area of investing in key priorities, we invest in priorities articulated by thousands of residents and citizens at our Citizen Summit last October, as well as top priorities developed through 39 neighborhood planning sessions across the city.

#### BUDGET PRIORITIES

And we submit to you today a budget that includes modest investments in education, children, infrastructure, and emergency preparedness. A few of the highlights.

A \$36.7 million increase for public schools to support mainstream classroom teaching, including funding for a pay increase of 20 percent for District teachers over the next 3 years.

An \$11.4 million increase for children and family services agencies as part of our commitment to raising the standard for services for our most vulnerable children, and \$5 million for the Children and Youth Investment Trust, which provides a wide array of child care and other support services for citizens.

A \$45 million commitment in the capital budget for the Unified Communications Center to begin rebuilding the city's emergency response infrastructure.

A \$13 million net increase for the Department of Public Works, primarily for a trash disposal contract, \$4.5 million; equipment lease debt service for vehicle purchases, around \$3 million; increased parking enforcement operations, which I hear a lot about, \$2 million; approved pay raises of \$3 million.

And finally, a \$6 million increase for WMATA.

#### RESPONSIBLE SPENDING

In the area of reducing spending, the District no longer suffers from rampant overspending by agencies. There remain, however, two troubled programs that really drive the cost increases in this government above acceptable levels, and they are Medicaid and special education. They require immediate reform in order to compensate for decades of operational neglect.

The District is wrestling with Medicaid for the same reasons as other States, rising health care costs, increased enrollment, and the challenges of cost containment. To address this issue, I am focusing resources on this program in the same way we focused on solving the problems with receiverships, which I am happy to say are now ending across the city. Agencies administering these programs will be held accountable for producing, at a minimum, \$50 million in annual savings by the beginning of fiscal year 2005. I also expect to appoint a director of public provider Medicaid reform to coordinate the very complex functions across agency programs that are needed to bring this issue under control.

Until the District achieves these savings, however, the tobacco securitization funds will be used to cover these health-related cost increases. Initially we wanted to use these tobacco funds for new health programs and investments, but given that Medicaid cost increases are in part due to the expansion of health services, we found it a reasonable way to use them for a limited time.

Special education in the District has mushroomed into a dangerous drain on the District of Columbia Public Schools' budget and the resources of the District as a whole. We are spending 30 percent of our schools budget on 16 percent of the school body, mostly because the District does not have the capacity to provide for students with special education needs within the city and, I might add, within the system. The transportation costs alone are exorbitant. The city contributed an extra \$90 million to manage special education in fiscal year 2002, and it is providing about that much in fiscal year 2003.

In the same way we have tackled the receiverships and other financial and management crises, we will focus the highest level of

this administration's resources on fixing this problem in partnership with DCPS and the council. The public schools have developed a plan to reform special education over the next 3 to 5 years. The plan focuses on seven key points: building understanding and acceptance of local schools' responsibility to meet the needs of special education; managing the use of non-public school special education providers; strengthening the schools' internal special education capacity; restructuring and improving management and operations to establish cost management measures; effectively managing transportation; establishing new legal strategies to contain growing attorney's fees, and I might say litigation, which is why out of whack or out of synch with the size of our school population; building creative partnerships with other agencies within the District government. And I believe that addressing special education and addressing Medicaid, we can begin to bring our costs down to an acceptable level and can meet our commitment to the council and to our citizens to reduce overall the level of operations by the District government, \$150 million by 2005.

I also might add that we are on track by 2002 in meeting our 7 percent cash reserve, are on track in meeting our budget reserve obligations, and as part of that on a local level, I think meeting our \$50 million budget reserve as well.

#### LONG-TERM RECOVERY

I want to talk very briefly about what I think are Federal barriers to the District's fiscal long-term recovery.

One, I urge the Congress' adoption of the Fiscal Integrity Act of 2002, which would, in addition to providing for the necessary independence and autonomy for the CFO and the IG, give the District autonomy over its local funds budget, which I think is important to give us the competitive standing that we need to compete as a center of a growing region and a global economy.

I also believe that the Congress should give favorable consideration to Congresswoman Eleanor Holmes Norton's proposal, the Fair Federal Compensation Act of 2002, which would give the District a durable, longstanding, and yet elastic formula of Federal contribution to meet a growing set of demands that are regional and Federal, international even in nature that are imposed on our city with a very limited tax base.

That sums up my remarks, an abbreviation of them. Again, the full testimony has been submitted for the record, and as always, I look forward not only to answering your questions, but look forward to working with this committee, as we have in the past, to make our city the shining star we know it can be.

[The statement follows:]

#### PREPARED STATEMENT OF MAYOR ANTHONY A. WILLIAMS

Good afternoon Chairman Landrieu, Senator DeWine, and members of the subcommittee. I am very pleased to be here today to discuss the District's fiscal year 2003 Budget and Financial Plan.

This is the first budget developed after the sunset of the control board, and I am proud to report it is balanced. This budget reflects the priorities of our citizens and begins a new era of cooperation among the locally elected leaders of the District of Columbia. At a time when economic and security challenges face our city and our nation, elected leaders must be especially disciplined and resourceful, and must make tough choices among competing priorities. This budget proposal reflects such

choices. It includes small but important investments in areas of high priority to citizens, and it includes sacrifices in other areas as needed to preserve the city's strong financial recovery.

Throughout our budget formulation process, three central goals guided our decision-making at this significant time in the District's development:

- Investing in key priorities
- Reducing spending
- Obtaining relief from federal barriers to the District's financial recovery

By meeting these goals, I believe the District government will ensure that city services and neighborhoods will continue to improve, while maintaining the highest standards of fiscal responsibility.

#### INVESTING IN KEY PRIORITIES

The District is undergoing a tremendous renaissance in our neighborhoods and downtown, while the delivery of city services has greatly improved. However, because too many of our neighborhoods and citywide infrastructure still suffer from the effects of decades of neglect, much work remains to be done.

This budget invests in priorities articulated by thousands of residents at our second Citizen Summit last October as well as the top priorities developed through 39 neighborhood planning sessions across the city. These priorities include improving investing in neighborhood services, providing a safety net for our most vulnerable citizens, improving public schools, and restoring the Anacostia River and the neighborhoods along its banks.

The budget we submit to you today includes modest investments in education, children, infrastructure, and emergency preparedness. Here are a few of the highlights:

- A \$36.7 million increase for DCPS to support mainstream classrooms, including funding for a pay increase of 20 percent for District teachers over the next 3 years;
- A \$11.4 million increase for Child and Family Services as part of our commitment to raising the standard for services for our most vulnerable children; and \$5 million more for the Children and Youth Investment Trust, which provides a wide array child care and other support services for our citizens;
- A \$45 million commitment in the capital budget for the Unified Communications Center to begin rebuilding the city's emergency response infrastructure;
- A \$13 million net increase in DPW primarily for trash disposal contract (\$4.5 million), equipment lease debt service for vehicle purchases (\$2.9 million), increased parking enforcement operations (2 million), approved pay raises ( \$3.3 million); and
- A \$6 million increase for WMATA.

#### REDUCING SPENDING

The District no longer suffers from rampant overspending by agencies. There remain, however, two troubled programs—Medicaid and Special Education—that require immediate reform in order to compensate for decades of operational neglect.

The District is wrestling with Medicaid for the same reasons as other states: rising health care costs, increased enrollment, and the challenges of cost containment. To address this issue, I am focusing resources on this program in the same way we focused on solving the problems with receiverships. Agencies administering these programs will be held accountable for producing, at a minimum, \$50 million in annual savings by the beginning of fiscal year 2005. I also expect to appoint a Director of Public Provider Medicaid Reform to coordinate the very complex functions across agency programs that are needed to bring this issue under control.

Until the District achieves these savings, however, the Tobacco Securitization funds will be used to cover these health-related cost increases. Initially, we wanted to use these tobacco funds for new health programs and investments, but given that Medicaid cost increases are in part due to expansion of health services, we found it reasonable to use them for a limited time.

Special education in the District of Columbia has mushroomed into a dangerous drain on District of Columbia Public Schools' budget and the resources of the District as a whole. We are spending 30 percent of our schools' budget on 16 percent of the student body—mostly because the District does not have the capacity to provide for students with special educational needs within the city. The transportation costs alone are exorbitant. The city contributed an extra \$90 million to manage Special Education in fiscal year 2002 and is providing about that much in fiscal year 2003.



In the same way that we have tackled the receiverships and other financial and management crises, we will focus the highest level of this administration's resources on fixing this problem, in partnership, with DCPS and the council. DCPS has developed a plan to reform special education over the next three to five years. The plan focuses on seven key points:

- Building understanding and acceptance of local schools responsibility to meet the needs of special education children;
- Managing the use of non-DCPS special education providers;
- Strengthening DCPS' internal special education capacity and offerings;
- Restructuring and improving management and operations to establish cost management measures;
- Effectively managing transportation;
- Establishing new legal strategies to contain growing attorney fees; and
- Building creative partnerships with other agencies within District government.

I believe that with the full support of the District's leadership, we will turn around special education service delivery in the District.

#### FISCAL RESOLVE

Over the past five years, the District has demonstrated its will to solve its financial crisis and the ability to continuously strengthen its financial health. During the control period—and since its end—District citizens and leaders have steered the city cautiously and responsibly. This leadership produced balanced budgets, clean financial audits, investment-grade bond rating, and hundreds of millions of dollars in financial reserves. The District's response to the fiscal challenges emanating from September 11 and the overall economic slowdown is testament to our commitment to fiscal responsibility and our ability to make expeditious financial decisions.

I am pleased that Congress has recognized the District's ability to manage its finances, and as such, has introduced the "Fiscal Integrity Act of 2002" to permanently remove locally generated tax dollars from the federal appropriations process. The District's local budgeting process is immensely complicated by the need to work through appropriation subcommittees in both the House and Senate—and all of this effort is exerted to approve the spending our local tax dollars. This lengthy process greatly complicates our revenue estimation and routinely delays the beginning of our fiscal year.

This legislation will also permanently authorize the city's Chief Financial Officer (CFO) to maintain independent monitoring and control over essential financial functions. The CFO plays a critical role in providing good and open government to our residents, and I strongly urge Congress to support this legislation and move it forward.

In addition to passing the Fiscal Integrity Act, there remains a second set of federal barriers impeding the full financial recovery of the District.

#### FEDERAL BARRIERS TO THE DISTRICT'S FINANCIAL RECOVERY

When it comes to delivering human service, public safety service, and other services the federal government treats the District as a state. However, the federal government places major restrictions and demands on the District that no state must face. Specifically, the federal government:

- Does not pay property taxes on the buildings it occupies, which cover 42 percent of the District's taxable area;
- Requires a height restriction on all buildings in the District, which further limits the city's tax base;
- Requires major municipal services for the large presence of federal events, property, and employees—services that are funded by local residents; and
- Does not allow the District to tax the income of non-resident workers.

Because of this disparate treatment, the District faces a structural imbalance between growing expenditures and limited revenues. Experts—including former members of the control board—estimate this imbalance to be \$400 to \$500 million annually, and predict it will threaten our financial recovery and operational improvements.

The District has made major sacrifices to balance our budget despite its inherent imbalance. These sacrifices include delayed improvements to our schools, our transportation system, sewer system, emergency preparedness projects, and other infrastructure needs. District leaders will continue to balance its budget, regardless of the sacrifices required. Our agencies are working to root out inefficiency and identify savings, but even with savings, federal compensation is necessary because no local government could solve this problem on its own—a problem caused by the federal government's restrictions and need for services.

The federal government must play an important role in removing the barriers to the District's continued financial recovery. This can be accomplished by: removing the limitations on our tax base, ending the uncompensated service demands, and providing compensation for this disparate treatment.

Congresswoman Eleanor Holmes Norton has introduced the Fair Federal Compensation Act of 2002, which will provide federal compensation to the District so it can continue to provide improved services to local taxpayers, commuters, and the federal government, while maintaining its hard-earned fiscal stability. I strongly encourage the Congress to introduce and pass similar legislation.

#### A CRITICAL JUNCTURE IN DISTRICT-FEDERAL PARTNERSHIP

We have the opportunity to make our Nation's Capital a shining example to the world of what America can achieve. I know you share our vision of Washington as the premier world-class city.

The President, Congress, and District leadership have demonstrated strong cooperation and mutual commitment to the well being of the nation's capital city. We appreciate your support in carrying forward this spirit of cooperation as we pursue enactment of the District's fiscal year 2003 budget and of the Fiscal Integrity Act.

Finally, the District is truly on the verge of achieving its full potential as the heart of this vibrant region. Yet, as the world's leading democracy, the United States does not grant voting rights to the residents of its capital city. Although full voting representation is a fundamental right held by every citizen, the people of the District have been disenfranchised for almost 200 years. This body has acted on behalf of disenfranchised women, African Americans, Latinos, Native Americans, and other groups, and now the people of my city look to you to act on behalf of all disenfranchised citizens of our Nation's Capital by passing legislation to reverse this injustice.

This concludes my testimony. I thank you for the opportunity to present our priorities to you today, and I would be happy to respond to any questions you may have.

Senator LANDRIEU. Thank you, Mr. Mayor, for those very concise remarks, and we appreciate your highlighting some of the areas that this committee and you share an interest in.

Mrs. Cropp?

#### STATEMENT OF LINDA W. CROPP, CHAIRMAN, COUNCIL OF THE DISTRICT OF COLUMBIA

Ms. CROPP. Thank you. Good morning, Chairman Landrieu and Senator Hutchison. It is a pleasure to be here before you again testifying on behalf of the citizens of the District of Columbia.

The fiscal year 2003 budget is another fiscally sound and responsible budget that marks a monumental stride in our city's home rule. It exemplifies our readiness and capacity to govern ourselves. This budget is a reflection of us as one good government that stood united, resolved, and resolute to turn our abysmal financial situation around, got rid of the Financial Authority, made some very tough decisions, and legislated another balanced and financially sound product.

Fiscal discipline has always been and will be a top priority of our legislative agenda. We demand it of the executive branch and the council practices it ourselves. The various forms of fiscal discipline from rainy day savings, financial safeguards, insurance, and investment policies, economic triggers to PAY-AS-YOU-GO funds, that we have demanded of and imposed on ourselves in the past several years have yielded high returns on investments.

Case in point. In spite of the temporary setbacks suffered after 9/11 following the recession and the war against terrorism, the robust fiscal health of the city has provided an important buffer against the economic downturn. As you will see, this fiscal year 2003 budget reflects our priority to guarantee that residents are

provided benefits, services, and programs, basic municipal needs that are critical in making the District a very special place to live.

#### LEGISLATIVE ACHIEVEMENTS

As this council period comes to a close, we are proud to say that in addition to fiscal discipline that we imposed on ourselves and the executive branch, we have achieved other important goals set forth on the agenda. They are the revitalization of our neighborhoods, the investment in our youth, protection of vulnerable citizens, oversight of the executive performance and service delivery, promotion of economic stability and growth, and we are still looking forward to the expansion of home rule and democracy.

I have a copy of our legislative agenda titled At Work for a Better Washington and would like to provide this as part of the record to my testimony today.

The council worked diligently with the Mayor in aligning both sets of priorities and put together a fiscally sound and responsible spending plan. The operating budget funds basic city services and programs. The capital budget, as a result of stringent oversight by the council, was realigned. For example, funds were redirected and targeted toward projects with higher priority and critical needs such as schools for children, improving blighted properties in the neighborhoods, and enhancing existing facilities for better public and council interaction.

The council submitted earlier 12 committee reports, and we would like for that to be a part of the record of this testimony too.

To meet the goals of our legislative agenda, schools continue to receive full funding. To protect our vulnerable citizens, the council found \$7.3 million to fund the Interim Disability Assistance Program for Disabled Adults. To invest for future generations, capital and operating dollars were added for our young children to improve their studying environments and broaden their academic and vocational skills. We scrubbed, scrounged, and saved another \$10 million for long-term investment in the Tobacco Trust Fund. This is in addition to the \$33 million that we have painstakingly saved for the past 2 years.

At this juncture I would like to emphasize how the council exercised fiscal prudence with additional money that became available. It chose to put in place a budget stabilization function, also known as PAY-GO, for critical, one-time expenditures. First, this budget approach allows the District to spend funds on necessary items to improve service delivery for the residents, and second, it controls the base budget and restricts agencies from overspending and ballooning their budget. Third, it prevents the tendency simply to plow more money into ongoing programs without constraint and needs. And lastly, it helps us by not having to pay debt service on money that we would borrow for capital projects.

In addition, the council will continue to phase in the tax reductions associated with the Tax Parity Act of 1999, albeit with some modifications. In agreement with the Mayor, the council will reduce the corporate tax rate from 9.975 to 9 percent. When the CBO released a modest economic growth rate of 2.2 percent this winter, the personal income tax rates were judiciously postponed. Should the District's economic outlook continue to improve, the council

does intend to phase in the continuation of the individual income tax at a later date.

When we looked at the spending, we wanted to make sure that we did not continue to spend, and there was a cap that was placed in for future years at the 4 percent level.

As you consider our appropriations request, we ask that you support and pass the 2003 budget in time for the start of the new fiscal year and before adjournment of the 107th Congress. We are eagerly anticipating that you will pass the supplement which is pending before you, which actually you are working on.

We would like to thank you for allowing the city to use its own funds for the expansion of the health benefits for domestic partners. We ask that you continue this good faith action by respecting our own local laws and decisions and urge that no extraneous or new riders be inserted into our budget bill. Let me emphasize that this appeal for no anti-democratic riders extends to a recent, unprecedented effort to deal with zoning issues.

Let me also ask if in this budget, at no cost to the Federal Government, if the District would be allowed to carry over funds that we have not spent. Once we reach our cash balance, which we hope to reach this year much earlier than we had anticipated and certainly a larger amount than any other government, we would like to be able to carry over funds from 1 year to the other. No other government is not allowed to do that. In fact, by not allowing us to do that, it sort of says to folks, spend, and that's not the message we want to send to our agencies. So, we would like to carry them over.

Finally, we urge you to support this monumental budget because it is a true home rule budget put together by local leadership. This council-Mayor-public citizen process, besides complementing the efforts in our crafting a spending plan that will make Washington, D.C. a much better place, truly reflects the beauty of our democratic principles at work. Like Congress, the council remains staunch in its legislative role and stands committed to oversee the executive branch operations. We will keep expenditures and revenues in check. We will respond swiftly to our constituents and their needs, and we will work with the Mayor, Congress, and the surrounding governments to achieve mutually shared goals. We will always produce good responsible budgets that invest dollars for the District and leave a legacy for future generations.

And thank you very much.

[The statement follows:]

#### PREPARED STATEMENT OF HON. LINDA CROPP

Good morning, Chairman Landrieu and members of the Senate Appropriations Subcommittee on the District of Columbia. I am pleased to be here to testify on the District's fiscal year 2003 budget.

#### INTRODUCTION

The fiscal year 2003 budget is another fiscally sound and responsible budget and marks a monumental stride in our city's history of home rule. This is the first budget that we, the locally elected leaders, have crafted by ourselves AND entirely within the Home Rule process in a post-Control Board period. This budget is proof that the Council and the Mayor can work together and produce a good spending plan that continues to make the District a better place to work, live, visit, and raise a family. Most importantly, this budget, which came at the heels of the Council's reoc-

cupation of its own City Hall, marks a new era for the District. It exemplifies our readiness and capacity to govern the city ourselves. Moreover, it is a reflection of us as one good government that stood united, resolved, and resolute to turn our abysmal financial situation around, got rid of the Financial Authority, made some tough decisions, and legislated another balanced and financially sound “product”.

*Fiscal Discipline.*—This has always been and will always be a TOP PRIORITY on our legislative agenda even as the Council Period XIV comes to a close. We not only demand it of the Executive Branch, we practice it ourselves. The various forms of fiscal discipline—from rainy day savings, financial safeguards, insurance and investment policies, economic triggers to PAYAS-YOU-GO funds—that we have demanded of, and imposed on ourselves in the past several years, have yielded high “Returns On Investments”.

Case in point . . . in spite of the temporary setback the city suffered after 9/11, followed by the recession and the war against terrorism, the robust fiscal health of the city has provided an important buffer against the economic downturn. As you will see, this fiscal year 2003 budget reflects our priority to guarantee that residents are provided benefits, services, and program—basic municipal needs that are critical in making the District a special place to live.

#### COUNCIL PERIOD XIV

As the Council comes to the close of Period XIV, we are proud to say that in addition to the fiscal discipline that we imposed on ourselves and the Executive Branch, we have achieved other important goals set forth in our agenda. These are:

- Revitalization of our Neighborhoods
- Investment in our Youth
- Protection of our Vulnerable Residents
- Oversight of the Executive Performance and Service Delivery
- Promotion of Continued Economic Stability and Growth
- Expansion of Home Rule and Democracy

I have here a copy of our Legislative Agenda titled *At Work for a Better Washington* and would like to provide this for your information as it elaborates on the various measures that the Council implemented to achieve these priorities.

#### THE COUNCIL/MAYOR BUDGET PROCESS

In December of last year, the Council passed the Fiscal Year 2003 Budget Submission Requirements Resolution of 2001. It established March 18 as the date by which the Mayor shall submit to the Council the proposed budget. The Mayor transmitted his budget on March 18 and the Council acted on it within the 50 days as required by the Home Rule Charter. During this 50-day period, the Council worked diligently with the Mayor in aligning both sets of priorities and, put together a fiscally sound and responsible spending plan. The operating budget funds basic city services and programs. The capital budget, as a result of stringent oversight by the Council, was realigned. For example, funds were redirected and targeted toward projects with higher priority and critical needs, such as schools for the children, improving blighted properties in the neighborhoods, and enhancing existing facilities for better public and Council interaction.

#### THE COUNCIL/PUBLIC CITIZEN BUDGET PROCESS

An integral part of the Council budget process is public input and, as such, many hearings on the fiscal year 2003 budget were held. The process gave the citizens and our workforce an opportunity to comment and critique programmatic and funding needs and agency performances that impact them. This feedback is invaluable because it contributed and culminated in the decisions and recommendations of each committee in the mark-up of the budgets. Following a review of the committee marks, the Committee of the Whole made additional recommendations in order to bring the budget into balance. At the end of this public process—which translated into 67 public hearings or about 282 hours—we incorporated findings from our citizens and employees into the budget.

I've here copies of the Council's committee reports and the fiscal year 2003 Budget and I would ask that they be made part of the record.

#### HIGHLIGHTS OF THE FISCAL YEAR 2003 BUDGET

When the Mayor submitted the budget to us, he had proposed a local budget of \$3.74 billion, an increase of \$168 million or 4.7 percent over the revised fiscal year 2002 budget as amended by the fiscal year 2002 supplement, the reallocation of reserve funds, and the reprogramming. On May 7, the Council approved the \$6.4 bil-

lion spending plan that provides adequate funding for basic city services and programs. To meet the goals in our legislative agenda, schools continue to receive full funding. To protect our vulnerable residents, the Council found \$7.3 million to fund the Interim Disability Assistance program for disabled adults. To invest for future generations, capital and operating dollars were added for our young children to improve their studying environments and broaden their academic and vocational skills. We scrubbed, scrounged, and saved another \$10 million for long-term investment in our Tobacco Trust Fund. This is in addition to the \$33 million that we have painstakingly saved from the past two years.

#### PAY-AS-YOU-GO FUNDS

At this juncture, I would like to emphasize how the Council exercised fiscal prudence when additional money becomes available. It chose and put in place, a budget stabilization function, also known as the PAY-GO for critical one-time expenditures. First, this budget approach allows the District to spend funds on necessary items to improve service delivery for the residents. Second, it controls the base budgets and restricts agencies from overspending and "ballooning" their budgets. Third, it prevents the tendency to simply plow more money into ongoing programs without constraint and need.

#### TAX PARITY/TAX RELIEF

In addition, the Council will continue the phase-in of tax reductions associated with the Tax Parity Act passed in 1999, albeit with some modifications. In agreement with the Mayor, the Council will reduce the corporate tax rate from 9.975 percent to 9 percent. When the CBO released a modest economic growth rate of 2.2 percent this winter, the personal income tax rates were judiciously postponed. Should the District's economic outlook continue to improve at a rapid rate, the Council intends to phase-in the individual income tax reductions starting in 2004. Given our amazing financial turnaround, the revitalization of the city, and the resilience of our economy, we are very optimistic that the "renaissance" of Washington will come full circle once we bring our taxes in-line with our neighbors in the next few years. Lastly, let us not forget the tax relief we gave our residents in this budget when we capped real property tax assessment increases at 25 percent for all owner-occupied housing.

#### CAP ON SPENDING

Having pulled ourselves out of the financial abyss of the mid-1990s, the Council has always remained vigilant fiscally. Concerned about the unchecked growth in spending, we decided to compare the growth rate of local spending and revenues from fiscal year 1997 to 2001. This analysis shows that based on a 3-year growth rate from 1999 to 2001, the District has experienced an average of 9.9 percent growth (see attached chart)! Concerned about the spike in growth spending in this current administration, the Council passed an amendment that would cap the expenditures at 4 percent for the fiscal year 2004 budget. In taking this action, the Council believes that while we do not take the good fortunes of the city for granted, we too must prevent a fiscal train wreck when we see it coming.

#### FEDERAL FINANCIAL ASSISTANCE FOR STRUCTURAL IMBALANCE

According to a study done by the McKinsey Group, the District could face a budget deficit of at least \$500 million unless corrective and preventive actions are taken. While we do our share to contain spending, we ask that the Committee provide additional financial assistance to compensate for the structural constraints and financial burdens that the District bears as the Nation's capital. This structural imbalance is also supported by the analysis done by the Greater Washington Society of CPAs (GWS of CPAs) on the District's share of revenues from the federal grants. Compared to the other 50 states, 32 states received a greater portion of federal funds for their general fund than the District does. Given our long and historical federal/local relationship, the ratio of federal grants to the District General Fund revenue is not fair and hardly equitable (see table attached).

#### CONCLUSION

As you consider our appropriations request, we ask that you support and pass the fiscal year 2003 budget in time for the start of the new fiscal year and before the adjournment of the 107th Congress. We are eagerly anticipating that you will pass the Fiscal Year 2002 Supplement which is pending before you. As fellow legislators, we recognize that disparate issues often become linked in unpredictable ways.

Under current law, our budget requires Congressional approval. Your action on this Supplement, which the Council passed in early April, would greatly support the city's budget process.

We also would like to thank you for allowing the city to use its own funds for the expansion of health benefits for domestic partners. We ask that you continue this good faith action by respecting our own local laws and decisions and urge that you not include any extraneous or new riders in our budget bill. Let me emphasize that this appeal for "no anti-democratic riders" extends to a recent, unprecedented effort by several of your colleagues to interfere in a local zoning matter for which local administrative appeals have not even been exhausted and about which litigation is pending in the courts. Please let the locally elected and locally appointed officials who represent the citizens of the District of Columbia decide local issues—such as those pertaining to the District's zoning and permitting process.

Finally, we urge you to support this "monumental" budget because it is a "true" Home Rule budget put together by the local leadership (and without the Financial Authority). This Council/Mayor/Public Citizen budget process—besides complementing the efforts in our crafting a spending plan that will make a better Washington a reality—truly reflects the beauty of our democratic principles at work. Like Congress, the Council remains staunch in its legislative role and stands committed to oversee the Executive Branch operations. We will keep expenditures and revenues in check. We will respond swiftly to our constituents and their needs. We will work with the Mayor, Congress, and the surrounding governments to achieve mutually shared goals. We will always produce good responsible budgets that invest dollars for the District and leave a legacy for future generations.

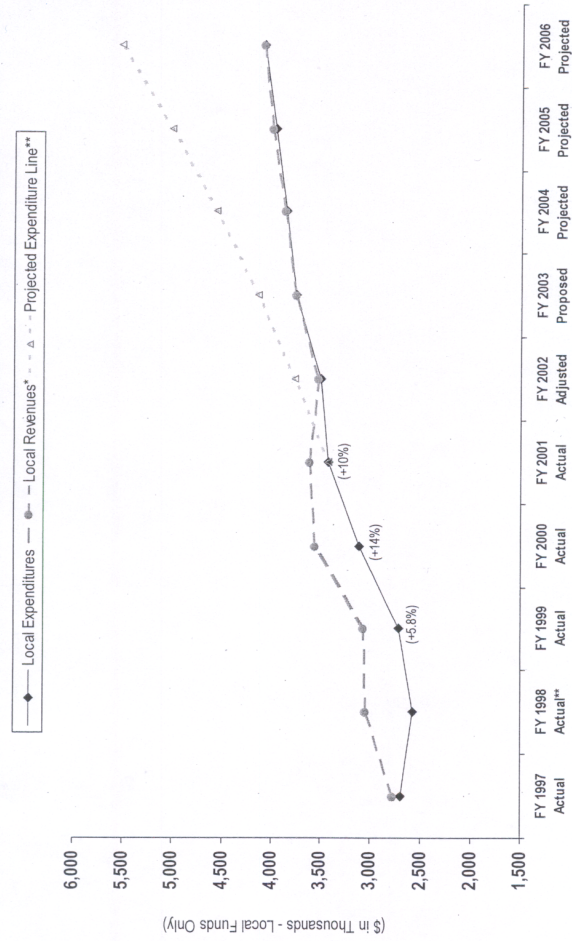
COMPARISON OF GOVERNMENTAL FUND TYPE REVENUES—DC vs. OTHER GOVERNMENTS FOR  
ACTUAL FISCAL YEAR 2000

[Dollars in millions]

	District of Columbia	State of Maryland	Prince George's County, MD	State of New York
Federal Grants .....	\$1,253	\$3,974	\$663	\$24,004
Federal Pension Costs .....	182	.....	.....	.....
Federal Reimbursements for "Restrictions and Unusual Costs" .....	254	.....	.....	.....
Taxes .....	3,128	10,405	854	37,259
All other .....	488	1,523	101	10,474
<b>Total revenue .....</b>	<b>5,305</b>	<b>15,902</b>	<b>1,618</b>	<b>71,737</b>
<b>Percent Federal Grant Revenue to total revenue .....</b>	<b>24</b>	<b>25</b>	<b>41</b>	<b>33</b>

Source: District of Columbia Audit Task Force, Greater Washington Society of CPAs, District of Columbia Audit Briefing Fiscal Year 2000 Report.

### GROWTH HISTORY OF LOCAL EXPENDITURES VERSUS REVENUES FROM FY 1997 TO FY 2006



\* Excludes Enterprise Funds and Federal Payments.  
 \*\* Projected trend line analysis based on a three-year actual growth rate in expenditures from 1999 to 2001, i.e., 9.9%.



Senator LANDRIEU. Thank you.  
Dr. Friedman.

**STATEMENT OF DR. JULIA FRIEDMAN, DEPUTY CHIEF FINANCIAL OFFICER FOR RESEARCH AND ANALYSIS, AND CHIEF ECONOMIST, DISTRICT OF COLUMBIA**

Dr. FRIEDMAN. Good morning, Chairman Landrieu and Senator Hutchison. I am Julia Friedman. I am the Deputy Chief Financial Officer for Research and Analysis, and the Chief Economist for the District. I am here for Dr. Gandhi, who has been called out of the country on a family emergency.

My remarks will briefly touch on the fiscal year 2002 budget and the fiscal year 2003 budget outlook. The formal submission—

Senator LANDRIEU. Dr. Friedman, you are going to have to try to speak a little more closely into that microphone.

Dr. FRIEDMAN. Dr. Gandhi has been called out of the country on a family emergency and sends his apologies for not being able to be here.

As the Chief Financial Officer, Dr. Gandhi's major responsibility is to ensure the overall financial viability of the District of Columbia in the short-, medium-, and long-term. In the past year, we have enjoyed some notable successes, including the fifth consecutive clean opinion from the city's independent auditors, with the fiscal year 2001 comprehensive annual financial report completed ahead of time and with a balanced budget. Overall, the city ended fiscal year 2001 with a surplus of \$77.6 million and a positive fund balance of \$562.2 million. In 1996, there was a negative fund balance of \$518 million. So, we have witnessed a turnaround of over \$1 billion since then.

I believe we are on a good position to continue this progress. We have instituted several changes in financial systems that will give us a much better picture of our financial position as we go through the year. And for fiscal year 2003, we plan to apportion the budgets of the city's largest agencies. At the end of 2001, we had \$100.8 million in cash reserves available. This has now grown to nearly \$151 million, and we expect the amount to grow to about \$250 million by the end of fiscal year 2002. Along with the fund balance noted earlier, these steps should solidify the district's improved bond ratings and contribute to lower borrowing costs in the future, as they were intended to do.

Senator HUTCHISON. Thank you.

Dr. FRIEDMAN. For fiscal year 2002, year-to-date spending pressures are estimated to cumulatively total \$283 million. Through various actions, the District has resolved \$250 million of these spending pressures and the remaining \$33 million will be addressed through the District's budgeted reserve.

The fiscal year 2002 supplemental bill consists of \$37 million in appropriation authority changes and a set of language provisions to clarify the intent of Congress in selected areas. This has now been reported out of the full committee and we want to thank you for your leadership in this matter.

## FISCAL YEAR 2003 FINANCIAL PLAN

Moving to fiscal year 2003, the District's general fund operating request is \$5.7 billion from all funding sources. This represents an increase of \$402 million, or about 7.6 percent, over the fiscal year 2002 appropriated levels.

In local funds, which are about two-thirds of our budget, the fiscal year 2003 budget request is \$3.8 billion, an increase of \$209 million, or 5.9 percent, over fiscal year 2002 appropriated levels.

Much of the remainder of the testimony speaks to the issue of the structural imbalance that the CFO sees in the District's long-term prospects for fiscal stability for the District. There is a great deal to be said about this, and I would recommend these remarks to you. A long-term solution has to be found in some way.

One option is the passage of the Federal Fair Compensation Act of 2002, as introduced by Congresswoman Norton. This would certainly improve the District's ability to service its residents, as well as its nonresident workers in the long term. In the absence of this act, a dialogue must continue that revisits the Federal-local partnership and arrives at a long-term solution for the support of D.C. services.

Madam Chairwoman, this concludes my prepared remarks, and I request that the prepared statement of D. Gandhi be made part of the record.

[The statement follows:]

PREPARED STATEMENT OF DR. NATWAR M. GANDHI, CHIEF FINANCIAL OFFICER,  
DISTRICT OF COLUMBIA

Good morning, Chairwoman Landrieu, Senator DeWine, Congresswoman Norton, and members of the subcommittee. I am Natwar M. Gandhi, Chief Financial Officer for the District of Columbia, and I am here today to testify on the District's fiscal year 2003 budget request to the Congress. My remarks will briefly touch on the fiscal year 2002 financial outlook and supplemental, the fiscal year 2003 request, and the structural imbalance that threatens the District's long-term financial viability.

## OVERVIEW

As the chief financial officer, my major responsibility is to ensure the overall financial viability of the District of Columbia in the short-, mid-, and long-term. In the past year, we have enjoyed some notable successes, including the fifth consecutive "unqualified" (or clean) opinion from the city's independent auditors, with the fiscal year 2001 Comprehensive Annual Financial Report (CAFR) completed ahead of time and with a balanced budget. Overall, the city ended fiscal year 2001 with a surplus of \$77.6 million and a positive fund balance of \$562.2 million. In fiscal year 1996, there was a negative fund balance of \$518 million, so we have witnessed a turnaround of over a billion dollars since then. This result is another milestone for the financial turnaround that began in the fiscal year 1997 CAFR and is a fitting beginning for the District's return to Home Rule last October 1.

I believe we are in a good position to continue this progress. We have instituted several changes in financial systems that will give us a much better picture of our financial posture as we go through the year, and for fiscal year 2003 we plan to apportion the budgets of the city's largest agencies. At the end of fiscal year 2001, we had \$100.8 million in cash reserves available; this now has grown to nearly \$151 million. We expect this amount to grow to about \$250 million by the end of fiscal year 2002. Along with the fund balance noted earlier, these steps should solidify the District's improved bond ratings and contribute to lower borrowing costs in the future.

We have made progress on other fronts as well. This year, for the first time, the District of Columbia's "Comprehensive Financial Management Policy" appears as an appendix of the budget submission. This policy, required annually by the fiscal year 2001 District of Columbia Appropriations Act (Public Law 106-522), is actually a

compilation of policies in key areas and a financial management tool that codifies current policies and procedures. It will be updated annually.

Effective with the fiscal year 2003 budget development process, we began the transition to performance-based budgeting. With the active support of the Office of the City Administrator, seven large operating agencies, including the OCFO, submitted performance-based budgets based on agency strategic business plans aligned with the mayor's citywide strategic plan. For the fiscal year 2004 budget process, we anticipate converting another 20 agencies to performance-based budgeting.

In the area of payroll operations, we have moved all agencies except Fire and Emergency Medical Services back to the UPPS payroll system. This agency will be converted before the end of the fiscal year. A long-term replacement strategy for the payroll system and its integration with other administrative systems has been developed as part of the Administrative Services Modernization Program, spearheaded by the Office of the Chief Technology Officer.

Over the next two years, all of the District's administrative systems—personnel, payroll, pension operations, procurement, property management, and budget—will be upgraded and integrated with the System of Accounting and Reporting (SOAR). For the first time, this will give the District a top quality, integrated information system with which to manage District operations. Now that we have two years of operating experience with SOAR, we are utilizing more of its capabilities.

#### FISCAL YEAR 2002 FINANCIAL OUTLOOK

Year-to-date spending pressures for fiscal year 2002 are estimated at \$283 million. Through various actions (use of reserves, reprogrammings, agency gap-closing plans, and the proposed supplemental appropriation), the District has resolved \$250 million of the spending pressures. The remaining \$33 million will be addressed through the District's budgeted reserve. Thus, I am confident we will end the year with a balanced budget.

The District submitted a fiscal year 2002 supplemental budget request consisting of \$37 million in appropriation authority changes and a set of language provisions to clarify the intent of Congress in selected areas. The Council of the District of Columbia passed the supplemental on April 9. The full committee reported out the supplemental on May 22, and it passed the Senate on June 7. We want to thank you for your leadership and support on the District portion of it.

#### FISCAL YEAR 2003 BUDGET REQUEST

The Council of the District of Columbia voted to approve the fiscal year 2003 budget request on May 7, and copies of the budget documents were recently made available. I would like to briefly summarize some of the key points in the request.

In total, the District's general fund operating request for fiscal year 2003 is \$5.7 billion from all funding sources (local, federal, private, and other), which represents an increase of about \$402 million, or 8 percent, over approved fiscal year 2002 levels. The total number of positions in fiscal year 2003 from all funding sources is 33,958, which represents an increase of 708 positions, or about 2.1 percent.

In local funds, which comprise about two-thirds of the total budget, the fiscal year 2003 budget request is about \$3.8 billion, an increase of about \$209 million, or 5.9 percent, over approved fiscal year 2002 levels. The total number of positions funded with local funds is 26,846, an increase of 524 positions, or 2.0 percent.

The District's expenditure growth since fiscal year 1999 has been concentrated in several large agencies. The overall growth rates of expenditures in fiscal year 2000 (over fiscal year 1999) and fiscal year 2001 (over fiscal year 2000) were 8.9 percent and 10.8 percent, respectively. However, an analysis shows that the District's expenditure growth has been driven by four agencies—the DC Public Schools, the Public Charter Schools, the Department of Mental Health, and the Public Benefit Corporation subsidy (plus transition costs in fiscal year 2001)—where expenditure growth was 28.5 percent and 29.3 percent in fiscal year 2000 and fiscal year 2001, respectively. These rapid growth rates are attributable to rising enrollments in Public Charter Schools, and, in the other three agencies, to Medicaid and other costs related to the health care needs of the District's low-income citizens. Outside of these four agencies, expenditures grew by only 2.5 percent in fiscal year 2000 and 3.1 percent in fiscal year 2001, aided in part by reductions in debt service. During this same period, the Consumer Price Index for the Washington Metropolitan Area grew by 3.1 percent and 2.9 percent, respectively.

As you will see, the budget projects positive net operating margins through fiscal year 2006. This projection shows a positive financial picture and is based on revenue forecasts that use realistic economic and demographic assumptions generally accepted by the forecasting community and the federal government.

However, a closer examination of the data suggests that the District is operating on a much slimmer financial margin. While we believe the costs of maintaining current services can be kept within projected amounts, it is unlikely the city will operate over the next few years without program initiatives. Further, as we have seen recently, it has been necessary to use reserve funds. While revenues grew by 7.4 percent annually between fiscal year 1999 and fiscal year 2001, the District now likely faces a more slowly rising revenue curve, as financial markets return to more normal patterns and the frenzied pace of property renovations lets up. For these reasons, the city and its elected leadership will face difficult program and financial decisions in the years to come. For these same reasons and others, we believe there is a structural imbalance in the District's budget that needs to be addressed.

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

The "structural imbalance" is the difference in the long-term between the District's unreimbursed expenditures and its constrained revenue base. Working together, the elected officials of the District must find ways to balance expenditure needs with revenue requirements, in order to balance the city's budget and ensure that the control board does not return. This involves some very difficult decisions, due in significant part to the unique status of Washington, DC, and the challenges related to that status.

Others external to the District have looked and continue to look at the structural imbalance. The Federal City Council commissioned McKinsey & Company to independently assess the District's financial position. Their report, issued in March 2002, stated, among other things, that federal constraints impose an annual opportunity cost of at least \$500-\$600 million. As you know, both the General Accounting Office and the Congressional Research Service are conducting separate analyses of the city's financial structure.

What we already know is that the recent recession forced cities and states across the country into difficult budget decisions. Cities and states have dipped into rainy day funds, delayed tax reductions, and implemented service cuts. For cities, the economic downturn compounds other recent fiscal challenges. While the population of states rose by an average of 13.1 percent in the 1990's, the population of the largest 27 cities grew by a slower rate of 8.5 percent. While states provide services to a resident base with a poverty rate of 11.3 percent, cities provide services to a resident base with a poverty rate of 17.9 percent. And while the federal government and state governments experienced revenue growth of 136 percent and 97 percent respectively between 1988 and 2001, cities—which rely on revenue sources such as property taxes, which generally do not keep pace with the economy—experienced more modest growth of 69 percent. In the District, growth over this period was 34 percent. Excluding the federal payment, District revenues grew by 58 percent over this period, lower than the other jurisdictions.

In each of these three cases—population growth, poverty rate, and revenue growth—the District performed more poorly over the past decade than cities overall and the states. In the District of Columbia, the pressures facing all levels of government generally—and all cities particularly—are extenuated by restrictions on the District's revenue base and expenditure requirements reflective of the District's unique status as the nation's capital.

The revenue base is constrained because:

- 66 percent of the income earned in the District cannot be taxed by the city, meaning that 34 percent of the District's income tax base subsidizes the public services that the District provides its nonresident workers;
- 42 percent of the real property in the District is owned by the federal government and is exempt from city taxation;
- 11 percent of other real property in the District also is exempt from taxation; and
- District buildings have federally-imposed height restrictions, which reduce population and economic density, as well as property tax revenues.

The District also provides services beyond its capacity. For example:

- Services to the federal government, such as public works and public safety, are valued at \$240 million in a normal year and more in times of crisis; between fiscal year 2002 and fiscal year 2006, this is estimated at \$1.2 billion.
- Services of a state-like nature, such as human services, mental health, and the University of the District of Columbia, are valued at \$500 million a year; between fiscal year 2002 and fiscal year 2006, this is estimated at \$2.6 billion. These services are in addition to those absorbed by the federal government through the 1997 Revitalization Act.

—Services to the region, such as the 400,000 out-of-District vehicles that drive in the city every day—and represent 70 percent of traffic on District roads during business hours—but do not contribute to road repairs are valued at \$150 million a year; between fiscal year 2002 and fiscal year 2006, this is estimated at \$0.75 billion.

While these expenditure and revenue pressures are not unique to Washington, they represent a special challenge here, due to the District's limited ability to address them, because:

District tax rates and burdens on both households and businesses already are high in comparison to neighboring jurisdictions when considering the complete menu of taxes—sales tax, income tax, property tax and business taxes. The individual income tax burden in the District is 34 percent higher than Virginia, and the city's real property tax burden is 15 percent higher than Alexandria.

The District's capacity to borrow funds is limited, with a per-capita debt of \$4,651, second only to New York City's per-capita debt of \$4,664. Due to planned capital spending, the District's per-capita debt will rise steadily through fiscal year 2006 to an estimated \$6,531. Even that level of capital spending does not address all of the urgent infrastructure needs, particularly roads, Metro expansion, and the DC Public Schools. Deferring investments in infrastructure can cause crisis-like pressure on operating spending.

Local fund expenditures also are constrained. Of the nearly \$3.8 billion in budgeted expenditures, less than \$1.5 billion is available for discretionary purposes. The remaining expenditures are mandatory, in the sense that they are required to fulfill financial or contractual obligations or to comply with federal or local legislation or court order. Even within the discretionary total of less than \$1.5 billion, most is required to provide a basic level of municipal services, such as police, fire, and public works.

The long-term solution to the structural imbalance is a matter to be addressed by District and congressional policy-makers. Passage of the Federal Fair Compensation Act of 2002 (H.R. 3923), as introduced by Congresswoman Norton, would certainly improve the city's ability to service its residents as well as its non-resident workers. In the absence of this act, a dialogue must continue that revisits the federal/local partnership and arrives at a long-term solution for equitable support of District services.

#### CONCLUSION

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

Senator LANDRIEU. Thank you very much. I appreciate it.

#### THE DISTRICT'S BOND RATING

Let me just begin, if I could, with you, Ms. Friedman. The bond rating. Both Senator Hutchison and I served as treasurers of our State, so we had to take this on. Kind of our full-time focus was to increase the bond ratings of our States and keep them high. It is just one reflection of the fiscal health of an entity. It is not the only, but it is a good guiding post because, as you know, the rating agencies rate all States and all cities and all jurisdictions. So, they have a lot of comparative data.

I am noting that the bond rating for the city, although we have made a lot of progress, is still one of the lowest in the Nation. It is a BBB+. I would note that it is equivalent to my own home city, the City of New Orleans, which is facing some challenges.

But could you, from your position, outline the three or four things that the rating agencies are looking for before they will begin to consider moving the city higher? What are the two or three things that they discuss with you about that?

Dr. FRIEDMAN. One of the benchmarks that they constantly refer to is our debt per capita. It is quite high in the District, second only to New York City.

Senator LANDRIEU. And what is that ratio, do you remember, just for the record?

Dr. FRIEDMAN. Someone will pass me the number in just a minute. It's something like \$5,000 per capita. We have brought that down successfully in the last year with the securitization of the tobacco funds and using that money to write down our debt. So, we have substantially reduced it.

We also note that some of our indicators are considerably stronger than other cities that have much higher ratings such as Detroit and Philadelphia and some of the other areas where we have more real property value per capita. We have in some ways much stronger budget positions than they do.

In our discussions with the rating agencies, they continue to look for strong political leadership and consistent and strong management. These are areas that they talk about.

There is a certain degree of uncertainty that is inherent in the city's relationship with the Federal Government and they do talk to us about the need for certainty and stability in that relationship as well.

The debt per capita, I am told, is \$4,600 in the District.

Senator LANDRIEU. So, besides the debt per capita, the uncertainty of the relationship, and some management issues, would you say that those are the three points that continue to be a challenge for the District?

Dr. FRIEDMAN. Yes, I would say that. In fact, there has been a history, that you are quite aware of, of testimony before you by the rating agencies. Those are the same elements that repeatedly reoccur. They are very happy about the relationship between the Mayor and the council and very impressed by that. We hear that quite a lot.

Senator LANDRIEU. Mr. Mayor, would you like to add anything to that? And Ms. Cropp. I know that you all talk with the rating agencies too, so just something from your perspective that you would like to add.

Mr. WILLIAMS. Well, you know, my years as CFO talking to the rating agencies and now as Mayor talking to them, I would agree with Julia that their concern is the debt load per capita being high. But I think the point has to be made that that debt load per capita is high. It used to be, in large part, driven by uncontrolled expenditures and bad management, recognizing now that it is driven by the fact that we have a very narrow tax base to support that kind of debt load and—and this gets to the Federal relationship—a feeling by the rating agencies that we have got to finally figure out a way to address structural imbalance in our budget, which gets us to the need for a Federal contribution I think because the city can do what it has done, in terms of better fiscal management—we are very proud of the fact that, working with Senator Hutchison and the committee, that by the end of 2002, we are going to have 7 percent of our cash reserve. This is going to be leading the country. The District of Columbia. No one would have thought that years ago. But having met that kind of tight fiscal benchmark, to still have the credit rating we have to us is really frustrating because we think that it is not completely within our power to solve. We need that durable, elastic Federal contribution I believe.

Senator LANDRIEU. Ms. Cropp, anything?

Ms. CROPP. Just in addition to that, I think they are pleased with the way the city is moving with our budget. We have been meeting with them recently and, I think, again tomorrow actually. The idea that we are not putting all of our dollars into our base budget in case something happens, that we will have access to some monies in the future, I think has been very helpful.

Attached to my testimony is something that the Mayor said with regard to structural imbalance with the District. I do want to call your attention to a chart that was created by the Greater Washington Society of CPAs that really shows that the District and its relationship with the Federal Government is not as lucrative as with many other States. In fact, with the Federal Government acting somewhat as the District's State, the District's percentage of Federal dollars that comes back to it is much smaller than many other places.

Senator LANDRIEU. Well, on that point, let me mention because I am hopeful that this bond rating will improve and I think there have been steps taken that would warrant an upgrade in the bond rating. It is one very, sort of clear-cut benchmark, if you will. So, what I have heard this morning indicates that potentially the city is in a position to see an upgrade in the bond rating.

One point on the debt and then one point on the structural imbalance. I think the Mayor is absolutely right in the sense of analyzing debt. If you have got a lot of debt because you are overspending your operating budgets, then that could be very detrimental not only in the short term, but in the long term. But if your debt is high because you are making wise investments in infrastructure and future and capital improvements, then that is a whole other issue. So, it is not just the amount of debt, but the purposes for which the debt is being entered into, and I think we are in a positive trend line.

I want to say on the record that although we do not have a date yet, it is the intention of this chair and our committee to hold a several-hour hearing on the structural imbalances issue. Both the Mayor and the chairman of the council have requested that. I have agreed to that. Our members are interested, but we are waiting for a report that GAO is currently working on that they indicate will have some preliminary findings in the fall. So, we really hope to address that issue because there are some questions that are being raised and potentially some solutions to that for the long term for the District.

#### SPECIAL EDUCATION

I have one more question on education, and then I am going to turn it over to Senator Hutchison. To either the Mayor or to the president of the council, can you talk a little bit more about the special education challenge? Spending 30 percent of the overall budget for 16 percent of the children is very problematic. Having a special education budget—I would not say out of control, but there is not the kind of framework in place that gives me confidence that we are going to be moving in a positive direction in this. And I will say that all jurisdictions are struggling with this,

including the Federal Government itself with our rules and regulations regarding special ed.

But it seems to me that the District has more children in private schools, and I do not support widespread vouchers, but I am having a hard time understanding the difference between vouchers for special education and general vouchers because, generally, you have a system of vouchers to me in the District. In other words, if you cannot get the services in a public school, you basically give a child a voucher to go to a private school to get educated. 2,500 children currently, if my number is correct.

So, Mr. Mayor, you may want to comment about that, because we would like to try to help if we can. Both Senator Hutchison and I are very interested in trying to contain these costs and help develop a system that is fair to the children and the families but also fair to the taxpayer. If you all could just give a little more testimony about our plans for reform.

Senator HUTCHISON. Could I add something?

Senator LANDRIEU. Let the Senator respond.

Senator HUTCHISON. Before you answer, I would like to intervene because that was a line of questioning I also was going to pursue. If I add my question to Senator Landrieu's comments, I think you can answer them all at once.

Not only is there a high level of private school usage, but apparently it has been abused by one law firm that also has an interest in private schools and diagnostic testing. There has been over \$9 million in abuse paid to this one law firm in a round robin way by the law firm being legal adviser, giving diagnostic tests and sending students to a private school in which the firm has an interest. Therefore, please speak to the general point, the abuses that have been reported and what you will be doing about then.

Mr. WILLIAMS. I think the public schools have shown in the past a limited capacity to provide services to the most disabled students on a local basis. So, as a result, these students are being placed by court order in out-of-town schools. You have got expensive transportation costs, expensive tuition. Sometimes you have got cases of thousands of dollars being spent on transportation. You could almost rent a car for a student and family for lower than you are paying for transportation. A huge amount for out-of-state tuition.

The one issue where the schools have done a good job of addressing a problem has actually made the problem worse, and that is 2 years ago we had a huge backlog of students who had not been properly assessed for special education placement. So, the schools diligently went at assessing these students, and in fixing this problem, as a result, out-of-state and overall costs have mushroomed. So, this now presents a dangerous drain on resources to the schools and hence a dangerous drain on resources for the city as a whole.

What the Mayor and council have agreed to jointly do is, initially by Mayor's order and now by legislation, to create, chaired by this Mayor and the Chair of the council's Education Committee, a special education task force. The special education task force's job will be to do what we have done in receiverships across the government. We have now moved, with the exception of special education, if you want to call it semi-receivership, all of our receiverships back into the government because we have satisfied judges, masters, ad-



vocates, stakeholders, and everybody else that the District can now responsibly meet all of these responsibilities, all these requirements and objectives.

We want to do the same thing in special education and harness our private sector, our nongovernmental organizations, all the District's agencies with the goal of building and bringing more special education within the city to the maximum extent possible, within the District, doing what we can to reengineer and revitalize systems so that we reduce transportation costs, and in all of this, find a way to—and I believe this is the ultimate challenge here—reduce the need for litigation in the first place by changing the process of assessment because right now we have, I think, something like 10 times fewer people than Chicago and 10 times more litigation. So, we clearly are going off on the wrong track. When you have, I think, a process that invites litigation and in and of itself triggers litigation, then the lifting of the attorney's fees cap is going to have the result that we all expect it is going to have, which is a mushroomed cost. But I guess the point I am making is it is not necessarily attorney's fees in and of themselves; it is the amount of litigation that we engender in the process that we have.

Senator LANDRIEU. Well, two things. Let me comment about the fee cap, and I do not want to take too much time on this. But also, I would like you to try to answer a little bit more specifically about this particular question of Senator Hutchison about the particular law firm, the system. Has that been addressed? Is it going to be addressed, et cetera?

But I am glad, Mayor, that you mentioned that while the fee cap might have some bearing, the system of how children are designated, first of all, to be special ed children, the responsibility that each individual school in the District considers their responsibility to take care of the special ed children within their district, limiting out-of-city placement, and limiting private school placement, as well as getting a handle on the system that Senator Hutchison—I think is a combination of things that will help us to get this under control. And if we do not, it may upset the financial balance of the school system and then directly the city's good financial trend line.

So, Chairman Cropp, can you add something to that?

Ms. CROPP. I just want to add. You both have mentioned the out-of-state placement. It is to the point where it is almost ridiculous where we have had to pay \$80,000 for one student.

One of the things that is happening is we are looking at our charter schools, and our charter schools are starting to be able to provide the type of services that we have been utilizing out-of-state placement for. So, we hope to see the cost reduced by that.

Additionally, the executive branch has successfully negotiated a new contract with our teachers that will change the hours of school enrollment that will help to ease the transportation problem and the costs with that.

One of the things that the Federal Government can help with—and I would suspect it is not just a problem in the District, but across the country. We are required in the District, for example, with transportation to put one child on one large school bus, and I want to put emphasis on that. We will move one child in a school

bus instead of a car, instead of a van. And as I understand it, it is because of laws that are in existence. Our transportation cost has really been somewhat overwhelming, and we would like to work with you all on that as we look at trying to address this particular issue. I think all of us are interested in the safety of our children, and it is a safety issue I understand. And all of us, obviously, are interested in the safety of our children, but I think that we can probably find a better approach for us to deal with that.

Senator LANDRIEU. Dr. Friedman?

Dr. FRIEDMAN. Just a couple of more factual comments. One thing that happened in fiscal year 2001 was that there was a large caseload of applications for special education that kind of got worked through and cleared out so that some of the increases that we have seen lately is a response to the fact that the caseloads are not so backlogged anymore.

The second is that one of the problems in the 2003 budget is that we have had to reduce the estimate of how much revenue would be recovered from Medicaid, for expenses on Medicaid-like expenditures in the public schools. So, there is a \$27 million increase in local expenditures that we hope eventually can be filled with Medicaid revenue.

#### REPRESENTATION OF CHILDREN WITH DISABILITIES

Senator LANDRIEU. I have just got to get something on the record in response to the question about the system of the same company doing the evaluation, the placement, and then running the ultimate schools. Has any action been taken? Do you plan to take any action, or is it something that you endorse? I mean, you either like the system and you endorse it or you think that there have to be some changes, and I just need to get something on the record.

Mr. WILLIAMS. My understanding is that the Board of Education is in the process of creating new regulations regarding the relationship of attorneys to recipient organizations and clients to try to break up that triangle that has been identified in the question and in the earlier article.

Ms. CROPP. Let me say that, no, I do not like the system. I do not think the city likes the system, and we will make sure that it changes. It is something that leads someone to try to get more money out of this city than is necessary. So, it is our expectation that we will see a change there.

#### DEVELOPMENT OF CHARTER SCHOOLS

Senator LANDRIEU. And a question on the charter schools, and then I will turn it over to Senator Hutchison. I am glad to hear you say, Ms. Cropp, that the charter schools could potentially be part of the solution to our special ed challenges and part of the solution to try to bring renewal and renaissance and reform as a catalyst for change to our whole public school system. As you know, because you have attended many of these hearings, I am a very strong supporter and have encouraged you all and commented about the job you seem to be doing and being open to charter schools.

But what are you planning as the City Council Chair, or the Mayor may want to comment—about supporting the need for char-

ter schools to have some capital funds so that they can create the kind of physical facilities necessary to carry out their mission and also be helpful with special ed students which then becomes particularly challenging to try to have the physical facilities to care for student, as well as students with disabilities, some of whom are physically challenged? So there are expenses associated with those kinds of facilities. Mr. Mayor?

Mr. WILLIAMS. First of all, in terms of space for the schools, we had 38 surplus schools. More than half of them went to immediate use of education facilities, and around a dozen went to charter schools. Of those schools that were identified for other public uses, to the extent that those programs are not moving as fast as we would like, we are also identifying some of that space for our charter schools. So, we are more than open to giving our public space to charter schools on an accelerated basis, full funding over the last couple of years for charter schools. So, they do not have that to worry about.

The City Council and I have worked together to create something called the Charter School Credit Enhancement Fund, which is a fancy way of saying giving them the resources to get additional facilities. We have added \$5 million in local money to that, and I stand willing to go to the council for further modifications, additional money as the case may be.

A final point and the chair can talk about this. I give her credit for pushing the whole notion of collocation of our regular public schools and the charter schools because while we have been providing a lot of outside of regular public school space for the charter schools and while we have provided full funding now for the charter schools—and we are happy to say that—we have also maintained the regular funding for the original public schools and the regular space for the original public schools, even though 10,000 students have left. So, clearly there has to be an accommodation with the regular public schools budget, and I will let the chair continue on that line.

Ms. CROPP. Senator, the idea is that we have a vacancy rate in our existing traditional public schools. The charter schools are looking for space. We have an obligation to help with the facilities of the charter schools. They ought to be able to collocate in buildings where there is a vacancy. It will do a couple of things. It will save money from having to spend it on new facilities for the charter schools. It would help us use those dollars to help renovate and update the existing school building for usage by the charter school and the traditional public school.

The Mayor and the council are on the same page with that. We have had council hearings about it. We have talked to the charter schools and the public schools about it, and hopefully we will see that really swinging into effect in the very near future.

Senator LANDRIEU. Okay.

Senator Hutchison?

#### REFORM OF SYSTEM REPRESENTING CHILDREN WITH DISABILITIES

Senator HUTCHISON. Thank you, Madam Chairman.

Mayor Williams, I just want to go back one more time to the line of questioning that Senator Landrieu was pursuing and ask you if

you are also committed to stopping the reported abuses of the law firm-diagnostic-private school nexus.

Mr. WILLIAMS. Absolutely. In supporting of the board in its effort to pursue new regs, bringing in the IG as necessary to do the necessary investigations, and with the task force that we have created by law, we have now got across the government the plenary authority to go in and make changes where we have to make changes to prevent these abuses from happening in the future.

Senator HUTCHISON. Do you think putting some kind of reasonable cap on attorney's fees would be a step back in the right direction. We had the caps and it lowered the cost of attorney's fees. According to a GAO report the caps did not make much of a difference, but the report only analyzed 99 payments that resulted from court judgements, while there were more than 5,800 payments paid to attorney. Of the \$13 million paid in lawyer's fees by the District for special education cases, only \$3 million, resulted from the 99 cases court judgments. Therefore, it seems that the lack of caps could cause the attorney's fees to go back up from the more reasonable levels that we had last year before.

Do you have any suggestions on a way to handle this without jeopardizing a right to be represented while at the same time establishing some reasonable limit?

Mr. WILLIAMS. Well, you know we originally supported a reasonable cap on fees. When that really was not effectively working, we are now looking for another strategy to try to streamline and make more efficient—and you are absolutely right—the administrative process, clean up and make more efficient the assessment process in general so we do not spawn and engender all the litigation and all the disputes that I think are driving these fees in the first place. I think that is the way to go about it in a way that gets the buy-in and the stakeholdership of all the different parties.

The problem we had with pursuing the original strategy of simply curtailing attorney's fees was not proving workable in my mind because it did not have the buy-in and stakeholdership of all the different groups, the council, the plaintiffs' lawyers involved, the advocates, and everybody else. I am just trying to find something that is workable and gets to the fundamental issues involved. And I think it is cleaning up the administrative process, cleaning up the basic issues that are driving the disputes and the litigation.

Senator HUTCHISON. Well, perhaps that will work and perhaps taking away the incentives for the abuse that has led some law firms to have reportedly received inordinate fees, but you just cannot argue with the numbers of what is going into attorneys' pockets versus getting the job done of educating the children with special needs in the District. I would like some substantive proposals because I just cannot, in good conscience, sit here and let the District spend \$13 million when previously it was handling these on a much more regular basis. So, I am open but I am looking for answers.

#### BUDGET RESERVE POLICY

The second question is back to the budget. I wanted to, first of all, say I appreciate how diligent all of you have been—Mayor, your leadership, Mrs. Cropp, your leadership, and certainly the Chief Fi-

nancial Officer, Dr. Gandhi—in establishing these reserves. The one thing that happened this year is that some of the reserves were spent, and you will have to spend about \$45 million to come back up to the \$70 million that is required under our agreement under the budget for 2003. So, it is about \$45 million, as I understand it, because the budget reserve is currently at \$25 million, and by 2003 you need \$70 million.

So, is that in the budget and do you expect that you will be able to do that?

Dr. FRIEDMAN. The answer is yes. The full \$70 million is budgeted in the new budget for 2003.

Senator HUTCHISON. And plus, you are ahead of schedule on the other reserves, which I think is just fabulous.

Let me just ask you one other question and that is back to your answer—

Mr. WILLIAMS. See, Senator, that is where I think it is really patently unfair. Here we are, as you know as a former treasurer, we have one of the most outstanding cash reserves now in the country, but we do not have the bond rating to show for it. I think it is really unfair.

Senator HUTCHISON. Well, I think that you are on the road. Do not be faint-hearted because I think your bond rating is going to go up and I think the elements that Dr. Friedman mentioned are there. The leadership is there. The reserves are very clearly there, and that is the main thing that they look at and on which they have complimented you.

#### DEBT AND CAPITAL INFRASTRUCTURE POLICY

So, the one outstanding issue, it seems to me, is the amount of debt per capita. Mayor I wanted to clarify what you said in the tobacco securitization fund when you said you were going to spend that money on health care costs. Is that in lieu of paying down debt or is that in addition to it?

Mr. WILLIAMS. The securitization of debt using the stream of tobacco payments has happened, and so what we are talking about are the proceeds from that pay-down of a huge amount of debt. And I am proud the Mayor and the council came together to do that. What we are talking about is temporarily suspending another aggressive program that the Mayor and the council have launch, which is to take half of the tobacco stream, the proceeds freed up from the pay-down of debt, and half of that, in turn, put into a rainy day fund. This is on top of the 7 percent of cash reserve on top of the budget reserve. So, we are extremely fiscally prudent, and we are saying up until the period of 2005, temporarily use funds to help Medicaid and special education get on their feet, with the recognition that special education and Medicaid have to give back to the government a total of \$50 million.

Senator HUTCHISON. But you will be paying down long-term debt, the half of it.

Mr. WILLIAMS. Absolutely.

Senator HUTCHISON. As you originally had intended.

Mr. WILLIAMS. Absolutely.

Senator HUTCHISON. Well, as that occurs, do you think it is going to show with the rating agencies? I know your long-term debt has

been quite expensive, and I know you are paying that off first. Is that on course? Do you see that debt per capita coming down in the next 2 years?

Dr. FRIEDMAN. Well, we have brought the debt down by more than \$500 million through the securitization process, and then in the secondary process of the savings on that and allocation of those savings, we will have a further impact on the amount that we have to borrow. We do have the capital improvement program facing us, but as part of the 2003 capital improvement budget, there was a scrub basically that reduced \$230 million of prior projects. So, we brought that baseline down another \$230 million.

In addition, in this budget—and Mrs. Cropp should speak to this issue—there is a PAY-GO option. I believe it is budgeted for \$16 million.

So, all of these things are coming together to maintain this downward pressure on the amount of debt per capita that we carry.

Ms. CROPP. Senator, with regard to our capital budget, over the past 2 years, the District has really gone through a revolutionary process where we have truly reduced the amount of money that we were borrowing. In fact, what we would do, if a project was not ready to really move off, we would remove that project, put it closer to the end of the line and move up a project that was there rather than to keep borrowing all the dollars.

I think the bond market is very pleased with regard to the PAY-GO capital line that we have. It is \$16 million with the potential of going up to \$22 million for this budget season. As I said, it allows us to fix projects in the city, but we do not go and borrow the dollars. So, that is something that is exceptionally good.

In addition, there are still some tobacco dollars too that we have not spent.

Senator HUTCHISON. I think what you have done in that regard is excellent, and I applaud you. Every city in this country is facing problems because of the economy. So, I think you are doing very well in this climate.

Let me just ask one last question of Dr. Friedman. Is long-term debt—or whatever is the most expensive debt that is on the books—are you in your office trying to replace that with the shorter-term, lower interest costs?

Dr. FRIEDMAN. We have been through a process of doing some refundings, and I need to actually get information from behind me. But I believe we are in the process of evaluating refundings for 2003.

Senator HUTCHISON. Well, it is wonderful not to borrow more, and I would like for you to answer this in writing when Dr. Gandhi comes back. But I hope that part of this program includes a restructuring, assuming that the numbers work, by replacing long-term expensive debt with less expensive short-term funding—I hope that is part of the process because it seems that everything else is going in the right direction. The budgeting process, the reserves, holding the line on spending; those all seem to be going in the right direction, but you need to make sure that on the financial side you are doing favorable restructuring.

[The information follows:]

## LETTER FROM NATWAR M. GANDHI

GOVERNMENT OF THE DISTRICT OF COLUMBIA,  
OFFICE OF THE CHIEF FINANCIAL OFFICER,  
*Washington, DC, June 18, 2002.*

Hon. KAY BAILEY HUTCHISON,  
*Subcommittee on the District of Columbia, Committee on Appropriations, U.S. Senate, Washington, DC.*

DEAR SENATOR HUTCHISON: At the Subcommittee's June 11 hearing on the fiscal year 2003 budget request of the District of Columbia, you requested information on the District's long-term debt structure. This letter provides that information.

Over the past several years, the District's Office of Finance and Treasury (OFT), in conjunction with its financial advisors, has been constantly monitoring and evaluating its debt structure and the composition of its debt portfolio. The District has been taking appropriate actions to optimize its debt profile, given the level of its capital needs and the constraints within which it must function.

In this regard, several accomplishments are noteworthy.

The District executed a debt restructuring in fiscal year 1999, which took the District's debt profile from one that was heavily "front-loaded" (a disproportionate amount payable in the near-term, putting a strain on the budget) to a structure that was in line with rating agency benchmarks and industry standards regarding debt amortization.

The District has used innovative (yet not excessively risky) financing structures and techniques to produce lower debt service costs. This includes the use of variable-rate demand bonds and interest-rate swaps, resulting in lower interest rates, and therefore debt service savings, for the District.

District financial officials continually monitor the District's outstanding debt for opportunities to refinance, its debt at lower interest rates to produce savings. The District has executed several debt refinancings between fiscal year 1997 and the present, in order to replace higher-cost debt with lower-cost debt. These transactions have resulted in over \$25 million of present-value savings to the District in debt service costs.

The District intends to execute another refinancing transaction this year on its outstanding Certificates of Participation, in order to produce additional savings.

The District will continue to actively monitor and evaluate its outstanding debt, and take appropriate actions to obtain and maintain an optimal debt profile.

I hope this responds to your concerns. If you have any further concerns, please contact me on 727-2476.

Sincerely,

NATWAR M. GANDHI,  
*Chief Financial Officer.*

Dr. FRIEDMAN. I will turn the mike over to the chairman in just a minute. One of the things we have been very conscious of with the tobacco money and our whole debt management strategy in the last several years is spreading out the debt. I know you were familiar with this enormous sort of mountain of debt that we faced in the near term about 10 or 14 years out. The District's strategy has been to try to reduce the debt, particularly in that time period so that the debt service burden is not so large in the very near term.

I think that strategy has been working very well. If you could see the chart that shows the time distribution of the debt, it is much flatter, and we have accomplished really a piece of that goal, and that continues to be the goal.

I know one of the things we are doing now is seeking more variable rate debt so that we can take advantage of the lower interest rate options kind of automatically as they come along as well.

Ms. CROPP. There is one thing and it is with regard to the cash reserve. That would be possibly \$240 million. It seems to me that the city ought to have an opportunity for those dollars for us to have maybe three levels of investment for those dollars so that we can get a good return, for you to have that much cash somewhere in a safe, somewhat conservative form of investment. We ought to

be able to do it. If you look at our worst time in the past, I guess, few years, we have had to spend maybe \$120 million with D.C. General where we needed to come up with an awful lot of money. If you look at that, I do not think we will have anything where we would again have to spend that much.

We ought to be able to divide our cash reserves some way, maybe in a three-tier type program where the first tier will be something that will be in the Mayor's drawer, and if we need it on an emergency basis, he can open up the drawer and pull it out. Obviously, the return would be very short. But we ought to be able to invest it where it will be a little harder to get the money, but we should be able to get it if we need it. And then the third tier, harder term.

Our problem is that as we looked at how we could do that investment, at some point based on investments, we may not have the 7 percent, and we would like to be able to work with you all so that we could get the best return on that much money.

Senator LANDRIEU. Absolutely. There are a couple of solutions that we can work with you on. And they are not difficult because many cities and States have these—in Louisiana we have a Louisiana asset management program which we actually started for all of our cities. It is a pooled investment strategy where cities can get a very high or higher rate of return than they normally would with having deposits in a more traditional fashion. But the money is readily usable and available. So, why do we not direct the staffs to come up with some specifics and we will work with you on that. I think that we can solve that problem.

Let me just go to three things quickly, and I would like to start with the second panel in about 5 minutes.

But, Mr. Mayor, one of the great challenges before us with you right now is protecting the city from future terrorist attacks and from dealing with the consequences, should they occur. Right after September 11, we invested as a Congress over \$200 million to help increase the security of the District, recognizing that this is a very target-rich place. Because of that, because this is the Nation's capital, the city has additional responsibilities. All cities have to heighten their security, but the District has some challenges.

However, I was concerned when I read recently about an incident that occurred in Metro where a man suffered a heart attack and because of some communication breakdown, we were unable to provide him the kind of immediate assistance necessary. It had to do with the new radios that we provided funding for, but yet we did not have the kind of antennas necessary between the city and Metro.

So, Mr. Mayor, could you address that? We hope that has been fixed. If not, how are we going to fix it? Because it is a little bit discouraging to continue to fund new radios, new equipment, new systems and then to have something like this happen that causes us to wonder if we are getting it right.

Mr. WILLIAMS. In order to give you a complete and thorough answer, could I ask our Deputy Mayor to respond on that particular instance?

Senator LANDRIEU. Yes.

Ms. KELLEMS. Good afternoon. I am Margaret Kellems, the Deputy Mayor for Public Safety.



That was a disturbing incident we had there, and we have worked very closely with WMATA, the Metro Authority, that actually has jurisdiction.

To make a very long story short, you all were kind enough to give this city a significant amount of money, \$156 million approximately, for emergency preparedness. About \$46 million of that was to fix, among other things, the radio system, the communication system, for first responders. WMATA, the Transit Authority, actually got a separate pot of money as well.

The technical issues aside, essentially you need communication systems inside the tunnels and above ground. And we are working very closely with WMATA and have struck a deal that this city is making the investment for the above ground infrastructure and WMATA is making the investment for the infrastructure needed inside the tunnels. In the meantime, we are working through some operational short-term fixes so that we do not have this problem again.

The bottom line is communication systems have a very hard time operating underground in any city.

Senator LANDRIEU. But a couple questions. Are we convinced that the plan we have now can be implemented, and when it is implemented, can the taxpayers expect basically full coverage underground and above ground? Or are we going to be somewhat limited no matter what we do?

Ms. KELLEMS. Well, we will have 100 percent coverage but it will not necessarily be from the infrastructure investment. We are hoping to get very, very close to 100 percent, but there will always be some very, very limited circumstances where the infrastructure is not going to be the solution. In other words, you will have to have some kind of interim solution for very certain limited circumstances.

In Washington, because of height limitations, we build down very deep into the ground and it is difficult, if not impossible to get radio signals. The example we always use is the communications. There is a cellular carrier here that has more than 100 antennas throughout Washington and they do not have coverage everywhere. It becomes at some point impossible.

Our goal is to have 100 percent communication even if only 98 percent of it is from the infrastructure of the antennas that we are putting into place, and 2 percent has to be augmented with other systems.

Senator LANDRIEU. In terms of the time frame, when do you estimate that coverage will be completed, antennas up, infrastructure in, so we can count on a pretty good system of security and communication between Metro and the city?

Ms. KELLEMS. Well, with the Metro system, we are hoping to do this very expeditiously. There is a plan in place and they are looking to build it out. I am going to get back to you with a very definitive answer, but I would say it is probably in 6 to 9 months. For the rest of the city, for the rest of the internal into the buildings, we are looking at about 16 months right now.

In the meantime, this is incremental. It is not sort of nothing is going to happen and 16 months from now we flip the switch. The incremental improvements are being made as we go along right

now with things like vehicle repeater systems and mobile communications devices that we can dramatically improve the communications as we go along.

Senator LANDRIEU. Thank you for that information.

Two more questions quickly, both to the Mayor and Mrs. Cropp. One of the great challenges before the city is reform of the child welfare system. I understand in your budget the Mayor has proposed and the city council has approved an increase. There are going to be an additional, I think, 82 positions. How many of those positions are social workers? Could you both give maybe a minute-and-a-half comment about how you see the child welfare reforms developing, what you are pleased with, what you still see are problem areas? And how many of these new positions are actually going to be social workers? And can you comment as to what the caseload will then be decreased to, which is one of the main problems of an efficient system having too few social workers, too many cases, and not enough attention per child or per family?

Ms. CROPP. Our rate of social workers coming on and off I think has been much too swift. The District in the past, because it wanted to do things a little better, had some outdated things with regard to some of our social workers. I would like to see us move into somewhat of a tier case having social workers with a master's degree and then also having some social workers with a bachelor's degree to help out.

We have to do a better job I think on hiring, bringing people in and attracting our social workers to come in. That is one of the areas where I think you will see the Mayor and council working together on it. It is one of those problem areas, as we come out of receivership, that we are going to concentrate on.

Senator LANDRIEU. Mr. Mayor?

Mr. WILLIAMS. June 15 marks the 1-year anniversary of the termination of Federal Court receivership for child and family services. Two things that I am particularly proud of is, one, bringing in Olivia Golden as the director of this agency. I do not think you could find a better director in the country than Olivia Golden with just a national standing, working for Marion Wright Edelman, national standing working for Donna Shalala, just a huge background to bring to this job.

Second, working with Sandy Allen, the Chair of the council's Human Services Committee and the council to do something that is sometimes unusual for public organizations to do, and that is fully fund child and family services agencies. As you know, there is no lobby for the child and family services agency. There is no one standing outside your door saying fully fund this agency. You get a lot of brickbats and abuse for funding an agency that has had, because it was in receivership, a lot of problems. That is why it was in receivership. But to fully fund that organization and to allow it to meet its responsibilities I think takes us a long way.

The fiscal year 2003 budget requests \$224 million. It is the first budget developed for the agency as a new cabinet level agency for the District with new responsibilities for abuse and neglect, licensing and monitoring of foster homes and group homes, as well as for personnel and procurement authority. It is the first budget that re-

flects a full child welfare reform enacted by the District in April 2001.

And I can get you the figures as to how this budget is broken down between social workers—we are getting it right here. New positions, 28 social workers transfer from court services, 40 brand new positions, for a total of 68. And our goal is 340 social workers next year to get close to the mandated ratio. So, we are actually making substantial progress now in meeting that objective.

Senator LANDRIEU. Well, let me commend you for the leadership that you brought in because I have a great deal of confidence in this leadership team and have met with them on several occasions. And we will try to keep a close relationship because, Mr. Mayor, as you know, this is an issue of great importance to Members of Congress on both sides of the aisle in both the Senate and the House. We have invested as a Congress a considerable amount of money, almost \$30 million in a new family court system, and will continue. That will only work if the city's half of that effort is conducted in a professional and efficient way.

And I really want to commend you and tell you please do not hesitate to ask for resources that are necessary, not to say that we could meet every request, but we want to truly be a partner in creating a model child welfare system in this community.

The same way you have a very desperate shortage of teachers, we have to think of new ways of recruiting teachers, new ways of compensating teachers, new ways of thinking outside of the box of certifying teachers. I think the same thing is going to start happening with social workers because, Chairman Cropp, our turnover rate is too high. So, we have to think of getting different kinds of people involved that can do the work, maybe not have the traditional certifications, but do have the skills, do have the motivation, and do have the ability to help our families and our children through some very difficult crises. So, I challenge you all to think about that.

Let me say I am sorry I have got to bring this to an end and begin our second panel because, Mayor, I know your time is limited. I am going to have to stop this hearing actually in 20 minutes. I want to thank this panel for their time.

#### ANACOSTIA WATERFRONT INITIATIVE

Would the second panel please come forward: Mayor Williams, Mr. Andrew Altman, who is Director of the Office of Planning for the Anacostia Waterfront, and Mr. Jerry Johnson, General Manager. We will not take a break, if you do not mind, and just continue to try to work through. Thank you all very much.

Could we start with the PowerPoint presentation I understand that you all have? And let us go ahead and get that started because I really think it would be important for us to see this presentation and then have at least 10 minutes for questions and comments. Are we ready to begin? No, not yet?

Let us start with you, Mr. Mayor, while they are getting ready. Do you want to make some opening remarks? I know that you and I share a passion for this initiative, and let me just begin by thanking you and complimenting you. It is just a wonderful project for

the city and this region, and we are looking forward to the presentation today.

Mr. WILLIAMS. Well, Chairman Landrieu, I am speaking to a partner in our effort for the Anacostia Waterfront initiative. So, I have submitted written testimony which really reiterates something that you well know and other Members of Congress know, our partners, about the need to restore this river and the need to focus on our Anacostia River not only to bring the District's waterfront to where it should be for a great city, but also to use the Anacostia waterfront and surrounding neighborhoods as a way to tie our city together recreationally, culturally, commercially, and environmentally.

There have been some notable successes in bringing this river back, a river with such glorious history, Frederick Douglass and the Navy. You are well aware of some of the initial successes from the work on the river walk to the investments of the Department of Housing and Urban Development to the investment of NAVSEA and the expansion of the Navy Yard, partnership with the Army Corps of Engineers, the partnership, for that matter, with Congressman Steny Hoyer enlisting support in the Congress to relook and rethink about South Capitol Street as a major gateway into our Nation's capital. It is certainly a major gateway right now, as you well know, as you cross the Frederick Douglass Bridge.

So, while we have a lot to speak to in terms of accomplishments, there is still a need for major public investment and I think chief among those investments—and I am glad that Jerry Johnson is here who is the Executive Director of the Water and Sewer Authority—certainly initially is to get control of combined sewage overflow into the Anacostia. It makes it one of the dirtiest rivers in the country.

Certainly another initial investment—and we want to thank you for your support on it—is looking at the whole area around Kenilworth Park and seeing what we can do to make it a major investment in the short term to provide more recreation for our children and families, and do it in such a way that in the long term it supports the District's efforts to be a site of the 2012 Olympic bid.

With that, I think the PowerPoint is just about ready, but I want to thank you, Madam Chair, for your leadership and partnership with us on what I think will be a legacy project for all of us, 20, 30, 40 years down the road and something we can all be proud of.

[The statement follows:]

PREPARED STATEMENT OF MAYOR ANTHONY A. WILLIAMS

ANACOSTIA WATERFRONT INITIATIVE

Chairman Landrieu, Senator DeWine, and members of the subcommittee, thank you for allowing me the opportunity to speak to you today about the Anacostia Waterfront Initiative. We have achieved our first successes, and yet much remains to be done to restore the Anacostia River and recover its shoreline for the people of the District of Columbia and the nation.

We face a historic opportunity in the District of Columbia—virtually unmatched in scale by any other American city—to transform upwards of 900 acres of a neglected, abused river corridor into a model of 21st century urban life. A network of neighborhoods and parks that are socially diverse and vital can be made environmentally and economically sustainable for future generations.

Conventional wisdom tells us that Washington lies along the Potomac, but this is just half of the story. The Anacostia—the District's other river—comprises more

than two-thirds of our city's total linear shoreline. The Anacostia is the District's—perhaps even the nation's—most undervalued natural resource.

#### HISTORY AND THE CURRENT STATE OF THE RIVER

The Anacostia has played a critical role in our city's history. Early settlers were drawn to its natural riches. With the establishment of the capital city, it became the location for our nation's oldest Navy Yard, which was surrounded by bustling market places and working harbors. Freed slaves found footholds in waterfront neighborhoods, particularly on its eastern shores.

However, the Anacostia has been in a state of environmental decline for centuries. By the time of the Civil War, the river had been silted-in by deforestation and careless agriculture. The deep-water port of Bladensburg was no longer navigable by ocean-going vessels. The development of armaments at the Navy Yard combined with other industrial uses introduced toxic wastes into its eco-system. The construction of Washington's combined sewer system has discharged sewage into the river for more than a century.

In the 1920s, Congress authorized the U.S. Army Corps of Engineers to fill in the river's tidal wetlands in pursuit of public health improvements and flood control. The resulting 1200 acres of parkland were placed under the control of the U.S. Department of the Interior, but no significant investment has been made in the lands since that time. The National Park Service must also renew its commitment to stewardship of lands in its care.

Increasingly, the Anacostia River is threatened by the phenomenon of non-point-source pollution—the run-off carrying pollutants from our parking lots and streets. Post-war suburbanization of the river's watershed has resulted in the most densely populated sub-watershed in the entire Chesapeake Bay. With 80 percent of the river's watershed located in Maryland, this is a regional environmental crisis.

Today, 70 percent of the watershed has been urbanized. Less than a quarter of the original forest cover remains. In addition to upstream pollution, the District's sewer system still releases sewage into the river when the storm sewer system is overwhelmed by heavy rains. The Anacostia is one of the Chesapeake's three most polluted rivers.

#### NEED FOR ACTION

I like to take visitors up to St. Elizabeths for the breathtaking view of the District and the Anacostia River that runs through it. For too long, the river has symbolically divided our city into rich and poor neighborhoods. Nothing would better symbolize our aspirations and our success in revitalizing our city than to restore the river and its waterfront.

As one of the District's most unique assets, we must capitalize on what the Anacostia can offer us. We can unify and revitalize diverse waterfront neighborhoods by introducing new parks, housing, and commerce.

Currently, more than 90 percent of the river's immediate shoreline is in public ownership, with the National Park Service, the Navy Department, the General Services Administration (GSA), and the District the major landowners. The waterfront revitalization effort necessitates a broad-based, coordinated effort between the District and the federal government.

In March 2000, I brought all the parties together that own or control the land along the Anacostia. The resulting Anacostia Waterfront Initiative memorandum of understanding (MOU) was signed by the District of Columbia and more than 18 federal agencies.

I believe that this is one of the most important partnerships between the District and the federal government.

#### ACCOMPLISHMENTS

As a result of this new and unprecedented level of coordination, the Anacostia partnership has begun to produce results. Just to mention a few:

The consolidation of the NAVSEA division to the Washington Navy Yard as part of the base realignment process has proven to be powerful driver for the Near Southeast neighborhood. The Navy has invested more than \$200 million into renovating its historic structures, which now includes more than 10,000 personnel. Once again, the Navy Yard is an important economic engine for Southeast Washington.

The U.S. Department of Housing and Urban Development (HUD) has awarded the District of Columbia Housing Authority (DCHA) a \$35 million HOPE VI grant to transform distressed public housing only five blocks away from the Capitol building. This action is historic in two respects. First, it is the highest leveraged grant

in the history of the HOPE VI program, inducing more than \$350 million of public and private investment. Secondly, the project has guaranteed one-to-one replacement of public housing units. This development will go a long way to realizing our vision of a mixed-use and mixed-income waterfront neighborhood in the Near Southeast.

A partnership that includes the U.S. Army Corps of Engineers, the District, and the National Park Service has led to the restoration of 42 acres of wetlands on Kingman Lake, one of the islands in the Anacostia. Habitat restoration work is also underway on Kingman Island, after the title was transferred to the District in December 2000. These projects foreshadow the large-scale environmental restoration projects necessary to reconstruct the river's riparian systems.

#### NEED FOR PUBLIC INVESTMENT

A river that was once a national embarrassment will one day become a national treasure. However, there is a need for continued public investment in the river and its neighborhoods, if we are to achieve our shared vision:

To fish and swim in the Anacostia within our lifetime, it is imperative that the District of Columbia Water and Sewer Authority's Long-Term Control Plan be implemented. Implementing this plan will control sewer overflows, one of the Anacostia's major sources of pollution.

To safely stroll and bicycle along the shoreline, it is imperative that the Anacostia Riverwalk and Trail provide more than 18 miles of continuous paths. More than any other project, the Riverwalk will connect divided neighborhoods to each other and give people access to the river. The project has already received \$1.3 million for planning and three demonstration segments will be constructed this coming summer.

To engage in waterfront activities and enjoy the Anacostia's natural splendor, it is imperative that a system of great parks is constructed along its shores. New signature parks and plazas should be constructed in Southwest, at the Southeast Federal Center and at Poplar Point. The Navy is leading the way with a newly constructed park nearing completion at the Navy Yard.

In addition, the surrounding obsolete highways, bridges, and boulevards need to be redesigned and reconstructed in order to provide access to the waterfront. We are promoting multi-modal uses and civic design for all river crossings. We envision redesigning the city's principal avenues to the waterfront—Maine Avenue, South Capitol Street, and Pennsylvania Avenue—into pedestrian-friendly urban boulevards and gateways to the area's network of parks.

#### ENDEAVOR

Our shared vision for the Anacostia Waterfront is to transform the river from a dying artery into to a great civic heart—beating with vitality and life. It is a vision that promotes a sustainable balance of neighborhoods and the natural environment; that provides the amenities and infrastructure necessary to grow in the 21st century.

The District and our federal partners are working closely on the Anacostia Waterfront Initiative framework plan, which is projected to be released this fall.

Similar to the MacMillan Commission's vision for the National Mall in 1900, the Anacostia Waterfront Initiative will take many years to fully implement. I look forward to returning to this committee to brief you on the full outline of improvements proposed by the partnership's framework plan. I look forward to working with the Senate and the House to establish sustainable and regular appropriations to address this important investment in our city.

This concludes my testimony. I thank you for the opportunity to bring this important initiative before the committee. I would be pleased to respond to any questions you may have.

Senator LANDRIEU. We will go ahead while we are waiting. Mr. Altman.

#### STATEMENT OF ANDREW ALTMAN, DIRECTOR, DISTRICT OF COLUMBIA OFFICE OF PLANNING

Mr. ALTMAN. Thank you very much, Chairwoman Landrieu. What I am going to do today is to provide a very brief overview in light of the time on the PowerPoint.

As the Mayor said, the Anacostia really is the future of the city and of 21st century Washington, of bringing together the east and west sides of the river and really being the center of Washington in its next stage of development. It is in many ways the unfinished business of both the MacMillan plan 100 years ago, and we have a tremendous momentum now on the anniversary of that plan to really see it through to completion and transform the city. It truly is a legacy project.

What makes this initiative I think so unique and so different from past efforts has been the leadership of the Mayor in bringing together all the Federal agencies. It is truly a partnership between over 18 Federal agencies. As you know, 90 percent of the land along the Anacostia is publicly owned. Over 70 percent is Federally owned. So, the initiative cannot be successful without a strong partnership and that is what the Mayor has brought together in the memorandum of understanding that has been signed by these agencies who all committed to focus on the Anacostia Waterfront as the major initiative moving forward for the city.

[The statement follows:]

PREPARED STATEMENT OF ANDREW ALTMAN

THE AWI VISION

Few human endeavors are more rewarding than participating in the reversal of a long-standing, negligent course of action towards an environment—and reaping the benefits of the reversal of fortune for that environment. That is what lies ahead for the District of Columbia in relationship to the Anacostia River and its environs.

The District faces a historic opportunity—virtually unmatched in scale in other American cities—to transform upwards of 900 acres of a long-neglected, indeed, abused, river corridor into a model of 21st century urban life—socially heterogeneous; culturally diverse and vital; environmentally and economically sustainable across generations.

Implementing the vision outlined in the forthcoming Anacostia Waterfront Draft Framework Plan will mean that successive generations of 21st century Washingtonians will experience an enhanced quality of life made possible by a restored, reclaimed and well used river environment at their civic doorstep. A revitalized Anacostia waterfront will be key to the rediscovery of the city as a great place to live.

It will mean reinvestment in, and stewardship of, a host of neighborhoods that have long bordered the Anacostia, but have had insufficient access to its assets.

It will mean the creation of new neighborhoods, fulfilling the growing demand for additional urban housing and accompanying urban life styles sought by Americans interested in alternatives to the suburban experience.

It will mean a generosity of public space and a substantial expansion of those indelible images of place that Americans associate with their nation's capital.

No longer to be the District's unheralded river, the Anacostia represents the natural next direction of both growth and renewal for the city itself. It must be wise growth and renewal. The Anacostia Waterfront Initiative sets its sights on nothing less. Its foremost goal is the creation of a world-class urban waterfront cherished by the citizens of the District, and a symbol of renewed center-city urbanity for America.

WHAT IS THE AWI?

The Anacostia Waterfront Initiative is an inter-agency partnership to create a vision for waterfront areas along the Anacostia River. Building on the great historic plans for the District of Columbia, the partnership envisions an energized waterfront for the next millennium that will unify diverse areas by capitalizing on one of the City's greatest natural assets, the Anacostia River. The Initiative seeks to revitalize waterfront neighborhoods, enhance and protect park areas, improve quality of water and environment, and where appropriate, increase access to activities along the waterfront.

## THE AWI MEMORANDUM OF UNDERSTANDING (MOU)

A Memorandum of Understanding was signed in March 2000 by 18 Federal and District agencies who control or have direct jurisdiction over the banks of the Anacostia River. Please find a copy of the MOU attached to this testimony.

## THE AWI GOALS

The community planning process has developed a series of guiding objectives:

1. Restore the Anacostia's water quality and its natural beauty
2. Reclaim the river's waterfront as a magnet of activity
3. Embrace the Anacostia as the District's central natural feature
4. Stimulate sustainable development in waterfront neighborhoods
5. Promote excellence in design in all aspects of the endeavor
6. Engage all segments of the community to foster river stewardship
7. Create a lively urban waterfront of world-class distinction

## THE AWI DRAFT FRAMEWORK PLAN

All great urban waterfronts depend upon the following characteristics: waters that are clean and safe (and therefore able to be well used), segments which preserve the river's natural qualities and habitats, clear and easy access to and along the water, frequent crossings (so that the water itself avoids becoming a barrier), a continuous network of great parks and open spaces, special destinations and attractions, and vital neighborhoods for living, working and learning. The five themes that guide the forthcoming AWI Draft Framework Plan document (for release in September 2002) aim to achieve these qualities on the Anacostia waterfront.

*1. A Clean and Active River*

The most ambitious, yet most essential goal of the AWI is for the Anacostia River to be a clean, safe and well-used waterway—a swimmable and fishable river—by 2025. This involves implementing the D.C. Water and Sewer Authority's (WASA) estimated \$1.4 billion, 20-year Combined Sewer Containment Plan to control sewer outflows, the Anacostia's principal source of pollution. Likewise, best practices must be employed throughout the watershed with low-impact development, natural systems restoration, and environmental stewardship.

*2. Breaking Down barriers and Gaining Access*

The Anacostia is unique as it is readily served by transit with 8 Metro stations within a 10 minute walk of the waterfront. Nevertheless, the waterfront is currently separated from its adjacent neighborhoods by aging, commuter-oriented transportation infrastructure making it difficult for anyone to access the river's edge. The emerging Anacostia Riverwalk and Trail will provide over 18 miles of continuous access to, along and across the water connecting neighborhoods to the river and to each other. Moreover, the Frederick Douglass Bridge and the 11th Street Bridges should be reconstructed for local access and all bridges must be redesigned to include pedestrian and bicycle access. The redesign of the city's principal avenues, like Maine Avenue, South Capitol Street and M Street, into pedestrian-friendly urban boulevards is another vital step towards revitalizing the Anacostia waterfront.

*3. A Great Riverfront Park System*

The Anacostia River and the National Park Service's Anacostia Park are two of the District's most precious, though underutilized, natural resources. Creating the Anacostia Waterfront Park Network would complete the regional park system by integrating it with the river and the existing Anacostia Park through the 18-mile Anacostia Riverwalk and Trail and over 120 acres of new, distinctive waterfront parks in the Southwest Waterfront, Near Southeast, Reservation 13 and Poplar Point. From the wetlands and wilds along its upper reaches to the formality of esplanades along the Navy Yard and the Southwest Waterfront, the Anacostia's potential is even greater than that of Rock Creek Park to serve the very heart of the District as a great and varied park environment.

*4. Cultural Destinations of Distinct Character*

The Anacostia River waterfront is a diverse landscape made up of qualitatively different segments—the upper reaches are characteristically natural and pastoral, while the middle and lower reaches are more recreational and urban. By designing new places and parks for civic gathering, celebration and culture, the segments of the river can be made more distinct, diverse, and special. There are 10 possible sites along the waterfront for new museums and 15 possible sites for new memorials.



### 5. *Building Strong Waterfront Neighborhoods*

Opportunities to live and work along the waterfront will be plentiful with approximately 20,000 new units of waterfront housing Connect existing neighborhoods to waterfront park system New mixed-use (housing, retail, office, culture, recreation) waterfront neighborhoods.

#### THE BENEFITS TO BE GAINED

This strategic long-term partnership between the District and the Federal Government, dedicated to transforming 900 acres of land along an urban waterfront—nearly 90 percent of which is in public ownership—will result in:

- Preliminary estimated public investment of \$3 Billion over 25 years.
- Substantially improved water quality for the Anacostia through the implementation of the Combined Sewer Outflow Long Term Control Plan, wetland restoration and stream daylighting, and environmental guidelines governing future development along the Anacostia.
- An integrated open space system incorporating and connecting 1,800 acres of park land, including over 100 acres of newly created public parks.
- Eighteen miles of a continuous Anacostia Riverwalk and Trail along both banks of the Anacostia.
- A revitalized South Capitol Street Corridor in the form of a ceremonial boulevard and, along with the Suitland Parkway, creating a grand gateway to the Capitol Building.
- A signature cultural park at Poplar Point celebrating the area's rich African American history and heritage, with improved access to the river from all of the adjacent neighborhoods.
- New mixed-use neighborhoods at the Southwest Waterfront, Buzzard Point, the Near Southeast Waterfront, and Reservation 13.
- 15,000 to 20,000 additional housing units for the District.
- Prominent sites for 10 additional museums and/or cultural destinations, and for more than a dozen future memorials and monuments.
- Four-to six additional public boat launching sites and boathouses.
- Upwards of 20,000,000 square feet of commercial, retail and service-oriented space.

#### COORDINATED ACTIONS TO-DATE

*The Anacostia Waterfront Initiative: Two Years Old and Setting High Goals, May 16, 2002*

It has been two years since Mayor Anthony A. Williams gathered representatives of over 18 Federal and District agencies at the Washington Navy Yard to sign the Anacostia Waterfront Initiative Memorandum of Understanding. Since that day in March 2000, the AWI partnership has been at work coordinating land use and landscape plans for the waterfront.

This process has been unprecedented in a number of ways:

- Inter-agency cooperation has included all government agencies, both District and Federal, who own, control or regulate land along the river;
- The process includes both sides of the river from the Maryland border to the Tidal Basin, not just a single property or neighborhood;
- The planning has been comprehensive and has sought to find integrated and sustainable solutions to environment, transportation and land use challenges;
- Most importantly, the process has included extensive community engagement, which has brought the wishes and desires of neighborhood leaders to the fore and into direct contact with MOU agency representatives.

The process is being coordinated by the DC Office of Planning, which has recently issued the AWI's preliminary recommendations for a first round of public comment and is working toward releasing the complete AWI Draft Framework Plan this fall.

*However, AWI is not intended as a planning exercise only.*—The AWI partnership has been hard at work coordinating actions “on the ground” and yielding exciting new results for the neighborhoods along the river. The following represents a snapshot of current public sector projects that are catalyzing the transformation of the shores of the Anacostia River and the Washington Channel by providing important infrastructure and environment improvements.

#### *Upper Reaches of the River: Anacostia Waterfront Park Network*

The District, the National Park Service (NPS) and the Maryland Department of Transportation (M-DOT) have signed an MOU to extend the Anacostia Riverwalk and Trail from the Kennilworth Aquatic Gardens to the recently constructed public marina and park in Bladensburg, Maryland.

The U.S. Soccer Federation, together with NPS and DC Sports and Entertainment Commission (DC-SEC) have received funding to begin planning of recreational fields in Kenilworth Park.

The District Department of Transportation (D-DOT) is revising designs for the Kenilworth Freeway at Nannie Helen Burroughs NE to create a pedestrian and bicycle gateway to Kenilworth Park and Aquatic gardens. This link will connect the District's largest park and trail—Watts Branch—to the waterfront park system.

Langston Golf Course is in the design phase to build a new club house.

*Middle Reaches of the River: RFK Area/Reservation 13, Anacostia Waterfront Park Network*

The District Department of Transportation (D-DOT) is completing reconstruction of the Benning Road bridge to include wide sidewalks and a new pedestrian gateway to Kingman Island.

The DC Department of Parks and Recreation (DC-PR), the DC Environmental Health Agency (DC-EHA) and the U.S. Army Corps of Engineers (U.S.-ACE) are restoring natural habitat to Kingman and Heritage Island and constructing additional wetlands along the Island's shoreline.

The US-ACE and the NPS are "daylighting" Popes Branch and Ft. Dupont Creek. These projects will take the streams out of below-grade storm sewers to flow at-grade through Anacostia Park thereby creating habitat and visual interest in the park.

The DC-SEC has brought the Cadillac Grand Prix racing event to the RFK campus for the first time and is currently reconstructing the parking lots north of RFK, while introducing state-of-the-art storm water run-off technologies to the RFK parking lots.

St. Coletta School is in design for the first building to be constructed on Reservation 13 since the Draft Master Plan was completed in March. The design architect is Michael Graves.

*Poplar point*

The NPS, DC-EHA and the National Oceanic and Atmospheric Administration (NOAA) are funded to daylight Stickfoot Creek and remediate soils on Poplar Point.

The Advantage Charter School is nearing completion on Howard Road.

*Near Southeast*

The Marine Barracks project has broken ground at 7th and L Streets SE. The project will be the new home for the U.S. Marine Corps Band and practice facility as well as a ballfield to be shared with neighborhood residents.

The \$35M HOPE VI grant from the U.S. Department of Housing and Urban Development (HUD) has been leveraged by the DC Housing Authority (DC-HA) by approximately 9:1. Over 1500 new units of housing will be created with a guaranty of 1:1 public housing unit replacement to create a new mixed-use, mixed-income waterfront neighborhood.

The D-DOT will break ground on three important projects this summer, including the reconstruction of 8th Street Barracks Row, the extension of M Street and the Anacostia Riverwalk and Trail demonstration projects.

The Navy is in the final stages of constructing a beautiful new waterfront park, which includes innovative elements such as Low Impact Development measures as well as a design approach which will address force protection and security while also allowing continuous public access to the water's edge.

The U.S. Department of Transportation will be relocating to the Southeast Federal Center. This 1.7 million gsf building will bring an additional 7,500 federal employees to the neighborhood.

The GSA has completed construction of a new seawall at the Southeast Federal Center and has issued an RFP for the development of the remaining 44-acres of prime waterfront land. D-DOT has reconstructed all of the streets surrounding the SEFC, upgrading the quality of public spaces in preparation for development.

The DC Office of Planning has rezoned the land known as Buzzard Point permitting residential uses to be introduced to this prime waterfront land.

Peppo, the District, NPS and the Navy have partnered with the Earth Conservation Corps and the National Geographic Society to create the Matthew Henson Center, a new environmental learning center in the former PEPCO pump house.

In a similar partnership, D-DOT has made a building beneath the 11th Street bridges available to the Capitol Community Rowing Center, a non-profit boat house to serve the Anacostia River rowing community.

*Southwest / Washington Channel Waterfront*

The District has entered into a public-private partnership to re-introduce 4th Street SW through the site known as Waterside Mall in order to create a new retail town center for the Southwest neighborhood.

D-DOT and Federal Highways are commencing the rehabilitation of the 10th Street overpass which will include the redesign of the urban streetscape of L'Enfant Plaza. The goal will be to create a more hospitable urban realm between the Smithsonian Institution and the Washington Channel Waterfront.

The National Capital Revitalization Corporation (NCRC) has taken control of the Gangplank site and procured the services of a new marina operator.

The District has issued a \$46 million tax-revenue bond for the Mandarin-Oriental hotel on the Portals Site, providing a key amenity at the gateway between the Tidal Basin and the Washington Channel.

The US-ACE and the District Department of Housing and Community Development are completing a marina and site improvements, which will restore historic structures, create more marina capacity and improve parking at the Washington Marina and the Fish Market.

Together, these projects demonstrate the first-step commitment to reclaim Washington's waterfront for the benefit of neighborhoods, the nation's capital and the region. The Anacostia Waterfront Initiative Framework Plan will build on these first steps to chart the course towards achieving full clean-up of the River's water; easy access to its shores; creation of a great new parks network; introduction of cultural destinations and the strengthening of all the neighborhoods along its shores.

Senator LANDRIEU. Can I just ask you something? Is the planning money that supports that 18 agency consortium coming out of the city budget or is it something the Federal Government is contributing to?

Mr. ALTMAN. That is largely city. We received some Federal funds through transportation dollars, but largely it has been a city-backed initiative.

Senator LANDRIEU. I would like to help you with that. I think we could pick up legitimately some additional expenses associated with that since it involves so many Federal agencies. It is not just coordinating city agencies, but it is our responsibility also I think to help coordinate the Federal agencies. So, we will work with you, Andrew, on that.

Mr. ALTMAN. That would be wonderful.

Senator LANDRIEU. It is a small help, but I think it would make sense.

Mr. ALTMAN. Much appreciated. It goes a long way.

## WHAT MAKES UP THE WATERFRONT

As you can see here, the boundaries of the initiative go all the way from the southwest waterfront, which is 7 blocks from the Mall where we sit today, all the way through—this is Buzzard Point over to the east, Poplar Point. This is around RFK and where Reservation 13, our recent planning efforts, Kingman and Heritage Island, and all the way up to the Arboretum, and of course, Kenilworth. So, it is roughly 2,800 acres in area.

We have five major themes. I am going to run through these very quickly because there are a lot of detail and recommendations behind each of these. There are five critical elements to creating a great waterfront for the city. One is a clean river. Two is breaking down our barriers, in other words, getting access to the river. Third is creating a great park system that we think should rival the great park systems of the world. The fourth is bringing cultural destinations to the waterfront, and the fifth is building strong wa-

terfront neighborhoods. And I am going to go through each of these very briefly.

The first is a clean and active river. I am glad that Jerry Johnson is here, and you will hear more detail about this. But it is clear that we have one of the most polluted rivers in the country. The Mayor has been very committed to the cleanup of the Anacostia and made that a priority to put our attention to it, and the plan you will hear from Jerry Johnson today is part of redressing that. But clearly fundamental is getting a clean river again. That also requires the cooperation with Maryland in order to do that.

The overview of the plan shows that the major initiatives to do that are implementing the CSO, the combined sewer overflow plan that WASA is putting forward, implementing state-of-the-art restoration practices. We have to continue to have the cooperation with Maryland because roughly 80 percent of the pollution is coming from downstream as part of the watershed here. We want to create triple the amount of wetlands as is happening now with the restoration around Kingman and Heritage Island. We want to continue to expand public access to the water. We want to start daylighting streams and really doing more low impact development. But key to this will be the sewer plan that you are going to hear in a moment.

Our goal is, obviously, to have a swimmable river by 2025 so that we can move from the condition—as you see here, this is some of the sewer outflow. These are some of the industrial uses that pour into the river—to create much better environments along our waterfront.

#### BARRIERS TO WATERFRONT ACCESS

The second major initiative of the Anacostia Waterfront is eliminating barriers. Here are some of the barriers to accessing our waterfront, the railroads, the bridges, many of the freeways that come through were built in sort of the classic way in cities throughout the country that separated waterfronts from their neighborhoods. So, we have to overcome those barriers and bring access to the waterfront.

Some of the key things we want to do. One is build our capacity with transit. We are looking at different light rail possibilities in the city, particularly along M Street and going up here through RFK. Here are all the Metro stations. If we connect that with the new light rail, you would have a tremendous opportunity. It has been done. San Francisco recently has put light rail along their waterfront. It transformed the Embarcadero.

We are looking at reconfiguring the bridges so the South Capitol gateway being more of a commuter bridge, make these other bridges on 11th Street and moving up the river, Pennsylvania Avenue, more local bridges the way the Ellington Bridge is. If you think what a beautiful bridge that is connecting Adams Morgan to Woodley Park, imagine that across the Anacostia.

Here just shows you the South Capitol gateway. This is going to be a major initiative. This is what the Mayor mentioned in terms of Congressman Hoyer's intention. He has given us \$500,000 to study a new alignment, and you can see here is the current alignment. If you move it over this way, you can restore Poplar Point,

create a really beautiful park here, a signature park, have a great bridge. This is in Bilbao. So, you can imagine a beautiful bridge, create access to neighborhoods that are landlocked. It will be a major initiative.

#### REVITALIZING CITY PARKS

Third, creating great parks. This just shows you the park systems of Washington. Here is Rock Creek Park, roughly 1,200 acres. Here is the Anacostia, which is roughly 1,800 acres on Park Service land. Here is the Mall. This is basically the way the system works. We have to create so the Anacostia parks are equal and surpass Rock Creek. So, you start thinking of the Anacostia park as where everyone from the neighborhoods and the city goes on the weekends and it is part of the original MacMillan plan. This actually shows the park system. People focus on the Mall, but actually there was as much attention to what happens in this whole park system. We want to complete that. We would like to have over 100 acres of new destination parks from the southwest where we think we could have a new sort of park at M Street. The Southeast Federal Center is an opportunity for a new 5-to 7-acre park. Poplar Point should be a great, wonderful park. We have the Frederick Douglass home right here. The gardens could be a part of this, make this a great cultural park, going up to Kingman Island where the Mayor has made a priority of bringing a nature center, really making that a great place for children and education activities along the waterfront, fully restoring that. That was returned to the city last year, thanks to the Mayor's work with the President. So, there are really wonderful opportunities. And of course, Kenilworth is here. Watts Branch. So, a system of parks is the key that you'd be able to go in a day, you would imagine going to a series of different kinds of parks, urban parks, more recreation, leisure parks, and parks that are really very rural in nature as you go up the Anacostia.

#### FUNDING THE INITIATIVES

Senator LANDRIEU. May I ask a question on that? I am going to try to expedite this. The main way the Federal Government helps localities fund parks throughout the country is through the Land and Water Conservation Fund. The State side of that funding had been zeroed out for a number of years and now is on the increase. Do you all look at this fund as a potential source of funding? Does that even fit in your equation? I do not think the District has gotten very much money out of the Land and Water Conservation Fund, and I want to just suggest to you that that should be something, Mr. Mayor, that we put a little political muscle behind and require. I would be happy to do that because it is, on average, about \$450 million on the Federal side and about \$200 million to \$300 million on the State side. There is a formula that gives money out.

But there might be a way that we could secure a portion of those funds for a long-term commitment to this project. It is not a huge amount of money, but I am thinking \$5 million to \$10 million to \$12 million. But if you keep getting that every year, you can bond it out and it could go a long way towards securing a long-term capital improvement plan for this area.

And that is my question. This plan looks spectacular. Have we identified a revenue stream or a source to help fund the development of these various parks, and what would it be briefly?

Mr. ALTMAN. It is a very good question. Right now we have developed a plan. There are a couple more sections I would like to share with you.

As you know, most of this is under Federal ownership. As I said, roughly 70 percent is under Federal ownership. So, I think you are absolutely right. One of the things we want to do—and the Mayor is going forward to present so that the Federal Government can start to make the appropriations necessary in order to implement the plan. Transportation funds, for example, that will be needed for the bridges and the infrastructure. Funding for the park, as you have identified, because as we know, working with the park system, they are saying they control 1,800 acres of the park, and they really have very minimal allocations. They barely had enough money, frankly, to do their long-term management plan, let alone improvements to make it a great park.

We are also looking at some local revenue sources in terms of the city's portion that is privately owned and also where the National Capital Revitalization Corporation controls the southwest part of the waterfront. And we are looking at what local sources we can also use to support that development so that we can have a Federal-local match so we can put up funds that would hopefully leverage those Federal dollars.

Senator LANDRIEU. I think that is just so important. Capital improvements of your basic infrastructure, highways, and the bridges is one thing, but I would like to pursue the Land and Water Conservation Fund in getting the District its appropriate share of to help improve some of these parks.

Continue.

Mr. ALTMAN. Absolutely. I am almost done.

#### EXAMPLES OF WATER-FRONT REVITALIZATION

But your point is exactly right. Just to show you—I think it is pretty dramatic—here is Poplar Point. Here is the river here. It is about 120 acres and in it you have various facilities that have been thrown up as sort of temporary facilities. It is not really a beautifully landscaped park that can serve as a resource for the neighborhoods. Particularly, neighborhoods have been cut off from the water, some of the poorer neighborhoods of the city that should have a great waterfront; RFK, where it is largely parking lot. So, you have areas where we could really transform these into great parks.

This is Louisville, Kentucky. It just shows you—110 acres, roughly the same as Poplar Point—the difference that you can make by having the right kind of appropriations to create a great park system.

Really the signature of this will be a river walk. We would like to create a continuous 18-mile river walk that connects from the southwest all the way, both sides of the river, really unify the waterfront. We think that that is about \$1 million per mile. It is roughly a \$25 million project just to create a nice, simple trail.

Just to show you the difference, this is the Mount Vernon Trail on the Potomac, a very simple trail. And now, here is the Anacostia. Same city. So, we really need to look at the same Park Service and we have to look at how do we get funds so that there is an equity issue to make sure that the remainder of the Anacostia, the 18 miles, can really be not only equal to the Potomac, but frankly surpass the Potomac and get that investment.

This just shows you how to take—this is out by Watts Branch in Kenilworth and taking what had been a former municipal dump and turning it into really a recreation center. This is where the soccer investment that you have made—and we would like to build on that. This is Watts Branch. The neighborhood is very interesting in restoring that. Make this a great park, multi-use recreation. The Mayfair neighborhood here. The golf course is here and the Arboretum is here.

#### EXPLORING PARK DESIGN

Senator LANDRIEU. Can you leave that slide up just a minute? Let me make a comment. I am not an expert on park development, but I have been working at it enough years to kind of have a sense that while you want to keep your parks, obviously, open to everyone and have multi-use, it is also important for each park to have a lead purpose. Some parks—their lead purpose is recreation, but they are used for other things such as, organized sports. Others are sort of wilderness parks that are occasionally used.

I would like to challenge us to come up with a plan that would really identify parks, so it is clear. In other words, if you know who owns it, then somebody will actively advocate for it. If it is unclear who owns it, then nobody is responsible for it and nobody lobbies for it because it is kind of nobody's park.

So, part of what I would like to see how Kenilworth would develop is primarily recreational for organized sports, which I think the District is really short on and, as you know, was featured in many articles and just highlighted recently about the disparity between the conditions of fields. Whether you are speaking about soccer fields, baseball fields, or golfing opportunities for young children. While that park could be used for other things, walking trails and some wilderness areas—there is a beautiful garden and the Arboretum is right there—that to have a place where families can really focus on soccer and basketball and baseball and tennis and golf is so important so that we can stop having to send our kids out to the suburbs on the weekend and they can play right here in the District because there is a big exodus every weekend. Everybody gets in cars and goes miles and miles away to find these good fields to play on when we could have them right here in the District.

So, I really want to work with you on that and make sure, particularly on the soccer and basketball and baseball we have—and then the revitalization of Langston both for the adults and the Junior Tee or what do they call it?

Mr. ALTMAN. First Tee.

Senator LANDRIEU. First Tee project maybe in some ways connected to Langston. But, again, Mayor, it fits into your idea about

getting these fields up to snuff so we can compete for some of these national games, whether it is the Olympics or something else.

Mr. Altman, real quickly if you can wrap up.

Mr. ALTMAN. Okay. I am going to wrap up. Two more points.

One is creating also great cultural destinations. I think your point is excellent. What we want to create is a series of experiences along the waterfront. So, for example, we want to bring new museums, new cultural institutions, places like Poplar Point. Here you have the Navy Yard, the Navy Museum, the southwest waterfront near Arena Stage, and the nature center, so new sites for cultural institutions as part of a park system, as part of revitalizing the waterfront.

And of course, the Olympics, which will be a major impetus for us in terms of what it brings to the Anacostia in terms of facilities.

#### BUILDING WATERFRONT NEIGHBORHOODS

Finally, we want to build strong waterfront neighborhoods. There are roughly 900 acres. Out of the 2,800 acres along the Anacostia Waterfront that we think you can create new neighborhoods. What that means is large tracts of Federal land, for example, that are no longer needed for those purposes can become great neighborhoods. We toured the Southeast Federal Center. So, here it sits right here. The Mayor brought in HOPE VI with the cooperation of the Federal Government, transforming the southeast. The Navy Yard has 10,000 jobs. The Southeast Center could be home to up to, we think, 2,000 new residential units. Bring residential to the southwest waterfront. We just completed planning around Reservation 13, jurisdictions being transferred to the city. It could be another 1,000 units of housing, as well as health care facilities. Poplar Point as well.

So, we think we can build new neighborhoods. It does not involve displacement. It strengthens the waterfront, takes Federal lands. St. Elizabeth's is right here. It actually touches the waterfront. It is about 300 acres of land. It is the most beautiful area, no longer needed, we believe, for Federal purpose, connect that to the waterfront, and you build great neighborhoods east and west.

Senator LANDRIEU. May I ask a question on that? I really thank you. I had a wonderful tour that day that we spent several hours touring the site and am now very familiar with it.

#### PLANNING FOR THE FUTURE

But what in your opinion would be the best way the Federal Government could help you? I understand that there are some discussions about whether we have multiple master plans or a single master plan. What would be the best thing that GSA could do to help you all keep this coordinated and keep it moving? It is not just the coordination of it, but it is moving it so it does not take us 30 years to do it, that we could actually see this accomplished in the next few years. Should we push for a multi-master or a single master, or what in your opinion would be the best approach?

Mr. WILLIAMS. I think the most important thing we can do, Senator, is for the Federal Government and the city with GSA to focus on joint master planning for the southeast waterfront and for St. Elizabeth's, and then with St. Elizabeth's work on early disposition



of St. Elizabeth's to the District, similar to what the Federal Government is doing right now with Governors Island in New York to New York City or what happened with the Presidio out in San Francisco, you know, speed up the master planning and the disposition. When I say the city, I mean basically the consortium somehow or another managing it so we can get this into active use because even more so than the southeast waterfront—I do not know if you have toured St. Elizabeth's. We need to take you up there. That is a spectacular site.

Senator LANDRIEU. And do we not need legislation or some sort of administrative action to initiate that? Because I would be happy to try to get in as soon as possible to initiate that through this committee.

Mr. WILLIAMS. Well, we would like to work with the Congresswoman to figure out—with the support of the leadership of the city, some sort of Federal legislation that would sanctify or enshrine or formalize, I guess is a better word, this consortium because the problem with the consortium right now is it does not have the durability and the standing that goes beyond any one set of players. So, if Congresswoman Norton is gone or you are gone or I am gone or Linda Cropp is gone, what is to keep this project going? One.

Senator LANDRIEU. Absolutely.

Mr. WILLIAMS. And two, what is to keep the Federal Government bound and committed? No one is a stronger supporter for home rule than I am, but you cannot bind the Federal Government with local law. We need some kind of Federal rubric here.

Senator LANDRIEU. We will pursue that.

Mr. WILLIAMS. Do you agree?

Mr. ALTMAN. Absolutely.

Senator LANDRIEU. Mr. Johnson, because we only have a few more minutes, can you just testify briefly maybe 1 or 2 minutes about the cleanup efforts underway?

**STATEMENT OF JERRY N. JOHNSON, GENERAL MANAGER, DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**

Mr. JOHNSON. Yes, ma'am, and thank you very much, Senator. Madam Chairman, I appreciate the opportunity to be here today.

We have been working for the last 3 years, with support of the Federal Government, with EPA, in developing a long-term control plan to address CSO outfalls, 17 of which are located on the Anacostia River. There are a total of 60 in the District of Columbia on the Potomac, Rock Creek, and Anacostia. However, those 17 outfalls are responsible for about 65 percent of all of the combined sewer overflow that goes into that water body and overflows about 75 times per year.

A combined sewer system I am sure you are probably familiar with. It is a combination of both sanitary and storm flow. When we get rainfalls of a certain duration and certain volumes of water, the system is overwhelmed. Generally that flow will go to the waste water treatment plant. When it becomes overwhelmed, it flows directly into these water bodies as a solution of dilute sewage that is going into these water bodies.

The system was designed in the 1890's by the Corps of Engineers and constructed in the early part of the century and serves about one-third of the District of Columbia.

The plan that we put together is a plan that represents a \$1.2 billion expenditure in today's dollars, and it is a program of engineering and construction projects throughout the system that include the development of Metro-sized tunnels basically to park this flow until we have the capacity to be able to pump it into the waste water treatment plant.

We have not waited for the plan to be approved and for certain actions to be taken. We spent about \$10 million of ratepayer monies to date in addressing this problem. We have another \$100 million on the drawing board either in design or out to bid to support this project.

Our plan will reduce those overflows generally by 96 percent. It will reduce flows into the Anacostia by 98 percent, from 75 to 2 overflows per year. The problem is that it creates a tremendous burden on the ratepayers of the District of Columbia in trying to fund the project.

Am I okay with time? Can I take about another minute?

Senator LANDRIEU. Go ahead.

Mr. JOHNSON. This project, in looking at the EPA affordability guidance, basically says that it is primarily affordable. When we dig deeper into the population, we find that about 20 percent of the population is currently above that maximum affordability level established by U.S. EPA. And with the imposition of this plan, that pushes us to about 3.75 percent or well over the affordability guidance. We believe that in order for us to get this plan undertaken, that it is going to require a partnership between the Federal Government and the District of Columbia in order to fund the plan and avoid this tremendous rate shock on the residents of the District of Columbia.

We have submitted written testimony that goes into a great deal of detail explaining the program and the plan, and we urge this committee's continued support of the efforts that are being undertaken both by WASA and the Mayor through the offices within the District of Columbia to make this project happen.

Thank you very much for the opportunity to speak.

[The statements follow:]

#### PREPARED STATEMENT OF JERRY N. JOHNSON

Good morning, Madame Chairman, and members of the Committee. My name is Jerry N. Johnson, and I am the General Manager of the District of Columbia Water and Sewer Authority ("the Authority" or "WASA"). I am very pleased to represent the agency at its first appearance at this annual hearing, and to be asked to provide testimony on the Anacostia Waterfront Initiative—one of the most significant economic development and environmental initiatives to be undertaken here in the nation's capital.

#### GENERAL AUTHORITY RESPONSIBILITY

The Authority provides retail water services to residents, businesses and visitors to the national capital. Treatment is provided by the Washington Aqueduct. We operate storage, pumping and distribution lines to deliver about 132 million gallons of water per day.

Of particular relevance to any discussion of the Anacostia River and the Waterfront Initiative is WASA's responsibility to provide wastewater collection and treatment services for this same population. In addition, WASA provides wastewater

treatment services to 1.6 million people in Maryland and Virginia through its operation of the Blue Plains Advanced Wastewater Treatment Plant, the largest advanced wastewater treatment plant in the world.

#### STRONG AUTHORITY GOVERNANCE & MANAGEMENT CAPACITY

The Authority, with its independent board of directors, was created in 1996 as a quasi governmental agency with the strong interest and support of the United States Congress. As you may know, six of the Authority's eleven board members including its Chairman are residents of the District of Columbia, five members reside outside the District in Prince George's, Montgomery and Fairfax Counties, and each is appointed by Mayor of the District of Columbia. Since 1996, WASA has made tremendous strides in improving its operations and financial status by, for example:

- reducing its operating budgets while improving the quality and timeliness of its services
- routinely meeting EPA Drinking Water and other regulatory requirements
- maintaining a 180-day operating reserve equivalent to six months of expenses or about \$90 million
- earning ratings from three bond agencies of "A1", "A" and "A+"
- initiating a \$1.6 billion 10-year Capital Improvement Program ("CIP") to repair and rehabilitate the aging wastewater collection and treatment systems and the water distribution infrastructure.
- undertaking the development of a long-term control plan to address combined sewer overflows that affect our waterways, especially the Anacostia River.

#### LTCP COMPONENT OF ANACOSTIA RIVER IMPROVEMENT EFFORTS

WASA was among the first signatories to the Anacostia Waterfront Initiative MOU, Madame Chairman. I mention WASA's governance structure and accomplishments only to emphasize its growing capacity to effectively undertake and manage yet another major capital project that is a central ingredient in the success of efforts to make our waterways cleaner, especially the Anacostia River. That project is the Combined Sewer Overflow Long-Term Control Plan ("CSO LTCP").

Improving the quality of urban waterways is a challenging technical public policy issue. Streams in the District of Columbia receive pollutant loadings from a number of diffuse sources, both inside and outside the District. Combined sewer overflows are a significant source of pollution in our rivers, including the Anacostia.

The \$1.2 billion program (in today's dollars) will rival the current \$1.6 billion 10-year Capital Improvement Program in size and scope. WASA has built the management capacity to develop and implement this plan designed in response to federal requirements. We note, however, that the financial impact of adding such a large new infrastructure program will be extremely burdensome to District of Columbia ratepayers.

The future of the Anacostia waterfront and its neighborhoods are at stake as the question of whether the waterfront will continue to be walled off from nearby neighborhoods or is developed as a community resource. Both Mayor Williams and Mr. Altman have noted today a clear vision that embodies this joint District, federal and community effort to revive one of the national capital's historic waterways.

Major public and private decisions and substantial investments are being made, and these decisions will dramatically affect the future of the Anacostia River, residents, businesses and visitors. Similarly, the Authority in conjunction with the Government of the District of Columbia and the United States Environmental Protection Agency, is also preparing to launch a program to address the problems associated with the combined sewer system, the combined sewer system overflow long-term control plan.

#### COMBINED SEWER SYSTEM

In a separate sewer system storm water collected during periods of wet weather is discharged directly to area waterways. As you may know, Madame Chairman, about 12,955 acres (33 percent) of the nation's capital is served by a drainage system known as the combined sewer system that conveys both sanitary waste and wet-weather storm water.

During wet weather, the flow (a dilute mixture of sanitary wastewater with storm water) carried by the combined sewer system may exceed the conveyance capacity of the collection system to carry the flow to the Blue Plains Advanced Wastewater Treatment facility. Approximately 75 times a year, rainfall volume is high enough to result in periodic discharges, or "combined sewer overflows" ("CSOs") into the Potomac, Anacostia or Rock Creek.

## FEDERAL ORIGINS AND RELIANCE UPON THE COMBINED SEWER SYSTEM

This system was planned, designed, and constructed by the U.S. Army Corps of Engineers in 1890, and built by the federal government late in the nineteenth century. The system was designed to pump most sanitary and storm sewage eastward and downstream, far away from the White House, the U.S. Capitol, and major federal office buildings.

The combined sewer system encompasses much of the central core of the District (the White House, U.S. Capitol complex, the Supreme Court, U.S. Naval Observatory and much of the downtown area, including many major federal office buildings). The combined sewer system serves many federal agencies, embassies and a large number of all those who work in and visit the nation's capital and contribute to the approximately 3 billion gallons of combined sewer overflows from the combined sewer system into Rock Creek, the Anacostia River, and the Potomac River.

Unfortunately, discharges from the District's combined sewer system, and from other combined sewer systems across the country, affect the quality of waterways. The lower Anacostia, which flows through a highly urban area but which is bordered by the Navy Yard, the Anacostia Naval Station, and national park land is subjected to a number of these CSO overflow events—approximately 75 in an average year, and will be a principal beneficiary of the plan to control CSOs.

## EPA PERMIT REQUIREMENTS

CSOs are regarded as point sources of pollution and are subject to both technology-based and water quality-based permitting requirements under the federal Clean Water Act. EPA allows CSOs under the National Pollutant Discharge Elimination System (NPDES) permit issued to the District of Columbia. The EPA permit, however, also requires the DC Water and Sewer Authority to propose a program that addresses these CSOs—a Long Term Control Plan. The permit requires WASA to reduce the periodic overflows into receiving streams in the nation's capital, and the long-term control plan or LTCP is the proposed response to this federal mandate.

## THE LONG-TERM CONTROL PLAN PROCESS

After a 3-year study conducted with support from the EPA, WASA released a proposed draft plan in June of 2001. In accordance with EPA guidelines a large range of technological options were considered, including complete sewer separation. These options were evaluated in the context of regulatory compliance standards, cost effectiveness, complexity and other operational factors, and public acceptance.

It is important to note, Madame Chairman, that WASA has not been idle through this process. We have moved forward to address some CSO issues using our existing Capital Improvement Program, even as we worked to develop a long-term plan over the last few years. WASA has, for example, already invested about \$10,000,000 of its resources to evaluate and upgrade existing CSO control facilities, like a swirl concentrator facility and fiber dams, even as the LTCP has been under development.

Efforts to solicit public comment have continued throughout the last several months in response to our issuance of the draft plan last summer. An extensive public participation program that included, for example, establishing a Stakeholder Advisory Panel, preceded this comment period. The Panel held ten well-attended meetings, and significantly influenced WASA's approach to developing the draft LTCP. Useful discussion with all stakeholders, including the District of Columbia Department of Health and the EPA are on going.

## THE LTCP

Implementation of an LTCP will cost in excess of \$1.2 billion in today's dollars (significantly more with inflation), and involves a program of engineering and construction projects throughout the combined sewer system. The plan involves creating large storage tunnels to provide significant system storage capacity during periods of heavy rainfall, as well as upgrading pumping capacity to move stored storm and wastewater to the treatment plant at appropriate intervals. The LTCP would result in very significant progress, but does not completely eliminate CSO discharges or "overflow" events.

It is important that the Committee understand that elimination of all CSOs would require complete separation of the storm sewer system from the sanitary sewer at approximately three times the cost of the draft LTCP. As important, Madame Chairman, complete separation would provide a lower degree of improvement in water quality than the plan. WASA is very pleased that our plan will provide a 96 percent overall reduction in CSO volume, with the highest reduction of 98 percent for the

Anacostia River. As a result, the plan will reduce CSOs to levels that surpass those required by the Environmental Protection Agency of 85 percent (the presumptive approach requirement). WASA is preparing to issue a final control plan shortly.

#### IMPACT ON ANACOSTIA

The general study area boundaries for the Anacostia Waterfront Initiative extend from the Washington Channel on the west to approximately the District line on the east. The boundaries that parallel the River vary depending on the surrounding neighborhood, but generally include the Southeast neighborhood and Southeast Federal Center, the Southwest Waterfront and the surrounding neighborhoods including Buzzard Point, Anacostia Park and the Poplar Point area, the Anacostia-Park on both sides of the river, and the RFK Stadium area. The Anacostia River, in particular, and waterfront development initiatives will greatly benefit from controlling CSOs.

The impact of the CSO plan will be very significant, particularly on the Anacostia. Currently:

- there are a combined 60 CSO “outfalls” where discharges from the combined sewer system empty into Rock Creek, the Potomac and the Anacostia—several of the outfalls are located on the Anacostia
- of the total system volume of overflows from the combined sewer system, models indicate over 65 percent is discharged in the average year into the Anacostia
- an average of 75 overflow events occur annually on the Anacostia

Implementing the LTCP will result in:

- only 2 overflow events on the Anacostia in the average year
- the volume of overflows into the Anacostia dropping from 2,142 million gallons to 54 million gallons, for a 98 percent reduction in the average year
- reductions in the impact of CSOs on bacteria and low dissolved oxygen levels
- although there are other sources of bacteria, and other causes of low dissolved oxygen levels in the Anacostia, the impact of CSOs will be significantly reduced
- virtually eliminating the solids and floatable debris from CSO discharges because the majority of CSOs will be captured and treated.

The LTCP will completely eliminate some of the outfalls along the Anacostia River, and water quality in the river will be improved and floating trash and debris from CSOs will be practically eliminated.

WASA’s studies have also demonstrated that that even complete elimination of CSOs would not result in making the Anacostia fishable and swimmable much of the time. This is because other pollution sources, including sediments in the river bed, District storm water and upstream sources in Maryland would prevent attainment of standards even if CSOs were completely eliminated. The District’s combined sewer system is not the source of all pollutants that prevent making the Anacostia swimmable and fishable, and this finding is consistent with other assessments performed by the District of Columbia Department of Health and the Metropolitan Washington Council of Governments.

#### AFFORDABILITY

Financing CSO programs in an equitable manner without placing an unreasonable burden on ratepayers is one of the biggest challenges facing any CSO community, especially Washington, DC. The current cost of wastewater services in for the average household is \$271 annually. The additional cost following completion of the current Capital Improvement Program will be \$357 in today’s dollars. The cost will rise to about \$600 annually for the average household with the addition of the proposed CSO control program.

WASA has used EPA procedures outlined in: “Guidance for Financial Capability Assessment and Schedule Development” for determining affordability to help assess the impact of CSO control costs on ratepayers and the fiscal health of the District of Columbia.

EPA’s method is based on computing the cost per household of both CSO projects and existing and proposed non-CSO wastewater projects on median income households (\$39,760 in 2001). EPA regards residential impact as “low” if the combined cost of wastewater projects is less than 1 percent of the median household income; “medium” if the cost is between 1–2 percent of median income, and “high” if the costs is greater than 2 percent of the median household income. Other factors like the unemployment rate are also used to make an overall assessment. Using EPA’s methodology, the burden will be in excess of 1.5 percent for median income households for wastewater treatment costs including the proposed CSO controls. EPA, therefore regards the proposed control program as resulting in a “medium” burden.

However, the projection approaches the "high" threshold, even for the median household in the District, and EPA officials have voiced concern about the affordability of the control program. Also, as you know, household income levels in the District of Columbia do not follow a conventional statistical distribution. Rather, incomes are clustered at the high and low ends of the spectrum. For the lowest 20 percent of District of Columbia households on the income distribution, the current capital improvement program imposes about a 2 percent burden. With the additional cost of the CSO controls, the burden will rise to about 3.24 percent.

The District of Columbia and its citizens face a massive challenge in financing the reinvestment in all publicly owned assets like local roads, schools as well as the water and sewer infrastructure upon which the local community, the region, the federal government and the nation depend to one degree or another. Already, WASA's ratepayers are already beginning to absorb their share of the cost of a \$1.6 billion investment program to upgrade the water distribution, sewer collection and wastewater treatment systems. The cost of the CSO plan will be almost as large.

#### PARTNERSHIP

WASA is in the midst of a rate-setting process for the coming year. Although the WASA Board has insisted that the rate increases required to finance the existing \$1.6 billion CIP be carefully managed in order to avoid "rate shock," the increasing costs of services will be a burden to many of our ratepayers. The additional cost of the LTCP, unless other sources of funding can be obtained from our partners in this initiative, will be problematic for many of our customers.

As you know, Madame Chairman, Mayor Williams has requested federal participation in this massive infrastructure project in the past two appropriations cycles, including a request for \$50,000,000 for fiscal year 2003. There are many precedents for such direct Congressional support to communities across the nation. In several instances, there have been very substantial grants over a number of years, including direct support for CSO control. Until last year's \$1.8 million grant, Madame Chairman, we are aware of no direct appropriation to support these efforts in the nation's capital.

Apart from the financial burden, there are a number of compelling reasons to justify a meaningful long-term partnership with the federal government in addressing this environmental, economic development, engineering and financial challenge:

- the federal government designed and built the combined sewer system
- the federal government owns much of land served by combined sewer system
- the federal government relies upon the combined sewer system (serves White House, Capitol, Supreme Court, federal agencies, embassies, other institutions, commuters, visitors)
- the majority of the federal workforce is housed in this area
- the federal government (EPA) mandates under the Clean Water Act that WASA address combined sewer overflows

Even though WASA's role is that of a utility and its job with respect to CSO control is principally technical and administrative, there are other important considerations. The Authority's view of itself is that we are among the most important stewards of the waterways surrounding the nation's capital. The Anacostia Waterfront Initiative, as the Mayor and Mr. Altman have described it, is likely to help re-define the waterfront and the neighboring communities well into the future. The Anacostia and Potomac Rivers and Rock Creek Park, however, have also helped define the culture and the history of the national capital.

There already exists a many-layered relationship with the federal government affecting many aspects of this historic waterway. The LTCP is an opportunity for a meaningful partnership that provides tangible and quantifiable benefits for the environment, the local community, and the nation.

Once again, WASA appreciates the invitation to appear before the Committee. The Authority particularly appreciates your interest, Madame Chairman, and that of the Committee in the Long-Term Control Plan. I would be pleased to respond to any questions from the Committee at this time.

Senator LANDRIEU. Well, I thank you very much because your contribution to this effort is just so necessary because the swimability issues, the recreation issues, the development issues, none of that is going to happen until people feel confident that the cleanup is not only planned well but there is funding to actually implement it because no one wants to look out on a dirty river. No

one is going to recreate around a river that they do not consider or does not look to them to be clean and attractive.

But on that, let me also try to lighten your burden in this way. Every city in America—and I cannot tell you the long stream of people that come into my office on this exact issue. Every city has these affordability problems, and it is getting to be such a crowd, that I think Congress is going to end up addressing this in a national way—I am not sure exactly how—to try to provide a source of funding to cities to try to deal with these costs because otherwise, it is either an unfunded mandate or a tax increase of substantial proportion on some of your lower income people throughout the Nation or moderate income or middle class families. It is a real problem.

So, let us keep working on District-specific solutions, but to connect as much as you can with this national effort that is sort of bubbling up to get the Federal Government's attention for some real investments in these sewer systems that have to be addressed or we will not be able to clean up the water anywhere, not here in Washington, New York, San Francisco, or New Orleans.

Mr. JOHNSON. Madam Chairman, I happen to also be Chairman of the National CSO Partnership, which is an organization that was formed a number of years ago, and has been looking to address these issues.

Senator LANDRIEU. Well, good. Then you are absolutely in the right position to help.

Mr. JOHNSON. I am very plugged in.

Senator LANDRIEU. Good. You are probably doing the plugging if you are the Chairman. So, that is good. But keep pushing because we have really got to press the Federal Government for some additional help in this regard and identify a source of revenue to help our cities because they are really struggling.

#### PREPARED STATEMENTS

Finally, I want to include for the record, the statement of Doug Siglin, the Director of the Chesapeake Bay Foundation regarding the Anacostia River and Paul Strauss, the Shadow Senator for the District.

[The statements follow:]

#### PREPARED STATEMENT OF DOUG SIGLIN, CHESAPEAKE BAY FOUNDATION

Chairman Landrieu, Senator DeWine and members of the subcommittee, I am most grateful for the opportunity to submit a brief statement for the hearing record regarding the District of Columbia's fiscal year 2003 appropriations request and the Anacostia Waterfront Initiative.

The Chesapeake Bay Foundation's Anacostia River Initiative is working to help catalyze the cleanup and restoration of the Anacostia River so that it can become a valuable economic, recreational and natural resource for the District of Columbia and the surrounding region, as well as a healthy component of the Chesapeake Bay system.

In general, we are deeply supportive of both the Anacostia Waterfront Initiative and the District's request for a \$50 million fiscal year 2003 appropriation to begin the process of modernizing the city's combined sewer.

In regards to the Anacostia Waterfront Initiative, we believe it very important that the District derive more economic, recreational and educational value from the tremendous natural resource with which we have been blessed. Of course, we are full of high hopes and expectations that the AWI will, over time, serve to enhance rather than degrade the water quality of the Anacostia. The proof will come to the

degree that present and future development along the Anacostia is required or is provided incentives to substantially improve air and water quality. If each new construction project marginally improves the environmental status quo, the public investment in the Anacostia Waterfront Initiative and the private investment that follows will be good for the economy, the environment, and the quality of life in the region generally—the essence of sustainable development.

In regards to the District's \$50 million appropriations request, we believe that it is imperative for the federal government to take on a substantial portion of the projected cost of the proposed combined sewer modernization. While the final details of the plan have yet to be worked out, we know that the cost will be substantial, and we urge the Senate Appropriations Committee to do all it possibly can to support the costs of this most critical upgrade in the city that is the federal seat of government.

I want to offer four broad points for your consideration:

*(1) The Anacostia is, more than any other, the river of the Nation's Capital*

The Anacostia, as Mayor Williams poetically put it a couple of years ago, runs through the soul of Washington. It flows 6½ miles through the center of the District, and much of the District's population lives in its watershed. More than 200 years ago, President Washington had the Residence Act changed to include the Anacostia within the original borders of the District, and the materials that built the Capitol building came up the Anacostia on ships and barges. Today, the Anacostia flows past Capitol Hill about 2000 yards from the U.S. Capitol, and pollution from not only that building, but from most of the public buildings in Washington, contributes to the river's challenges.

*(2) The Anacostia is among the nation's most polluted rivers*

Substantial progress has been made in cleaning up the Anacostia, but it still carries a huge load of sediment, bacteria, organic matter, nutrients, chemicals, and metals. At certain spots in the tidal river, there are deep toxic accumulations in the bottom sediments. These challenges are significant, but not insurmountable.

*(3) The full economic and recreational value of the Anacostia Waterfront Initiative can only be achieved if the river is much cleaner than it is today*

It is certainly possible to derive additional economic value from the Anacostia in its polluted state, but it stands to reason that the value of the housing, office buildings, and small businesses that the Anacostia River Initiative anticipates will be significantly enhanced if the river isn't filthy and dangerous. Moreover, the use of the Anacostia as a recreational asset is severely limited in its current state. The fishing, canoeing, kayaking, and sailing that are normal and widely enjoyed recreational activities in America's waterways simply can't thrive with the river so severely polluted.

*(4) Although there is substantial federal activity to clean up and restore the Anacostia, the scope and pace of efforts is not nearly sufficient.*

The U.S. Environmental Protection Agency, the U.S. Army Corps of Engineers, the National Oceanic and Atmospheric Administration, the National Park Service, the Navy, and other federal agencies continue to be involved in projects to help clean up and restore the Anacostia. We appreciate and applaud such efforts. The pace, however, is insufficient to the task. We urge you and your colleagues to consider a focused Congressional effort, perhaps involving hearings, to determine what can best be done to pick up the pace of federal involvement in the cleanup and restoration of the river that runs through the heart and soul of the District.

In closing, I reiterate that we believe that the Anacostia River has the potential to be an extremely valuable federal, regional and local resource deserving of significant public investment. However, we believe that additional public investment to clean the river must be made to maximize the value of the public and private economic investment that the Anacostia Waterfront Initiative envisions. We would, of course, be grateful for the opportunity to continue discussing with your staffs specific ideas and policy initiatives towards that end.

Thank you again for the opportunity to offer our views in this hearing. We very much appreciate your interest in the future of the Anacostia River.

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PREPARED STATEMENT OF PAUL STRAUSS, SHADOW U.S. SENATOR, DISTRICT OF COLUMBIA

Chairperson Landrieu and distinguished members of the Subcommittee. I am Paul Strauss, and I am the elected United States Senator for the District of Columbia.



In that capacity, I am pleased to submit this statement for the record on the Anacostia Waterfront Initiative. The communities within the District of Columbia understand the necessity for local improvement and hope to work on maintaining an environment that we can proudly call our nation's capital. I would like to thank you for the opportunity to discuss the necessity and potential benefits of the Anacostia Waterfront Initiative.

This initiative is essential for the development of our city. The improvement of the current status of the Anacostia Waterfront is essential for both the economic and moral development of the District of Columbia. I am a boater here in DC and have sailed the Anacostia River and understand the need for significant changes in this area. The project is important to both residents of the Anacostia area and boat owners like myself. There are several benefits to this project, which will affect not only the District of Columbia but also the Federal Government. The Anacostia River, named for the Native Americans who first settled here, is a symbol of our great American history. As a river sailed by George Washington and other founding fathers in the early days of our nation, it is our duty to maintain this heritage. By supporting this initiative, we are not only supporting the economic needs of the residents in the area, but maintaining an area that is important to the United States and Native American history.

The main purpose of the Anacostia Waterfront initiative includes a development of a plan for the future of the waterfront and a coordination of land use and development actions of the city and federal funds. This coordination is necessary in order to delegate over \$30 million in both district and federal funds. By forming a coalition of local interests, we will attract new resources that will benefit the community and raise revenues. I am asking that the Senate support the Anacostia Waterfront Initiative in providing the necessary funding for the project.

#### BACKGROUND OF THE PROJECT

The district and federal governments own 90 percent of the riverfront land, suggesting a joint responsibility for the improvement of the area. The future of the Anacostia waterfront and its neighborhoods is essential to the future of the District of Columbia. There is a dire need for both public and private investment in this area, especially by the Southeast area of the Anacostia Riverfront between the river and Southeast Freeway, I-395. This is an area that is in a stage of potential development. With an operation of only 5 percent capacity, there is currently a \$100 million plan to create new office buildings, which is a partnership at the Southeast Federal Center, the Capital Square townhouse community, a new Navy Yard Metro Center on M Street, and streetwork for M street. This type of joint commitment along the waterfront will provide success and economic development to much-needed areas. It is necessary that these areas begin operating at full capacity in order to ensure adequate development and increase revenue for the District of Columbia. Without this type of initiative, potential gains will never be seen.

It is important to note that this is a joint initiative between both city and federal agencies, which will be involved in both the planning and funding process. The estimated costs of this plan are \$1.5 million, which will be shared by district and federal agencies, the Sports and Entertainment Commission, the Summit Fund, and the Housing Authority. Coordination of the Anacostia Waterfront Initiative is currently the responsibility of the Memorandum of Understanding, which includes the DC Office of Planning, the U.S. General Services Administration, and the National Parks Service. This type of coalition indicates the joint interests in propelling the plan to serve several different interests. There are several groups that will benefit from this process, and it is essential that funding and organization continue until the fulfillment of the plan.

#### ECONOMIC BENEFITS

The economic benefits of the Anacostia Waterfront Initiative are both vast and necessary for the future of the District of Columbia. There are several aspects of the economy which will a positive change with the completion of the Anacostia Waterfront Initiative. For example, the plan will promote the continuation of maritime use in the area, which is essential for both the existing community and the future of tourism. It also serves as encouragement for future private investment in the area. Along with the importance of maritime use, there will be aesthetic benefits to the project. The beautification of this area is important in encouraging private organizations to bring in job creation and commercial activity, two elements that are crucial to the area at this time.

It is also necessary to address community concerns of residents and property owners in the area. By improving the residential property, there is a potential influx

of new residents and business owners that could further improve the quality of economic development on the Anacostia Waterfront.

#### ENVIRONMENTAL BENEFITS

There is a dire need to improve the environmental situation on the Anacostia Waterfront. By completing the Anacostia Waterfront Initiative, we will address necessary environmental concerns. There are plans to restore the water quality of the Anacostia River, as well as enhance its natural beauty. There has been a stated concern by the Department of Health, Environmental Health Administration, Bureau of Environmental Quality, and Watershed Protection Division. The improvement of water quality and the aesthetic well being of the area is important to further sustainable economic development, as well as prevent further environmental damage to the rest of the city.

There has been a proven improvement in the economic and environmental aspects due to waterfront initiatives in several other U.S. cities, including Providence and Jersey City. The economic and aesthetic improvements in these cities created vast improvement, which indicates that there is a definite potential for the same improvements to occur in the District of Columbia.

#### CONCLUSION

I would like to thank you, Chairperson Landrieu, and other supporters of the Anacostia Waterfront Initiative, especially those individuals involved in the planning of the project. There is a definite interest in the improvement of the city, as seen by the work put into this project. We must realize that this project not only provides benefits to the city, but other necessary changes as well. I hope that this project will attain successful completion and provide the necessary improvement for the Anacostia area. In closing, let me thank Ms. Urmy Shukla of my staff, for her assistance in preparing this statement.

#### ADDITIONAL COMMITTEE QUESTIONS

Senator LANDRIEU. There will be some additional questions which will be submitted for your response in the record.

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

#### QUESTIONS SUBMITTED BY SENATOR MARY L. LANDRIEU

##### OVERALL FISCAL HEALTH

*Question.* What specific steps is the city taking in implementing the fiscal year 2002 and 2003 budgets, and in planning for the fiscal year 2004 budget to maintain a balanced budget?

*Answer.* In fiscal year 2002, the District faced substantial spending pressures and, consistent with a trend affecting states across the country, a substantial revenue shortfall. To address these challenges, the District utilized reserve funds and reduced agency spending. Through these measures, the District will balance its budget at the end of the fiscal year.

To ensure that current year spending pressures do not create a problem in fiscal year 2003, the District (a) is reforming the Medicaid and special education operations which were the primary sources of revenue and expenditure problems in the District, and (b) has budgeted substantial general fund increases for Medicaid in fiscal year 2003 to cover potential spending pressures and revenue shortfalls that cannot be avoided in the near term.

Since the District finalized its fiscal year 2003 budget, however, major new revenue shortfalls have emerged for states across, and the District is no exception. Currently, the District is updating its revenue projections for fiscal year 2003 and fiscal year 2004, and expects a major decline in revenue for those years. To offset this revenue loss, the District is developing plans to scale back expenditures and tap other revenue sources in order to ensure balanced budgets.

*Question.* What is the District's plan for continuing the capital projects deferred in the fiscal year 2003 budget?

*Answer.* The capital projects deferred in fiscal year 2003 represent two categories: (1) projects that have been completed with funds still available or have been dormant for a number of years; and

(2) projects that are still priorities of the District but were deferred due to a lack of available funding and a need to lower the District's debt per capita. The first category of projects was an exercise in cleaning up the District's Capital Improvement Program. As for the second category of projects, the District is looking for other sources of funding to continue these projects. If no other funding can be identified, the District will revisit including them in upcoming budget formulation processes as funding becomes available.

*Question.* Has the City engaged in a long-term planning process for capital improvements?

*Answer.* The District is in the process of evaluating its capital budget over a 20-year planning process in order to develop long-term replacement schedules for its infrastructure and equipment. This task will be done in conjunction with the development of condition assessments on all District facilities. It is anticipated this will be a two year process and will be tied to the development of the budget module in the ASMP project in an effort to improve the planning process of the Capital Improvements Program.

#### SPECIAL EDUCATION

*Question.* Is the School Board planning to access the Medicaid Reform Fund? If so, is development of the required savings underway?

*Answer.* The fiscal year 2003 budget includes \$27 million accruing to the city's Tobacco Settlement Trust Fund earmarked for use by the District of Columbia Public Schools (DCPS) as reimbursement for special education related services, predominantly expenses related to Medicaid. The DCPS fully intends to access these dollars and is in the process of developing the cost savings plan required for drawing down the funding.

*Question.* In reviewing the savings plan, will the Special Education Task Force consult with administrators in other districts or best practices experts?

*Answer.* As one of its guiding principles, the Special Education Task Force will look to best practices within the school system as well as in other jurisdictions to inform its decision making. In addition, DCPS has consulted with McKinley and Company and more recently, Harvard University in developing the Seven Point Plan for Special Education Reform to incorporate best practices as well as address the specific, and often unique, circumstances in the District.

#### CHARTER SCHOOL FACILITIES FUNDING

*Question.* I would like to include for the record a detailed summary of the Charter School Credit Enhancement Fund, including the following information:

- current balance of the fund
- source of those funds (local budget, Federal appropriation)
- amount and recipient of any loans disbursed and status of those loans
- number of applications received for loans

*Answer.* The current balance of the Credit Enhancement Fund is \$1,433,500, which remains from a \$5,000,000 federal appropriation. Seven applications have been received for Credit Enhancement Funding. The following schools have received awards in the following amounts:

- Capital City Public Charter School—\$500,000
- The New School for Enterprise and Development Public Charter—\$500,000
- The Integrated Design and Electronics Academy—\$426,000
- Arts and Technology Academy Public Charter School—\$546,000
- Meridian School—\$500,000
- Southeast Academy for Scholastic Excellence (through the Charter School Development Corporation)—\$574,000

#### CHILD AND FAMILY SERVICES AGENCY

*Question.* Please list the per diem rate for all types of placements (emergency, group home, foster home, kinship, etc.). Please provide a range, from the highest rate to the lowest with a description of the reasoning for that rate.

*Answer.* The Consent Order that governs the Child and Family Services Agency (CFSA) as it reemerges from Federal Court Receivership and moves through its probationary period explicitly states that rates have to increase as required by the Modified Final Order (MFO). The MFO states the board rates have to meet a level consistent with the USDA standards concerning the actual cost of raising a child and utilizing specialized rates as necessary. As the USDA standards increase so then must the DC rates for foster and kinship care in order to support the needs of children, and the families that care for them.

Often in order to support the needs of children and families CFSA contracts with vendors. To ensure that contracts reflect performance goals and the needs of children and families, we are currently engaged in an overhaul of our contracting system. Toward that end, we have enlisted national technical assistance that includes help in designing a rate-setting process. There is a new internal process of preparing new solicitations for release in the spring of 2003 for all currently contracted services. Our current vendors have already been informed that extensions and option years will be exercised only through March 31, 2003. The rates summarized below are prior to this reform.

The schedule below provides the range of rates for the various types of care provided to children in placement with CFSA. As the rates increase, the level of care required also increases.

*Family Settings.*—The range of rates for family settings is \$23.93 per day to \$200.00 per day. Our most inexpensive care is for children placed in traditional foster homes, kinship care homes and subsidized adoption. These are family settings where the basic needs of the child are met in a family home environment. In addition, where warranted, we will provide services outside the home such as therapy, mentoring etc. The mid-level rates encompass therapeutic foster homes, specialized infant care homes and homes for medically fragile children who require more services on a daily basis than a traditional home setting can provide. The highest rates are paid for severely emotionally disturbed children or children with severe medical problems often requiring skilled nursing care but also in a single family setting.

*Congregate Care.*—The next tier of rates involves the more traditional group home settings. These rates range from \$140.00 per day to \$400 per day. The most extreme rate is for a child with numerous chronic medical problems who is in a vegetative state requiring intensive 24/7 nursing care. These are congregate care facilities for children who need more intensive care or are unable for any number of reasons to stay in a family setting. These settings include traditional group homes, residential treatment facilities and congregate care facilities for children with severe medical conditions.

Our experience in caring for these children is that the number of children requiring care with a strong mental health or physiological component is increasing, thereby creating a need for more of the high cost services.

*Question.* Please provide a breakdown of the range of per diem rates paid into high, medium and low categories. What percentage of all the rates paid does each category represent?

*Answer.* The numbers are as follows:

	Percent of dollars	Percent of days
Low .....	41	77
Medium .....	48	20
High .....	11	3

One trend which has become apparent (see recent Washington Post articles) is that the emotional and physical/medical needs of the children coming into care are more acute. We would expect that the medium and high cost of care figures would increase rather than decrease as a result of this.

PARKS AND RECREATION

*Question.* How does the Department determine funding or improvements for each park? Is it based on public usage?

*Answer.* The Department of Parks and Recreation proposes capital projects to the D.C. Office of Budget and Planning for inclusion in the annual budget of the city, based upon:

- (a) Safety and health concerns/remediation
- (b) Citizen in-put and request
- (c) Staff assessment and recommendations
- (d) Cooperative interaction with the D.C. Planning Office

*Question.* How are the maintenance needs of each park determined?

*Answer.* Parks are assessed twice yearly by a certified safety inspector as he basis for identifying and addressing maintenance needs. Additionally, facilities with staff on the premises are inspected daily for health and safety concerns and those findings are forwarded to the agency's Risk Manager for follow-up and resolve. Citizens, "friends-of" groups, volunteers, and our custodial, trash-hauling, and skilled-labor staff, who routinely visit sites at a minimum of once a week, provide additional assessments.

*Question.* How many public/private or non-profit partnerships does the Department have in effect currently? What are the Department's plans for expanding this type of partnership?

*Answer.* Currently the Department has public/private or non-profit partnerships with: City Lights School, Sacha Bruce Public Charter School, Time-Dollar Institute, Garfield Terrace Resident Council, United Planning Organization, Wish List of Washington, DC, Stoddert Soccer, Babe Ruth Baseball, Barney House Senior Program, Advisory Neighborhood Commission 3G, Associates for Renewal in Education, Elementary Baseball, Anacostia Museum, Corcoran Gallery, Historical Preservation Society, Kaboom, and the Washington Bullets (the legal incorporated name for the Washington Sports Group. Additionally, we continue to work in collaboration with: Little League Baseball, Jabbo Kenner Tackle Football League, our "Friends of" groups and the many neighborhood-based one time only partnerships, which are realized to the benefit of the community at large.

#### EMERGENCY PREPAREDNESS: MANAGEMENT OF FUNDS

*Question.* The D.C. Subcommittee provided \$216 million in the fiscal year 2002 D.C. Appropriations Act and the fiscal year 2002 Defense Supplemental Appropriations Act. In addition, the fiscal year 2002 Supplemental Appropriations bill, currently awaiting the President's signature, includes \$44 million for D.C.

I want to ensure that the District has the proper equipment and support to make the Capital secure. Has the District identified any funding gaps that were not originally funded but there is a critical need to fill?

*Answer.* As you know, the President failed to support the \$5.1 Billion Supplemental Package that contained the \$44 million referenced above. This obviously leaves the District with a gap that we previously had expected would have been filled. The \$44 million in the fiscal year 2002 Supplemental contained funding for the following:

- \$12 million for public safety expenses related to security events
- \$5 million for Unified Communications Center
- \$6 million for Containment facilities and Bioterrorism activities at Washington Hospital
- \$10 million to Children's National Medical Center for quarantine & decontamination facilities
- \$8 million to Washington Metropolitan Area Transit Authority for a regional transportation back-up operations control center
- \$1.75 million to Metropolitan Washington Council of Governments for support of the Regional Incident Communications and Coordination System.
- \$1.25 million to Water and Sewer Authority for remote monitoring of water quality.

These items continue to be high priorities for the District and we will therefore continue to seek these resources to ensure the security needs in the Nation's Capital are adequately met. We also believe that the Forensics Laboratory is a very high priority for the District. Both the Forensics Laboratory and the Unified Communications Center are very large capital projects that we hope we can continue to work with you on, to secure adequate resources.

#### ANACOSTIA WATERFRONT INITIATIVE

*Question.* The Committee supports the objectives of the Anacostia Waterfront Initiative and understands this is a long-term process. What are the key first steps that the city has identified as necessary to revitalize the waterfront and how does the city plan to address these?

*Answer.* The District is currently in a transition phase between the initial community-based planning that was coordinated by the D.C. Office of Planning and the coordination of the implementation efforts to realize the revitalization goals established by the Draft AWI Framework Plan. Please note that there is virtually no project which is being completed without some form of participation or coordination by a District government agency. The primary District agency stakeholders are:

- Office of the Mayor
- Office of Planning
- District Department of Transportation
- District Department of Parks and Recreation
- District Department of Health, Environmental Health Agency

Immediate next steps for implementing the goals and objectives of the AWI fall into three primary categories:

- Existing Projects: Existing projects or initiatives requiring next step actions.

- Strategic Planning: Strategic planning with regard to long-term funding and agency coordination.
- Catalyst Projects: Capital improvements of “catalyst projects” which will help initiate site-specific development plans and which will encourage private development projects.

#### EXISTING PROJECT PRIORITIES

*South Capitol Gateway Improvement Project.*—This project is currently funded by the U.S. Department of Transportation for a total of \$500,000. The goal of the project is to complete a feasibility study which charts the reconstruction of the South Capitol Street corridor from the Suitland Parkway to the Capitol. The study includes the feasibility of constructing a new river crossing to replace the existing Fredrick Douglass bridge. Next step actions include initiation of the NEPA process for transportation improvements (\$500K) and detailed urban design guidelines to be developed as part of area-wide zoning reform actions. (\$300K)

*Riverwalk Demonstration Project.*—This project is currently funded by the U.S. Department of Transportation for a total of \$400,000. The objective of this project is to implement small sections of the Riverwalk, while researching state-of-the-art low impact development design techniques. A total of about 400 feet of trail will be constructed as part of this project. Next step actions include additional demonstration segments of the Riverwalk in strategic areas where the trail can be easily implemented. While the overall cost of the Riverwalk is estimated to total approximately \$25 to \$30 million, individual strategic segments can be implemented on a stand-alone basis. Strategic segments include: Connection from Kenilworth Park to Maryland (\$1M), Barney Circle to RFK (\$1M) and the Tidal Basin Waterfront (\$1.75M) which includes improvements of connections to the Southwest Waterfront from the Tidal Basin, inclusive of a pedestrian footbridge to Hains Point from a location adjacent to the Washington Marina.

#### STRATEGIC PLANNING

*Long-term Agency Funding Strategy.*—A number of comparable efforts nation-wide have created implementing entities such as land trusts and development corporations in order to restore underutilized river or park environments. The Presidio Trust is but one example. A detailed economic analysis must occur in order to coordinate and optimize the various funding mechanisms that already exist and determine which funding mechanisms need to be created to attempt to capture the private value being created by extensive public investments along the river. (\$150,000)

*Long-term Agency Coordination.*—A complementary strategic planning effort needs to explore the existing impediments to project approvals. Streamlining of the various required agency approvals is necessary for two important reasons: reduce and better coordinate the redundancies in Federal and District approvals process; and, introduce a more transparent and comprehensible approvals process for the public to understand, in order to eliminate “surprise” projects and reduce the overall amount of litigation being pursued by neighborhood and environmental advocacy groups. The creation of a “community design center” might be part of this strategy, a location where proposed projects could be jointly reviewed by the public and agency representatives. (\$150,000)

#### CATALYST PROJECTS

The following catalyst projects are public infrastructure or public park projects which have been identified in specific site planning efforts conducted by the Office of Planning. These first-step projects seek to create a dramatically new image for specific sites along the river, at a relatively small scale, in order to change the perception of the Anacostia Waterfront from that of a forgotten wasteland to that of a public amenity. These projects have been specifically identified to set neighborhood benchmarks for design and construction, which will set the tone for subsequent private development projects.

*Southwest Tidal Basin Gateway.*—This project (identified earlier in the Riverwalk Demonstration) seeks to create a superior pedestrian connection between the Southwest Waterfront and the National Mall at the location of the Tidal Basin. The District Department of Transportation is currently completing a detailed pedestrian access study to the Fish Wharf, which would become the basis for the improvements. Widening of sidewalks, construction of a pedestrian bridge and the introduction of designated bicycle lanes constitute the scope of this project. This project seeks to help address the imbalance of visitation to the Tidal Basin and the Southwest Waterfront. The project would also significantly leverage private funds committed as a component of the Mandarin Hotel project and recent appropriations for the Wash-

ington Marina. This segment of the waterfront is a key element of the Potomac National Scenic Heritage Trail, a regional multi-purpose trail being coordinated by the National Park Service. (\$1.5M)

*Near Southeast Canal Blocks Park.*—This project seeks to transform three parcels of land (which were formerly a component of the historic Washington Canal) into a significant new park. The cost of the park has been estimated to be \$5M including soft costs. The immediate importance of creating this park include:

The need to facilitate public access from Capitol Hill to the Southeast Federal Center and its proposed waterfront park and the Riverwalk trail system;

The need to create a community destination and public open space which will help realize the goal of creating a mixed-use and mixed-income neighborhood in the Near Southeast. The new park would provide an essential common ground for the variety of public and private residential development projects which are being planned for the area, the most significant of which is the Capper Carrollsburg Hope VI project which is funded to construct approximately 1,500 units of housing;

The need to instill a community pride-of-place in this neighborhood by taking advantage of the significant historical heritage of the Washington Canal and commemorating its historic existence in the form of a park. The site has also been identified by NCPD as a potential site for a monument of national importance.

The ideal opportunity to institute state-of-the-art storm water runoff mitigation and low impact development measures as a component of neighborhood-wide development projects. The added significance of the former Canal is that upon its abandonment, it was reutilized to serve as the location for the main trunk line of the District's combined sewer system.

The need to implement this public open space in a timely manner in order to properly leverage the ongoing real estate development projects into a veritable neighborhood.

*Kingman Island restoration.*—This project is a partnership that includes the U.S. Army Corps of Engineers, the District, and the National Park Service has led to the restoration of 42 acres of wetlands on Kingman Lake, one of the islands in the Anacostia. Habitat restoration work is also underway on Kingman Island, whose title was transferred to the District in December 2000. These projects foreshadow the large-scale environmental restoration projects necessary to reconstruct the river's riparian systems.

*Riverwalk Connection from Kenilworth Aquatic Gardens to Maryland-Bladensburg Waterfont Park.*—This project (described earlier in the current projects) has been planned in partnership with the Maryland Department of Transportation and the National Park Service. The project seeks to leverage the commitment that M-DOT has made to construct the Anacostia Riverwalk from the Bladensburg Park to the DC-MD line (2.3 miles). The segment in question is the element connecting from the DC-MD boundary to the parking lot at the Kenilworth Aquatic Gardens and Kenilworth Park Recreation Center (0.4 miles). The estimated costs for the project total \$1.5M. A detailed engineering feasibility study has been completed by the Office of Planning and is available for review.

*Overall public infrastructure.*—The total estimated cost of the infrastructure projects needed to create appropriate access to the waterfront, prepare currently underutilized land for development and provide the necessary public amenities for the impending waterfront development is approximately \$2 Billion.

*Question.* Please detail what steps the District is taking to create immediately recognizable benefits on the waterfront, in conjunctions with the long-term infrastructure building to prevent further degradation of the river.

*Answer.* The Anacostia Waterfront Initiative (AWI) process is being coordinated by the DC Office of Planning, which has recently issued the AWI's preliminary recommendations for a first round of public comment and is working toward releasing the complete AWI Draft Framework Plan this fall.

However, AWI was never intended as a planning exercise only. The AWI partnership has been at work, coordinating actions "on the ground" and yielding exciting new results for the neighborhoods along the river. The following represents a snap shot of current public sector projects, which are catalyzing the transformation of the shores of the Anacostia and the Washington Channel by providing important infrastructure and environment improvements.

#### UPPER REACHES OF THE RIVER

The District, the National Park Service (NPS) and the Maryland Department of Transportation (M-DOT) have signed an MOU to extend the Anacostia Riverwalk and Trail from the Kennilworth Aquatic Gardens to the recently constructed public marina and park in Bladensburg, Maryland.

The U.S. Soccer Federation, together with NPS and DC Sports and Entertainment Commission (DC-SEC) have received funding to start design of recreational fields in Kenilworth Park.

The District Department of Transportation (D-DOT) is revising designs for the Kenilworth Freeway at Nannie Helen Burroughs NE to create a pedestrian and bicycle gateway to Kenilworth Park and Aquatic gardens. This link will connect the District's largest park and trail—Watts Branch—to the waterfront park system.

Langston Golf Course is in the design phase to build and a new club house.

#### MIDDLE REACHES OF THE RIVER

The District Department of Transportation (D-DOT) is completing reconstruction of the Benning Road bridge to include wide sidewalks and a new pedestrian gateway to Kingman Island.

The D.C. Department of Parks and Recreation (DC-PR), the DC Environmental Health Agency (DC-EHA) and the U.S. Army Corps of Engineers (US-ACE) are restoring natural habitat to Kingman and Heritage Island and constructing additional wetlands along the Island's shoreline.

The US-ACE and the NPS are "daylighting" Popes Branch and Ft. Dupont Creek. These projects will take the streams out of below-grade storm sewers to flow at-grade through Anacostia Park thereby creating habitat and visual interest in the park.

The DC-SEC has brought the Cadillac Grand Prix racing event to the RFK campus for the first time and is currently reconstructing the parking lots north of RFK, while introducing state-of-the-art storm water run-off technologies to the RFK parking lots.

St. Colettas School is in design for the first building to be constructed on Reservation 13 since the Master Plan was completed in March. The design architect is Michael Graves.

#### POPLAR POINT

The NPS, DC-EHA and the National Oceanic and Atmospheric Administration (NOAA) are funded to daylight Stickfoot Creek and remediate soils on Poplar Point.

The Advantage Charter School is nearing completion on Howard Road.

#### NEAR SOUTHEAST

The Marine Barracks project has broken ground at 7th and L Streets SE. The project will be the new home for the U.S. Marine Corps Band and practice facility as well as a ball field to be shared with neighborhood residents.

The \$35M HOPE VI grant from the U.S. Department of Housing and Urban Development (HUD) has been leveraged by the D.C. Housing Authority (DC-HA) by approximately 9:1. Over 1,500 new units of housing will be created with a guaranty of 1:1 public housing unit replacement to create a new mixed-use, mixed-income waterfront neighborhood.

The D-DOT will break ground on three important projects this summer, including the reconstruction of 8th Street Barracks Row, the extension of M Street and the Riverwalk demonstration project.

The Navy is in the final stages of constructing a beautiful new waterfront park, which includes innovative elements such as Low Impact Development measures as well as a design approach which will address force protection and security while also allowing continuous public access to the water's edge.

The U.S. Department of Transportation will be relocating to the Southeast Federal Center. This \$1.7 million building will bring an additional 7,500 federal employees to the neighborhood.

The GSA has completed construction of a new seawall at the Southeast Federal Center and has issued an RFP for the development of the remaining 44-acres of prime waterfront land. D-DOT has reconstructed all of the streets surrounding the SEFC, upgrading the quality of public spaces in preparation for development.

The D.C. Office of Planning has rezoned the land known as Buzzard Point permitting residential uses to be introduced to this prime waterfront land.

Pepco, the District, NPS and the Navy have partnered with the Earth Conservation Corps and the National Geographic Society to create the Mathew Henson Center, a new environmental learning center in the former PEPCO pump house.

In a similar partnership, D-DOT has made a building beneath the 11th Street bridges available to the Capitol Community Rowing Center, a non-profit boat house to serve the Anacostia River rowing community.



## WASHINGTON CHANNEL

The District has entered into a public-private partnership to re-introduce 4th Street SW through the site known as Waterside Mall in order to create a new retail town center for the Southwest neighborhood.

D-DOT and Federal Highways are commencing the rehabilitation of the 10th Street overpass which will include the redesign of the urban streetscape of L'Enfant Plaza. The goal will be to create a more hospitable urban realm between the Smithsonian Institution and the Washington Channel Waterfront.

The National Capital Revitalization Corporation (NCRC) has taken control of the Gangplank site and procured the services of a new marina operator.

The District has issued a \$46 million tax-revenue bond for the Mandarin-Oriental hotel on the Portals Site, providing a key amenity at the gateway between the Tidal Basin and the Washington Channel.

The US-ACE and the District Department of Housing and Community Development are completing a marina and site improvements, which will restore historic structures, create more marina capacity and improve parking at the Washington Marina and the Fish Market.

Together, these projects demonstrate the first-step commitment to reclaim Washington's waterfront for the benefit of neighborhoods, the City and the region. The Anacostia Waterfront Initiative Framework Plan will build on these first steps to chart the course towards achieving full clean-up of the River's water; easy access to its shores; creation of a great new parks network; introduction of cultural destinations and the strengthening of all the neighborhoods along its shores.

## PUBLIC HEALTH

*Question.* Do you believe the needle exchange program operated by Prevention Works is an effective program for reducing the spread of HIV/AIDS and Hepatitis B in the District?

*Answer.* Yes, we believe the needle exchange program operated by Prevention Works is an effective program for reducing the spread of HIV/AIDS and Hepatitis B in the District.

Individuals may become infected with HIV, the virus that causes AIDS, and Hepatitis B and C when sharing needles used to inject drugs. Both HIV and Hepatitis B and C are incurable and can be fatal; consequently, primary and secondary prevention is crucial to avoiding transmission. Needle exchange programs can be an effective part of a comprehensive prevention strategy to reduce the incidence of HIV and Hepatitis B and C.

In the District of Columbia, there are an estimated 9,720 Injection Drug Users (IDUs). Of particular note is that sharing of contaminated needles is the primary route of HIV infection among African American women in the District. Prevention Works, as well as all other HIV and viral hepatitis prevention programs targeting injection drug users, are of paramount importance considering the District's large population of IDUs, many of whom are indigent with limited access to health care and treatment services.

I hope these responses answer the questions you have posed. Please feel free to contact me if you should require additional information.

## CONCLUSION OF HEARINGS

Senator LANDRIEU. Thank you all very much for being here, that concludes our hearings.

[Whereupon, at 11:30 a.m., Tuesday, June 11, the hearings were concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]



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