

Senate Hearings

Before the Committee on Appropriations

District of Columbia Appropriations

Fiscal Year 2007

109th CONGRESS, SECOND SESSION

S. 3660

PART 2

DISTRICT OF COLUMBIA

District of Columbia Appropriations, 2007 (S. 3660)—Part 2

DISTRICT OF COLUMBIA APPROPRIATIONS FOR FISCAL YEAR 2007

HEARINGS

BEFORE A

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

SECOND SESSION

ON

S. 3660

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, 2007, AND FOR OTHER
PURPOSES

PART 2

District of Columbia

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CONTENTS

TUESDAY, MARCH 14, 2006

District of Columbia: Courts	Page 1
------------------------------------	-----------

THURSDAY, JUNE 22, 2006

District of Columbia	35
----------------------------	----

DISTRICT OF COLUMBIA APPROPRIATIONS FOR FISCAL YEAR 2007

TUESDAY, MARCH 14, 2006

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

The subcommittee met at 3:03 p.m., in room SD-192, Dirksen Senate Office Building, Hon. Sam Brownback (chairman) presiding.
Present: Senators Brownback and Landrieu.

DISTRICT OF COLUMBIA

COURTS

**STATEMENT OF HON. ERIC T. WASHINGTON, CHIEF JUDGE, DISTRICT
OF COLUMBIA COURT OF APPEALS, AND CHAIR, JOINT COM-
MITTEE ON JUDICIAL ADMINISTRATION**

ACCOMPANIED BY:

**HON. RUFUS G. KING III, CHIEF JUDGE, SUPERIOR COURT OF THE
DISTRICT OF COLUMBIA**

**HON. ANITA JOSEY HERRING, PRESIDING JUDGE, FAMILY COURT
ANNE WICKS, EXECUTIVE OFFICER, DISTRICT OF COLUMBIA
COURTS**

**JOSEPH SANCHEZ, ADMINISTRATIVE OFFICER, DISTRICT OF CO-
LUMBIA COURTS**

OPENING STATEMENT OF SENATOR SAM BROWNBACK

Senator BROWNBACK. The subcommittee will come to order. I have just been informed that we have a series of stacked votes this afternoon starting at 5 minutes after 3 p.m. Therefore, if it is seven and these are going to be 10 minutes apart votes, we are just not going to get much of a hearing going. So I am going to put my statement in the record. What I would like to do is just briefly introduce each of you, and could each of you make a couple of statements about your key points so we can get that much at least in the record. Your full statement will be in the record, because what I am fearful of is otherwise we are just—we will have to cancel the hearing, and I would really like to get at least some of your thoughts into the record of what we need to do.

The Honorable Eric Washington, the Chief Judge, District of Columbia Court of Appeals. Good to have you here, Judge Washington; the Honorable Rufus King, Chief Judge, District of Columbia Superior Court; Ms. Avis Buchanan, Director, Public Defender Service; Honorable Paul Quander, Jr., Director of Court Services and Offender Supervision Agency; and Reverend Donald Isaac, Ex-

ecutive Director of East of the River Clergy-Police-Community Partnership and Assistant Pastor of Southeast Tabernacle Baptist Church.

We will start off with Chief Judge Washington, if we could. I am apologetic for doing this, but I do not think you want to reschedule this and we have got everybody here. So if you can just make really a couple summary statements, and all of your written material will be in the record.

[The statements follow:]

PREPARED STATEMENT OF SENATOR SAM BROWNBACK

Good afternoon. This hearing will come to order. Today, we are considering the fiscal year 2007 budget requests for the District of Columbia Courts, the Court Services and Offender Supervision Agency, and the Public Defender Service. Since the enactment of the National Capital Revitalization Act of 1997, the federal government has provided the sole source of funding for these agencies.

For fiscal year 2007, the President has requested \$196.7 million for the Courts, which is \$20.1 million below the fiscal year 2006 enacted level. I would like to hear from Chief Judge Washington about how this proposed funding cut might affect the ongoing Courthouse renovation and construction projects, which are critical to the fulfillment of the D.C. Family Court Act of 2001.

Today we will also hear from Ms. Avis Buchanan, Director of the Public Defender Service for the District of Columbia, who will present her agency's fiscal year 2007 budget request. PDS provides legal representation to indigent adults and children facing criminal charges in the District of Columbia. Ms. Buchanan's agency also provides legal representation for individuals in the mental health system and for children in the delinquency system, including those who have special education needs due to learning disabilities.

Finally, Mr. Paul Quander, Director of the Court Services and Offender Supervision Agency, will present his agency's budget request. CSOSA is responsible for supervising adults who are on pretrial release, probation, or parole supervision in the District of Columbia. The President has requested \$214.4 million for CSOSA in fiscal year 2007, an increase of \$15 million over the fiscal year 2006 enacted level.

I am particularly interested in how CSOSA is working with the faith community to help ex-offenders successfully return to their communities. CSOSA's "Faith Community Partnership program" embraces more than 25 member institutions, and its volunteer mentoring program has matched more than 80 returning offenders with individuals who are committed to helping offenders stay out of prison.

Joining Mr. Quander today is one of CSOSA's key faith partners, the Reverend Donald Isaac. Rev. Isaac is Executive Director of the "East of the River Clergy Police Community Partnership." Last year, this subcommittee provided \$300,000 to help Rev. Isaac's organization renovate a building to begin operations of a 15 bed transitional housing facility for ex-offenders. I'm eager to hear more from Rev. Isaac about how these funds are helping the faith community serve the critical need for housing for ex-offenders.

Thank you all for appearing before this subcommittee today. You will be limited to 5 minutes for your oral remarks, while copies of your written statements will be placed in the record in their entirety. The record will remain open for 30 days.

I want to congratulate Chief Judge Eric Washington who began a 4-year term as Chief Judge of the District of Columbia Court of Appeals on August 6, 2005. This is his first appearance before this Subcommittee and we welcome him as he presents the Courts budget.

Now I would like to recognize the Ranking Member of the Subcommittee, Senator Landrieu, who has passionately advocated for Family Court reform here in the District and who has helped steer this subcommittee to ensure adequate funding of the Courts and with whom I have worked in the Senate on so many efforts to ensure the health, safety, and well-being of children and their families.

PREPARED STATEMENT OF SENATOR MARY L. LANDRIEU

Good afternoon. As the first hearing of the District of Columbia subcommittee I would like to first thank Chairman Brownback for making the review of our Federal responsibilities a priority for our hearing schedule.

Before I share some of my thoughts on the issue at hand, I would like to take this opportunity to suggest other areas for this committee to focus on this year. As you well know, the primary purpose of the D.C. subcommittee is to ensure the immediate and long term economic health of the District. There are many ways we can do that. We can continue our work to correct what GAO has identified as a structural imbalance between the cost of providing city services and their ability to take in revenue. But at the same time, we must focus on other tools for bringing greater prosperity and long term stability to the District. Cities that have good public schools, safe communities and strong families are cities that have strong economies. If we focus ourselves on providing these things in the District, we will go a long way toward the economic independence the city needs and deserves.

I think we have come a long way toward reforming public education in the District. One of the driving forces behind this change has been public charter schools. In the District, charter school students now make up 20 percent of the public school population, some 16,500 students. When people ask me why I support charter schools, I tell them it is because I believe in public education. I firmly believe that if we work to modernize the system of delivery for public education, allow greater opportunities for innovation and hold schools accountable for results, then we can provide a high quality public education for every child in America. One size does not fit all, and if we give our parents choices, they will choose what is best for their child.

Until now, the focus of the charter school movement has been to increase the quantity of charter schools. But if we expect this to be more than a movement, we must shift our focus from quantity to quality. As the Washington Post put it, "The District's experiment with charter schools has proved hugely popular with parents, but the schools vary widely in quality and have yet to demonstrate that they are doing better than the city's regular public schools in raising student achievement."

Our focus today is oversight of the Federal entities which provide the city's criminal justice functions, generally considered to be "state level function". There are several areas in which this committee has invested in the city's infrastructure or services where we are striving for results. One of these projects, initiated by the committee in 2003, is the Court Services and Offender Supervision Agency (CSOSA) new Re-Entry and Sanctions Center at Karrick Hall which has made a difference in the lives of 1,500 D.C. residents rejoining the community after serving in prison. I hope to hear this was a successful investment made by this committee. Another major investment has been the revitalization of Judiciary Square and improvement of Court facilities. This is a substantial project, which I look forward to discussing shortly.

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

The CSOSA is the primary entity responsible for successful re-entry, as well as supervision of citizens before trial and after conviction, or pre-sentencing. I welcome Director Paul Quander back to the committee, thank you for your leadership and we look forward to your testimony. In fiscal year 2007 CSOSA requests \$214.4 million, an increase of \$14.9 million (7.5 percent) from fiscal year 2006 and increases staff by 15 for a total of 1,486 positions (a 1 percent increase in staffing). The main increase (\$3.4 million) is to staff the new Re-Entry and Sanctions Center which will provide a 30 day intensive re-entry program for the highest risk offenders. The President's budget also recommends increases over fiscal year 2006 for the two other primary functions, Pre-Trial and Public Defender Service, to continue their critical services. I look forward to hearing from their directors, Susan Schaffer and Avis Buchanan, to explore the request further and discuss creative areas of supporting your functions.

The other Federal component under this subcommittee's jurisdiction, the D.C. Courts, is responsible for the administration of justice for District residents. I am glad to welcome back Chief Judge Rufus King and welcome the new head of the Joint Committee on Judicial Administration, Chief Judge Eric Washington. In addition, I would like to take this opportunity to recognize the new presiding judge of

the Family Court, Anita Josey-Herring, who has served superbly as deputy and will continue the great gains made for children and families begun by Judge Lee Satterfield.

The Courts have submitted a separate request for a total of \$350 million for fiscal year 2007. Funding is proposed to support court system operations and capital improvements. This is \$131 million more than the enacted level in fiscal year 2006, which is nearly a 60 percent increase. Of this increase, the majority is for the capital improvement plan for Judiciary Square, which entails major renovation of the five main buildings on the square. The President's request for fiscal year 2007 for the entire Court's is \$196.6 million, which is a decrease of \$20 million from fiscal year 2006 (or a cut of 10 percent). My primary concern is the President did not keep the promise in this budget to the restoration of Judiciary Square, a project which requires the renovation of multiple buildings simultaneously. The Courts budget justification states you will require \$188.7 million in fiscal year 2007 to continue the major renovations and the maintenance program. This request is an increase of \$108 million over what was provided last year and it is impossible to see how this committee can provide such a substantial increase, but it is equally disheartening to think the renovations will be further delayed, possibly not complete until well beyond 2015. We have much work ahead of us to determine the needs of the Courts and how to meet them in a stretched Federal budget year. I would like to focus today on the critical gap in the President's request of \$23 million to fully fund the contract, just signed by the Court, to restore and re-open the Old Courthouse. The committee has already provided \$76 million for this project and we must focus on how to complete it.

The Master Plan was begun in 2003 with our commitment to fund renovation of the entire court system, but with a particular eye to creating a model Family Court building. The committee has provided \$142.5 million since fiscal year 2002 for renovations in the Capital Master Plan. I understand that each project hinges on the first being completed, because there is no room for swing space downtown. However, I am dismayed that the President's budget does not provide the remaining \$23 million to have a functional Old Courthouse, which would allow people to move out of the Moultrie building to facilitate the Family Court expansion. Beyond this, I question spending greater sums on maintenance of buildings. We have limited resources. Chairman Brownback and I must write a bill which chooses among a limited pool of funding. None of us want court employees or the public that comes to the court every day to work in the conditions I have seen there. But we cannot do it all, and it may be sensible to complete major projects which drastically improve working conditions rather than "band-aiding" small corridors for years to come.

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

I look forward to your testimony today and working together to meet the needs of the District's criminal justice sector, as well as meeting the responsibility of Congress to the city.

Judge WASHINGTON. Thank you very much, Mr. Chairman. Basically—

Senator BROWNBACK. Would you get that on?

Judge WASHINGTON. I think I am on now.

Senator BROWNBACK. Thank you.

Judge WASHINGTON. Mr. Chairman, thank you for the opportunity to discuss the 2007 budget request of the District of Columbia Courts. I am Eric T. Washington. I am appearing in my capacity as the chair of the Joint Committee on Judicial Administration for the District of Columbia, which is the policymaking body for the D.C. Courts. As you know, I also serve as chief judge of District of Columbia Court of Appeals.

I just want to introduce those who are with me today very quickly, because I think I am going to be the only one, unless you have some questions, who will be making an extensive, now modified,

oral statement. With me this afternoon are: Chief Judge Rufus King of the Superior Court; Judge Anita Josey-Herring, the Presiding Judge of Family Court; Ms. Anne Wicks, the court's executive officer; and Mr. Sanchez, Joseph Sanchez, our administrative officer.

The critical focus, getting to the nub of the issue and your point, of our 2007 budget request is ensuring that the courts of this jurisdiction have a sound infrastructure and first-rate security for the approximately 10,000 members of the public who visit our courthouses each and every day. The courts' capital needs are significant because we are responsible for over 1 million gross square feet of space in Judiciary Square in five buildings, which range in age from 30 years to 200 years. We must maintain, preserve, and build court facilities that are safe, functional, and emblematic of their public significance and character.

The courts' capital budget addresses these responsibilities as a comprehensive matter based on the master plan for facilities, which delineates our space requirements, outlines plans to address maintenance needs, and provides a blueprint for optimal space utilization both in the near and in the long term.

The old courthouse is an architectural jewel and an historic landmark. Built from 1821 to 1881, it is one of the oldest buildings in the District of Columbia. Inside its walls Daniel Webster and Francis Scott Key practiced law and John Surratt was tried for his role in the assassination of Abraham Lincoln.

Because of its age and condition, the structure requires extensive work to meet health and safety building codes and to re-adapt it for modern use as a courthouse. The restoration of the old courthouse is pivotal to meeting the space needs of the court system as delineated in the master space plan. By relocating the court of appeals to the old courthouse, nearly 40,000 square feet of space will become available in the Moultrie Courthouse, space needed for the relocation of Superior Court functions so that we can fully consolidate all of the services needed for family court.

Thanks to your support, the old courthouse renovation project received funding in fiscal years 2005 and 2006. At the time, the General Services Administration and independent construction consultants believed that the renovation could be completed for the amount appropriated. However, since those cost estimates were made, construction costs have skyrocketed due to circumstances beyond our control. In addition, the unwillingness of construction companies to bid on a phased-funding project delayed our start date for the construction, thus contributing to the overall increase in costs. As a result, appropriations to date will not permit the courts to complete the restoration of the old courthouse as approved by the Commission of Fine Arts, the National Capital Planning Commission, and the Historic Preservation Review Board.

Just this past week we concluded our procurement process for that construction project and we learned that the construction contract for the renovation of the old courthouse requires an additional \$23 million in fiscal year 2007.

Should funding not be provided, the courts would have to reprogram nearly half of the capital funds included in the President's 2007 recommendation. This would bring the majority of our infra-

structure maintenance initiatives to a standstill. The negative impact on the safety and security of the public we serve would be immeasurable. We will therefore be submitting a revised request to you shortly.

The courts are committed to ensuring that the old courthouse renovation is completed on time and within budget, as have each of our prior capital projects.

Another critical priority for the District of Columbia courts in 2007 is the enhancement of security for the public as well as for our staff and judges, particularly in light of the recent incidents around the Nation. The President's 2007 recommendation for the courts finances additional security officers for the family court and some security enhancements for our facilities.

PREPARED STATEMENT

I want to thank you, Mr. Chairman, and I want to recognize, of course, Senator Landrieu for your involvement and your leadership on issues involving the courts. We appreciate more than I can tell you the support we have received from Congress in the past, and we certainly look forward to working with you throughout the year on this appropriation.

We are prepared to answer any questions you might have.

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

PREPARED STATEMENT OF CHIEF JUDGE ERIC T. WASHINGTON

Mister Chairman, Senator Landrieu, Subcommittee members, thank you for this opportunity to discuss the fiscal year 2007 budget request of the District of Columbia Courts. I am Eric T. Washington, and I am appearing in my capacity as the Chair of the Joint Committee on Judicial Administration in the District of Columbia, the policy-making body for the District of Columbia Courts. I also serve as Chief Judge of the District of Columbia Court of Appeals.

As you know, this jurisdiction has a two-tier court system comprised of the D.C. Court of Appeals, our court of last resort, and the Superior Court of the District of Columbia, a trial court of general jurisdiction, which includes our Family Court. Administrative support functions for our Courts are provided by what is known as the Court System.

My remarks this afternoon will summarize our overall budget request and highlight our most critical priority, our capital budget. With me this afternoon are Chief Judge Rufus King, III, Chief Judge of the Superior Court, Ms. Anne Wicks, the Executive Officer for the Courts, and Mr. Joseph Sanchez, our Administrative Officer. We are prepared to answer questions on the budget request for the D.C. Courts.

INTRODUCTION

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

The D.C. Courts are committed to fiscal prudence and sound financial management. Although we have requested funds for several important operating initiatives, the critical focus of our fiscal year 2007 budget request is ensuring that the courts of this jurisdiction have a sound infrastructure and first-rate security. Only by in-

vesting in these areas will the Courts be in a position to ensure that our facilities are in a safe and healthy condition and that the type of security necessary to protect our citizens and our institution is in place. Focus on these capital areas is particularly critical now to meet these needs and to ensure that the quality of justice is not compromised.

To support our mission and goals in fiscal year 2007, the Courts budget submission requested \$334,839,000 for court operations and capital improvements. Of this amount, \$9,529,000 is requested for the Court of Appeals; \$94,675,000 is requested for the Superior Court; \$57,175,000 is requested for the Court System; and \$173,460,000 is requested for capital improvements for courthouse facilities. In addition, the Courts requested \$54,000,000 for the Defender Services account.

THE PRESIDENT'S RECOMMENDATION

I am pleased to report that the President's recommendation for fiscal year 2007 supports some of our most important priority items; however, the level of capital funding is not adequate to complete critical projects nor to keep our capital projects on the schedule established by our *Master Plan for D.C. Courts Facilities* (hereinafter *Facilities Master Plan*). The President's recommendation includes capital investment in physical security and funds to hire additional security officers for critical courtroom proceedings not protected by the United States Marshal Service, such as those in Family Court. The President's recommendation also finances completion of new holding facilities for juveniles appearing in Family Court and of Building A modernization, as well as continuation of much-needed infrastructure work.

Unfortunately, the President's capital budget recommendation of \$51 million, from a \$173 million request, is not adequate to complete construction of the Old Courthouse nor to initiate other facility projects scheduled to begin in fiscal 2007. Restoring the Old Courthouse for use by the Court of Appeals and preserving it for future generations is the lynchpin in the Courts' *Facilities Master Plan*. In 2002, when the *Facilities Master Plan* was completed, there was a shortfall of 48,000 square feet for Court operations—with a projection of a 134,000 square footage shortfall within 10 years. The restoration of the Old Courthouse, and the subsequent relocation of the Court of Appeals from the Moultrie Courthouse, is critical to implementing our plan to ensure adequate space for the justice system in the Nation's Capital. Until this building is restored, the Courts cannot begin to renovate and relocate other court facilities and operations, including Family Court. To address courtwide space needs and facilities deficiencies, the Courts have developed a tight schedule of renovation, modernization, and reorganization. The President's recommended 2007 funding level would delay numerous projects, and, as we have learned in a very painful manner recently, any delay in construction projects significantly increases their cost. Inadequate funding will also result in an inordinate delay in occupancy and reoccupancy of space critically needed for efficient court operations.

We are gratified by the President's support for key items, but to meet our facilities needs in a timely and cost effective manner, additional resources are required in fiscal 2007.

RECENT ACHIEVEMENTS

As the Courts approach the ninth year of direct federal funding in fiscal year 2007, we continue to enhance services to the community and demonstrate our commitment to fiscal responsibility. We are particularly proud of our recent achievements that include the following:

- commencement of the restoration of the Old Courthouse, a building of historic and architectural significance that is critical to meeting our long term space needs, following approval of the project by the National Capital Planning Commission, Commission of Fine Arts and Historic Preservation Board;
- development and approval by the National Capital Planning Commission of a *Master Plan for Judiciary Square*, an urban design and renewal plan to revitalize this historic area of the District of Columbia that dates to the original L'Enfant Plan for the Nation's Capital;
- further implementation of the Family Court Act, including: newly constructed, family friendly facility on the JM level of the Moultrie Courthouse in fiscal year 2004, which houses the new Central Intake Center to provide one-stop public service; implementation of the one family-one judge principle; development of attorney practice standards and creation of attorney panels for neglect and juvenile cases; establishment of a Family Treatment Court for mothers with substance abuse issues and their children; creation of a Self-Help Center for indigent and unrepresented litigants; opening the Mayor's Services Liaison Center

- in the courthouse to coordinate the provision of needed social services; and transferring all required children's cases to Family Court judges;
- courtwide implementation of a five-year strategic plan, *Committed to Justice in the Nation's Capital*, to ensure that the Court's goals, functions, and resources are strategically aligned for maximum efficiency and effectiveness;
- installation and conversion to a new case management system, the Integrated Justice Information System (IJIS) which consolidates 19 distinct automated databases into one comprehensive system, thereby ensuring complete information on all cases pertaining to one individual or family to enhance case processing and judicial decision-making;
- establishment, by the Court of Appeals, of the District of Columbia Access to Justice Commission to enhance access to justice for all persons without regard to economic barriers;
- comprehensive revision of the Court of Appeals rules of practice, the first such revision since the mid-1980's;
- development and implementation of a pilot appellate mediation program to assist parties in reaching satisfactory case outcomes more expeditiously, thereby saving them and the Court of Appeals time and money;
- revision of the Criminal Justice Act plan to improve quality legal representation for indigent criminal defendants in the Court of Appeals;
- continued enhancements to the Courts' website, designed to increase public information and access, including implementation of on-line juror services;
- achievement of an "unqualified" opinion for the fourth year in a row on the Courts' independent financial audit, conducted in accordance with OMB Circular No. A-133;
- creation of a Landlord Tenant Resource Center to provide free legal information to unrepresented parties and referrals to legal and social service providers;
- promulgation of draft probate attorney practice standards and creation of the Probate Review Task Force, to enhance service to incapacitated adults and other parties in probate cases;
- reengineering of the Appeals Coordinator's Office to enhance service to the public and facilitate appellate case filings by establishing a single point of filing for all appeals;
- comprehensive space renovation, including mechanical, electrical and security upgrades; new space for the Landlord Tenant and Small Claims courts and juvenile probation (the Social Services Division of the Family Court) in Building B; and renovated space in Building A for the Crime Victims Compensation Program, as the Courts' *Facilities Master Plan* is implemented.

CRITICAL FISCAL YEAR 2007 PRIORITY—INFRASTRUCTURE

The District of Columbia Courts serve approximately 10,000 courthouse visitors each day, process more than 200,000 cases each year, and employ a staff of 1,200 who directly serve the public, process the cases, and provide administrative support. The District of Columbia Courts are among the busiest and most productive court systems in the United States¹. For example, a published report indicates that the Superior Court of the District of Columbia has the tenth highest number of cases filed per judge, and the second highest number of civil case filings per capita of all state courts in the nation, and that our Court of Appeals has the highest number of appellate filings per capita among all states.

The Courts' capital needs are significant because we are responsible for five buildings, including the Moultrie Courthouse, one of the busiest and most heavily visited public buildings in the District of Columbia. Our funding requirements include projects critical to maintaining, preserving, and building safe and functional courthouse facilities essential to meeting the heavy demands of the administration of justice in our Nation's Capital. To effectively meet these demands, the Courts' facilities must be both functional and emblematic of their public significance and character. The 2007 capital budget seeks to address these issues in a comprehensive manner.

Facilities that provide adequate and efficiently designed space are essential to enhance the administration of justice, simplify public interaction with courts, and improve access to justice for all. In contrast, facilities with inadequate space for employees to perform their work, with evidence of long-deferred maintenance and repair, and with inefficient layouts can detract from the public perception of the dignity and importance of a court and impair its ability to function in the community.

¹See *Examining the Work of State Courts 2004: A National Perspective from the Court Statistics Project*, by R. Schauffler, R. LaFountain, N. Kauder, & S. Strickland (National Center for State Courts 2005).

This negative perception impacts public trust and confidence in courts, a nationally recognized critical requirement for the effective administration of justice. The National Center for State Courts succinctly states the relationship between courts and their facilities:

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

The D.C. Courts presently maintain 1.1 million gross square feet of space in Judiciary Square. The age of the Courts’ buildings range from 30 years to 200 years. Deferred maintenance forced by limited financial resources left these buildings in a state that may be perceived to detract from the stature of the Courts. We are beginning to see improvements, thanks to your support in recent years, but much work remains to be done.

The Courts’ fiscal year 2007 budget request seeks resources to meet health and safety building codes and to provide safe facilities for the public. For example, adequate ventilation must be provided in the courthouse buildings. Electrical systems must be upgraded, both to meet modern office needs and to limit risk of fire. Fire and security recommendations from the U.S. Marshals Service must be implemented. Safety hazards posed by disintegrating flooring materials must be remedied.

The halls of justice in the District of Columbia must be well maintained, efficient, and adequately sized to inspire the confidence of the members of the public who enter our buildings. The Courts’ facilities plans reflected in the fiscal year 2007 budget request will, over the next 10 years, meet the well-documented space needs of the Courts and return the buildings to a condition that inspires trust in the justice system of the Nation’s Capital.

The Courts’ facilities plans will also enhance the efficient administration of justice and improve public access to justice in this jurisdiction by co-locating related functions. The restoration of the Old Courthouse for the Court of Appeals, for example, will provide the public with a single location for services that are currently located on different floors and in different buildings from most Court of Appeals offices. Offices related to the Family Court will be consolidated in the Moultrie Courthouse, which will be made possible only as we renovate space in other buildings, converting usage to public court proceedings and relocating operations from Moultrie. More efficient location of these offices will not only facilitate public access to the Courts, but will also enhance the efficiency of operations.

In addition, basic mechanical systems impact the administration of justice. A broken air conditioning or heating system, for example, can force suspension of trials when courtroom temperatures reach unbearable levels.

Facilities in the Courts’ Strategic Plan

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

Facility improvements were identified as a high priority among all constituency groups surveyed by the Courts as the Strategic Plan was developed. Employees, judges, and stakeholders were asked to identify the most important issues the Courts must address in the coming years, and each ranked “enhance court facilities” among the highest priorities. In addition, approximately half of judges and 65 percent of employees reported inadequate light, heat, air conditioning, and ventilation in their workspaces.

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

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

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

Overview of the D.C. Courts’ Facilities

In preparing the fiscal year 2007 capital budget request, the Courts carefully assessed the capital requirements essential to performing our statutory and constitutionally mandated functions. Significantly increased space needs for court operations and inadequate capital funding in prior years that necessitated maintenance deferral compel the Courts’ significant capital request for fiscal year 2007. The Courts’ request for capital funding is particularly critical in fiscal year 2007 because of the need: (1) to address essential public health and safety conditions in our busy court buildings, including the Moultrie Courthouse to which some 10,000 people come each day; (2) to meet the Courts’ space requirements for conducting their business, which includes our new Family Court recently established by Congress; and (3) to avoid interruption of ongoing projects and the *Facilities Master Plan* schedule as delays result in substantially increased costs.

The Courts currently maintain four buildings in Judiciary Square: the Old Courthouse at 451 Indiana Avenue, the Moultrie Courthouse at 500 Indiana Avenue, N.W., and Buildings A and B, which are located between 4th and 5th Streets and E and F Streets, N.W. In addition, when the District government vacates Building C, the old Juvenile Court, later this year it will be returned to the Courts’ inventory. Recent studies by the General Services Administration (GSA) have documented both the D.C. Courts’ severe space shortage³ and the inadequacy of the physical condition of the Courts’ facilities.⁴

The *Master Plan for D.C. Courts Facilities*, conducted by experts in architecture and space planning, and secured through the GSA, defined a shortfall of 48,000 square feet of space in 2002, with a shortfall of 134,000 square feet projected in the next decade. The experts proposed to meet the Courts’ space needs through three mechanisms: (1) renovation of the Old Courthouse for use by this jurisdiction’s court of last resort, the District of Columbia Court of Appeals, which will free critically needed space in the Moultrie Courthouse for trial court operations and Family Court consolidation; (2) construction of an addition to the Moultrie Courthouse, to include a separately accessible Family Court facility; and (3) the occupation of Building C, adjacent to the Old Courthouse.

Old Courthouse

The restoration of the Old Courthouse for use by the District of Columbia Court of Appeals is pivotal to meeting the space needs of the court system. Thanks to your support, this project received substantial funding over a two-year period in fiscal years 2005 and 2006. At the time, it was estimated by the GSA and independent construction consultants that the renovation could be completed for this amount. However, construction costs have skyrocketed because of market conditions which are beyond our control as well as the phased funding approach. Based on current market conditions, we now know that appropriations to date (\$76.5 million) will not permit the Courts to complete the restoration as designed and approved by the Commission of Fine Arts, the National Capital Planning Commission, and the Historic Preservation Review Board. The Courts completed the procurement process last week and issued a Letter of Intent to the winning bidder. The construction contract for the Old Courthouse restoration is \$99 million. Therefore, the Courts are requesting that Congress provide an additional \$23 million in fiscal year 2007 to fully fund the construction contract. The Courts have a history of completing capital projects on time and within budget. We are confident that the Old Courthouse restoration will be managed in the same manner.

The Old Courthouse, built from 1821 to 1881, is one of the oldest public buildings in the District of Columbia. Inside the Old Courthouse, Daniel Webster and Francis Scott Key practiced law and John Surratt was tried for his part in the assassination of President Abraham Lincoln. The architectural and historical significance of the Old Courthouse led to its listing on the National Register of Historic Places and its designation as an official project of Save America’s Treasures. The unique character of the building, together with its compact size, makes it ideal for occupancy by the highest court of the District of Columbia. At the same time, the structure requires extensive work to meet health and safety building codes and to readapt it for modern use as a courthouse. The restoration of the Old Courthouse for use as a func-

³*Master Plan for D.C. Courts Facilities*, 2002.

⁴Building Evaluation Report, 2001.

tioning court building will not only provide much needed space for the Courts, but it will also preserve a historic treasure of our nation and impart new life to one of the most significant historic buildings and precincts in Washington, D.C. It will meet the needs of the Courts and benefit the community through an approach that strengthens a public institution, restores a historic landmark, and stimulates neighborhood economic activity.

Moultrie Courthouse

Investment in the restoration of the Old Courthouse not only will improve efficiency by co-locating the offices that support the Court of Appeals, but also will free up 37,000 square feet of space in the Moultrie Courthouse which is critically needed for Superior Court and Family Court functions. The Moultrie Courthouse is uniquely designed to meet the needs of a busy trial court. It has three separate and secure circulation systems—for judges, the public, and the large number of prisoners present in the courthouse each day. Built in 1978 for 44 trial judges, today it is strained beyond capacity to accommodate 59 trial judges and 24 magistrate judges in the trial court and 9 appellate judges, as well as senior judges and support staff for the two courts. Essential criminal justice and social service agencies also occupy office space in the Moultrie Courthouse. The Courts have clearly outgrown the space available in the Moultrie Courthouse. The space is inadequate for this high volume court system to serve the public in the heavily populated metropolitan area in and around our Nation's Capital.

Master Plan for D.C. Courts Facilities

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

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

Family Court in the Master Plan

The *Facilities Master Plan* incorporates an Interim Space Plan for the Family Court that provides the facilities necessary to implement fully the Family Court Act and to centralize the public face of Family Court operations.⁵ It also incorporates a Long Term Space Plan for Family Court that optimizes space and programmatic enhancements for the Family Court.

Interim Family Court Space Plan

The Interim Space Plan for Family Court was completed in the summer of 2004 and procedural changes have been implemented within the Family Court to meet the requirements of the Family Court Act. Recently completed components of the Plan are straightforward.

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

⁵ By public face we mean those offices, courtrooms and waiting rooms that are used by children and families having business before the court. Administrative space, such as file rooms, was not included in the Interim Space Plan.

- Two Superior Court operations formerly located on the JM level of the Moultrie Courthouse, the Small Claims and Landlord Tenant Branches of the Superior Court's Civil Division, were relocated in November 2003 to renovated space in Building B to free space for the Family Court in the Moultrie Courthouse.
 - Construction in JM Level of the Moultrie Courthouse for the Interim Space Plan of the Family Court was completed in the summer of 2004, and significant progress has been made toward establishing a fully consolidated Family Court. The project provided the Family Court with three new courtrooms, three new hearing rooms, the Mayor's Services Liaison Office, a Centralized Family Court Case Filing and Intake Center, a family-friendly child waiting area, and a new Family Court entrance from the John Marshall Plaza into the Moultrie Courthouse. In addition, the corridors and hallways along the courthouse's JM-level were redesigned to create family-friendly seating and waiting areas.
- Given the Courts' commitment to meet the requirements of the Family Court Act as expeditiously as possible, we decided to move forward with consolidating as much of the Family Court operations and offices as possible within existing space, pending the construction of an addition to the Moultrie Courthouse.

Long-Term Family Court Space Plan

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

When the Family Court Act was enacted, the Courts studied the cost and feasibility of consolidating all functions and services required to meet the mandates of the Act in each of our facilities. After extensive study, it was determined that only the Moultrie Courthouse had the amount of space necessary to meet these requirements. Given that court operations already exceeded the capacity of the Moultrie Courthouse, it was apparent that certain court operations would need to be relocated to other buildings to make room for Family Court. The approach adopted in the *Facilities Master Plan* was developed with the overarching objectives of keeping the court system continually operating efficiently while carefully complying with the Family Court Act.

Capital projects related to the Family Court Act include the renovation and expansion of the Old Courthouse for the Court of Appeals, to free space in the Moultrie Courthouse; renovation of Buildings A & B for civil court functions (including Small Claims and Landlord Tenant operations which have been relocated to Building B, thereby making Family Court space available on the JM level of the Moultrie Courthouse, and Probate and Multi-Door Dispute Resolution operations which will be moved to Building A at the end of 2006 and in early 2007); occupation and renovation of Building C for Information Technology and alternative dispute resolution operations, providing additional space in Moultrie for Family Court social services; leasing of space for court support functions (such as budget, personnel, procurement and contracts); and renovation and expansion of the Moultrie Courthouse. These projects will shift operations currently located in existing Court facilities (1) to create "swing space" that permits the required construction to take place in an operating courthouse that receives 10,000 visitors daily and (2) to make contiguous office space available for all related Family Court activities.

Historic Judiciary Square

The historical and architectural significance of Judiciary Square lend dignity to the important business conducted by the Courts and, at the same time, complicate somewhat efforts to upgrade or alter the structures within the square. Great care has been exercised in designing the restoration of the Old Courthouse, the centerpiece of the square, to preserve the character not only of the building, but also of Judiciary Square. As one of the original and remaining historic green spaces identified in Pierre L'Enfant's plan for the capital of a new nation, Judiciary Square is of keen interest to the Nation's Capital.

Buildings A, B, and C, dating from the 1930's, are situated symmetrically along the view corridor comprised of the National Building Museum, the Old Courthouse, and John Marshall Park and form part of the historic, formal composition of Judiciary Square. The Moultrie Courthouse, although not historic, is also located along the view corridor and reinforces the symmetry of Judiciary Square through its simi-

lar form and material to the municipal building located across the John Marshall Plaza. Currently the Moultrie Courthouse provides space for most Court of Appeals, Superior Court, and Family Court operations and clerk's offices.

Judiciary Square Master Plan

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

The *Judiciary Square Master Plan* resolves important technical issues related to access, service, circulation, and security within a rapidly changing and publicly oriented area of the District, while re-establishing the importance of this historic setting in the “City of Washington.” It provides a comprehensive framework for capital construction for all local entities, including the D.C. Courts, as we implement the *Facilities Master Plan*, and it lays the groundwork for the regulatory approval process with the National Capital Planning Commission, the U.S. Commission of Fine Arts, the District of Columbia Office of Historic Preservation, the District of Columbia Office of Planning, and the District of Columbia Department of Transportation, among others.

The *Judiciary Square Master Plan* recommends (1) re-introduction of landscaped green space around court buildings and the construction of secure underground parking garages to house vehicles now parked in surface lots; (2) integration of service areas, security features and landscape concepts; and (3) coordination by the Memorial Fund, with the Courts, as they plan to construct a museum within the Judiciary Square.

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

COMPLETE BUDGET REQUEST SUMMARY

To build on past accomplishments and to serve the public in the District of Columbia, the Courts require resources in fiscal year 2007 to invest in capital infrastructure; security; strategic management; self-representation services; services for the most vulnerable; enhanced and more timely customer service; financial, material, and facilities management; and human resources. Without additional capital resources, the courthouse and the District's historic buildings will continue to deteriorate; without targeted investments in these critical areas, the quality of justice in the Nation's Capital will be compromised. The fiscal year 2007 request addresses these requirements by:

—*Investing in Infrastructure.*—To ensure the health, safety, and quality of court facilities and to address court space needs, the fiscal year 2007 capital request totaled \$173,460,000. The fiscal year 2007 capital request incorporates a multitude of projects. The request is a comprehensive, five-year plan, with projects divided into phases to the extent practicable. To avoid unduly increasing costs and disruptive delays in completing construction projects essential to operations, it is particularly critical that projects underway not be interrupted. To keep on schedule and complete the Master Plan in 2013, the Courts' capital funding request for fiscal year 2007 must be met.

The first part of the capital budget request identifies projects to renovate, improve, and expand court facilities, as specified in the *Facilities Master Plan*, and totaled \$112,160,000. (1) As noted above, the main focus of our capital program is the Old Courthouse restoration. The Courts' original fiscal year 2007 budget submission, which was prepared before the procurement process for the restoration of the Old Courthouse was completed, included \$7.8 million for the Old Courthouse. We now know that the construction contract for the Old Courthouse is \$99 million and, therefore the Courts will require \$23 million rather than \$7.8 million in 2007. We will be submitting a revised 2007 budget request, and are here today to request an additional \$23 million beyond the President's recommendation. (2) In the Moultrie Courthouse, \$36.7 million is requested for: the renovation and expansion of juvenile holding for Family Court, the Indiana Avenue expansion for security improvements, and the renovations and reorganizations work to consolidate Family Court operations. (3) To renovate Building

C for court use, \$27 million is requested. (4) For construction in Building A and Building B, \$14.7 million is requested. (5) To design and prepare signage to guide the public through the court complex, which will become increasingly important as trial court operations move out of the Moultrie Courthouse, \$5 million is requested. (6) To implement campus perimeter security features around Judiciary Square court buildings including installation of plinth walls, bollards, fencing, and security furnishings and the widening of sidewalks, \$16 million is requested. (7) To begin design work on a new East Underground Garage project, \$5 million is requested.

The second part of the capital budget request addresses the condition of the Courts' existing infrastructure, including projects necessary for the health and safety of the public in the courthouse, and totals \$61,300,000. The Courts have expanded the scope of the Fire and Security Alarm Systems project to include installation of a sprinkler system for the entire Moultrie Courthouse. This is a significant health and safety infrastructure upgrade for which \$10 million is requested in fiscal year 2007, as recommended by GSA and U.S. Marshals Service studies. For HVAC, Electrical, and Plumbing Upgrades \$25 million is requested. To renovate restrooms used by the public and court staff, \$2 million is requested. In addition, \$5 million is requested for projects in courtrooms and secure areas. For general repairs \$16.5 million is requested. To upgrade elevators and escalators, \$0.8 million is requested, and \$2 million is requested for technology infrastructure projects.

—*Homeland Security.*—To protect the 10,000 daily visitors to the courthouse and meet increased security threats that face courts nationwide and public institutions post-September 11, 2001, the Courts' request includes \$6,240,000 in operating funds. (\$26,000,000 was requested above in capital funds for security enhancements.) The Courts' "Enhancing Public Security" initiative in the operating budget would provide 95 additional contractual security officers to protect the judges, staff, and members of the public inside the court buildings.

—*Investing in Information Technology (IT).*—To achieve the Courts' strategic goal of improving technology, including providing a case management system with accurate, reliable data across every operating area available to the judiciary, the District's child welfare and criminal justice communities and the public, the Courts request \$2,378,000 in fiscal year 2007. This amount includes staff and contractual services to enable the IT Division to make optimal use of the new case management system and to meet courtwide requirements for technological solutions including a system to enhance service to District citizens serving as jurors.

—*Strategic Planning and Management.*—To support long-range strategic planning, performance measurement and reporting, and public accountability, \$645,000 is requested for the Office of Strategic Management. This request builds on the Courts' successful strategic planning effort by coordinating enterprise-wide projects and enhancing the Courts' performance measurement capability. The request would finance performance management software, training, and staff to analyze court performance, direct strategic planning, and coordinate and prioritize enterprise-wide projects, activities, and resources. This will enable the Courts to more accurately determine how well we are doing in meeting our objectives, serving the public, and administering justice.

—*Serving the Self-Represented.*—To enhance equal access to justice for the more than 50,000 litigants without lawyers who come to the courthouse each year, especially in the Family Court, Civil Division, and Court of Appeals, \$1,724,000 and 10 FTEs are requested for staff and facilities for a Self-Representation Service Center. This initiative would utilize best practices and build upon the limited pro bono services currently available in the courthouse. It is particularly vital to the public we serve, as a recent study found that local agencies providing legal services to the poor turn away more than 50 percent of persons who seek assistance. These individuals require assistance when they arrive in the courthouse with no choice but to represent themselves.

—*Services for the Most Vulnerable.*—To enhance services to some of the District's most vulnerable residents, \$1,096,000 and 3 FTEs are requested. This figure includes \$940,000 and 2 FTEs to provide statutorily-mandated advocates for mentally retarded individuals who are wards of the District; \$100,000 to provide services to youths under court supervision, and \$56,000 and 1 FTE to enhance monitoring of the cases of incapacitated adults.

—*Enhanced and More Timely Public Service.*—To enhance and provide more timely services to the public, the Courts' fiscal year 2007 request includes \$1,374,000 and 22 FTEs. Included in the total is \$619,000 to consolidate parties' identities in the new case management system; \$54,000 and 9 FTEs to enhance

- case processing efficiency and accuracy; \$104,000 to enhance the reference materials in the library; and \$57,000 and 1 FTE to undertake community outreach.
- Investing in Human Resources.*—To help the Courts attract, develop, and retain highly qualified employees and address the risks of high retirement eligibility, \$1,087,000 is requested, including \$800,000 for succession planning and tuition assistance and \$287,000 to enhance training for court personnel. Currently, nearly 60 percent of the Courts' executives and nearly 45 percent of managers and senior staff are eligible for retirement in the next five years, representing a potential loss of experience and talent that the Courts must plan now to address.
- Financial, Materiel, and Facilities Management.*—To enhance financial, materiel, and facilities management, \$1,880,000 and 15 FTEs are requested. Included in the total are \$652,000 and 8 FTEs to build upon financial and program management improvements, including creation of an independent internal audit function; \$783,000 and 1 FTE for materiel management, including warehouse space, equipment, and staff; and \$445,000 and 6 FTEs to enhance facilities management and administrative support, including building engineers and equipment leases.
- Built-In Increases.*—The fiscal year 2007 request also includes \$4,139,000 for a COLA increase, \$880,000 for non-pay inflationary cost increases, and \$1,753,000 for within-grade increases. The Courts' request includes within-grade increases for employees because, unlike typical agencies which may fund these increases through cost savings realized during normal turnover, the Courts have a very low turnover rate (7 percent in fiscal year 2004) and do not experience such cost savings opportunities. Due to our low staff turnover and increasing personnel services costs as a result of cost increases for retirement and health benefits, the Courts are beginning to face difficulty filling positions due to budgetary constraints.
- Strengthening Defender Services.*—In recent years, the Courts have devoted particular attention to improving the financial management and reforming the administration of the Defender Services programs. For example, the Courts have significantly revised the Criminal Justice Act (CJA) Plan for representation of indigent defendants to ensure that highly qualified attorneys represent indigent defendants. In addition, the Courts have developed a new Counsel for Child Abuse and Neglect (CCAN) Plan for Family Court cases, adopting attorney practice standards and requiring attorney training and screening to ensure that well-qualified attorneys are appointed in these cases. The Guardianship Program for probate matters involving incapacitated adults has also been revised, imposing a training requirement on attorneys participating in the program.
- In the Defender Services account, the Courts' fiscal year 2007 budget request represents an increase of \$10 million over the fiscal year 2006 enacted level of \$44 million. Of the total increase, \$1 million is requested to cover projected increases in the base program. The remaining \$9 million reflects a compensation adjustment for attorneys from \$65 to \$90 per hour, to keep pace with the rate paid court-appointed attorneys at the Federal courthouse across the street from the D.C. Courts.

CONCLUSION

Mister Chairman, Senator Landrieu, Subcommittee members, the District of Columbia Courts have long enjoyed a national reputation for excellence. We are proud of the Courts' record of administering justice in a fair, accessible, and cost-efficient manner. Adequate funding for the Courts' fiscal year 2007 priorities is critical to our success, not only in the next year but also as we implement plans to continue to provide high quality service to the community in the future. We appreciate the President's support for the Courts' funding needs in 2007 and the support we have received in the past from the Congress. We look forward to working with you throughout the appropriations process, and we thank you for this opportunity to discuss the fiscal year 2007 budget request of the District of Columbia Courts.

Senator BROWNBACK. Would Judge King III or others be making comments, or is that the summation?

STATEMENT OF HON. RUFUS G. KING III

Judge KING. I am happy to just respond to questions. Maybe I could get in two words, one hyphenated word and one stand-alone

word. The hyphenated word is “twenty-three” and the stand-alone word is “million.”

[The statement follows:]

PREPARED STATEMENT OF CHIEF JUDGE RUFUS G. KING III

Mr. Chairman, Senator Landrieu, Subcommittee members, thank you for this opportunity to discuss the D.C. Courts’ fiscal year 2007 budget request. I am Rufus G. King, III, Chief Judge of the Superior Court of the District of Columbia. As you know, the Superior Court is the trial court for the District of Columbia. It is a unified court of general jurisdiction, hearing matters brought to court under all areas of District of Columbia law.

Chief Judge Washington’s testimony on behalf of the Joint Committee on Judicial Administration details the Courts’ complete budget request, so my testimony will highlight specific budgetary needs of the Superior Court as part of the larger D.C. Courts budget request and capital project needs.

CAPITAL BUDGET REQUEST

While we are most grateful that the President’s 2007 recommendation supported additional court security officers for Family Court, as Chief Judge Washington has outlined, there are some significant capital budget needs that were not included by the President. In order to stay on schedule with our construction projects over the next several years, our capital request must be funded. There are several Family Court facility enhancements that are scheduled in 2007 and 2008, as well as several court functions that are scheduled to move into the consolidated Family Court space in the near future. I have included at the end of my testimony a timeline that details the Family Court projects scheduled over the next several fiscal years, as well as relocations and enhancements have already taken place.

For the past several years we have focused on consolidating all the public functions of the Family Court; the Centralized Intake Center, at which all family cases are filed; the Family Court Self-Help Center, which assists litigants without lawyers; the Mayor’s Services Liaison Office, which coordinates the provision of needed social services; and family-friendly courtrooms, family waiting areas, and attorney-client conference rooms. This summer we will complete a new entrance to the Family Court on the John Marshall level of the Moultrie Courthouse, with enhanced security, an ADA and family-friendly, stroller-accessible entry, and improved public waiting space.

To complete consolidation of all Family Court Operations Division and Social Services Division offices, programs, courtrooms and the juvenile holding area on time, we need continued, long-term support for our capital budget request, and we need \$23 million beyond the President’s recommendation for 2007, to ensure that the Old Courthouse restoration proceeds timely. I realize that the Subcommittee has a wide array of competing budget priorities to address, but I urge you to provide the funding we need to stay on schedule with the upgrade and consolidation of the Family Court. I need hardly remind the Committee that, in addition to the need for logistical continuity, the cost of these renovations and additions goes up geometrically the more the projects are delayed. We can assure you that all of the work has been, and will continue to be, done in budget and on time, but even the best contracting administrator and staff cannot do anything about spiraling materials and construction costs. We urge the view that a dollar spent timely buys more building than several dollars deferred.

Aside from the capital projects, the Superior Court has made great strides with the Family Court in launching new initiatives to address community needs. Let me review some of the highlights.

FAMILY COURT IMPLEMENTATION

The District of Columbia Family Court Act of 2001 changed the way the court handles family cases, most notably abuse, neglect and juvenile cases. The Act authorized additional judges, a “one family/one judge” case management approach, and numerous other procedural changes that enable the Court to better serve our community.

The Family Court, ably led first by Judge Lee F. Satterfield and now by Judge Anita Josey-Herring as Presiding Judge, examined best practices around the nation and made changes where required by the Act and where improvements could be made. Through close collaboration with Executive Branch agencies in the child welfare system, the Family Court is making great strides in improving the lives of children and families in the District.

Let me provide an overview of just a few of the more significant changes we have:

- Renovated and restructured the John Marshall level of the courthouse as the Family Court level. It is now the “family-friendly space” that Senators DeWine and Landrieu envisioned several years back. It includes a one-stop shopping approach for the public with a Centralized Intake Center, Mayor’s Services Liaison Office, and a Pro-Se Self Help Clinic where persons without legal counsel can obtain materials about Family Court processes and seek assistance with court forms. The space presents a family-friendly environment with comfortable waiting areas decorated with artwork created by children from the D.C. Public Schools.
- Established the Benchmark Permanency Program for older youth in foster care to help them make decisions and plans for the future and to coordinate a full range of services necessary for them to successfully make the transition to independent living. Children 15 years of age or older make up 35 percent of children under court supervision in the neglect system.
- Held annual training programs for judges and stakeholders on Family Law and related topics, such as child development.
- Expanded operation of the Child Protection Mediation Program, which has been found to result in significantly faster adjudication, disposition, and permanency in children’s cases and a significantly lower rate of recidivism by parents and guardians in neglect cases.
- Developed a Family Treatment Court Program that provides a residential drug treatment program to mothers with substance abuse problems, that allows their children under age 11 to remain in their care while they undergo treatment, parenting classes, counseling and other services. In this way the children do not have to enter foster care. Inpatient, residential care is followed by six-months of after care by D.C.’s Addiction Prevention Recovery Administration (APRA).
- Launched the “Hooked on Books” program, which encourages literacy by providing each child who visits Family Court with a book of his or her own.
- Collaborated with the Metropolitan Police Department to create Operation Prevent Auto Theft to address an increase in unauthorized use of motor vehicle crimes by juveniles.
- Working with the city’s Truancy Task Force, established two new truancy initiatives:
 - To heighten enforcement of the D.C. Compulsory School Attendance Act, elementary schools refer to the Attorney General’s office the names of parents whose children have 15 or more unexcused absences in a semester. These parents are brought before a judge to address the issue and learn that it is their responsibility to get their children to school or face jail time. Community collaboratives work with the family to determine whether services—such as parenting classes—are needed and monitors the family’s progress to make sure the children are back in school. There was a 40 percent decrease in elementary school truancy in the fall of 2004 compared with the fall 2003.
 - To address the problem of teens who do not attend school regularly, and intervene before the truancy becomes ingrained and the child is too far behind to participate in high school, we launched the first-ever D.C. middle school truancy initiative at Garnett-Patterson Middle School. Judge Satterfield conducted this program, which involved weekly meetings with parents and students, and community collaboratives working with the families. The first graduation ceremony was held on January 24. Deputy Mayor Brenda Donald Walker joined Judge Satterfield at the ceremony to congratulate the students and parents who completed the course. This semester the middle school program will be operating at a second school, Kramer Middle School in Southeast; Family Court Presiding Judge Anita Josey-Herring will conduct that program.

As I mentioned earlier, we are very pleased that the President’s recommendation included support for some of our security initiatives; specifically, funding in the amount of \$3.8 million for additional court security officers for the Family Court and \$10 million for fire and security alarm system enhancements. While we had requested \$6.2 million for additional security officers to protect more of our courtrooms, we are pleased to see that the President’s recommendation recognizes the increasing concern over court security threats in recent years.

INTEGRATED JUSTICE INFORMATION SYSTEM

The Court’s major information technology initiative to consolidate 19 different databases and provide comprehensive information to judicial officers has now been implemented throughout the Superior Court. The final stage was to bring the Crimi-

nal Division on line, which happened in January. We are now making adjustments and enhancing performance and report generation capabilities, but I am proud to report that the system is fully implemented.

IJIS implementation has been a multi-year project that took place while the District engaged in an effort to improve information technology within and among the District's child welfare and criminal justice agencies. The Courts' IJIS platform is designed to integrate with the District's new system, and our database configuration has been shared to ensure information sharing. Once the District's system is fully implemented, it will allow participating agencies to store and retrieve data electronically, to make information available to the public, and to exchange vital information with law enforcement and homeland security agencies much more effectively.

The Family Court was the first court division to go on line with IJIS, and the new system has significantly enhanced our ability to identify cases that should be consolidated before one judge under the Family Court Act's "one judge/one family" approach and to track compliance with the Adoption and Safe Families Act. I want to thank the Subcommittee for its support over the past several years. It has enabled the Superior Court to implement IJIS and enhance case processing and judicial decision-making.

CONCLUSION

Mr. Chairman, Senator Landrieu, the D.C. Courts are proud of our efforts to serve children and families, to implement technology that enhances our service to the public, to respond to the community and to provide safe, secure, open facilities in which that can occur. We appreciate the support you have shown in helping us carry out all of those goals. In return, we believe we have been good stewards of the taxpayers' hard earned funds.

Thank you for this opportunity to address the Subcommittee. I would be pleased to answer any questions you may have.

FAMILY COURT CONSOLIDATION TIMELINE

Family Court Consolidation Activity	Timetable
Built 9 chambers for new Family Court Magistrate Judges	Fiscal year 2002
Built 4 hearing rooms for abuse and neglect proceedings	Fiscal year 2002
Constructed 3 new courtrooms and 3 new hearing rooms for family matters	Fiscal year 2004
Renovated JM-level of Moultrie for Family Court, including creation of: Central case intake office, Family waiting room, Mayor's Liaison Offices for provision of social services, Self-Help Center for unrepresented litigants, Attorney/family conference areas, and Family friendly environment (e.g., play area, couches, carpet, toys and books, children's art).	Fiscal year 2004
Construct new Family Court entrance with accessible grade/ramping, welcoming lobby with sculptures, enhanced security, and improved signage.	Fiscal year 2006
Construct new holding facility for juvenile offenders	Fiscal year 2007
Renovate Family Court 1st floor public hallways to create family friendly environment (carpet, sofa, children's art, family waiting area).	Fiscal year 2007
Renovate C Street level and relocate Social Services Division's Child Guidance Clinic, Family Counseling Unit, Juvenile Drug Court Program, and Juvenile Diagnostic and Probation Supervision Branch Staff from Building B.	Fiscal year 2007
Renovate northeast section of JM-level and relocate Paternity and Support, Domestic Relations, Juvenile and Neglect and Marriage Bureau Staff.	Fiscal year 2008
Renovate 1st floor secure corridors and adjacent offices to create family friendly public space and relocate remaining administrative Family Court Offices (Director, Mental Health, CCAN).	Fiscal year 2009
Relocate Marriage Bureau to JM level	Fiscal year 2009
Construct addition to Moultrie Courthouse (lamination); includes a new Family Court entrance, courtrooms, judicial chambers and staff offices.	Fiscal year 2010

Senator BROWNBACK. Message received. I understand.

Ms. Buchanan, do you want to—would you care to go ahead and make a brief statement?

STATEMENT OF AVIS E. BUCHANAN, DIRECTOR, PUBLIC DEFENDER SERVICE FOR THE DISTRICT OF COLUMBIA

Ms. BUCHANAN. Yes, thank you. I am Avis E. Buchanan. I am honored to serve as the director of the D.C. Public Defender Service

(PDS). As you know, I represent people who cannot afford their own attorneys. We provide constitutionally mandated defense representation to those individuals. We practice under the Criminal Justice Act and we handle primarily the most serious, most intensive cases that come through the system. We represent people charged with the most serious felonies, children charged with serious delinquency matters or offenses, parole—we represent people in parole revocation cases, and we represent people who are subject to involuntary civil commitment proceedings in the mental health system.

For fiscal year 2007, PDS requests an increase of approximately \$3 million, for an overall budget request of \$32.7 million. PDS did not request or receive an increase in its budget in fiscal year 2006. We used that year to improve our internal operations and our performance measurement and performance management. We also engaged in a compensation study to support our staff and to support our clients.

We are asking for the increase so that we can absorb inflationary cost increases and salary increases for our very talented staff, who dedicate themselves to our clients on a daily basis.

PREPARED STATEMENT

We have done a number of things over the last fiscal year, including engaging in reentry efforts. We organized an expungement seminar for people who have an interest in getting their records expunged. We also provided access to social services organizations who could deal with housing and employment needs and drug treatment and counseling needs that this population has. We held a seminar for attorneys who represent veterans, focusing on their reentry needs and their specific housing and employment needs.

Senator BROWNBACK. Ms. Buchanan, if I could interrupt, the vote was called at 3:05 and we are going to have to close this hearing down probably at about 3:20. So I have got about 10 minutes here. [The statement follows:]

PREPARED STATEMENT OF AVIS E. BUCHANAN

Good afternoon, Mister Chairman and members of the Subcommittee. My name is Avis E. Buchanan, and I am the Director of the Public Defender Service for the District of Columbia (PDS). I come before you today to provide testimony in support of PDS's fiscal year 2007 budget request. We thank this Subcommittee for its support of our programs in previous years.

In 2005, Public Defender Service marked its 35th anniversary by continuing to build on its reputation of providing quality defense representation to people in the District of Columbia. Since 1970, when PDS was established as a model public defender serving in the newly created District of Columbia Superior Court, PDS has developed and maintained a reputation as the best public defender office in the country—local or federal. PDS has become the national standard bearer and the benchmark by which other public defense organizations often measure themselves in a number of practice and administrative areas.

In fiscal year 2007, PDS plans to continue on its trajectory toward better human capital management and better performance management. PDS's fiscal year 2007 budget request supports these plans by seeking a budget that loses no ground to inflationary pressures. PDS requests \$32.71 million, including an increase of \$3.175 million, to permit the office to absorb salary increases and the cost increases associated with inflation. PDS's fiscal year 2006 budget remained at the level of the President's fiscal year 2005 budget request; with this "flat" fiscal year 2006 budget, PDS has focused on increasing and improving our internal efficiencies and has planned no increase to staffing levels. Without an increase in its fiscal year 2007 budget,

PDS will be challenged to continue to evaluate its strategic direction for human capital and the amount of support required by the legal divisions. The increase sought will provide PDS with the flexibility to further develop its data collection for quantitative and qualitative performance measures as we continue to transition to performance-based budgeting and management that assist in maintaining quality representation for indigent persons in the District of Columbia courts.

BACKGROUND

In the District of Columbia, PDS and the local District of Columbia courts share the responsibility for providing constitutionally mandated defense representation to people who cannot pay for their own attorney. Under the District of Columbia's Criminal Justice Act (CJA),¹ the District of Columbia courts appoint PDS generally to the more serious, more complex, resource-intensive, and time-consuming criminal cases. The courts assign the remaining, less serious cases and most of the misdemeanor and traffic cases to a panel of approximately 350 pre-screened private attorneys ("CJA attorneys").² Approximately 110 PDS staff lawyers are appointed to represent:

- the majority of people facing the most serious felony charges
- a substantial number of individuals litigating criminal appeals
- a significant number of the children facing serious delinquency charges
- nearly 100 percent of people facing parole revocation
- the majority of people in the mental health system who are facing involuntary civil commitment.

While much of our work is devoted to ensuring that no person is ever wrongfully convicted of a crime, we also provide legal representation to recovering substance abusers participating in the highly successful Drug Court treatment program, and to children in the delinquency system who have learning disabilities and require special educational accommodations under the Individuals with Disabilities in Education Act.³

The Public Defender Service, unique among local public defender offices in that it is federally funded,⁴ has always been committed to its mission of providing and promoting constitutionally mandated legal representation to adults and children facing a loss of liberty in the District of Columbia who cannot afford a lawyer, and we have had numerous significant accomplishments in pursuit of that mission. In addition, PDS has developed innovative approaches to representation, from instituting measures to address the problems of incarcerated clients who are returning to the community to creating a one-of-a-kind electronic case tracking system. Other public defender offices across the country have sought counsel from PDS as they have patterned their approach to their work after ours.

As part of its statutory mission to promote quality criminal defense representation in the District of Columbia as a whole, PDS continues to provide training for other District of Columbia defense attorneys and investigators who represent those who cannot afford an attorney, and to provide support to the District of Columbia courts.

FISCAL YEAR 2007 REQUEST

PDS seeks an increase of \$3.175 million in order to keep pace with inflation and salary adjustments. The additional funds, coming after a fiscal year for which PDS requested no increase from its fiscal year 2005 funding, are vital if PDS is to sustain the level of quality advocacy that trial and appellate judges are accustomed to seeing from PDS staff.

FISCAL YEAR 2005 ACCOMPLISHMENTS

As part of its human capital strategy, PDS recently engaged the services of a consultant to assist in evaluating PDS's compensation and performance evaluation practices with the goal of maintaining the current culture of excellence and collaboration while updating and expanding the options available to PDS managers and improving the link between compensation and individual performance. PDS has also

¹ D.C. Code § 11-2601 et seq. (2001 Ed).

² An additional 75 CJA attorneys handle juvenile matters.

³ 20 U.S.C. § 1400, et seq.

⁴ As a result of the National Capital Revitalization and Self-Government Improvement Act of 1997 (the "Revitalization Act"), PDS was established as a federally funded, independent legal organization governed by an eleven-member Board of Trustees. In accordance with the Revitalization Act, PDS transmits its budget and receives its appropriation as a transfer through the Court Services and Offender Supervision Agency (CSOSA) appropriation. Pub. L. No. 105-33, Title X (1997).

contracted with a new payroll service provider, vastly improving record keeping and access to “real-time” information. In addition, PDS has improved its data collection capacity in support of its first-ever strategic plan and annual performance plan, establishing more baselines for use with future performance assessment.

GENERAL PROGRAM ACCOMPLISHMENTS

Collaborative Work

While well-respected and widely known for zealously advocating on behalf of clients in the criminal justice system’s adversarial process, PDS also works closely with criminal justice agencies (e.g., the Metropolitan Police Department, the United States Attorney’s Office, the Office of the Attorney General, the Department of Corrections, and the Superior Court) and the courts to make the criminal justice system function more efficiently and fairly.

Collaborative work, essential to an efficient and fair criminal justice system, can be difficult for a legal entity such as PDS. PDS must always be mindful of its professional obligation to individual clients. PDS cannot waive any current or future client’s right to assert a particular position or challenge a procedure. This can be frustrating to other criminal justice agencies that are not similarly constrained. In addition, PDS’s collaboration is often with traditional adversaries that view PDS with suspicion. Nonetheless, PDS continues to collaborate, producing both large and small changes that improve the criminal justice system.

Support for District of Columbia Family Court’s Authority.—In fiscal year 2002, PDS successfully argued on behalf of an individual client that under District of Columbia law, Superior Court judges lose their authority to monitor delinquent children committed to the custody of the District’s youth rehabilitation agency once the judge orders the commitment.⁵ Following this win in the District of Columbia Court of Appeals, PDS provided support to the District of Columbia Council as it developed legislation for an appropriate role for judges following a commitment order. As a result, legislation has been enacted allowing judges to respond to post-commitment changes in circumstances or to enforce conditions imposed by the Court at the time of the commitment.

Courtview Access.—The District of Columbia Superior Court very recently converted to a new information system for maintaining its criminal case docket. This change has a direct impact on PDS. PDS used the previous system to upload information into its case management system and to efficiently determine each arrestee’s financial eligibility for counsel on a daily basis. PDS has established the ability to obtain limited electronic information from the Court’s new system, and we are beginning discussions with the Court concerning whether it will grant PDS greater access for more efficient eligibility determinations and case management.

The Court, in combination with law enforcement agencies, is developing a robust data repository for all criminal cases. In addition to providing law enforcement with more coordinated data, the system also has the potential to provide all agencies with data relevant to performance. PDS’s access to this information is the subject of some debate within the Criminal Justice Coordinating Council (CJCC). PDS will continue to work with the CJCC to develop access commensurate with its role as the institutional defender in the District of Columbia.

Crawford Litigation.—During its previous term, the Supreme Court decided a case, *Crawford v. Washington*,⁶ that revived the common law right to confrontation adopted by the Sixth Amendment, establishing a rule that categorically requires confrontation for all “testimonial” hearsay. Unfortunately, the Court did not provide any firm definition of what constituted “testimonial” hearsay. This led to great confusion in courts around the country, including the District of Columbia courts, about when the defense would be able to confront witnesses in criminal cases, and when the government could try their case based solely on paper accusations in what were often described as “witnessless” trials. Because witnessless trials are common in the District of Columbia, and because the Supreme Court is the only court that can clearly resolve whether *Crawford* continues to permit these trials (which were forbidden in 1791 when the Confrontation Clause was adopted), PDS searched the country for good cases for the Court to use to provide a definition of testimonial hearsay.

PDS identified two such cases: *Hammon v. Indiana* and *Davis v. Washington*. After identifying the cases, PDS (working with our private bar counterpart, the National Association of Criminal Defense Lawyers) filed a brief as a “friend of the court,” explaining to the Supreme Court why these cases were good vehicles to use

⁵ In re P.S., 821 A.2d 905 (D.C. 2003).

⁶ *Crawford v. Washington*, 541 U.S. 36 (2004).

to resolve the definition of “testimonial” hearsay. PDS drafted the brief on behalf of our office and the NACDL and urged the Court to grant review in *Hammon* and *Davis* in order to end the confusion around the country on the issue. The PDS brief was the only friend of the court brief filed at the certiorari stage of the case, and the only brief that identified why review should be granted in both *Hammon* and *Davis* out of the literally dozens of cases last year in which the Court was asked to resolve this “testimonial” hearsay question. In response, the Supreme Court did exactly as PDS suggested, granting review in both cases—and only those cases—and ordering that they be argued in tandem. Following the grants of review, dozens of friend of the court briefs have now been filed from around the country, including additional briefing by PDS and NACDL. The oral arguments are scheduled for March 20, 2006.

Faith-Based Regional Directory.—Working with the D.C. Jail Ministries, Citizens United for Rehabilitation of Errants, a church member who is the former director of the D.C. Department of Corrections, and a ministries group, PDS is participating in developing a regional directory of social services resources for use by the greater community, including regional church leaders and staff and church members.

Other Program Accomplishments

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

Individual Clients

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

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

Unlawful Detention.—In a case of mistaken identity, PDS obtained the release of a Latino man who was unlawfully held at the D.C. Jail for three months, in part because of a language barrier, for an offense he did not commit. The man had been brought to court on a probation matter that had been resolved previously. On that same day, another individual with the same name but a different date of birth was sentenced in court in two cases. The Latino man was mistakenly transferred from the court to the D.C. Jail without ever having seen a lawyer or a judge. Three months later, during a presentation by PDS for Latino inmates at the D.C. Jail, the innocent man approached Institutional Services Program bilingual staff and urgently pleaded for assistance. In researching the circumstances, PDS learned of the mistaken identity and instantly notified the U.S. Marshals Service, the D.C. Department of Corrections, and the Superior Court. The Chief Judge of the Superior Court signed a release order, ending the man’s unlawful incarceration.

Ensuring Fairness.—Following a trial attorney’s allocution during a sentencing proceeding, a judge imposed a sentence harsher than the trial attorney thought appropriate. As a result, when the judge inquired whether counsel had any additional comments to make to the court, trial counsel asked the court to reconsider its sentence. In response to trial counsel’s continued allocution on behalf of his client, the court doubled the sentence. PDS promptly filed a notice of appeal, and within weeks, PDS’s Appellate Division filed a brief challenging the decision of the judge to impose a harsher sentence after the attorney’s protest. PDS argued that the second sentence was arbitrary and capricious, was based on improperly vindictive motives, and exceeded the court’s authority to revise an already pronounced and otherwise lawful sentence. After reviewing the PDS brief, the government agreed that the trial court had erred. As a result, the District of Columbia Court of Appeals issued an order vacating the illegal sentence and directing the trial judge to reduce the

sentence. Because the PDS Trial and Appellate Divisions took immediate action, the client did not spend any extra time incarcerated due to the illegal sentence.

Defending the Public's Access to Courtrooms.—During a public proceeding, a Superior Court judge apparently heard an individual talking in his courtroom. The judge inquired if the man had a matter before the court. The man informed the court that he was waiting for a relative's case to be called. Apparently hearing the man talking again, the judge, sitting on the bench before a crowded courtroom, told him to leave the courtroom. When the man did not leave immediately, the court, rather than asking the deputy U.S. Marshal to escort him from the courtroom, or asking the deputy to personally instruct him not to talk while in the courtroom, ordered the individual stepped back into the holding cell. In addition to incarcerating the spectator, the judge also ordered that he be subjected to drug testing. While in the holding cell, the man asked a PDS staff attorney present in the area for assistance. Within hours, the client was released, and no testing was performed.

Discovery Litigation.—Over the past year, PDS lawyers have engaged in lengthy litigation over discovery issues in Superior Court. A hotly contested area of litigation involves *Brady*⁷ evidence—evidence that is favorable for or tends to exculpate the client. What constitutes *Brady* evidence and when that evidence must be disclosed to the defense are strenuously disputed issues in Superior Court. PDS is at the forefront of this litigation. PDS has filed dozens of pleadings in trial cases over the past year and was asked to file a “friend of the court” brief in an appellate case addressing *Brady* and the government's conduct in a specific case. While the appellate case has not yet been decided, the trial level litigation has resulted in a number of acquittals and, on occasion, determinations by the government that the charges should be dismissed. Examples of evidence produced through litigation include evidence that a detective was under investigation for pressuring witnesses to change their testimony; evidence that the complaining witness was drunk at the time of the alleged incident; evidence that a detective had interviewed two witnesses claiming that someone other than the client had committed a homicide; evidence that a police officer had provided sworn testimony before the court that was contradicted by the complaining witness's sworn testimony before the grand jury; and evidence that the complaining witness left the government a voicemail message recanting her complaint. Evidence of this nature can and does affect juror views of a case. In a homicide case in which PDS represented a 16-year-old client with no prior contacts with the criminal justice system, discovery litigation led to disclosures that another individual had the opportunity and motive to commit the offense. Following a trial in the matter in which the jury acquitted the PDS client of all the charges, defense counsel had an opportunity to speak with members of the jury and to learn first-hand how the exculpatory evidence played a significant role in the jury's decision to acquit the client.

Special Education Services.—In recognition of our efforts to ensure that children of the District of Columbia receive the appropriate educational services instead of being labeled delinquent, two Superior Court judges referred two separate special education students to PDS. We represented these two students successfully against D.C. Public Schools for violations of the Individuals with Disabilities in Education Act. As direct result of our representation, each student received full-time special education private school placements within the community after facing expulsion from their public schools. Once appropriately enrolled in these schools, the court closed their cases.

Appellate Division

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

Properly Instructing the Jury.—Following briefs and oral argument, the District of Columbia Court of Appeals reversed a PDS client's armed manslaughter conviction. In this case there was evidence the client had acted in self-defense and no evidence that the client had provoked or started the fatal fight. Nonetheless, the trial judge, over the objection of the trial attorney, advised the jury that someone cannot defend on the ground of self-defense if he or she instigated the fatal confrontation. As a result, even though the evidence showed many reasons to conclude that the client justifiably defended himself with deadly force, he was unfairly deprived of the right to have the jury determine if he acted in self-defense.

⁷*Brady v. Maryland*, 373 U.S. 83 (1963).

Fairness in Jury Selection.—The District of Columbia Court of Appeals held that PDS made out a prima facie case of racial and gender discrimination in jury selection by the prosecutor, who removed a markedly disproportionate number of black women from the jury pool in a case in which our client—whose mother and sister are black—defended himself against criminal charges on the grounds that he was protecting his sister from the person who had just hit his mother with a metal pole—the client’s mother and sister are black. The Superior Court erroneously believed that peremptory strikes aimed at black women did not offend either *Batson* (the Supreme Court case that forbids racial discrimination in jury selection) or *J.E.B.* (the Supreme Court case that forbids gender discrimination in jury selection). On the contrary, said the Court of Appeals: “By definition, discrimination against black females in jury selection is both discrimination against certain female jurors solely because they are black and discrimination against certain black jurors solely because they are female. It thus is both racial discrimination of the kind condemned in *Batson* and gender discrimination of the kind condemned in *J.E.B.*” Moreover, the Court of Appeals refused to remand the case to allow the prosecutor to demonstrate that he had been motivated by a non-discriminatory purpose. Instead, the Court of Appeals reversed the conviction outright, concluding that “the explanations for the prosecutor’s seemingly discriminatory strikes could [not] be tested fairly and adequately at this late stage.”

Special Litigation Division

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

Fairness in Parole Procedures.—In *Fletcher v. Reilly*,⁸ PDS led a lawsuit filed in federal court challenging new guidelines issued by the U.S. Parole Commission (USPC) that refused to allow for the consideration of post-incarceration conduct—education and skills training—in inmate reparole hearings. (Reparole hearings are held when an inmate is paroled, violates, serves a significant amount of time in prison, and seeks “reprieve.”) The challenge was brought on behalf of an inmate, Thaddeus Fletcher, who, following a parole violation in 1995, had obtained a bachelor’s degree while incarcerated, completed hundreds of hours of jobs and skills training (including values development, woodworking, insect extermination, food preparation, computer skills, business practices, and stress and anger management), accepted meaningful responsibility, and demonstrated a genuine understanding of his past actions. In fact, the USPC hearing officer who heard Mr. Fletcher’s case in 2004 noted Mr. Fletcher’s “sincere remorse” for his criminal conduct, and described Mr. Fletcher’s rehabilitative behavior in prison as “phenomenal,” noting that “it is rare to see a case with this many accomplishments.” The USPC officer also noted that Mr. Fletcher had “consistently received excellent work reports and had also received numerous commendations.” Mr. Fletcher also has never had a disciplinary infraction during his time in prison, which is very unusual.

Under the USPC guidelines, adopted in 2001, all of this post-incarceration conduct was irrelevant at Mr. Fletcher’s reparole hearing. The new guidelines instead focused the hearing on the application of mechanical sentencing guidelines in determining whether he would be released to parole, and those guidelines did not account at all for rehabilitative post-incarceration conduct. Mr. Fletcher challenged these guidelines on the basis of the Ex Post Facto Clause of the U.S. Constitution, arguing that application of the old D.C. Parole Guidelines in effect at the time of his offense would likely have shortened his sentence, because they would have not only allowed consideration of his behavior in prison, but would have focused on that conduct, making rehabilitative efforts the primary factor in the decision whether Mr. Fletcher should be reprieved. The D.C. Circuit agreed, in a 21-page opinion that made very clear that the USPC’s reparole regulations cannot be retroactively applied to D.C. inmates, since doing so creates a significant risk of increased punishment for any inmate with a history of good conduct in prison. This decision will not only affect many D.C. inmates covered by the reparole guidelines in a positive way, but it will encourage those inmates to behave in prison. It will also encourage inmates to improve themselves through education, since doing so can again result in a shortened sentence, just as it did under the D.C. Parole Board regulations in effect at the time of their offenses. The decision will also force the USPC to pay more attention to individual characteristics of the offender in reparole cases, rather than rely solely on mechanical guidelines.

⁸*Fletcher v. Reilly*, __F.3d__ (D.C. Cir. January 6, 2006).

Special Education for Incarcerated Youth.—The Special Litigation Division challenged the failure of the D.C. Department of Corrections and the D.C. Public Schools to provide special education services to eligible youth incarcerated in the District of Columbia Jail. This year, the parties in the case, *J.C., et al. v. Vance, et al.*, agreed on a resolution of the lawsuit, and the United States District Court has approved the settlement agreement. Facts developed in connection with the lawsuit, including sworn testimony from the special education teacher at the jail, demonstrated that the District had made virtually no progress in establishing a working special education program at the jail despite its claims to the contrary to the federal district court. The settlement terms call for the District to develop a special education manual within a year and to complete and implement a special education system within two years.

Incarcerated Children.—For 20 years, PDS has litigated the lawsuit challenging the juvenile detention system in the District, *Jerry M., et al. v. District of Columbia, et al.*,⁹ and we are closer to a resolution than we have been in many years. The lawsuit and the resulting consent decree focus on the conditions of the juvenile detention facilities and on the treatment and rehabilitation provided to youths at the facilities to reduce their risks of recidivating and increase their opportunity of becoming productive members of the community. Last year, the Division's *Jerry M.* lawyers asked the court to appoint a receiver to oversee the District's Youth Services Administration (now the Department of Youth Rehabilitation Services) until the consent decree's mandates could be met. While the request was pending, the court held the District in contempt for violating several consent decree provisions. The District then agreed to the appointment of a special arbiter to resolve disputes and formulate a new model for juvenile justice in D.C. The Special Litigation Division and the District are now well on their way toward the formulation of a comprehensive work plan to address the systemic issues that have plagued the District's juvenile justice system for years.

Most recently, the lawsuit has led to:

- The passage of legislation by the D.C. Council creating a cabinet-level position for the YRS director with its own independent budget authority.
- The hiring of a child-friendly director with extensive juvenile justice experience committed to the care and rehabilitation of the District's children.
- The hiring of additional trained, qualified youth correctional officers to fill the gaps at Oak Hill, the District's main youth detention facility, and provide a safer environment for the children.
- The closure of the girls' unit at Oak Hill and the transfer of all detained girls to a newly constructed Youth Services Center.
- The fulfillment of the consent decree's requirement of single cells for boys by reducing the male population.
- The improvement of fire safety, suicide prevention, mental health, environmental health, and safety measures at Oak Hill.
- The transformation of a unit at Oak Hill into a model unit to create incentives and merit-based programs for children to earn their release into a less restrictive environment when appropriate.
- The opening of the pre-release unit for children who are to be released within 30 days from Oak Hill to establish school and job placement in the community.
- The redrafting of the intake criteria for arrested children and the focus on diversion programs for children not meeting those criteria.
- The initiation of an assessment of the District of Columbia juvenile justice system to be performed by the Annie E. Casey Foundation. The assessment will include a detailed analysis of the YRS population in secure and community settings, as well as the programs and services needed for the full continuum of care, including both community alternatives and secure confinement.

Unbiased Judicial Officers.—SLD challenged the District's mental health commissioners' practice of hearing cases involving the District's Department of Mental Health while simultaneously having ongoing contractual relationships with the Department, a practice the Superior Court deemed impermissible in 1971. This challenge is pending before the District of Columbia Court of Appeals.

Community Defender Division

The Community Defender Division provides services through four programs: the Juvenile Services Program, which focuses on children confined to the Oak Hill Youth Detention Center in Laurel, Maryland and placed in residential facilities across the country; the Community Re-entry Program, which responds to the legal and social needs of newly released D.C. parolees and assists them in making a suc-

⁹ Civil Action No. 1519–85 (IFP).

cessful transition back into the community; the Institutional Services Program, which serves as a liaison to D.C. Code offenders in the custody of the Federal Bureau of Prisons; and the Community Outreach and Education Program, which educates members of the community about their legal rights and responsibilities in the criminal justice system.

Expungement Summit.—In September 2005, PDS worked with several service providers to host an Expungement Summit. Modeled on a similar effort in Chicago, the Expungement Summit offered assistance to individuals with criminal records, determining whether the individuals might be successful in seeking to seal their arrest records, and providing them with social services resources. PDS's Community Defender Division coordinated and hosted the event. Approximately 250 individuals attended, obtaining information about housing, child support, public benefits, and other legal services issues from staff and volunteers from the D.C. Employment Justice Center, the Neighborhood Legal Services Program, the Washington Legal Clinic for the Homeless, and D.C. Law Students in Court. In addition, a number of programs were present to help with employment, housing, substance abuse, and other non-legal needs that complicate the lives of those who have been involved in the criminal justice system. Another approximately 150 individuals who had scheduling conflicts or who were concerned about privacy called the Division before and after the day of the Summit to seek PDS's assistance. The Summit was so successful that PDS has already begun planning a second such event.

Truancy Initiative.—The Community Defender Program is working closely with the Family Court, the D.C. Public Schools, and the D.C. School Board to address the truancy problem by developing a program modeled after one in Louisville, Kentucky. The initiative is a family intervention program created to address the root causes of truancy. A community team of judicial officers, school personnel, social services providers, mental health providers, and substance abuse rehabilitation providers would work together to identify families for whom intensive services would help resolve barriers to school attendance. The program is based in the schools, rather than in the courts, allowing the team to make weekly visits to the school, with regular contacts between the case manager and the family in between the school visits. Twelve of the first 15 students enrolled in the program have "graduated," demonstrating significantly improved attendance as a result of the program's intervention. The truancy initiative is an ongoing program; plans are being made for a new group of students to participate in it.

PDS Legal Services at the New Juvenile Detention Center.—The District's Department of Youth Rehabilitation Services has provided space to PDS in the newly opened Juvenile Detention Center. The facility replaces the long-closed Receiving Home for Children as a short-term detention facility for children alleged to be delinquent. PDS will replicate at this new facility some of the services, such as representation at disciplinary hearings, that PDS currently provides to children detained at the Oak Hill Youth Detention Facility, the District's longer-term detention facility Maryland.

Re-entry programs.—In fiscal year 2006, the Community Re-entry Program sponsored a day-long conference, "Representing Combat Veterans in the Criminal Justice System," on providing assistance to veterans. The conference, which placed a special emphasis on veterans of the U.S.-Iraq war who are charged with criminal offenses, focused on the defenses and sentencing options available to them, and on the resources that are available for the health, employment, and education problems most encountered by veterans.

Parole Division

The Parole Division provides required representation to parolees facing revocation before the United States Parole Commission.¹⁰ This Division represents nearly 100 percent of the D.C. Code offenders facing parole revocation.

Working with the Parole Commission.—PDS's Parole Division continues to monitor closely the work of the U.S. Parole Commission and to seek out areas of collaboration. Most recently, a pilot program using expedited plea offers has been instituted, and the Division is providing feedback and suggestions for improving the process in a manner that allows clients to make fully informed decisions. If successful, this program could help reduce the current population levels at the D.C. Jail and the Central Treatment Facility.

¹⁰The Revitalization Act shifted responsibility for D.C. parole matters from the D.C. Board of Parole to the United States Parole Commission. 28 C.F.R. §§ 2.214(b)(1) and 2.216(f).

TRAINING

PDS conducts and participates in numerous training programs throughout the year. The annual Criminal Practice Institute and the Summer Criminal Defender Training Program address the training needs of the court-appointed CJA attorneys and investigators. In fiscal year 2006, PDS attorneys and investigators also taught sessions at many D.C. law schools. PDS attorneys were also invited to teach elsewhere locally, including at the D.C. Bar, the National Legal Aid and Defender Association, the Defender Services Division of the Administrative Office of the U.S. Courts, and at D.C. law firms offering pro bono services in Superior Court cases.

Forensic Science Conference.—In September 2005, PDS sponsored its third forensic science conference; this one focused on developing defense attorneys' cross-examination skills in challenging DNA evidence. The conference built on the expertise PDS's Trial Division has developed in challenging nuclear DNA evidence, mitochondrial DNA evidence, and cases arising out of database searches. The innovative design of the conference gave attorneys an opportunity in small group sessions to practice cross-examining experts from around the country using a specially prepared case and to receive immediate feedback from experienced attorneys. The conference—the first of its kind in the country—was planned in anticipation of the President's initiative to reduce the backlog of DNA cases and to better educate lawyers and judges about DNA evidence. By all accounts the conference was a success. A number of public defender offices have contacted PDS to explore ways of reproducing the training in other parts of the country, and participants gave the conference very high marks, with the most common score being a 5 on a 5-point scale.

In the face of growing evidence that most wrongful convictions are based on erroneous eyewitness identifications, the 2006 Forensic Science Conference will bring the latest social science research and experts in the field to Washington, D.C. The conference is designed to provide defense attorneys with the information and tools necessary to properly investigate cases to guard against erroneous identifications and to educate jurors and judges about pitfalls surrounding eyewitness identification procedures currently in use by many law enforcement agencies.

The Criminal Practice Institute Manual.—The only comprehensive criminal practice manual for the District of Columbia is produced by PDS. Judges, defense attorneys, and prosecutors practicing in Superior Court rely on this two-volume treatise. The 2005 edition of the Criminal Practice Institute Manual has been substantially rewritten to reflect recent changes to the law and the most current and developing practice areas. All relevant District of Columbia and federal case law and statutory changes through August 2005 have been included. Most chapters underwent substantial revision, including the chapters on sentencing, civil commitment, immigration, search and seizure, investigations, voir dire, jury issues, insanity, hearsay, and discovery. PDS's emphasis on the use of experts and the growing need for defense attorneys to understand DNA science and other types of scientific evidence led to the addition of a new chapter devoted entirely to expert testimony.

PDS Attorney Training Program.—PDS's training program for its new Trial Division attorneys is well-respected, and it is often cited by attorney applicants as one reason they are interested in working at PDS. The attorneys participate in a rigorous six- to eight-week training program that starts immediately upon their arrival and before they are assigned to any cases. The training includes lectures and demonstrations given by PDS attorney alumni, as well as mock hearings over which actual Superior Court judges preside. When the U.S. Department of Justice's Law Enforcement Assistance Administration conducted a study of PDS's operations and designated PDS as an "exemplary project" in the mid-1970s, the training program was cited as contributing substantially to the quality of our program.

PDS recently directed its attention toward improving the training that occurs after those new attorneys begin representing clients. All attorneys are placed in "trial practice groups" or "TPG's," based on their practice level—felony I, juvenile, etc.—for regular, ongoing training sessions led by a Trial Division deputy chief. PDS recently revamped the TPG program to move away from conducting it as a set of more informal sessions planned independently by each deputy chief toward having a more coordinated set of training modules. PDS identified all the major advanced skill sets and substantive knowledge areas an attorney should acquire as he or she gains experience and transitions from one practice level to another and organized them into a "tiered" or "sequenced" TPG program. Supporting materials are being developed to accompany the sessions so that the TPG program, like the first-year training program, is self-sustaining, yet adaptable. We are reviewing the revised TPG program to assess its efficacy and its ability to meet the needs of the staff and the office.

ADMINISTRATIVE ACCOMPLISHMENTS

Relying more extensively on technology, PDS continues to strive to be a model public defender in its administrative operations as it is in its client representation. PDS has created greater links between its payroll and finance operations, and has responded to emphasis from Congress on continuity of operations plans and telecommuting by exploring ways of supporting employees away from their offices. PDS has invested in new technology in the form of both hardware and software that allow key staff to have access to electronic files and databases from remote locations.

Continuity of Operations.—PDS has acquired the capacity (e.g., Blackberrys and docking stations) to provide staff with access to their case files and to relevant databases from locations other than the office. Currently, key managers can access electronic files and databases from remote locations. In fiscal year 2006, PDS's IT staff will be developing the capacity to support this technology for all key staff, using a combination of existing staff and contractors.

Government Performance and Results Act.—PDS has expanded the use of Atticus, PDS's self-created case management system, within the organization. More staff now are able to enter case and performance data into the system, better positioning PDS to report on performance.

"Duty Day" representation.—PDS has reorganized its approach to providing walk-in and call-in services to the public. PDS traditionally assigned a staff attorney on a rotating basis to be available to answer questions or handle matters from individuals who walked into the office or called. PDS's paralegals have now been trained to serve as the first-line point of contact on "Duty Day" matters—without providing legal advice. This filters the calls, reducing the number that are ultimately forwarded to an attorney and freeing the attorneys to concentrate more exclusively on legal matters.

CONCLUSION

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

Senator BROWNBACK. If I could, Mr. Quander. I do not mean to cut you off, but I have got to if I am going to hear from the others. A brief summation, Mr. Quander?

**STATEMENT OF PAUL A. QUANDER, JR., DIRECTOR, COURT SERVICES
AND OFFENDER SUPERVISION AGENCY**

**ACCOMPANIED BY REVEREND DONALD ISAAC, EXECUTIVE DIRECTOR,
EAST OF THE RIVER CLERGY-POLICE COMMUNITY PARTNER-
SHIP**

Mr. QUANDER. Thank you. Good afternoon, Chairman Brownback, and good afternoon, Senator Landrieu.

The Court Services and Offender Supervision Agency (CSOA) supervises approximately 15,500 men and women who are on adult probation and parole. The Pretrial Services Agency on any given day supervises about 7,000 defendants. These individuals are in the criminal justice system and we are responsible for their supervision.

One of the major undertakings that we have is a reentry initiative. In any given year, there are approximately 2,000 men and women who are returning to the District of Columbia from a place of incarceration. Reentry is a major focus of how we re-integrate them back into the District of Columbia. We have a partnership with the faith community. Donald Isaac, Reverend Donald Isaac, is here to talk about those things that we have done in the partnership.

But what our needs are for those men and women who are coming back is education, housing, substance abuse. We have to figure out a way to help those individuals to maintain their sense of in-

vovement and to be embraced by society as they try to make that transition from a criminal lifestyle to a pro-social lifestyle.

With that, I will defer to Reverend Isaac to talk about housing and some of the partnerships that we have.

[The statement follows:]

PREPARED STATEMENT OF PAUL A. QUANDER, JR.

Chairman Brownback and Members of the Subcommittee: It is my privilege to appear before you once again this year to present the fiscal year 2007 budget request of the Court Services and Offender Supervision Agency (CSOSA), which includes the D.C. Pretrial Services Agency (PSA).

Let me begin by thanking the subcommittee for your continued support of our agency and our initiatives. It has been truly gratifying to me that our efforts to build a model supervision agency, grounded in the field's best practices, here in the nation's capital, have continually met with your interest and enthusiasm, and that you have worked to make as many resources available to us as possible.

CSOSA's total budget request for fiscal year 2007 is \$214,363,000, an increase of 8 percent over our fiscal year 2006 enacted budget. Of this, \$135,457,000 is for the Community Supervision Program, \$46,196,000 is for the Pretrial Services Agency, and \$32,710,000 is for the Public Defender Service, which is funded as part of CSOSA's appropriation. The majority of our requested budget increase consists of adjustments to base, with the reduction of PSA's extensive supervision caseload being our sole new initiative. We believe these requests are essential to our mission, and we look forward to your continued support as we implement strategies to achieve that mission.

When we think of community supervision, we tend to visualize a fixed period of time: six months of probation, two years of parole, etc. The offenders pass into, through, and out of our system. They either succeed or they fail. But for the offender, CSOSA supervision is often just one in a series of episodes that, taken together, constitute a lifetime of contact with the criminal justice system. I recently asked our Office of Research and Evaluation to take a look at parolees whose supervision was revoked in fiscal year 2005. These men and women had spent very little of their lives outside the justice system. Nearly half had been arrested for the first time as juveniles. Nearly 60 percent had six or more prior arrests. Eighty-eight percent had failed at supervision at least once before, with nearly a third failing three or more times. And nearly 90 percent had a history of substance abuse, the reoccurrence of which plays a central role in their failures.

Maya Angelou once wrote of herself, "You did what you knew how to do, and when you knew better, you did better." The challenge of community supervision is to provide offenders with the knowledge and tools to do better. Imparting knowledge is as essential to CSOSA's public safety mission as drug testing or home visits, and it's much harder to achieve. We can count the number of drug tests and home visits. It's much more difficult to measure the amount of effort needed to empower one individual to say, "My future does not have to be the same as my past."

Our community supervision model places public safety as its number one priority, but it also stresses programming and support services that help the offender move toward this realization. In particular, our partnership with the faith community connects offenders to permanent sources of inspiration and support. During this past year, our Faith Community Partnership continued to move forward with both video mentoring and post-release services.

Our fiscal year 2007 budget supports both prongs of CSOSA's approach to successful supervision: accountability and opportunity. We know that we need to monitor the individuals we supervise closely enough to enforce the rules. We also know that for those rules to be anything other than a temporary interruption of criminality, we must provide the information and the opportunities for meaningful change. Our budget puts in place key strategies to address both challenges.

First, our proposed budget would fund the implementation of a program that we have planned for five years, and that we believe will greatly expand our ability to supervise and assist the highest risk offenders and defendants: chronic substance abusers. As you know, we have been renovating Karrick Hall to house our Reentry and Sanctions Center. This initiative will enable us to expand our successful Assessment and Orientation Center (AOC) program. The program model combines intensive assessment with substance abuse treatment readiness programming to improve the likelihood of successful supervision. The clients sent there will leave with a prescriptive plan to guide future treatment, increasing the prospect of success, as well as the personal insight and motivation needed to stay drug and crime free.

In fiscal year 2004 and fiscal year 2006, Congress funded the staff positions for five of the six units that will comprise the completed Reentry and Sanctions Center. This year, the Community Supervision Program requests an adjustment to base of \$3,428,000. This will fund operation of all six units, which will provide programming to 1,200 individuals annually.

We have long anticipated opening the Reentry and Sanctions Center as a national model for best practices in the areas of assessment, treatment readiness, and intermediate sanctions. The fully operational facility will enable us to expand the AOC's services to special populations, including female offenders and individuals with dual mental health and substance abuse diagnoses, who could not be served within the existing AOC. The AOC program has already made a difference to the 1,500 individuals who have completed the program. Over the next five years, full operation of the Reentry and Sanctions Center will quadruple that number.

On any given day, the Pretrial Services Agency supervises approximately 6,000 defendants. Over 3,000 of these defendants are classified as needing extensive supervision—that is, regular drug testing, face-to-face contact, and referral to treatment or other support services. These cases constitute 55 percent of all General Supervision caseloads with release conditions. Currently, 26 Pretrial Supervision Officers are assigned to monitor these cases, with a resulting caseload of 124 defendants per officer. This is too high to provide the level of contact that the courts expect and the defendant's risk necessitates.

With the current high caseload ratios, PSA is not able to provide the supervision expected by the Court or required by PSA's internal policies and procedures. In fiscal year 2005, only 56 percent of defendants were in compliance with their release conditions at the end of the pretrial period. Currently, PSOs often cannot respond quickly to violations of release conditions, despite the statutory requirement that every violation be reported to the prosecutor and the Court. This is particularly troubling with high-risk felonies pending indictment. In these cases, the first court date after the preliminary hearing is often many months after the defendant has been released to PSA. During that time, because PSOs are managing their caseloads on the basis of court dates rather than violations of release conditions, warrant checks and criminal records checks are not done regularly to see if defendants have been arrested again in a neighboring jurisdiction while on release.

PSA requests 12 positions and \$1.7 million to provide additional Pretrial Supervision Officers for extensive supervision cases. This request will lower caseloads to 100 per officer, and while still high in relation to neighboring jurisdictions, 100:1 is a more manageable level that will allow for closer monitoring and quicker responses to violations.

PSA also requests three positions and \$768,000 to implement Global Positioning System-based electronic monitoring for high-risk defendants. This will augment PSA's electronic monitoring capability to include defendants who do not have a "land line" phone or whose movements must be monitored more closely than traditional equipment allows.

GPS-based monitoring has proven to be a successful tool for CSOSA's Community Supervision Program, particularly for high-risk sex offenders and domestic violence cases. Currently, approximately 100 offenders are on this type of monitoring, which is used both routinely and as a sanction for noncompliant behavior. Since the program began in fiscal year 2004, approximately 300 offenders have been placed on GPS monitoring. We would like to expand the use of this technology to the pretrial population.

In closing, Chairman Brownback, I want to thank you for your efforts last year to provide funding for more transitional housing. I am pleased to report that we recently signed a contract with East of the River Clergy-Police-Community Partnership (ERCPCP) to refer offenders who have completed substance abuse treatment to its new transitional housing facility. This facility was developed, in part, with the funding you provided ERCPCP in the fiscal year 2005 bill. Our community needs more resources and collaborations of this kind in order to address the critical need for safe, stable housing for offenders returning from prison or treatment.

During the year ahead, I will be working closely with other criminal justice system stakeholders to link the use of available transitional housing resources to vocational training and career development opportunities. I am confident that once our clients can see and believe that they hold in their hands the promise of a better future, they will take the path that leads to it.

Finally, I want to respond to last year's inquiry about our recidivism rate. We recently concluded a study of offenders who entered supervision in fiscal year 2003. Among these offenders, the two-year rearrest rate was 65 percent. However, many of these rearrests were for traffic offenses or public order charges, or were the result of warrants we issued because the offender had violated his or her release condi-

tions. If we look at the types of crime that constitute the most significant threat to public safety, the story is somewhat different. For violent crime, the rearrest rate is 19 percent. For drug-related crime, it is 35 percent. While the offender is under CSOSA supervision, the rearrest rates are significantly lower—14 percent for violent crime and 22 percent for drug-related crime.

CSOSA's strategic plan emphasizes reducing recidivism for violent and drug-related crime. While our research shows that community supervision is effective in achieving this, the benefit does not necessarily extend beyond the supervision period. In other words, once the offender is "off paper"—once there is no more close supervision—he or she is more likely to get rearrested. In our study, 35 percent of the offenders who entered supervision in 2003 were rearrested shortly after entering "off paper" status.

Perhaps the greatest challenge we face during each offender's supervision is to provide some reason for him or her to continue following society's rules after supervision ends. We must help each offender to know better how to succeed, so he or she can do better long after we're out of the picture. This involves both monitoring current behavior and providing tools to shape future behavior. Mr. Chairman, and members of the subcommittee, in bringing this budget request before you, we ask for your continued support of both aspects of our work.

PREPARED STATEMENT OF REVEREND DONALD ISAAC

Good afternoon Senator Brownback and the members of the Senate Appropriations Subcommittee on the District of Columbia.

My name is Reverend Donald Isaac and I am the executive director of the East of the River Clergy Police Community Partnership, a faith-based organization that serves the needs of adjudicated youth and previously incarcerated adults. I also serve as the chairman of the CSOSA Faith Advisory Council.

I appreciate this opportunity to speak in support of the innovative efforts undertaken by CSOSA in stemming the tide of recidivism among the re-entry community in Washington, DC.

First I want to take this opportunity to personally thank you for your sincere commitment to serving the needs of re-entrants by ensuring funding of programs that are so critical to the population that my organization serves and in particular for recognizing the importance of housing in setting the foundation for a positive reintegration back into the community of those previously incarcerated. Ex-offenders risk relapsing into a life of homelessness, drugs and crime unless additional transitional housing and supportive services becomes available in Washington, DC.

Your efforts last year in securing funding for ERCPCP have helped us to begin operations of a 15 bed transitional housing facility and jumpstarted the development of a 14 unit apartment building for ex-offenders. These facilities will house re-entrants referred by CSOSA for 90 days of transitional living, 90 days of independent living, and 90 days of after-care services while the re-entrants are in permanent housing.

This is a significant first step in helping us serve the critical need for housing. However, there is more work to be done, which is why we have returned to you this year for your support. We have created a strategy to strengthen our existing efforts and expand our programs to develop transitional housing for ex-offenders city-wide. Your assistance is indispensable in making our re-entry housing strategy a success—and will ultimately help the re-entrant population become stable, self-sufficient members of the community.

As you know, CSOSA has been in partnership with the faith community for about 5 years now. We have jointly set up programs which serve the holistic needs of those seeking to transition back into their home community.

Under CSOSA's faith-based re-entry initiative, faith institutions have served as the community complement which ensures that the re-entrants get connected to social service providers, drug rehabilitation services, counseling, employment training and job placement.

We began the program by providing mentors from the faith institution of the re-entrants' choice, then moved to providing job readiness services under "Ready 4Work" and now are launching a city-wide housing initiative under a housing task force which was established last year by the faith-based re-entry initiative. Together with CSOSA, faith institutions want to fulfill a commitment to put a real dent in the re-entry housing problem. As chairperson of the Faith Advisory Council I stand ready to serve as a resource to you and the committee in understanding the needs of the re-entrant community. ERCPCP can organize meetings, schedule tours and visits to program sites and serve as the fiscal agent for other faith-based partners.

In fact, I'd like to take this opportunity now to extend an invitation to you Mr. Chairman and members of the committee to visit our programs to see first hand the work that we are accomplishing in the re-entrant community.

The CSOSA partnership with the faith community has proven to be a sound one and one that is continuing to grow in its impact. As such, we urge you to provide the strong financial backing that this partnership needs to continue to make a significant impact in reducing recidivism and transforming the lives of those who want to be contributing citizens.

Again, thank you for your time and attention.

Senator BROWNBACK. Reverend Isaac.

Mr. ISAAC. Yes, I am Reverend Donald Isaac and I am the chairperson of the CSOSA/Faith Advisory Committee. I certainly want to thank both you and Senator Landrieu for the support that you expressed last year and to report that we were able to really organize and bring on line about 30 beds of housing, transitional housing, through the support that was shown last year. The need for housing is obvious. We work in mentoring. We have done the Ready4Work program, but we have found that housing is the major underpinning of a successful reentry program.

So we are here today to offer our expertise and our availability as a resource to you and other members of the subcommittee, to organize meetings and visits within our community, or to even serve as a fiscal agent to be able to empower and bring other members of the faith community to the table who want to be engaged in this work.

Thank you.

Senator BROWNBACK. Thank you. I was over last night at the Gospel Rescue Mission and was talking with some of the people there. They were wrestling with the housing issue and how important that was for reentry in this critical time.

Senator Landrieu.

Senator LANDRIEU. Thank you all so much, and I am sorry our meeting is going to be cut short, but we have scheduled seven votes starting in just a few minutes.

But I wanted to ask a question. I see that the recidivism rate is higher nationally than in the District and I think you need to be complimented for getting that number down. But what specific steps are funded in this budget to further reduce that recidivism rate? I know, Reverend, you just spoke about the real need for housing and a partnership with churches and the benefits of mentorship as we are moving people back in and trying to get them in a very positive track, productive positive track, to keep them out of jail or from going back.

So could you name one or two things that are in this budget that perhaps the chairman and I could focus on that really you are seeing some real good results from? I do not know, Mr. Quander, if you want to take this.

Mr. QUANDER. I will start. One of the main initiatives is the Reentry and Sanctions Center, which is located on the campus of the hospital, D.C. General Hospital. That facility is brand new. Members of this subcommittee have been very supportive. We have opened that facility. That facility will allow us to provide assessment, treatment readiness, motivational services, for a core group of offenders who will be returning from periods of incarceration. It is a core group. These individuals have had on average nine prior

arrests, six prior convictions, a documented history of substance abuse. They have been violated for either probation violations or parole violations. They represent the typical individual who is recycling through the system.

It is our desire to get these individuals into this program where we can concentrate on the services that they need, get them ready to be followed up by in-patient drug treatment, and then to be followed through aftercare, and a specialty unit that will help them and to supervise them. That is one of the initiatives.

The other initiative of the Pretrial Services Agency is the caseload for their extensive supervision program. The current caseload is approximately 124 to 1. This budget will allow, if approved, to reduce that caseload. We are asking for additional positions there and additional money for global positioning system technology to help the pretrial population.

Senator LANDRIEU. And I see it will reduce it from 124 to 100. But is it still higher than Maryland and Virginia? What are the jurisdictions around us?

Mr. QUANDER. It is difficult to actually put a one to one because in Northern Virginia, if you are looking at the Federal numbers, it just is not a direct correspondence. It is still going to be high. In I believe Northern Virginia in the Federal system, it is probably about 80—sorry, about 60 to 1.

Senator LANDRIEU. Sixty to one, and we are 100 in the District.

Mr. QUANDER. If we can get down to 100 to 1. We want to take steps that will get us there. We know we will not be able to get everything. But if we can get it down to 100 to 1, that gives us something more to work with. We can provide the service that we need to provide to ensure public safety.

Senator LANDRIEU. Mr. Chairman, I just want to say I think this is a very important program and if we can get that caseload as low as possible so that these professionals can do their job, we can keep people when they get out of prison from going back and keep the community safe and try to get people on a more productive life track, which would be important.

So I know our time is short. The chairman may have a question.

Senator BROWNBACK. Thank you. Thanks, Senator Landrieu. I think this is a really important issue, too, if we could do a lot more in working on getting that recidivism rate down. We have got a big bill on the Second Chance Act to try to do this more nationally, and if we could model some of the successful ways to do this in the District of Columbia. I would love to do it, want to do it.

This year is going to be a tight budget year. The numbers we are working on, that is the votes we are going to right now. So I do not know how much we will have for any new initiatives. It is probably going to be mostly maintenance of current efforts to move those and try to keep them on track. We will look at things on recidivism, and I am particularly interested in the housing aspect, where we can try to get people in situations where they can most likely thrive, because I know it is just a really tough circumstance for a lot of people. When they come back in and are reentering the system, they have got to get someplace they can land on their feet and work on through.

Judge Washington and Judge King, thank you very much for your parts in this process and the capital campaign efforts that you are doing. We will see if we can maintain that. Again, as I say, it is a tight budget year. I do not know how much we are going to be able to do in that category, but we will see. We will see what we can do with the overall budget areas, and we appreciate your work in it as well.

I apologize for this being short. Perhaps you like it that way. You will not be drilled as much. We have got these seven stacked votes that we are already about a minute or two from closing the first vote. I do appreciate your effort, do appreciate your work. This is a key, key area that we have got to keep on track and you are doing a great job.

The record will remain open for the requisite number of days. Your official statement will be entered in the record.

Any closing?

Senator LANDRIEU. No, thank you.

SUBCOMMITTEE RECESS

Senator BROWNBACK. A record short hearing. Recessed.

[Whereupon, at 3:19 p.m., Tuesday, March 14, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

DISTRICT OF COLUMBIA APPROPRIATIONS FOR FISCAL YEAR 2007

THURSDAY, JUNE 22, 2006

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

The subcommittee met at 10:30 a.m., in room SD-138, Dirksen Senate Office Building, Hon. Sam Brownback (chairman) presiding.
Present: Senator Brownback, Allard, and Landrieu.

DISTRICT OF COLUMBIA

STATEMENT OF HON. ANTHONY A. WILLIAMS, MAYOR

OPENING STATEMENT OF SENATOR SAM BROWNBACK

Senator BROWNBACK. We'll call the hearing of the cannonball express to order. I was saying I would give this dive about a 6.5. Now, the tilt is the only reason I got a little off the score on this one. But, Mayor, that's just about as good as it gets. You know, I wouldn't have taken my shirt off; I would have been embarrassed. But you've got pretty good form. You're looking pretty good.

Dr. Gandhi, maybe next year you can join him, Dr. Janey, and we'll do a triple.

Dr. GANDHI. I cannot match the Mayor.

Senator BROWNBACK. Well, few of us could. Thank you all very much for being here. We're doing the extraordinary, and we're going to start on time. We have a series of votes starting at 11, and so time is short. I'm going to put my full statement into the record and ask that it be presented that way. I do want to welcome the Mayor on his eighth and final budget that he is putting forward. I do want to congratulate you, Mayor. I've very much enjoyed working with you. It's been a good relationship, it's been a congenial relationship, and it's been a successful one. And I also look forward to working with you more, as you round out your time in this position, on some of the welfare reform topics that we've talked about. Good progress is being made on supporting and encouraging family formation.

The District's had good news, been creating new jobs. Unemployment in the District, we've had some problems on increasing of unemployment. I think there's been a lot of things that have been working right in the District.

I do want to talk about the schools some today with Dr. Janey, because that continues to be an area all of us are watching and concerned about. I want to hear what progress we are making in

that particular field as we move forward, particularly on test scores. I'd like to hear about that and about the allocation of space for charter schools. I know my colleague, Senator Landrieu, is particularly interested in that. We just want to talk about what's the plan and how we're moving forward with this altogether.

With that, I'll put the rest of my statement in the record and turn to my colleague, Senator Landrieu.

[The statement follows:]

PREPARED STATEMENT OF SENATOR SAM BROWNBACK

Good morning. This hearing will come to order. Today we will hear testimony regarding the District of Columbia's fiscal year 2007 local budget request. D.C. Mayor Anthony Williams, Council Chairman Linda Cropp, and Chief Financial Officer Natwar Gandhi will present the city's budget and will discuss the District's requests for Federal resources. In addition, D.C. School Superintendent Clifford Janey will discuss the D.C. Public Schools' local budget request and his plans for using the \$13 million in federal funds that have been requested of this subcommittee.

This is the eighth and final budget that Mayor Williams is putting forward. I would like to congratulate you, Mr. Mayor, for making dramatic improvements in the District's financial condition. When the Mayor took the helm in 1999, the District's bond rating was in "junk bond status." Now the District is enjoying an "A" rating from all three credit rating agencies and is also maintaining a cash reserve balance of over \$250 million, which is among the largest in the country. The city is enjoying an impressive commercial real estate boom and has been creating jobs at a rate that is twice the national average.

But tempering these positive facts is a very troubling reality. Only one-third of the jobs that the District is creating are going to city residents. In fact, even as the District has been creating new jobs, unemployment in the District has been increasing. One reason for this persistent unemployment problem is the adult illiteracy rate in the District. District-wide the rate is 37 percent, but in lower-income wards, the illiteracy rates are much higher. The District is also losing population, even as the populations of surrounding suburbs continue to grow at rapid rates.

The adult illiteracy rates and the outflow of residents can be largely attributed to the poor public school system. For years District schools have been failing generations of students and now the city is reaping the sad consequences of illiteracy, unemployment, and the flight of residents who just cannot bear to send their children to neighborhood schools. I do not believe money is the problem. Funding for the District's school system has increased 83 percent since fiscal year 1999, even though overall enrollment has actually dropped 5 percent during that same time period. The per-pupil spending rate is the highest in the nation. Despite huge funding increases and extraordinarily high per-pupil spending, only 32 percent of 4th graders are reading at a basic level, compared to 62 percent nationally. And only 36 percent of these same students are performing at a basic level in math, compared to 77 percent nationally. Clearly the children in the District are not being prepared to take part in the American dream that is occurring right in their own city.

A few months ago the Department of Education labeled the District's public schools "high risk" because of serious recurring problems with its financial and grant management. Clearly, the situation is dire and I would like to hear from city leaders about how they plan to reign in school spending and improve student performance.

Unfortunately, it seems like we have this conversation year after year. I believe that when we fail to teach our children to read and write, we condemn them to lives of poverty, crime, and hopelessness. We must act swiftly and aggressively to change course for the sake of our children's futures.

Regarding the federal portion of the D.C. budget, I know that the District has a number of programs and capital projects that may merit funding through this subcommittee. Today I would like to hear more about those project requests from our panel. Although our resources are always limited, as Chairman of this subcommittee, I look forward to partnering with city leaders to find ways to make life better for those who live, work, and visit this Capital City.

Because of time constraints, we ask witnesses to limited their oral remarks to 3 minutes. Copies of all written statements will be placed in the Record in their entirety and the hearing Record will remain open for the requisite number of days. Senator Landrieu.

PREPARED STATEMENT OF SENATOR MARY L. LANDRIEU

Senator LANDRIEU. Thank you, Mr. Chairman, and I will put my statement in the record, because our time is short because of these stacked votes in just about 45 minutes, and we do want to hear from the distinguished panel.

[The statement follows:]

PREPARED STATEMENT OF SENATOR MARY L. LANDRIEU

Good morning, thank you Mr. Chairman for calling this final hearing regarding the fiscal year 2007 budget in the District of Columbia Appropriations Subcommittee. I appreciate our witnesses joining us today to discuss the budget and your priorities for this year. We welcome back Mayor Anthony Williams and his Chief Financial Officer Natwar Gandhi for the final hearing of their Administration. I would also like to welcome the Chairman of the Council of the District of Columbia, Linda Cropp, who has ably led that body and Dr. Clifford Janey, the Superintendent of D.C. Public Schools, who are testifying again before the committee—but hopefully not for the last time.

As the committee and witnesses are aware, the primary purpose of the D.C. subcommittee is to ensure the immediate and long term economic health of the District. There are many ways we can do that. I brought to the attention of this committee and my colleagues in Congress that we should examine what GAO has identified as a structural imbalance between the cost of providing city services and its ability to take in revenue. But at the same time, we must focus on other tools to bring greater prosperity and long term stability to the District. At a time of limited Federal resources I would like this committee to partner with each of the offices represented here today—the Mayor, Council Chairman, Chief Financial Officer, and Superintendent of public schools—to leverage our funding to the best opportunities for growth and stability. Cities that have good public schools, safe communities, and strong families are cities that have strong economies. If we focus ourselves on providing these things in the District, we will go a long way toward strengthening the economic independence the city needs and deserves.

Our witnesses have dedicated significantly to reforming public education in the District. On May 15th the Superintendent of Schools, Dr. Janey, released a plan outlining the first steps in making the system more efficient and dedicating more resources to students in classrooms. The Superintendent's recommendation for the first phase of school consolidations, or rightsizing, recommends closing six public school facilities and making space available in seven additional public schools for co-location, in all 1 million square feet of un-used space. At least 5 million square feet of excess space has been independently identified by the Council of Great City Schools, the Brookings Institute, and the 21st Century Schools Fund. This committee has raised concerns, in our annual committee report and in several hearings in 2005, that it is a highly inefficient use of public funds to maintain at least five million square feet of under-utilized space in DCPS facilities. The Board of Education's decision to consolidate 3 million square feet of space in 2 years is a major recognition that resources can, and should, be used to directly improve student achievement rather than maintaining unused facilities. I congratulate Dr. Janey for taking the lead and for the Board of Education for working so hard to have a fair process that benefits students and families to consolidate the first 1 million square feet of space. I am encouraged that the Board has agreed to consolidate an additional two million square feet of space by school year 2007–2008.

Making better use of the resources you have is significant progress to improving public education for all. But the process that each of you here today, and other public officials, continue over the next few months and years will be the true message to families in the District whether the education of their children is valued or not. I urge you in the strongest possible way to establish a fair and transparent process to make any schools closed available first to public charter schools. The D.C. School Reform Act requires a right of first refusal to public charter schools for any public school property not used by the city. You must adhere to this law.

The expansion of public charter schools is one of the driving forces making public education more accountable to the community. In the District, charter school students now make up 25 percent of the public school population, some 20,000 students. There are 52 charter schools on 64 campuses and the upcoming school year welcomes 58 charters on 71 campuses, as 7 new charters and one expansion open.

When people ask me why I support charter schools, I tell them it is because I believe in public education. I firmly believe that if we work to modernize the system

of delivery for public education, allow greater opportunities for innovation and hold schools accountable for results, then we can provide a high quality public education for every child in America. One size does not fit all, and if we give our parents choices, they will choose what is best for their child.

Until now, the focus of the charter school movement has been to increase the quantity of charter schools. But if we expect this to be more than a movement, we must shift our focus from quantity to quality. As the Washington Post wrote last year, "The District's experiment with charter schools has proved hugely popular with parents, but the schools vary widely in quality and have yet to demonstrate that they are doing better than the city's regular public schools in raising student achievement." I also look forward to working with you to improve accountability for individual schools and programs and hold all recipients of public funds accountable to the highest standard.

This committee is gravely concerned about recent allegations where the use of public funds for charter schools has been in question and investigations have ensued. The committee is examining closely the performance of public funds provided to finance the purchase or renovation of public charter school facilities. It appears that the program has met its objectives—schools have received loans or credit enhancement, buildings have been purchased and renovated, with the ultimate goal that children are studying in better facilities. Twenty-two public charter schools have received financing from these funds. The primary concern is how, if the press is true, were contracting laws circumvented and public funds invested in a questionable company? I hope that the Mayor and Dr. Gandhi can provide some insight. I understand there are four investigations ongoing, and I strongly hope that these are expedited and come to a conclusion as soon as possible. My priority is that public funds are returned to the city as soon as possible. Any wrongdoing must be prosecuted and all the public funds must be returned. Responsible public officials will not wait months and years for investigations to wind their way to on conclusion while children languish in substandard facilities because there are no funds to improve school buildings. We will not stand for it and I hope that none of the witnesses here today will either.

Another area which I hope the committee and the witnesses will address today relates to a request by Mayor Williams to remove the water and sewer authority (WASA) from the financial oversight of the independent Chief Financial Officer of D.C. I understand that for many months the CFO and WASA have been in negotiations to resolve differences in the authorizing statutes that require independence for both. I would like to work with the District's elected leaders to develop a reasonable resolution to this issue.

As you know, as Chairman of this subcommittee I lead the effort in Congress to maintain the independence of the CFO when the Financial Control Board was required in 2001. And I have worked with Chairman Brownback and his predecessor, Senator DeWine, to continue this provision each year on the D.C. Appropriations bill. We do not take lightly the Congressional direction in establishing the Control Board to have an independent CFO with oversight of all financial offices in every District agency. Unless WASA is not a District agency, we need to find a way forward for appropriate oversight of its finances while maintaining a strong District CFO. I hope that the Council will take up this important issue and work with Chairman Brownback and me to address this conflict.

In closing I would like to take a moment to commend each of our witnesses for their steady and superior commitment to the District of Columbia. When I became the ranking member, and soon after the chairman, of this subcommittee in 2001 the federally imposed Control Board was coming to a close. The city had turned from junk bonds to credit worthy status on Wall Street and the city services that all residents depend upon were on a path to functioning as residents demand. This Congress, the city, and really the nation have one man to credit for that path—Anthony Williams. As the CFO who turned the city around, and then the Mayor, you have set the course for a brighter future for this city. Dr. Gandhi has continued the same high standard of financial security and Chairman Cropp has guided the Council's work to secure this path. Dr. Janey has been with us little over a year, but I am hopeful that his record will surpass even that of the other city leaders with us here today as he works to improve the learning and achievement of the District's children. I congratulate each of you on your work and appreciate your service.

Senator LANDRIEU. But I would like to follow up specifically on our focus of this subcommittee, which I think is warranted, on the progress of the improvement of the school system for the District. The Nation's capital is not only a place of residence for the people

that live here in the capital, but as the Nation's capital, it's an opportunity for us to really showcase what's best about our democracy. And having a strong and vibrant school system—and, Dr. Janey, you've made some significant steps in your tenure as superintendent, with the Mayor's support and the Council's support, but we want to focus some of our encouragement to you on the continuation of reducing excess space, on making the system more efficient, and giving more opportunity and choices for students and their parents and their families, and answering the call of the business community that sees skill development and education development as a real key to the economic development of this city and this region and its growth and expansion.

This excess school issue, Mr. Mayor, the city sent this letter last night. As you can tell, it's quite long. I haven't had a chance to review it, but will before too long, and have more specific questions relative to that.

I want to raise, Mr. Chairman, one incident that's not in my written testimony, but something that's been in the paper that's quite concerning. And I know it's not the job of this subcommittee to micro-manage the first responder situation here in the city. But, Mr. Mayor, the incident regarding a resident that was robbed and beaten and then died subsequent to the poor response time is extremely concerning to me, not just because, again, the residents of this city deserve a strong police force and first responders—and Chairman Cropp, as well for you—but the thousands and millions of visitors and school children that come into this District deserve to know that that first-responder system is as strong as it can be.

I know that you have this under investigation, so I don't want to go into too much detail, but I want you to know that I and many members here have expressed concern about making sure that people are held accountable, that systems are changed, and perhaps in your testimony you could give a couple of updates about that situation. Thank you, Mr. Mayor. Thank you, panel.

Senator BROWNBACK. Thank you Senator Landrieu.
Senator Allard.

STATEMENT OF SENATOR WAYNE ALLARD

Senator ALLARD. Mr. Chairman, I'd like to make my full statement a part of the record, and I would just second many of the comments you made. I would just say to the Mayor that while you are departing after your second term, I think you can hold your head high. And I think you have done a great job, and we are looking forward to continuing to work on issues that are important to the District. So thank you, Mr. Chairman.

[The statement follows:]

PREPARED STATEMENT OF SENATOR WAYNE ALLARD

Mr. Chairman, thank you for holding this important hearing today. I look forward to the testimony of our panel today regarding the District of Columbia's budget request for the next fiscal year.

I would also like to reiterate the "congratulations" to Mayor Williams; I think he deserves it. While you are preparing to depart after your second term as Mayor of the District of Columbia, I hope you leave with your head held high. I have noted that from the time I first arrived here in D.C. there has been a remarkable change in this city for the better. You certainly deserve your fair share of credit for that turn-around.

That said, I look forward to hearing the panel's testimony regarding the federal payments to the District. It is a very tight budget year for all of our federal expenditures. I know that there are many initiatives in the District that this committee has supported in the past, and I hope to hear an update on many of this educational activities and capitol improvements which have been appropriated for in prior years.

And with that, Mr. Chairman, I look forward to the witnesses' testimony, and thank them for appearing before us today.

Senator BROWNBACK. Thank you, Senator Allard. Mayor Williams, welcome. The floor is yours.

Mayor WILLIAMS. Thank you, Chairman Brownback, for holding this hearing. Ranking member Landrieu, thank you as well. Senator Allard, I haven't had a chance to work with you, but I am looking forward to working with you as we move through this budget process. And, Mr. Chairman, in light of your time constraints, what I will do is abbreviate my remarks wherever possible, understanding that my full remarks have been entered for the record.

Senator BROWNBACK. All of your presentations will be placed in the record as if presented, so I would ask if you could to summarize, because I think all of us would like to get to some questions and answers if we could.

Mayor WILLIAMS. Mr. Chairman, regarding any budget questions, I also have with me Kevin Clinton who is my Senior Advisor for Budget and Finance, as well as Kate Jesberg, who has worked very closely with your staff in developing a number of initiatives that we've been working on in terms of strengthening our families in the District of Columbia, so she's also available to answer questions that you may have today.

I'm pleased to be joined by Council Chair Cropp, who has been a partner in the success that we have achieved in the District; I'll stand alone on all the problems, but she's been a partner in all the good things; and Dr. Gandhi, my friend and colleague now for a long, long time, since I've been CFO of the District; as well as Dr. Janey, with whom I meet with weekly, understanding, as you do, Mr. Chairman, the importance and primacy of our schools.

In our budget for fiscal year 2007, Mr. Chairman, we continue our program with new communities, which is an attempt to try to decrease the concentration of poverty in our city and create, using our own resources, and wherever possible partnering them with Federal resources, mixed-income communities in this city that are more conducive to healthy lives and neighborhoods in our city for all of our citizens.

Another initiative last year, Great Streets, brought physical improvements and additional business to some 22 miles in the District. Affordable housing, including, but not limited to, the new communities project I just talked about, as well as increasingly strengthening our housing in our city using the housing production trust fund that we have created now over the last 5 or 6 years to not only build housing, but to work with tenants and residents to preserve affordable housing. Because Washington, DC, like many cities in the country, is a city where you have a number of section 8 contracts and other housing contracts that are expiring, many residents are likely to lose their homes if the city doesn't step in and work with them.

There's more mileage to be gained in preserving affordable housing through preservation than you're going to get through production of new housing, due to the scarcity of land and the scarcity of housing at an affordable price in terms of cost production. You'll be hearing from Dr. Janey, but I was pleased to have worked with Dr. Janey, and Council Chair Cropp and the Council to provide an allocation of \$223 million to support rehabilitation and modernization of school buildings.

I'm pleased that the District continues to be a leader in healthcare coverage in our city, offering health insurance coverage to all residents, up to 200 percent of poverty. And the 2007 budget demonstrates our continued commitment to this by expanding health coverage for children from 200 to 300 percent of the Federal poverty level. The trick now is to see to it—and it's pretty much the case in everything we do—to see to it that this coverage is translated to better health outcomes, and there's been a snag there, a much bigger snag than I would like.

We've also asked for funding for critical projects. I mentioned, Mr. Chair, that the President's budget, I was pleased, contains \$30 million to launch the recommendations of my blue ribbon library task force. I assembled major philanthropists, nationwide experts in the field. I would urge that the subcommittee support the President's mark. The \$30 million in the President's budget will help fund three neighborhood branch libraries and a new central library, and these four library projects will help us transform the entire library system. In fact, the District is united in transforming our library system into a world-class system.

You should know, Mr. Chairman, in the past year's budget the Council and I have put \$170 million into improving our library system to show our own local support for this effort. I expect that philanthropy will also play a part in this. And I would also note, Mr. Chair, as I have with you in private conversation, that this isn't just about building a library building or even building or re-modernizing buildings in the neighborhoods. It's really about using the library system as a way to improve literacy in our city, because, as you know, our city struggles in a situation where some 37 to 38 percent of my constituents are struggling at a low level of reading ability. So every tool we can use for education, in this case libraries, that tries to address that problem, we want to do that.

We asked for \$10.5 million for continued support of the emergency planning and security cost fund to reimburse the District for the costs incurred in activities associated with Federal activities: The inauguration is an example.

In the area of education, there is substantial investment in three areas; a tuition assistance grant program, and a three-sector initiative. The tuition assistance grant program, as you know, is a marquee Federal initiative that continues to be a success. It compensates the District for the lack of a State university system, as you know.

In 2005, our students were enrolled in universities and colleges in 45 States across the country, the District, and the U.S. Virgin Islands. This budget includes funding of \$40.8 million—excuse me. This budget includes funding for this tuition assistance program, but I've pledged to you, members of the subcommittee, and other

Members of the Senate, that the District is committed to holding these costs down in future years, recognizing that there are number of things that we can do under our own power to do that, but also accepting the fact that the cost pressures in this program are really either things that are outside of our control, the cost of tuition is rising in colleges across the country, or things that the Senate and the Congress should be proud of, for example the number of students who are using the program. The number of students who are using the program continues to increase and actually has led to one of the signal achievements in our education system that I think the Congress can be proud of, and which is to say that there's been a some 35 to 40 percent increase in college matriculation now that can be traced back to this program. So that's a good thing, and Congress should be proud of it. And we would want to encourage the Congress, and particularly the Senate, to continue it.

You know, Mr. Chairman, my strong support for the three sector initiative. This budget includes funding of \$40.8 million for that initiative, funds provided to D.C. Public Schools, the charter schools, and scholarships for private tuition throughout the District. It continues to perform as designed by expanding choice for District parents and teachers. I'm very, very proud and pleased that mothers, parents of lowest income in some of the most struggling situations, have chosen this option to provide a better education for their children.

On the Anacostia Waterfront, to be brief, Mr. Chairman, we're asking in the President's budget for \$20 million in funding for improvements to the Navy Yard Metro Station. It's modeled on transit investments the Federal Government has made in the District and elsewhere. It will help the Federal Government improve capacity for expanded Federal workforce needs at the U.S. Department of Transportation headquarters in the Southeast Federal Center. The House has provided for this funding within the Transportation appropriations bill, and we would request that the Senate also support this investment. This investment also will have a positive effect on the new baseball stadium, but I want to insist it's not solely for that purpose, because there is a large Federal presence there with the Southeast Federal Center and the new U.S. Department of Transportation.

And finally, Mr. Chairman, as I wrap up my last budget testimony in 8 years as Mayor and I forget how many it was as CFO, I would urge the members to be supportive of the bill now moving through the House that would allow a congressional vote—I'm not talking about a vote in the Senate, but a vote within the Congress—for the District Representative. It's supported on a bipartisan basis, and I think it's the right thing to do to provide democracy in our capital.

PREPARED STATEMENT

Thank you very much, Mr. Chairman, for allowing me to provide you this testimony. I stand ready to answer any questions you or the subcommittee may have.

[The statement follows:]

PREPARED STATEMENT OF ANTHONY A. WILLIAMS

Chairman Brownback, Ranking Member Landrieu, and other distinguished members of this subcommittee, it is my great pleasure to testify before you today regarding my proposed Fiscal Year 2007 Budget and Financial Plan: The Citizens' Budget. As the last budget that I am presenting to the Congress as Mayor of the District of Columbia, I want to express particular appreciation for the support and commitment that this committee has provided to our efforts to improve the District of Columbia as a place to live, work, and visit. I am preparing my budget in an environment where the economy is strong and the District's fiscal standing is respected across the country. However, as I developed my local budget, I focused first on my responsibility as Mayor to fulfill our current commitments to the citizens of the District of Columbia.

This budget fulfills our commitments by containing the growth of government through fiscal discipline. It maintains our pledge to provide tax relief for all District residents, and it follows through on the landmark initiatives we launched last year. In this budget, I also responded to the priorities that citizens have expressed in summits, public hearings, and community meetings.

A RESPONSIBLE BUDGET

This budget takes the responsible approach with a local fund budget of \$5.09 billion, representing a 2.6 percent growth rate over last year's funding level, in part by scaling back \$205 million in baseline growth. This belt tightening effort also allows us to invest in a modest amount of new services. I chose to make the most significant investments in education and housing because residents told me those are their highest priorities.

Another way that this budget reflects fiscal responsibility is by taking the final step towards completing tax reductions associated with the Tax Parity Act of 1999. This will save taxpayers \$51 million in fiscal year 2007 and \$64 million during fiscal year 2008 and beyond. This final phase of tax parity implements reductions for individuals at lower income levels as compared to earlier phases of tax parity. For taxpayers with taxable income under \$10,000, tax rates fall from 4.5 percent to 4.0 percent. For taxable income from \$10,000 to \$40,000, tax rates fall from 7.0 percent to 6.0 percent. And for taxable income above \$40,000, tax rates fall from 8.7 percent to 8.5 percent.

This last phase of tax parity caps a three-year period in which the District has provided more than \$350 million in tax relief to residents and businesses—mostly in the form of property tax and income tax relief.

FOLLOWING THROUGH ON LANDMARK INITIATIVES

Last year, we launched the "New Communities" initiative. It is designed to decrease the concentration of poverty and crime by creating mixed-income neighborhoods with one-to-one replacement of affordable housing. This District-sponsored redevelopment of the physical and human architecture will transform distressed neighborhoods into healthy, mixed-income communities that offer families better housing, employment and educational opportunities.

In the past year we have made progress in our first targeted community, Northwest One. This budget proposes an investment of \$4 million in social supports in Northwest One, Barry Farms, and Lincoln Heights. These social supports will include launching adult learning partnerships, expanding youth serving programs, and implementing intensive self-sufficiency case management support for residents.

Another initiative we launched last year, Great Streets, aims to transform under-invested corridors into neighborhood centers through physical improvements and new business development. The total corridor distance is 22.5 miles and the corridors pass through over 50 neighborhoods. In fiscal year 2007 I will invest \$6 million in development assistance, small business development and land use planning along selected corridors. In addition, in the fiscal year 2005-fiscal year 2009 spending plans, we allocated \$100 million in local and federal funds for transportation, streetscape, and transit improvements.

Through the Way-to-Work initiative, we leverage the economic development activity that has transformed the District by refocusing its impact on specific neighborhoods and targeted communities. We have developed strategies to ensure that employment and business opportunities associated with the District's booming economy are available to all residents in every ward. I propose continued funding of \$21.6 million for the Way-to-Work Initiative in fiscal year 2007, with more than \$12 million targeted for the District's youth. In my plan I propose \$7.7 million for summer jobs for 10,000 district youth; \$3.1 million for year-round youth employment; \$1.8

million for the Youth Leadership Institute and \$8.4 million for transitional employment. Should additional funds become available, I propose increasing summer jobs funding by \$2 million to serve an additional 1,400 youth.

CITIZEN PRIORITIES

Affordable Housing

This budget proposes a new housing initiative based on the recommendations of my Comprehensive Housing Strategy Task Force, which conducted a comprehensive, year-long review of the housing landscape in the District of Columbia. This initiative is designed to protect and expand affordable housing so that the District is better equipped to address housing challenges including: a lack of affordable housing for those working at low to mid-level salaries; a need for housing for our most vulnerable residents, and the need for central coordination of the District's housing agencies.

Based on the Task Force recommendation, I proposed an increase in the residential deed and recordation tax rates from 1.1 percent to 1.5. This will generate roughly \$47 million in fiscal year 2007 and I propose that this revenue be devoted to a new dedicated fund for the implementation of the recommendations of the task force.

Education

I am proposing an historic investment in capital funding for the District of Columbia Public Schools, with a total allocation of \$223 million to support rehabilitation and modernization of school buildings. This includes full funding of \$100 million in sales taxes as passed by Council and an additional \$123 million from other modernization resources.

The operating budget includes a total of \$1.1 billion in local funds for public education, including \$811 million for DCPS and \$264 million for public charter schools. This fiscal year 2007 budget level includes increases to the Per-Pupil Funding Formula as recommended by the State Education Office. This increases base funding for education by \$402 million and results in an additional \$25.1 million for DCPS and \$9.5 million for the D.C. Public Charter schools. This funding level also includes \$4.9 million to hold DCPS harmless from the impact of students transferring from the school system to private schools as part of the federal voucher program.

Health

The District continues to be the only jurisdiction in the United States offering health insurance coverage to all residents up to 200 percent of poverty. The fiscal year 2007 budget demonstrates our continued commitment to providing health services to residents by expanding health coverage for children from 200 to 300 percent of the federal poverty level and, for the first time, adding dental coverage within the Medicaid program for adults.

This budget augments primary health care services with the goal of creating an electronic health record system (\$2.2 million) for community health centers, along with a bricks and mortar investment in community health centers that serve low-income populations (\$13 million). We have also added \$1 million for the operating costs of my Medical Homes initiative. We will expand the hospital uncompensated care fund by \$4.25 million, which will generate \$14 million additional dollars for our hospitals.

I am proposing health care improvements for residents in the currently underserved east side of the District. These improvements will ensure proper citywide distribution of emergency, trauma, inpatient, and specialty services, and will be funded through Tobacco Settlement Trust Fund bond revenues.

To address HIV/AIDS, I am calling on a citizen task force to identify improvements to our HIV prevention strategies and HIV/AIDS treatment in the District.

Libraries

In this budget, I propose significant new investments into our District library system to elevate the quality of life by providing access to information and literacy services, while serving as a community gathering place.

The District is committing \$16.25 million in fiscal year 2007 as part of a \$167 million investment in major construction and renovations to neighborhood branches over the next six years. This will meet the needs of community residents, provide attractive gathering places for neighbors, and support neighborhood economic development. We also are investing \$5.5 million to enhance key library services including updated collections and expanded operating hours.

I am proposing a new, central Martin Luther King, Jr. Memorial Library that will attract library patrons and serve as the symbolic, administrative, and technological

hub of the system. The cost will be covered with the proceeds of the disposition of the existing central library, the PILOT payment, and federal funding, including a portion of the \$30 million that President Bush recently committed to the District to support my library initiative.

Youth

We are proud that we have developed the first ever Children's Budget for fiscal year 2007. Our challenge now is to reexamine what results we are getting from our investments and whether we are investing in the right things. The Youth Development Strategy offers a framework to realign current youth investments with effective, evidence-based programs and services.

The budget includes seed funding for the Mayor's Youth Development Strategy is to reduce youth violence and improve the quality and effectiveness of youth programs throughout the District. This budget includes \$1 million to support inter-agency violence prevention efforts in addition to the resources for core initiatives already within agency budgets. I am also proposing, in partnership with Major League Baseball, an investment of \$1 million in a summer youth baseball academy.

Safety and Justice

This budget includes an increase of \$4 million to provide local support to compensate for the loss of \$4 million in federal funding that supported 81 officers. This budget includes \$500,000 to support a third round of our "civilianization" initiative which will result in over 150 sworn officers moving from desk jobs back onto patrol. I have provided \$800,000 for additional forensics lab services, which is complemented by an additional \$5 million investment in the new Consolidated Laboratory Facility. This budget also includes \$11 million in rehabilitation and construction of fire stations.

PRIORITY FEDERAL FUNDING FOR CRITICAL PROJECTS

In addition to the investments I am making locally, I ask you to continue to partner with me to improve the District of Columbia for our residents, workers and visitors. The committee's targeted investments in joint initiatives have had a tangible impact on quality of life in the District of Columbia over the course of my two terms in office. This year, the President's budget reflects a particularly strong commitment to several of the initiatives that I have targeted throughout my term and those that I believe will have a rebounding impact on the District of Columbia for decades to come.

Library Initiative

Over the past few years, I have turned to the D.C. Public Library system as a vehicle to address the low literacy rate among the District's children and adults. In many major metropolitan areas around the country, new libraries have revitalized many distressed neighborhoods. For this reason, I have reconstituted the Library Board of Trustees and established a Blue Ribbon Task Force comprised of local and national experts. The Blue Ribbon Task Force recommended that we create a state of the art library system to add multi-lingual support, add hundreds of new computers with broadband technology, and add deep reference materials and children programs. This will help create a brighter future for D.C. residents.

The estimated cost of rebuilding the D.C. Library System will be approximately \$450 million. The \$30 million in the President's budget will help fund three neighborhood branch libraries and the new Central Library. These four library projects will help us transform an entire library system and provide the necessary leverage to raise money from private sources.

First, \$14 million of the Federal contribution will help fund the initial stages of building a state-of-the-art Central Library. A new Central Library will provide the technological and administrative capacity to support the 26 neighborhood branches throughout the city. Second, \$5.3 million will be allocated to rebuild the Washington Highlands Library; approximately 30 percent of the population over 25 in this serving area did not graduate from high school. The third project is \$5.3 million to upgrade the Petworth Library which serves nearly 32,000 residents. Finally, \$5.3 million will expand and renovate the Southeast Library. This branch serves over 25,000 residents and serves a socio-economically mixed population. Half of the adults over 25 did not graduate from high school.

Public Safety

I am requesting \$10.5 million for continued support for the Emergency Planning and Security Cost Fund. This fund is available to reimburse the District for costs incurred as a result of activities associated with the federal presence such as major

events and demonstrations. Based on our current projections, this request, while lower than in previous years, will be adequate to support the foreseeable need in fiscal year 2007.

Finally, in the area of public safety, I am requesting continued funding of \$1.3 million for the Criminal Justice Coordinating Council. The CJCC provides a forum for the District and federal agencies that make up the District's criminal justice system to plan strategically and resolve problems to improve the efficiency and effectiveness of the overall system. The CJCC has achieved improvements in areas ranging from information sharing to halfway house placement to ex-offender re-entry. This year, the CJCC's focus also includes reducing gun violence, reducing juvenile violence, and better connecting social services to those in the criminal justice system that need them. The complex nature of the District criminal justice system demands a forum such as the CJCC to ensure coordination, collaboration, and improvement.

Education

In the area of education, this budget includes substantial public investment in education in three areas: the D.C. Tuition Assistance Grant Program and the three-sector initiative. I also request partnership with the Congress on a new tuition assistance program in cooperation with the D.C. National Guard.

The District of Columbia's Tuition Assistance Program (DCTAG) is a marquee federal initiative that was established by Congress in the 1999 District of Columbia College Access Act and has been and continues to be a tremendous success. This Program compensates the District for our lack of state university system that the entire country enjoys by allowing our high school college-bound students to attend out-of-state public universities at in-state tuition rates and providing them grants for attending selected private universities. Unfortunately, program costs have continued to grow rapidly due to rising tuition costs nationwide and rising program participation.

TAG currently provides grants up to \$10,000 annually for undergraduate District students to attend eligible four year public universities and colleges nationwide at in state tuition rates. It provides grants up to \$2,500 for students to attend a private institution in the D.C. metropolitan area and private historic black colleges and universities as well as public 2 year community colleges. In 2005, our students were enrolled in universities and colleges in 45 states across the country, the District of Columbia and the U.S. Virgin Islands.

The Tuition Assistance Program has had many successes. In June, 2004, the program graduated its first class. The second class graduated June of last year. For 75 percent of the students surveyed at Woodson High School in the District, TAG affected their decision to pursue post-secondary education and 65 percent have said that the program has affected their school choice. Also gratifying to me is that 55 percent of participants are the first members of their immediate family to attend college.

My budget request also includes, for the first time, a request for tuition assistance for the D.C. National Guard. This funding will match funding that I am providing in my local budget and allow the Guard to improve recruitment.

This budget also includes funding of \$40.8 million for the three sector education initiative, with funds provided to D.C. Public Schools, charter schools in the District of Columbia, and scholarships for private tuition throughout the District. This initiative continues to perform as designed by expanding choice for District parents and teachers and providing support to all our public schools.

Anacostia Waterfront

I would also like to discuss the tremendous work being conducted along the Anacostia Waterfront. First, let me thank you for your partnership thus far and ask for your continued partnership.

As you know, the District's authorization committees are currently considering the Federal and District Governments Real Property Act of 2005. This is a landmark initiative between our respective governments to rationalize land usage and set in motion projects that are to have a profound impact on public space and quality of life in the District of Columbia.

The President's budget includes \$20 million in funding for improvement at the Navy Yard Metro Station. This investment, which is modeled on other transit investments the federal government has made in the District, will help the federal government improve capacity for expanded federal workforce needs at the new U.S. Department of Transportation Headquarters and the Southeast Federal Center. The House of Representatives supported this initiative by providing funding within funding from the Transportation appropriations and I ask that you support this funding

proposal, although it is now outside your Committee's jurisdiction, as it shifts to the Senate.

Improving public access and for the tremendous natural amenities along the Anacostia River is a driving priority of my administration, but my vision for the revitalization of the Anacostia River will not be possible unless we clean up the river by fixing our combined sewer system that currently deposits waste into the river throughout the year. The D.C. Water and Sewer Authority is embarking on a 30-year plan to fix this system in order to drastically reduce pollution in our waterways. I ask that you support this critical program in the amount of \$7 million.

DEMOCRACY FOR THE NATION'S CAPITAL

Having outlined our budget objectives, it is important to keep in mind a District priority whose value is beyond fiscal measure, and that is our democratic rights. The District is the capital of the world's greatest democracy and it is the ultimate hypocrisy that its citizens suffer from the exact disenfranchisement this nation was founded to end.

The United States is continuing to promote, sacrifice, and invest to spread democracy worldwide, yet denies full democracy to more than a half a million people at its very heart. I urge you to end this injustice and provide the city with full voting representation in the Congress. Anything short of full democracy for our residents should be a personal outrage for all Americans.

In recent years, this subcommittee has successfully resisted efforts to add undemocratic social riders to our appropriations bill. No matter what any Senator's opinion may be on the topic at hand, we hope this body will respect the right of District residents to decide local matters, just as the residents do in our 50 states. We also hope this body will repeal riders that restrict our ability to make decisions about spending local funds on needle exchange programs and lobbying.

While the relationship between the Congress and the citizens of the District of Columbia is a unique and sometimes very challenging one, I very much appreciate the committee's willingness to work closely with us and to respect our local sovereignty.

This concludes my remarks today. Thank you for the opportunity to testify before you today and over the past several years. I look forward to answering any questions you may have.

Senator BROWNBACK. You might get more support for that congressional vote if you announced your candidacy.

Mayor WILLIAMS. Oh, no, I think Eleanor—Congresswoman Norton is doing a great job for us.

Senator BROWNBACK. She has. And if Eleanor is listening, I'm not backing the Mayor for this, and I'm not opposed to Eleanor Holmes Norton, who is a tenacious advocate for the District. I've been the recipient of her tenaciousness over many, many a session, and she does a great job for the District.

Chairwoman Cropp.

STATEMENT OF HON. LINDA W. CROPP, CHAIR, COUNCIL OF THE DISTRICT OF COLUMBIA

Ms. CROPP. Thank you very much, Chairman Brownback and to Senators Landrieu and Allard. It's indeed a pleasure for me to be here and testify on behalf of the citizens of the District of Columbia, and, of course, our Council. Thank you for submitting the entire testimony for the record, and I will just highlight a few points.

This year I asked Council members to apply certain goals in the fiscal year budget. Some of the main ones continue our fiscal discipline and look for efforts to revitalize our neighborhoods and looking for affordable housing as a way for us to strengthen the workforce and the middle class in the District of Columbia and to promote continued economic stability and growth in the District of Columbia.

As we look at certain issues, certainly the Mayor has mentioned many of them in which we have joint concerns and interests as op-

portunities for us to improve the District of Columbia. Education is probably the major issue, and the major one that needs to be strengthened as we continue the progress that we've experienced in the District of Columbia. Our budget reflects that, with quite a bit of budget increase in the area of education, whether it's in the programming aspect of it, or looking at our school facilities and recognizing that when you have facilities where the Herculean share of those buildings are 75 years in age or older, that we needed to have an infusion of support to modernize.

The tuition assistant grant program has been very successful since its inception 5 years ago. Almost 5,000 young people have had an opportunity for higher education. We ask the subcommittee to approve the dollars that are in the budget for that program.

Another aspect of the city's education initiative is to improve and repair our library systems. This is a high priority for the city. Many of our libraries are in need of extensive repair. There's also a need for improvement and upgrades in our services. We look at that as being one of the major components of making sure that the District continues its good progress that we've made over the past several years.

In support of major economic development efforts proposed in the 2007 budget, we continue to seek support from the Federal Government for development initiatives along the Anacostia Waterfront. It will in doing that help to bring life to a body of water and an area of the city that needs it, whether or not we're talking about our ward 6, our ward 7, and our ward 8 communities that abut the waterfront. And it would provide tremendous economic growth and development for those neighborhoods and for the city as a whole and just revitalize a whole area. So I would ask that the subcommittee include the \$5 million that is part of the District's request.

The Council also strongly supports the proposal for Federal funding of expanding and upgrading the Navy Yard Metro rail system. While the expansion of this station is essential to the new development programs, including the stadium that's going there, Federal funding for this expansion is especially justified due to the stadium's proximity to the 10,000 Federal employees who will be relocated to the new U.S. Department of Transportation headquarters there, and it would play a major role. Just as the Federal Government fully funded the expansion of the Mount Vernon Square Metro Station at the site of the new convention center, we ask for your support in this Navy Yard Station also.

I would also like to ask for continued Federal payment for the consolidated laboratory. This laboratory would allow the District to operate its own facility, conducting forensic testing for crime scenes. It also would provide a facility for analyzing evidence associated with bioterrorism activities. The District has used the FBI laboratory for a number of years. However, when there is a high level usage of the laboratory by the Federal authorities, the District's work is delayed. This has a direct impact on the resolution of crimes in the District of Columbia, including the identification of the criminals. The city continually works to reduce crime, and the ability to complete forensic analysis in a timely manner would aid the city in resolving crimes and putting criminals behind bars.

As the Nation's capital, the District is the prime target—or a prime target for terrorist activities. With the ever-increasing threat of these activities, the need for a forensic laboratory in the District that is readily available becomes more and more important. Therefore, I would ask this subcommittee to support the District's request for funding of the laboratory. The District, also as a primary target, particularly since we sit as the seat of Government for this great country, that we should not have a reduction in our Homeland Security budget. The threat level continues, and as the Nation's capital, we are a prime target.

One area where this subcommittee can help us address a health issue is to grant us the authority to expend our local funds on needle exchange. Such programs have resulted in reducing HIV transmissions without increasing drug use. In addition, such programs have had a positive impact on hepatitis infections. Other State and local governments across the country provide funding for needle exchange programs, and therefore have benefitted from the improved health statistics. While D.C.'s rate of HIV/AIDS infection is deplorable, we must use every avenue possible to protect our citizens. Our rate of infection is increasing, and as the Nation's capital it certainly is not acceptable. The District government would like to add these improvements to its health program, but we do need your help. I ask the subcommittee not to include any rider preventing the use of local funds for needle exchange programs.

And as the Mayor stated, it is extremely important that we get passage of the District of Columbia Fair and Equal Voting Representation Act. As we attend funerals for many of our neighbors and our relatives who are off fighting in a war to protect this country—in some instances, D.C. citizens have had more—the District has had more deaths of our citizens than some States, yet we do not have a vote to make a determination on whether or not we go off and fight that war. I would ask that you support the District of Columbia Fair and Equal Voting Representation Act so that the citizens of the District of Columbia would be franchised as every other citizen in this great country.

In closing, I would ask that you pass this year's budget request in time for the start for the new fiscal year, and that no extraneous riders be placed on the bill.

PREPARED STATEMENT

I want to thank you, Chairman Brownback, for this opportunity to share the Council's thoughts on the District budget and other issues important to this city. I look forward to working with you again on this year's appropriations legislation, and as always, we're available to answer any questions that you may have.

Senator BROWNBACK. Thank you very much, Chairwoman Cropp. I appreciate that, and I appreciate your kind demeanor as well. It's always appreciated.

[The statement follows:]

PREPARED STATEMENT OF LINDA W. CROPP

INTRODUCTION

Good morning, Chairman Brownback, Senator Landrieu and members of the Senate Appropriations Subcommittee on the District of Columbia. I am pleased to speak to you today about the District's appropriations and other operational items.

BUDGET GOALS AND FISCAL DISCIPLINE

This year I asked the councilmembers to apply the following goals in establishing the fiscal year 2007 budget: Fiscal Discipline, Revitalize Our Neighborhoods, Invest in Our Youth, Protect our Vulnerable Residents, Commit to Affordable Housing, Oversee Executive Performance of Service Delivery, Promote Continued Economic Stability and Growth, and Expand Home Rule and Democracy.

I would like to mention that the District Government, through the efforts of the Council and the Executive Branch, has continued its commitment to containing the growth of government through fiscal discipline. The Council has utilized various tools to achieve this discipline such as rainy day funds, economic triggers, to Pay-As-You-Go Capital Financing, financial safeguards, and the application of insurance and investment policies. These tools have yielded significant financial returns for the District including a growth in revenues, which are expected to yield a \$52.7 million surplus at the end of fiscal year 2006.

Through the efforts of the Council and the support of the Mayor, the District Government continues its commitment to its citizens to reduce taxes by implementing the final phase of the Tax Parity Act of 1999. Personal income tax will be reduced in fiscal year 2007 bringing a savings of \$51 million to citizens. In addition, further reductions in property taxes will be implemented in the next fiscal year bringing residents an additional savings of \$51.9 million.

BUDGET PROCESS AND HIGHLIGHTS

The total budget as approved by the Council is \$9.018 billion. Local dollars represent 56 percent or \$5.079 billion of the total budget. The federal portion of the District budget totals \$2.047 billion or 22.7 percent of the total budget. The budget process included 314 hours of public hearings. Citizens from across the city participated in these hearings as well as by contacting the Council via other communications to express their positions on the funding of programs.

Funding for Human Service programs was increased by \$94 million and \$50 million in additional funds were provided to implement recommendations from the Comprehensive Housing Strategy Task Force. Funds were also provided to hire an additional 100 police officers in our neighborhoods and \$81 million for road repair, school rehabilitation, recreation center improvements and other capital stock upgrades. In addition, the Council continued its commitment to our employees by allocating funds now for pay raises in fiscal year 2008 and setting aside additional funds for employee health and retirement benefits. This budget represents a reinvestment in the city and its future.

EDUCATION

The Council is committed to continuing to support improvements to the educational system in the District through its approval of the city's budget and other legislative proposals. The budget amount for public schools and public chartered schools for next fiscal year is \$1.2 billion. This represents nearly 17 percent of the proposed budget. Overall funding for public education for fiscal year 2007 was increased by \$104 million.

In addition, I introduced legislation, which is currently law that established a school modernization fund that dedicates revenue for the construction and modernization of school buildings. The law mandates the development of a master plan that would outline how the funds would be used in conjunction with requirements to consider consolidation and co-location of public schools and public charter schools, and development of special education and vocational education programs. In March the Council gave final approval to the School Modernization Financing Act of 2006. This act provides \$100 million in dedicated capital budget funds for the public school system for fiscal year 2007 with increases in the following four fiscal years.

The Tuition Assistance Grant Program has been very successful since its inception 5 years ago. It has provided 4,754 young people with an opportunity for higher education. As of the 2004/2005 academic year the program carried its first full five cohorts. I want to thank the President and the House Appropriations Committee for

including full funding for next fiscal year in their fiscal year 2007 proposed budgets. I ask this Committee to also approve the \$35.1 million for the program.

The Council supports the continuation of the federal payment for school improvement. The payment has been an important source of funds for improvements in curriculum, educational systems and training. The payment is essential to continuing the enhancements that both the District and Federal Governments want to see in the District schools.

Another important aspect of the city's education initiatives is to improve and repair our library system. This is a high priority for the city. Many of our libraries are in need of extensive repair. There is also a need for improvements and upgrades to our library services including updated collections and expanded operating hours. In addition, there are plans for construction of some new libraries, most specifically our main library. To help the city address these needs the President included \$30 million in his fiscal year 2007 budget. It is imperative that these funds be provided in order for the city to upgrade its library system. I would ask this Committee to include the \$30 million in funding in its District budget proposal.

ECONOMIC DEVELOPMENT

Last year the Mayor launched the New Communities and Great Streets initiatives. These initiatives are designed to decrease poverty and crime by creating mixed income neighborhoods that include affordable housing, and to create thriving neighborhood centers of business development along main corridors in the city. Over the last year the city has made progress under both of these initiatives. The Mayor has proposed in his fiscal year 2007 budget to continue these initiatives by enhancing the delivery of human and social services to the neighborhoods, and by providing business development funds for businesses that want to start or expand their operation. To support these initiatives the Council approved \$128.5 million in economic development funds, an increase of \$19.7 million over fiscal year 2006.

In support of the Mayor's economic development efforts the proposed fiscal year 2007 budget continues to seek support from the Federal Government for development initiatives along the Anacostia Waterfront and at the site of the new baseball stadium. The Anacostia Waterfront is one of the city's major projects for providing both business development, which includes the proposed baseball stadium, but also the park areas including the pedestrian and bicycle trails. This development also provides for the beautification of the city and its waterways. I would like to request that this Committee include the \$5 million included in the District's request.

The Council strongly supports the President's proposed federal funding for expanding and upgrading the Navy Yard Metrorail Station. While the expansion of this station is essential to the development of the new baseball stadium, Federal funding for this expansion is especially justified due to the station's proximity to the 10,000 Federal employees who will be relocated to the new U.S. Department of Transportation headquarters building, on top of the thousands of existing Defense Department employees currently employed at the Navy Yard. The expanded station will also be needed to service the other major commercial, retail and residential developments that are planned in the area, including the 5.2 million square foot mixed use community that is proposed for the Southeast Federal Center site. These are key development projects for the city that will provide many economic enhancements. Just as the Federal government fully funded the expansion of the Mount Vernon Square Metro station at the site of the new convention center, we ask your support for full funding of the expanded Navy Yard Metro Station.

One of the ways for the District to address its ongoing structural imbalance—which as you know was validated by the Congress' own Government Accountability Office—is to initiate development projects that will bring additional revenues to the city through an increased number of residents and businesses living, working and producing in the city. In his fiscal year 2006 budget the President proposed the transfer of certain vacant or underutilized federal land to the District as a way to begin to address the structural imbalance. Some of the land is along the Anacostia Waterfront, which would help the city build a world class recreational park, enhance access to the river and become a tourist attraction. Other parcels would provide additional park space as well as locations for housing and commercial development. The transfer of the proposed land would provide economic development opportunities consistent with the city's plans and assist the Mayor and the Council in moving the city forward. S. 1838, "Federal and District of Columbia Real Property Act of 2005," is currently pending before the Senate Committee on Homeland Security and Governmental Affairs. While this legislation is not before this Committee I would like to ask for your support of it when it does come up for a vote. The passage of

this legislation would have a major impact on the city's structural imbalance and financial stability.

Congress and the President have approved the BRAC recommendation for the closing of Walter Reed Army base. The GSA and the Department of State have requested the base for an office park and a new chancery enclave. While the District feels these proposed Federal Government uses provide much less economic benefit to the District, the Council supports the allocation of some portion of the land to the city for retail development that is needed for that area of the city.

OTHER FEDERAL PAYMENT ITEMS

I would like to ask for the continued federal payment for the consolidated laboratory. This laboratory would allow the District to operate its own facility for conducting forensic testing from crime scenes. It will also provide a facility for analyzing evidence associated with bioterrorism activities. The District has used the FBI's laboratory for a number of years. However, when there is a high level of usage of the laboratory by the federal authorities, the District's work is delayed. This has a direct impact on the resolution of crimes in the District, including the identification of the criminal. The city continually works to reduce crime. The ability to complete forensic analysis in a timely manner would aid the city in resolving crimes and putting criminals behind bars.

As the Nation's Capital, the District is a prime target for terrorist activities. With the ever-increasing threat of these activities the need for a forensic laboratory in the District that is readily available becomes more and more important. Therefore, I would like to ask this Committee to support the District's request for funding of the laboratory.

Because the District is a prime target for terrorist activities it is important that our allocation of Federal homeland security funds not be cut. The cut of \$31 million in this year's allocation for urban areas will put the District and the National Capital Region in sever jeopardy in the event of future terrorist attacks. I ask that money be restored to both the National Capital Region's allocation and to the District's state allocation.

One area where this Committee can help us address health issues is to grant us the authority to expend our local funds on needle exchange. Such programs have resulted in reducing HIV transmission without increasing drug use. In addition, such programs have had a positive impact on hepatitis infections. Other state and local governments across the country provide funding for needle exchange programs and have therefore benefited from improved health statistics. The District Government would like to add these improvements to its health program, but we need your help. I ask that the Committee not include any rider preventing the use of local funds for needle exchange programs.

VOTING REPRESENTATION

I would like to end my testimony with a final request for support of H.R. 5388, "District of Columbia Fair and Equal House Voting Rights Act of 2006." This bill would give the District a seat in the House of Representatives with full voting rights. The bill would maintain balance in the House by also giving Utah an additional congressional seat.

Voting representation in Congress is a right to long denied to the residents of the District of Columbia. It continues to be unconscionable to the citizens of the District that they are denied the basic right held by every other citizen of the United States, that is, the constitutional right to be represented—to have a voice—a vote—in the Congress of the United States. While our residents fight for the freedom and right of representation for people in other countries like Iraq and Afghanistan our citizens are denied that same right here in the nation's capital. As a leader of the free world we should set an example for providing all citizens the rights of citizenship. This Congress should rectify the denial of this basic right.

CLOSING

In closing I would like to ask that you pass this year's budget request in time for the start of the new fiscal year and that no extraneous riders be placed on the bill.

I thank you Chairman Brownback for this opportunity to share my thoughts on the District's budget and other issues important to the city. I look forward to working with you again this year on the city's appropriations legislation. I am available for any questions you may have.

Senator BROWNBACK. Dr. Gandhi, you're up, and I'm afraid you guys are batting at the bottom of the order, and I really hope you can just summarize things so we can get to some questions, because with these stacked votes starting at 11, we'll be able to go until probably about 11:15, and then I'm going to shut the hearing down.

**STATEMENT OF DR. NATWAR GANDHI, CHIEF FINANCIAL OFFICER,
DISTRICT OF COLUMBIA**

Dr. GANDHI. Mr. Chairman, I'm not going to read at all anything. I just wanted to draw your attention, sir, to the chart that I have brought with me. And it is quite fitting that we are here with this chart, this being the Mayor's last testimony here. This basically had happened, this dramatic financial recovery that has happened since 1995, is entirely under the Mayor's watch, since he was a Chief Financial Officer appointed in 1995 and after that, the Mayor. Obviously, the great credit goes to the Mayor and also to the Council headed by Council Chairman Cropp, and the congressionally mandated Control Board.

The only point that I would like to suggest here is that in the mid-1990s we had about \$518 million deficit in our fund balance. Today, we are enjoying \$1.6 billion surplus in our fund balance. That's about a \$2.2 billion turnaround. Other cities that have gone through such experience, Philadelphia, New York, and other cities, none has been able to come back as fast and as well as this city has. So it's a great, great credit to our elected leaders and the Congress that made it all possible. We were rated junk bonds in the mid-1990s; today we enjoy an A plus rating from all rating agencies, and with a positive outlook, meaning that it will go up again.

PREPARED STATEMENT

This is remarkable. And one last factoid here is that we enjoy currently about \$300 million of cash reserve for the foreseeable future in terms of our financial plan. No other city, State, or jurisdiction has that level of reserves, cash reserves, as a percentage of budget. So this is a remarkable recovery on the part of the District. And again, credit goes to the Mayor, our Council, the Control Board, and the great attention that the Congress has devoted to the District, particularly this committee.

We appreciate your interest, Senator Landrieu, Mr. Chairman, thank you.

[The statement follows:]

PREPARED STATEMENT OF NATWAR M. GANDHI

Good morning, Chairman Brownback and members of the subcommittee. I am Natwar M. Gandhi, Chief Financial Officer for the District of Columbia, and I am here to offer brief remarks about the Fiscal Year 2007 Proposed Budget and Financial Plan for the District.

First, I will summarize the fiscal recovery over the past decade and discuss some of the highlights of the fiscal year 2007 budget request and the 5-year plan. I will also address our capital spending needs and the continuing structural imbalance—that is, the mismatch between capital spending needs and the ability to raise local revenues sufficient to fund those needs. Finally, I will address our on-going commitment to remain fiscally balanced in the future.

FISCAL RECOVERY 1996–2005

The chart that appears as Attachment A to my testimony and that appears here before you is a history of the remarkable fiscal comeback achieved by the District over the past decade. Our fiscal low point occurred in fiscal year 1996, when the General Fund balance hit a negative \$518 million. Through the efforts of Mayor Williams, the District Council and the Congressionally-mandated Control Board, we were able repeatedly to balance the District's fiscal operations, and the Control Board was de-activated in 2001. Between fiscal year 1996 and the end of fiscal year 2001 there had been a \$1.1 billion increase in the fund balance, to a positive \$562 million by the end of fiscal year 2001. The real test for the District was the challenge of sustaining fiscal stability in the post-control period. As you can see, at the end of fiscal year 2005, the General Fund balance had risen another \$1.0 billion, to \$1.6 billion total. Of the \$2.1 billion increase in General Fund balance between fiscal year 1996 and fiscal year 2005, the amount of gain since the control period ended was about equal to the gain during the control period, demonstrating the commitment of the District's leadership to ongoing fiscal restraint.

The measure of this success is reflected in the District's bond ratings. All three rating agencies—Fitch Ratings, Moody's Investors Service, and Standard & Poor's—recognize the improved creditworthiness of our bonds by raising the District's bond ratings from "junk bond" status during the control period to "A" category ratings—the highest level ever achieved by this jurisdiction. It is notable that compared to other major cities that experienced periods of financial stress, including New York, Philadelphia, Cleveland and Detroit, this turnaround is the fastest in terms of both the time it took to return to investment grade, and the time to achieve their highest ratings (helped in part by our strong local economy, which added tax revenues that were used to provide essential services to our population).

A great deal of the increase in fund balance was driven by the growth in local revenues, specifically by real estate, income and sales taxes resulting from the strong regional economy. Table 1 below shows a comparison of tax revenues, General Fund balance and reserve funds in fiscal year 1996 compared to fiscal year 2005 that reflects the revenue growth and prudent financial management that contributed to the increased General Fund balance.

TABLE 1.—COMPARISON OF KEY FINANCIAL MEASURES

[Dollars in thousands]

	Fiscal year 1996	Fiscal year 2005
Tax Revenues	\$2,402,521	\$4,052,087
Operating Surplus/(Deficit)	(\$33,688)	\$369,668
General Fund Balance	(\$518,249)	\$1,584,683
Reserves Available for Operations ¹	(\$332,357)	\$428,900
Operating Reserves as percent of Expenditures (percent)		8.5

¹ Includes Congressionally-mandated Emergency and Contingency Reserves plus unreserved undesignated General Fund balance.

REVENUE OUTLOOK

The current economic outlook for the District similar to that projected for the nation as a whole is that of steady growth in employment, wages, and income. Continued high levels of federal spending and contracting benefit the District because so many of these dollars are spent here. Retail activity will continue to improve, as the number of retail outlets in the District continues to grow and as shoppers increase their spending.

In fiscal year 2007, District general fund resources are forecasted to be \$5.565 billion, an increase of \$167 million above the fiscal year 2006 approved budget. These amounts include local fund revenue, special purpose fund revenue, as well as proposed revenue enhancements and appropriated fund balance.

The direction of the market for real property is a key question for the District in fiscal year 2006 and on into fiscal year 2007. Rising real estate assessments and transactions were major sources of revenue gains in fiscal years 2003 through 2005. The fundamentals affecting the District's real estate markets remain strong; the District's economy is growing, individuals and businesses both continue to demonstrate a desire to locate in the District, and the supply of housing and land for commercial development cannot increase very rapidly. Accordingly, the contributions of the real estate sector are expected to be significant in fiscal year 2006 and fiscal year 2007, as well, but the greater strength will be in the real property tax that is based on property valuation with a 2-year lag. Deed recordation and transfer

taxes are expected to drop a bit, in keeping with the moderation in the volume of current year transactions in real property.

HIGHLIGHTS OF FISCAL YEAR 2007 PROPOSED BUDGET AND FISCAL YEAR 2007-FISCAL YEAR 2010 FINANCIAL PLAN

The fiscal year 2007-fiscal year 2010 Financial Plan appears as Attachment B. Each of the four years is balanced. Tax revenues are projected to increase an average 5.8 percent per year and total local fund recurring revenues an average 5.4 percent. Total local fund resources are projected to increase an average 4.2 percent per year and total local fund expenditures an average 4.0 percent per year. Incorporated in the plan is the final phase of "tax parity" that the Mayor and Council initiated in 1999 to lower income tax rates and achieve better balance between D.C. and its neighbors. The plan also accommodates a major new expenditure starting in fiscal year 2008, namely, the required actuarial payment for post employment retirement benefits, thereby complying with the GASB requirement. It should be noted that the District was among the forefront of municipalities to recognize and provide for this liability. It put aside approximately \$140 million in 2006, about two years earlier than required.

The District's fiscal year 2007 proposed budget includes \$5.022 billion in local-funds spending supported by \$5.020 billion of local revenues, with an operating margin of \$1.8 million. (See Attachment C.)

The Council's approved total local fund operating expenditures for fiscal year 2007, not including Paygo capital, Enterprise Funds or transfers to OPEB, is \$4,927.8 million, an increase of \$377.2 million or 8.3 percent over fiscal year 2006 approved expenditures of \$4,550.6 million.

GROSS FUNDS BUDGET

The proposed fiscal year 2007 gross funds operating budget is \$7.608 billion, an increase of \$255.7 million, or 3.5 percent, over the approved fiscal year 2006 gross funds budget of \$7.352 billion. The fiscal year 2007 appropriation is primarily due to higher funding levels for federal grants (\$98.9 million) including Medicaid, and in programs supported by user fees, fines, the dedicated portion of deed recordation and transfer taxes transferred to its own separate fund (for housing production), and other special purpose revenues (\$29.5 million). The local and non-local funding components of the proposed fiscal year 2007 gross funds budget and the changes from fiscal year 2006 are summarized in Table 2 below.

TABLE 2.—FISCAL YEAR 2007 GROSS FUNDS BUDGET BY FUND TYPE

[Dollars in millions]

Fund Type	Fiscal year—		Change	Percent change
	2006	2007		
Local	\$4,949.5	\$5,086.2	\$136.7	2.8
Federal	\$1,939.1	\$2,038.0	\$98.9	5.1
Private Grants	\$16.2	\$6.8	(\$9.4)	(58.0)
Special Purpose	\$447.1	\$476.6	\$29.5	6.5
Total Gross Funds	\$7,351.8	\$7,607.6	\$255.7	3.5

GENERAL FUND BALANCE USE

It is the function of government to provide badly needed services. With this in mind, the fiscal year 2006 budget included provisions for spending a portion of the funds that had accumulated over the years as a result of unprecedented growth in local revenues. This drawdown of fund balance was largely driven by one-time spending on capital needs and programs. As approved, the fiscal year 2006 budget uses \$467 million of local fund balance, and we currently estimate a net reduction by September 30, 2006 of roughly \$544 million in the General Fund balance. It should be noted that despite this reduction in cumulative fund balance, the District will still retain about \$350 million in operating reserve every year throughout the 5 year budget and financial plan. (See Attachment G.)

The fiscal year 2007 proposed local funds operating budget includes a proposal to use another \$176 million of fund balance. The use of these monies is for non-recurring expenditures: \$46.5 million for school modernization in fiscal year 2007; \$88.0

million for Paygo capital to fund various capital projects; and \$41.9 million for various one-time operating program enhancements.

CAPITAL SPENDING

The District continues to face a wide variety of infrastructure needs, placing great demands on its Capital Improvements Plan (CIP). The total proposed expenditures in the fiscal year 2007–2012 CIP is \$3.193 billion (excluding the Highway Trust Fund, Local Streets Fund, and special financings). This six-year plan includes a net increase in budget authority of \$2.341 billion from all sources.

The fiscal year 2007 capital program includes \$662.5 million in planned capital expenditures financed by \$399.7 million in newly issued G.O. bonds, \$188.0 million of pay-as-you-go (Paygo) transfers from the general fund balance, and \$74.8 million of Master Equipment Lease financing.

Despite this effort to fund the District's considerable capital needs, I must again point out to the Committee that this government continues to struggle to function under a structural imbalance. This means that D.C.'s revenue capacity, under national norms, falls far short of the cost of delivering services assuming average efficiency, again as measured by national norms. The reasons lie in high regional costs for labor, land, and other resources; in a large population in need; and in accumulated infrastructure deficiencies. D.C.'s fiscal stress is confirmed by the GAO in its 2003 study of the District's finances. This study is an extensive analysis comparing D.C.'s revenue and expenditure bases to those of state and local jurisdictions all across the United States. From every perspective on structural imbalance examined by GAO, the District is at or near the top of the most burdened jurisdictions in the nation.

Although the District has made great strides in fiscal management and in providing better services, two difficult consequences of the structural imbalance between the District's revenue base and its spending requirements remain. These are: (1) a high per capita tax burden with some of the highest tax burdens in the region and the country; and (2) the highest per capita borrowing. D.C.'s tax burden on households ranks in the upper one-third when compared to the largest cities in the United States (for total state and local burden of sales, income, property, and automobile taxes) according to a highly-regarded annual study, prepared by my office, comparing tax burdens in D.C. to those of the largest city in each state.¹

The burden is greater on businesses. The District's tax rate on net business income is 9.975 percent (compared to 7.0 percent in Maryland, 6.0 percent in Virginia, and exceeded by only 2 states, Alaska and Iowa); the gross receipts tax on public utilities used by businesses is 11 percent (compared to 2 percent in Maryland and 1 percent in Virginia); and the real property tax on commercial property is \$1.85 per \$100 of value as compared to a range of \$0.92 to \$1.16 in neighboring suburbs.

The GAO ranks the District's tax burden among the very highest in the country:

"The District's tax burden (actual revenue collected from local resources relative to their own-source revenue capacity) is among the highest of all fiscal systems The District's actual tax burden exceeded that of the average state fiscal system by 33 percent, based on our lower estimate of its own-source revenue capacity, and by 18 percent, based on our higher estimate of that capacity."²

There is no way for the District to tax its way out of structural imbalance—indeed, higher taxes simply make the problem worse.

The District's very high per capita borrowing reflects the city's effort to sustain infrastructure generally provided by multiple jurisdictions. The District's per capita tax-supported debt burden exceeds \$8,000, the highest of any major city in the nation. Clearly, we cannot borrow our way out of the structural imbalance.

Challenges may arise, however, adding to D.C.'s structural imbalance in coming years. First, all state and local revenue systems are stressed by the changing nature of the economy, as it evolves more into a service oriented economy. Because state and local tax systems were developed around the manufacturing and sale of goods, the old ways of gathering tax revenue are increasingly inadequate to the newer economy. The revenue challenge is made even greater in the District by the Federal prohibitions against taxing incomes earned by non-residents workers and incomes earned by certain professional services. Additionally, a recent court finding chal-

¹ Government of the District of Columbia, Office of the Chief Financial Officer, *Tax Rates and Tax Burdens in the District of Columbia, A Nationwide Comparison*, various years. This annual study is the basis for many public uses, such as an annual analysis by Money Magazine, and has been cited in the New York Times, Wall Street Journal, CNN, and many other places.

² GAO-03-666, District of Columbia, Structural Imbalance and Management Issues, May 2003, page 41.

lenges the District's capacity to tax any unincorporated business income generated in the District except as reported on the individual returns of residents. Already the partnership income of residents that is earned elsewhere is exempt from taxation here.

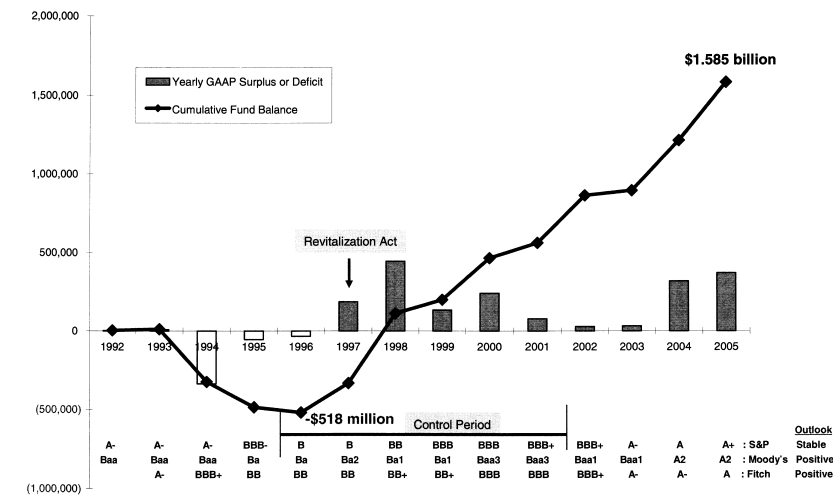
Second, the District has a large urban population that needs help. Census data for 2004 estimate the D.C. poverty rate at about 19 percent, the fourth highest in the nation when compared to states, after Mississippi, Louisiana, and New Mexico. Of D.C.'s 248,563 households, 18 percent have income of less than \$15,000.³ Median household income is about \$46,600—in a metropolitan area with median household income of about \$70,400.⁴ Only about a third of D.C.'s households are at or above the metropolitan median. Like other cities, D.C. is accountable for greater efforts to help the less advantaged in the city's population. Unlike other cities, however, the District does not have a State or suburbs that share in its overwhelming costs. The proposed fiscal year 2007 budget works hard to manage the expenditure needs and fiscal requirements of the District's lower income population.

CONCLUSION

The leadership provided by the Mayor and the Council, along with the hard work of the Office of the Chief Financial Officer, allowed us to produce this balanced budget for fiscal year 2007. As a result, we are certifying that the fiscal year 2007 budget and financial plan, as proposed, is balanced for fiscal year 2007 and beyond. I would like to thank this committee for its diligent and continuous oversight work on the District's finances during this sustained recovery period. We look forward to continuing to work with you and the subcommittee during the forthcoming budget deliberations.

ATTACHMENT A

★★★ Surplus and Bond Rating History



³American Community Survey, 2004.

⁴American Community Survey, 2004 and Economy.com, 2004.

ATTACHMENT B.—FISCAL YEAR 2007–2010 PROPOSED BUDGET AND FINANCIAL PLAN: GENERAL FUND

[In thousands of dollars]

	Fiscal Year—					
	2005 Actual	2006 Approved	2006 Adjusted	2007 Proposed	2008 Projected	2009 Projected
Revenues:						
Taxes	4,052,087	4,101,533	4,157,782	4,412,599	4,676,088	4,949,484
General Purpose Non-Tax Revenues	352,427	340,522	315,226	317,277	317,138	325,336
Dedicated Taxes—Housing Production Trust Fund .....	.....	.....	.....	50,587	53,255	58,103
Special Purpose (O-type) Revenues	311,789	264,254	354,667	368,657	364,748	361,830
Transfer from Lottery	71,450	73,100	72,000	72,100	72,100	72,100
General Fund Revenues	4,787,753	4,779,409	4,899,675	5,221,220	5,483,329	5,766,853
Effect of Tax Changes .....	.....	.....	(908)	(276)	(307)	(346)
Gross Sales Tax Dedicated for School Modernization .....	.....	.....	.....	(100,000)	(106,000)	(112,360)
Adjusted General Fund Revenues	4,787,753	4,779,409	4,898,767	5,120,944	5,377,022	5,654,147
Bond Proceeds for Issuance Costs	4,835	40,000	40,000	30,000	30,000	20,000
Payment-in-Lieu-of-Taxes from WASA .....	.....	1,576	1,576	1,551	.....	.....
Transfer from Federal and Private Resources .....	.....	6,502	6,502	6,502	6,646	6,807
Transfer from HPIT Special Revenue Fund for Debt Service .....	.....	.....	.....	6,000	12,000	12,000
Transfer from Capital Funds (Bus Shelter Revenue) for Debt Svc .....	.....	.....	.....	2,091	17,526	18,097
Fund Balance Use	80,781	591,642	605,662	284,287	65,385	8,399
Transfer to Capital .....	.....	(30,000)	.....	.....	.....	.....
Revenue Proposals .....	.....	8,729	.....	113,268	137,307	139,470
Total General Fund Resources	4,873,469	5,397,858	5,552,507	5,564,643	5,645,886	5,858,920
Expenditures (by Appropriation Title):						
Governmental Direction and Support	294,778	340,858	344,033	384,759	378,512	388,375
Economic Development and Regulation	193,456	328,156	347,356	288,974	254,273	256,226
Public Safety and Justice	805,471	827,037	838,654	943,295	961,120	990,839
Public Education System	1,082,177	1,189,302	1,189,051	1,223,971	1,245,784	1,277,734
Human Support Services	1,258,537	1,307,530	1,357,342	1,423,138	1,475,718	1,545,283
Public Works	328,997	366,101	366,100	405,318	412,268	426,723
						443,714

Financing and Other	421,070	561,276	552,287	586,296	670,135	710,075	758,932
Cash Reserve (Budgeted Contingency) .....	.....	50,000	48,400	50,000	50,000	50,000	50,000
Lease Purchase Costs	22,058	27,441	27,441	43,955	46,320	49,320	51,320
Subtotal, Operating Expenditures	4,406,544	4,997,701	5,070,664	5,349,706	5,494,131	5,694,574	5,924,669
Paygo Capital	20,550	207,083	208,523	87,987	.....	.....	.....
Transfer to Trust Fund for Post-Employment Benefits .....	.....	138,000	138,000	4,700	81,000	86,200	91,800
General Fund Contribution to Capital Fund Balance .....	.....	53,800	53,800	.....	.....	.....	.....
Transfer to HPTF Special Revenue Fund .....	.....	.....	.....	120,418	69,255	75,644	83,424
Total General Fund Expenditures	4,427,094	5,396,584	5,470,987	5,562,811	5,644,386	5,856,418	6,099,893
Operating Margin, Budget Basis	446,375	1,274	81,520	1,832	1,500	2,501	42,349
Beginning General Fund Balance	1,215,015	1,584,683	1,584,683	1,040,541	738,086	654,201	628,304
Operating Margin, Budget Basis	446,375	1,274	81,520	1,832	1,500	2,501	42,349
Projected GAAP Adjustments (Net)	4,074	(20,000)	(20,000)	(20,000)	(20,000)	(20,000)	(20,000)
Deposits into Reserve Funds (From Fund Balance) .....	.....	.....	.....	.....	(34,524)	.....	.....
Deposits into Reserve Funds (To Cash Reserves) .....	.....	.....	.....	.....	34,524	.....	.....
Fund Balance Use	(80,781)	(591,642)	(605,662)	(284,287)	(65,385)	(8,399)	.....
Ending General Fund Balance	1,584,683	974,315	1,040,541	738,086	654,201	628,304	650,653
Composition of Fund Balance:							
Emergency Cash Reserve Balance (2 percent, formerly 4 percent)	70,532	84,622	70,532	73,001	102,004	103,154	103,452
Contingency Cash Reserve Balance (4 percent, formerly 3 percent)	182,905	169,244	182,905	189,307	204,008	206,308	206,904
Fund Balance not in Emergency & Contingency Reserves	1,331,246	720,449	787,104	475,779	348,189	318,842	340,297
Ending General Fund Balance	1,584,683	974,315	1,040,541	738,086	654,201	628,304	650,653

	Fiscal Year—						
	2005 Actual	2006 Approved	2006 Ad-justed	2007 Proposed	2008 Projected	2009 Projected	2010 Projected
Revenues:							
Taxes	4,052,087	4,101,533	4,157,782	4,412,599	4,676,088	4,949,484	5,224,222
General Purpose Non-Tax Revenues	352,427	340,522	315,226	317,277	317,138	325,336	325,095
Transfer from Lottery	71,450	73,100	72,100	72,100	72,100	72,100	72,100
Local Fund Revenues	4,475,964	4,515,155	4,545,008	4,801,976	5,065,326	5,346,920	5,621,417
Effect of Tax Changes .....	.....	.....	— 908	— 276	— 307	— 346	— 388
Gross Sales Tax Dedicated for School Mod .....	.....	.....	.....	— 100,000	— 106,000	— 112,360	— 119,102
Adjusted Local Fund Revenues	4,475,964	4,515,155	4,544,100	4,701,700	4,959,019	5,234,214	5,501,927
Bond proceeds for Issuance Costs	4,935	40,000	40,000	30,000	30,000	20,000	20,000
Payment-in-Lieu-of-Taxes from WASA .....	.....	1,576	1,576	1,351	.....	.....	.....
Transfer from Federal and Private Resource .....	.....	6,502	6,502	6,502	6,646	6,807	6,979
Transfer from Enterprise Fund (HPTF) for D .....	.....	.....	.....	6,000	12,000	12,000	12,000
Transfer from Capital Funds (Bus Shelter R .....	.....	.....	.....	2,091	17,526	18,097	18,455
Fund Balance Use: to Replace Dedicated .....	.....	.....	.....	46,477	65,385	8,399	.....
Fund Balance Use: Transfers to Capital and .....	.....	.....	.....	87,987	.....	.....	.....
Fund Balance Use: One-time Expenditures	67,325	390,700	390,700	87,987	.....	.....	.....
Transfer to Special Purpose Revenues .....	.....	79,542	79,542	41,866	.....	.....	.....
Transfer to Capital .....	.....	— 54,395	.....	.....	.....	.....	.....
Revenue Proposals—Tax Compliance Initiat .....	.....	— 30,000	.....	49,000	70,000	66,000	64,250
Revenue Proposals—Council actions incl. d .....	.....	.....	.....	49,117	51,307	55,928	61,558
Revenue Proposals/One-time Revenue .....	.....	4,976	.....	.....	.....	.....	.....
Total Local Fund Resources	4,548,224	4,950,744	5,062,420	5,022,291	5,211,883	5,421,445	5,685,179
Expenditures (by Appropriation Title):							
Governmental Direction and Support	272,404	296,632	299,807	330,101	331,262	341,504	352,096
Economic Development and Regulation	84,178	101,629	120,829	128,468	115,521	118,584	121,736
Public Safety and Justice	782,797	789,785	781,402	888,003	913,322	943,423	974,589
Public Education System	1,074,120	1,177,599	1,177,348	1,203,492	1,228,081	1,260,172	1,293,208
Human Support Services	1,229,443	1,273,676	1,323,488	1,369,566	1,429,407	1,499,342	1,574,001
Public Works	317,426	316,374	316,373	351,396	365,654	380,482	395,964
Financing and Other	421,070	537,452	528,463	562,791	649,816	689,918	738,117
Cash Reserve (Budgeted Contingency) .....	.....	50,000	48,400	50,000	50,000	50,000	50,000

Lease Purchase Costs	22,058	27,441	27,441	43,955	46,320	49,320	51,320
Subtotal, Operating Expenditures	4,203,496	4,550,588	4,623,551	4,927,772	5,129,383	5,332,745	5,551,031
Paygo Capital	20,550	207,083	208,523	87,987	.....	.....	.....
Transfer to Trust Fund for Post-Employment .....	.....	138,000	138,000	4,700	81,000	86,200	91,800
Local Fund Contribution to Capital Fund Bal .....	.....	53,800	53,800	.....	.....	.....	.....
Total Local Fund Expenditures	4,224,046	4,949,471	5,023,874	5,020,459	5,210,383	5,418,945	5,642,831
Operating Margin, Budget Basis	324,178	1,273	38,546	1,832	1,500	2,500	42,348

ATTACHMENT D.—HOUSING PRODUCTION TRUST FUND: DEDICATED TAXES COMPONENT OF THE GENERAL FUND FINANCIAL PLAN

[In thousands of dollars]

	Fiscal Year—					
	2005 Actual	2006 Approved	2006 Ad-justed	2007 Proposed	2008 Projected	2009 Projected
Revenues:						
Dedicated Taxes—HPTF	50,587	53,255	58,103
Revenue Policy Proposals	15,151	16,000	17,542
Total Dedicated Taxes—HPTF	65,738	69,255	75,644
Expenditures (by Appropriation Title):						
Governmental Direction and Support
Economic Development and Regulation
Public Safety and Justice
Public Education System
Human Support Services
Public Works
Financing and Other
Subtotal, Operating Expenditures
Transfer to HPTF Special Revenue Fund	65,738	69,255	75,644
	83,424

ATTACHMENT D.—HOUSING PRODUCTION TRUST FUND: DEDICATED TAXES COMPONENT OF THE GENERAL FUND FINANCIAL PLAN—Continued

[In thousands of dollars]

	Fiscal Year—				
	2005 Actual	2006 Approved	2006 Ad-justed	2007 Proposed	2008 Projected
Total Dedicated Taxes—HPTF Expenditures					
Operating Margin, Budget Basis				65,738	75,644
					83,424

ATTACHMENT E.—SPECIAL PURPOSE REVENUE COMPONENT OF THE GENERAL FUND FINANCIAL PLAN

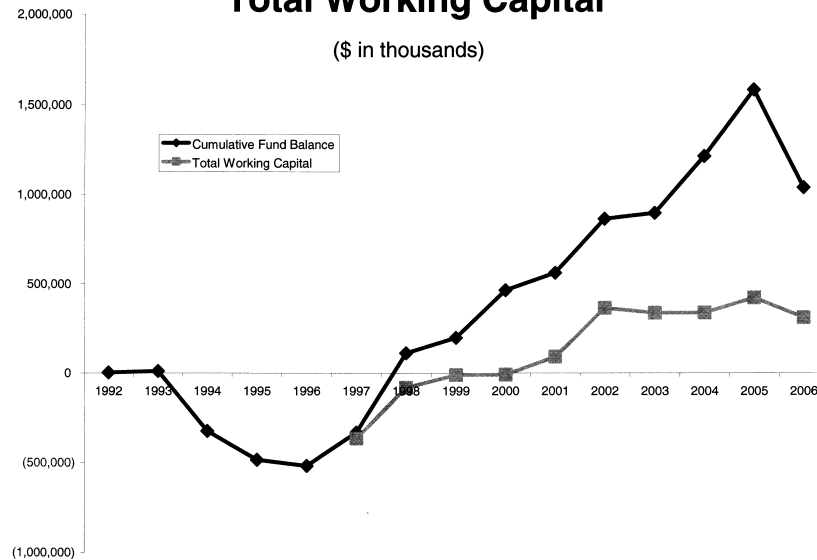
[In thousands of dollars]

	Fiscal Year—				
	2005 Actual	2006 Approved	2006 Ad-justed	2007 Proposed	2008 Projected
Revenues:					
Special Purpose (O-type) Revenues					
General Fund Revenues	311,789	264,254	354,667	368,657	361,830
Fund Balance Use	311,789	264,254	354,667	368,657	361,830
Fund Balance Certified but not used	13,456	124,712	135,420	109,875	
Transfer from Local Revenues				— 1,918	
Revenue Proposals/One-time Revenue		54,395			
		3,753			
Total General Fund Resources	325,245	447,114	490,087	476,614	361,829
					373,638
Expenditures (by Appropriation Title):					
Governmental Direction and Support	22,374	44,226	44,226	54,658	46,871
Economic Development and Regulation	109,278	226,527	226,527	160,506	137,642
Public Safety and Justice	22,674	57,252	57,252	55,292	47,416
Public Education System	8,057	11,703	11,703	20,479	17,562
Human Support Services	29,094	33,854	33,854	53,572	45,941
Public Works	11,571	49,727	49,727	53,922	46,241
Financing and Other		23,824	23,824	23,505	20,157
Subtotal Operating Expenditures	203,048	447,114	447,113	421,934	361,829
					373,638

ATTACHMENT F.—FEDERAL AND PRIVATE RESOURCES FINANCIAL PLAN—Continued
[In thousands of dollars]

	Fiscal Year—					
	2005 Actual	2006 Approved	2006 Ad-justed	2007 Proposed	2008 Projected	2009 Projected
Operating Margin, Budget Basis	18,722	.....	.....	.....	.....	.....
Projected GAAP Adjustments (Net)	3,038	.....	.....	.....	.....	.....
Fund Balance Use	— 43,420	.....	.....	.....	.....	.....
Ending Federal & Private Fund Balance	117,947	117,947	117,947	117,947	117,947	117,947

Projected Fund Balance vs. Total Working Capital



Senator BROWNBACK. So we're going to be able to cut our Federal contribution to the city then, Dr. Gandhi?

Dr. GANDHI. No, sir. That is part of the testimony that I would love to read. We still enjoy—

Senator BROWNBACK. Maybe we should put you in charge of the OMB for the Federal Government?

Senator LANDRIEU. Now, that's an idea. If you're available after this term, maybe you could help us out, because we're going in the opposite direction.

Dr. GANDHI. I am waiting for an offer I cannot refuse.

Senator BROWNBACK. It's a great report. That's good news.

Dr. Janey.

STATEMENT OF DR. CLIFFORD B. JANEY, SUPERINTENDENT, D.C. PUBLIC SCHOOLS

Dr. JANEY. Yes, sensitive to the time factor, I am not going to read excerpts of my testimony, just give you a sense of the summary in terms where we are, and where we are headed. So I'll put this aside. It's available for the record, of course.

Chairman Brownback, Senator Landrieu, I am pleased to be here to advance our portion of our city's budget, just over \$1 billion. I can report to you that we are still driven by three major objectives. A relentless pursuit to advance our student achievement. We've created a new assessment process this past spring and used it for the first time. Typically, the States take 3 to 5 years to do so. We did this in less than 1 year. We have seen some progress on our SATs, and the number of students scoring three, four, or five on the advanced placement. And looking at the previous assessment

we used to compare 2003 to 2004, we advanced the number of schools making AYP District-wide from 63 to 72.

With respect to goal number two which we are driven by, and that is to repair, restore, and rehabilitate, in some instances, our anemic business systems, in cooperation and collaboration with Dr. Gandhi's office and Suzeane Peck's office in the area of technology, we have completed the automation of all of our procurement system as part of a major program that we advanced in the last 18 months. It means particularly that schools can order supplies now in full cycle in about 8 days, and typically in the past it would have taken, just for the complete cycle of ordering, 30 to 45 days.

We are now moving forward to modernize our human resource department and our payroll system. As you know, we have made some advancement in reducing the excess space in our buildings.

PREPARED STATEMENT

And, thirdly and finally, we continue to stay focused on connecting schools, families, and communities. We will be opening up parent resource centers strategically located throughout the District of Columbia, creating greater access of information and, tying to the point that Mayor Williams mentioned, connecting our efforts, not only in the area of early childhood, with the city, but also in terms of waging what we think is an important war on adult illiteracy. And that gives you some context without actually reading my testimony.

And I sit here along with my colleagues to respond to questions.
[The statement follows:]

PREPARED STATEMENT OF DR. CLIFFORD B. JANEY

Thank you very much, Chairman Brownback, ranking member Landrieu and members of the committee. I am Clifford B. Janey, Superintendent of Schools for the District of Columbia Public Schools.

I welcome the opportunity to appear before you to discuss the progress being made in the District's public schools and how that progress will be supported by the proposed fiscal year 2007 budget.

The District of Columbia Public Schools has a diverse student population with equally diverse academic needs. Twelve percent of our students come from homes that represent more than 135 countries, and where more than 121 languages are spoken.

Our student population ranges from children with special needs, to those who are advanced learners who need progressive academic challenges in order to keep them motivated to move to higher achievement levels.

The fiscal year 2007 proposed budget for the District of Columbia public school as advanced by the city includes a total operating budget of over \$1 billion, comprised of \$808.3 million in local funding, \$156.1 million federal, \$4.7 million private, \$10 million in revenue generating accounts and \$52.2 million in intra-District funding which represents a two percent (2 percent) decrease from the fiscal year 2006 approved budget. While the proposed funding levels will allow us to continue making progress in creating a sound and stable foundation for academic success in the District of Columbia Public Schools, this does not come without tough choices. I will discuss later the many efforts that are underway to better align our funding with our strategic goals as we continue to look for opportunities to maximize our resources.

Over the last fiscal year, we have implemented new and more rigorous academic standards in reading/language arts and mathematics. Within the next month, we will release the results of the new student assessment based on those standards, and early results are encouraging. We have also recently adopted standards for science and social studies are pending final approval by the board.

As it now stands, last year:

- The number of schools meeting adequate yearly progress (AYP) in both reading and math increased District wide; increasing from 63 schools in school year (SY) 2003–04 to 72 schools in SY 2004–05. At the elementary level, the number of schools meeting these targets increased from 55 to 58 and at the secondary level from 8 to 14.
 - Student attendance also increased, rising from 85 to 89 percent district wide.
 - Additionally, English language learners dramatically improved their proficiency in both reading and math; rising from 30.8 percent to 50.4 percent in reading; and from 50.8 percent to 56.4 percent in math.
- We are also moving in the right direction on national benchmarks.
- DCPS is one of 11 Districts to participate in the national assessment of educational progress (NAEP) trial urban District assessment (TUDA).
 - As illustrated in the recent report from the council of great city schools, titled “Beating the Odds,” we have reduced the gap between students performing below basic and those scoring at proficiency on the NAEP: the percentage of students scoring below basic decreased by 9 percent. And the percentage of students scoring at proficient levels increased by 3 percent.
- We also continue to make progress in our ability to prepare students for success in postsecondary experiences.
- The number of students taking advanced placement (AP) courses has increased from 818 to 832. Moreover, the number of students scoring 3, 4 or 5 on AP exams has increased from 531 to 549; with a 17 percent increase among males alone.
 - In addition, we have seen a slight increase in student performance on the scholastic achievement test (SAT), with average verbal scores increasing from 412 to 414 and math scores from 402 to 404. To help students gain experience in taking the SAT, we have begun to strongly encourage all eligible 9th graders and all 10th and 11th graders to take the PSAT since studies clearly show that students who take the PSAT score higher on the SAT.

Over twenty-one of our schools have recently been identified as high-performing schools. These are schools that met AYP in all academic and non-academic indicators and had 70 percent of their students scoring at or above proficient levels. Because of our desire to provide positive reinforcement, and to encourage innovation, these schools will receive additional money from our school incentive fund. They will set up demonstration sites of instructional best practices for other schools to model. A number of other schools have received awards for significant improvement. This effort was made possible with the support of this committee’s \$13 million investment for school improvement. We look forward to utilizing these funds in fiscal year 2007 to continue this successful program.

To support academic progress, in the past year we have been fortifying our business systems. Recently, DCPS became the first school District in the country to partner with a municipality in operating a state-of-the-art procurement automated support system (PASS). PASS allows us to order supplies, equipment and instructional materials more quickly and more efficiently; as well as, helps leverage our buying power as a system. As a next step in improving our business operations, we will be tackling our human resources and payroll systems to ensure that they too, effectively support the work we have ahead.

We are ever mindful of the need to have an efficient business system, given the fiscal realities we face. And because of those fiscal realities, we welcome effective partnerships that can help us reach our goals.

Our recent partnership with the World Bank, for example, will assist us in our ability to recruit and train 100 teachers a year, for the next five years, in order to achieve national board certification for all teachers, which, in turn, will fortify the quality of teaching in our classrooms.

I mentioned earlier the partnership with the city of the District of Columbia that resulted in our new procurement system. We are hoping for similar partnership opportunities as we improve our human resources, budget and technology infrastructure.

Using the “Declaration of Education,” which is our strategic plan for change, as a foundation, we have developed a “Master Education Plan” that spells out the academic goals we have set for the children of the District of Columbia. These academic goals necessarily inform how our facilities will be used and so, we have also developed a “Master Facilities Plan” which articulates our vision of having fully modernized state-of-the-art campuses for all of our children.

This groundwork creates a clear-thinking approach to our current efforts to strategically plan for effective use of our buildings to support our academic mission. We have advanced to the board of education a set of recommendations on how to right size our facilities and maximize their use through educational consolidations, oper-

ational efficiency and co-locations with community-based organizations, city agencies and public-private partnerships.

In short, we are making significant progress, both academically and programmatically.

We have not—and cannot in the future—do this work alone. We have been fortunate to have the support of the mayor and the City Council of Washington, D.C.

While their financial support has been significant, there still remains critical funding gaps in the current fiscal year 2007 proposed budget. We look forward to receiving contingency funding for special education related transportation, which has left us with a shortfall of approximately \$10.3 million and confirmation of the availability of a \$14.7 million reserve account for non-public tuition payments as indicated by the CFO. I share the sentiment of many of our stakeholders about the unusually high costs in these areas. As a result, we have begun implementation of an aggressive multi-year plan and I am hopeful that we will be able to reduce these costs over time with the appropriate policy and legislative support. The board and council have demonstrated a high level of commitment toward supporting some of the heavy handed strategies that will be needed to realize these goals.

There also remains a need for significant additional financial support to fund elements of the master education plan which are critical to building on the success attained thus far. For example, additional funds will allow us to:

- Expand our use of the DIBELS assessments for early elementary school students. This will increase our opportunity to identify potential special needs in children sooner.
- Expand our Career Technical Education program and develop themed high-schools that will better prepare our students for the workforce and will help them identify careers that may interest them.
- Develop more rigorous graduation requirements so that our students, whether furthering their education or entering the workforce after graduation, will have diplomas that open more doors for them.

We anticipate your thoughtful consideration of how this committee can support the work that we are doing, which is anchored in our commitment to create a world-class education system that is reflective of this capitol city and that recognizes the untapped potential of our youth.

Specifically, we look for your support in changing the DCPA fiscal year to July-June. While we recognize that this will necessitate changes to the appropriations calendar and that there may be other obstacles to implementation, we are willing to work with the city leadership and this committee to resolve those obstacles. We believe it is critical to improved operations to have a fiscal year that is aligned with our academic year.

The ability to adopt multi-year budgeting and to carry forward our financial condition will also be a significant relief. This would help to eliminate the fiscally imprudent “use it or lose it mentality” of many of our schools, and to strengthen our capacity to more strategically and programmatically plan.

And, we anticipate your support of our efforts to obtain CFO which reports directly to the superintendent. Although our current relationship with the CFO is better than it has been in the past, as a system, we cannot manage effectively based on a good working relationship as opposed to having a sound organizational structure of our own. As a school system, our mission is clearly different from that of other city agencies, and we should not be treated as just another District agency in this or other regards.

I would now like to turn my attention to another major responsibility of the school system. As you are aware, DCPS serves as both a local education agency (LEA) and as a state education agency (SEA).

Over the last year, we have begun to critically examine our state functions and to more clearly separate them from those of the LEA. For example:

- We separated our federal grants and local grant personnel into two discrete offices.
- We recently conducted a time and effort study which would allow us to track our other staff based on the time they dedicate to SEA vs. LEA responsibilities.
- The fiscal year 2007 budget was a first step in more accurately separating our state and local budget by organizational units.
- We have created a technical advisory committee to oversee our efforts in developing the new state assessment and other areas of accountability.
- We also have created a state advisory committee for federal grants and we are active participants in the mayor’s state advisory panel for special education.

As you are aware, the District of Columbia Public Schools state education agency recently received a “high risk” designation by the U.S. Department of Education. This designation has provided a vehicle for much needed support and technical as-

sistance from the department as the SEA continues to address some of the long-standing challenges that we have had.

I am happy to report that my staff and I continue to meet regularly with the staff of the department and we are moving in a productive and promising direction.

I appreciate this opportunity to come before you today to talk about where our schools are, where they need to be, and how we will get there in order to provide the kind of public education the children in our nation's capital deserve.

This concludes my testimony. I will answer any questions that you have.

Senator BROWNBACK. Thank you very much. We'll run the time clock at, let's do it at 4 minutes, so that'll give us each a little bit of quick time.

Mayor Williams, I want to start on—we've got—and this is a school issue as well—a problem—it's a narrow problem, and I think you've been advised about it—about a number of students earning out of the scholarship program. This year we're projected to have 144 students lose their scholarships because they earned out, sometimes by just a few dollars. I don't know if you've been made aware of this. This is something Senator Landrieu has just recently been made aware of. I talked to Senator Feinstein. I would hope that we could fix that in the law to allow students that once they get into this, they're allowed to stay into it. It would have a zero impact. It wouldn't increase the budget, and it wouldn't decrease it either. A number of people think this would actually decrease it. And I don't know if you have been made aware of this situation, and if you had a particular thought about it.

Mayor WILLIAMS. Mr. Chairman, I am aware of it, and I am supportive of efforts to try to correct it, understanding, as you do, that it would have a net zero fiscal impact on the program, and I think it's a great program.

Senator BROWNBACK. It also helps us to measure whether this program works or not, if we can keep people in it.

Mayor WILLIAMS. Right. I totally agree. I think the whole idea behind it, one of the merits of the program, is you're going to for the first time have—you know, a fancy word—longitudinal study comparing the students in the three different schools for the first time. If you start changing the cohort, then you start polluting the results, and then you end up with the same arguments you started with, you know, everyone challenging the results. So for that reason, among many good reasons, I think it's a good thing to do.

Senator BROWNBACK. We've been working with your staff on family formation issues in the District. You had the successful launch of the marriage development accounts. We've identified a couple of areas that need improvement. The D.C. tax code has a marriage penalty within it. If you file as an individual, you have a \$2,500 standard deduction; as a couple, it's \$1,250. This is something we looked at in the Federal code, and I'm hopeful that's something you can look at. I'm told it would be a \$2 million revenue hit to the District to do that, but I would urge you to look at it just from the standpoint that these are clear economic signals that are sent.

There's a second one I understand we're not going to be able to work through now and that's to use some of the TANF funds to provide additional cash supplements to cover those in the first 2 years of marriage. We're pushing from the Federal end to get a grant to cover any cost of that to the District. I think that would really help us in sending a positive signal.

And then there was also—you were talking about, and I think you're doing this as well—making low-income housing benefits higher priorities for married couples. Thank you, and we'll continue to work with you on this. I don't know if you had a particular comment on those programs.

Mayor WILLIAMS. Well, Mr. Chairman, this is something that, you know, we talked about. And we went back and talked to our people in Housing and to Kate Jesberg—who has, I think, done a great job with TANF before her time heading up DHS and now is head of DHS—and looked at a number of different incentives that we could provide in partnership with the Federal Government to try to strengthen family formation, recognizing that the District has—we have one of the highest concentrations of poverty in the United States. And as everyone knows, there is a huge correlation between poverty and family situation.

Senator BROWNBACK. Well, thanks for working with me. My next question is about schools, but I want to turn to my colleague, Senator Landrieu, just to make sure we give adequate time, because I know she'll drill into that area, so I will join her questioning via Senator Landrieu.

Senator LANDRIEU. Thank you, Mr. Chairman.

Yes, a question, Dr. Gandhi, or perhaps the Mayor, either one that wants to address it. There were some concerning reports, very concerning, about \$20 million that has been either lost or misplaced or unaccounted for through a contract that was let for investments relative to financing for charter schools.

This subcommittee has worked very closely with the Mayor and with the Council trying to fashion—and with Superintendent Janey—trying to fashion some strategic new investments in promoting excellence in education through a limited voucher scholarship program, through a limited charter school initiative, and through limited additional funds to traditional public schools, Dr. Janey, to give you some flexibility and some opportunities. It's not a lot of money, we understand, relative to the budget, \$200 million over 5 years compared to your billion dollar budget a year, but still \$20 million to taxpayers is a lot of money. So where is it, what is the investigation showing, are we going to be able to recover any of it, and what are your words to this subcommittee about if there's anything we could do to assist you in getting to the bottom of this situation?

Dr. GANDHI. All right. We appreciate your concern about that. Since 2005 when the Congress transferred that particular program from our so-called Office of Banking and Insurance and Securities to the Mayor's Office and State Education Office, and suggested that the funds should be managed by the Chief Financial Officer, we immediately took care of the assets that were there, and made sure, one, that a proper audit is done of the amount that was spent from 2000 to 2005; two, do initial audit on our own. And as we discovered some irregularities and some probable mismanagement, we immediately alerted the Inspector General's Office and the Attorney General's Office. We wanted to seize the funds that are available so far. So as of now, as I sit here, there are full investigations ongoing. The Securities and Exchange Commission is looking into that. The inspector general is looking into that, the U.S. Attorney's

Office, and my own office. So as of now we are managing the funds, and we want to be absolutely sure, with the Mayor's and the Council's cooperation, that the charter schools that do need money and credit enhancement, they will be provided that funding. And from now on, we will manage the funds.

Senator LANDRIEU. I appreciate that, but if there's a time line for the finality of those investigations, we would like to have it, and then a final report on either how much money was lost and is not retrievable, or how much we can retrieve, because people have to have confidence, of course, in the financial systems that underpin everything we're trying to do in education. So, I know it's again not a huge amount of money, but it's not pocket change either. So, let's get to the bottom of that.

Dr. JANAY. are you having any success—

Dr. GANDHI. May I just add, Senator, that July, next month, we will have a final report from an external auditor, and the IG is also looking into these issues. But by next month we'll have a much clearer idea as to what had happened before the funds came to us.

Senator LANDRIEU. One final question. The co-location effort that you have been spearheading, do you have any concrete successes on co-location as this school year starts to open up?

Dr. JANAY. Yes, we do. I proposed a collaboration and a partnership between Scott Montgomery Elementary School and Kipp Academy, and the Board of Education voted favorably on my recommendation. And that co-location will commence school year 2006–2007. So we are in the planning process to bring those two school communities together. Ultimately, Scott Montgomery will have a pre-K through 4, and Kipp, as you know is a grade 5 through 8. It will be in the same building, a pre-K through 8 experience for families and students in that area. And I'm very pleased with that.

Senator LANDRIEU. Because one of, Mr. Chairman, the solutions for excess space is to use it more effectively and efficiently, for the charter schools that are having to go out to commercial space and lease at high rates to come back into the public school buildings and to co-locate these facilities, which is a more efficient way to use that space. I won't take any more time, but I do want to just say that the Seed school just continues to be the model of hope, not just for this city but for the Nation. I can't tell you how many mayors have come from Louisiana to go to the Seed school, the first urban residential school for poor, moderate, and low-income children in this Nation, that's having extraordinary results.

And, Mr. Mayor, you've taken a particular interest in that. And I want to just commend you, Mr. Mayor, for your fight for these kids to have equal opportunities, because their acceptance to Princeton or Columbia have not gone unnoticed. And we're going to continue to press the expansion of models like that.

Senator BROWNBACK. That's good.

Senator ALLARD.

Senator ALLARD. Thank you, Mr. Chairman. I want to congratulate you on your surpluses and your bond rating. By having a higher bond rating, it does mean that you don't have to have to pay as much interest on your bond, which is obviously more money available for your program.

In looking at some of your testimony, I've been impressed with the 5-year balanced budget plan, but you did refer to some obstacles in there. One of them was the notable housing market impact. I wonder if you would go into a little detail as to what's happening in our housing market that is going to have an impact on your budget.

Dr. GANDHI. That is correct, sir. We see some softening of the housing market. However—

Senator ALLARD. My property tax bill doesn't reflect that.

Dr. GANDHI. Right. Because we have a 5-year plan, we have to make projections as to how does it look for 5 years. Our expectation is that going forward, the growth in our tax—real property tax revenue would not be as robust as it has been in the past. The past few years we had almost 10 to 11 percent a year growth in real property taxes. We don't expect that to happen, or to continue. However, we do not expect any downturn in our real property market, so the growth would be somewhat moderated, but we do not expect that that would be a big bust over there.

There are three particular reasons as to why our real property market is going to stay strong. One is the Federal Government, and the amount of the money that is being spent, we in the region, and particularly in the District, are quite the beneficiaries of that. The second issue here is that the commuting issue is a nightmare, and people want to stay closer to where they work and very likely in the city. And third is that the city's image under Mayor and Council Chair Cropp fundamentally has changed over what it used to be 10 or 15 years ago. We are a place now to be in.

So currently we are the hottest real property market in, residentially, in the country; commercially, we are among the hottest in the world. People want to come here, invest money here. And great credit goes to our elected leaders, particularly the Mayor, for achieving that level of prestige for our city.

Senator ALLARD. Thanks for that analysis.

Dr. Janey, there's an article in The Washington Post stating that the D.C. School Board has recently halted charter school applications indefinitely until it decides governance issues surrounding these schools. And it's been brought to my attention that this is the second moratorium in as many years. We have a great deal of money invested in the charter school program and want to continue the choice program. Would you like to comment on those issues in The Washington Post? And should we be trying to expand the choices that parents have rather than restrict new charter school openings?

Dr. JANEY. Yes. As a nonvoting board member, I would like to comment. I think the members of the board want to take additional time in looking at their governance role with respect to charter schools. My own view is there's probably a mixed sentiment on the board. I think there are some members who would like to opt out of that governance responsibility, and there are other members who would wish to retain it, but find a better way to exercise their oversight responsibility for charter schools.

Quite frankly, there is a problem in the way charter schools are managed, from my point of view. You have an executive director, and irrespective of the person, the model calls for an executive di-

rector reporting directly to a legislative body. And the way by which you can oversee that in terms of nine members of the board who have legislative responsibility, not executive responsibility, creates some management problems. So they want to take some time reflecting on how they do their business, and I will be there giving them some constructive guide.

Senator ALLARD. You do have waiting lines, don't you, to get into those charter schools?

Dr. JANEY. It's mixed. Enrollment ranges—with the 17 charter schools the board oversees—it ranges from about 40 students to just over 1,000. And all of the charter schools do not have waiting lists. We have waiting lists in our public schools as well.

Senator ALLARD. Are they all filled up to, then, to capacity, I would assume?

Dr. JANEY. No.

Senator ALLARD. They're not?

Dr. JANEY. No.

Senator ALLARD. And in what areas do you have the least enrollment in charter schools?

Dr. JANEY. I couldn't tell you offhand, but one of the board's legitimate interests is to make sure that the charter schools that they do authorize create some unique kind of innovative opportunity for learning.

Senator ALLARD. Well, that's the whole idea.

Dr. JANEY. Yes. And some of the applications that have been advanced have not met that test.

Senator ALLARD. I see. Thank you, Mr. Chairman.

Senator BROWNBACK. Yes. Thank you, Senator Allard. I want to enter two things into the record. One is a series of anecdotal information and then the charts on children earning out of the D.C. Scholarship Fund. And, the second one, Dr. Janey, I was just looking at this table of SAT participation scores, which I know you are very familiar with. There's two real striking things about this, to me, anyway. The percentage of males taking the SAT is below 40 percent, and females just above 60 percent. That seems quite skewed. Now, maybe that's not skewed nationwide. I don't know. But that seems to me to beg, well, what are we doing to try to get more young men to take the SAT? And then the national average is 200 points above the District, and I recognize it's an urban district, but that seems to be like a substantial difference in the national average and the D.C. average on the SAT scores. And as I met with you in the office, I told you we've got objective measures to look at and goals to hit, and these are things we really have to target in on to get people and attract them back into the school system in the District, to say that this is a system that produces a good product, that you can come here and learn very well. I think it's a numbers issue. I think we've got to hit these numbers better, and I know you're focused on that, but we're going to keep pressing what it is that we have to do to get these numbers better. And I'll enter this in the record as well.

[The information follows:]

TABLE 2.—SAT I PARTICIPATION FOR 2004–2005 GRADUATING SENIORS BY GENDER, RACIAL, AND ETHNIC GROUPS

Racial and Ethnic Groups	No. of Test-takers	Percentage of Test-takers	Percent Change from Last Year
Males	591	39.5	— 5
Females	905	60.5	— 2
Asian	52	3.5	+ 13
Black	959	64.1	— 2
Hispanic	99	6.6	+ 5
White	91	6.1	+ 34
American Indian	6	.4	— 25
Other	30	2.0	.....
No Response	259	17.3	— 19
Total	1,496	100	— 3

MOST RECENT SAT SCORES AND HOW THOSE SCORES COMPARE TO THE PAST 5 YEARS

Table 3 below illustrated the verbal, mathematics and combined SAT results for graduating seniors over the last five school years. Table 4 further disaggregates the data by gender, racial and ethnic groups.

TABLE 3.—SUMMARY OF SAT RESULTS FOR GRADUATING SENIORS FOR 2001–2004

School Year	Average Scores		
	Verbal	Mathematics	Combined
2000–2001	402	396	798
2001–2002	400	396	796
2002–2003	404	396	800
2003–2004	412	402	814
2004–2005	414	404	818
National Average 2004–2005	505	515	1,020

WASHINGTON SCHOLARSHIP FUND STORIES FROM OUR FAMILIES EARNING OUT

A pregnant mother, “Danita,” is renewing for her daughter and is over income by only \$160. When her baby is born, the increase in household size will make her eligible again—allowing the daughter to return to the school she started Kindergarten in through the OSP—but only after being forced in and out of a new school every year.

A family of four whose father is in U.S. military with an annual income of \$31,000, took an optional \$30,000 “bonus”—an early payment out of their retirement fund—to tide them over. Now they are over the income threshold of \$40,000 for their family of 4.

Senator BROWNBACK. The vote was called at 11:06—yes?

Senator LANDRIEU. If I could just add one thing.

Dr. Janey, I’d like to work with you, and I know the chairman will too, on this governance issue for charter schools, and also the accountability issue for all of our schools, because we are accountable whether we have public charters or traditional charters or even a scholarship voucher program. There is an accountability that we have to the students participating and their parents that we’re providing a quality opportunity for them. And the challenge of this is happening all over the country. All districts are struggling with this; some are doing a better job than others. But I’d like to share some of the new models that I’ve learned about and work with you, the Mayor, and the City Council as we develop strong accountability, making sure that whether our children are in traditional public schools or public charter schools, they’re getting a

quality opportunity for a good, solid education. And I need to work with you on that in the next few months.

Dr. JANEY. I look forward to our continued collaboration on quality.

CONCLUSION OF HEARINGS

Senator BROWNBACK. Sorry the hearing had to be short, but I do appreciate it. And as all have said, Mayor Williams, we really do thank you all for your public service; it's been outstanding.

The hearing is recessed.

[Whereupon, at 11:20 a.m., Thursday, June 22, the hearings were concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]

LIST OF WITNESSES, COMMUNICATIONS, AND PREPARED STATEMENTS

	Page
Allard, Senator Wayne, U.S. Senator From Colorado:	
Prepared Statement of	39
Statement of	39
Brownback, Senator Sam, U.S. Senator From Kansas:	
Opening Statements of	1, 35
Prepared Statements of	2, 36
Buchanan, Avis E., Director, Public Defender Service for the District of Columbia	18
Prepared Statement of	19
Cropp, Hon. Linda W., Chair, Council of the District of Columbia	47
Prepared Statement of	50
Gandhi, Dr. Natwar, Chief Financial Officer, District of Columbia	53
Prepared Statement of	53
Herring, Hon. Anita Josey, Presiding Judge, Family Court, District of Columbia	1
Isaac, Reverend Donald, Executive Director, East of the River Clergy-Police Community Partnership	28
Prepared Statement of	31
Janey, Dr. Clifford B., Superintendent, D.C. Public Schools, District of Columbia	65
Prepared Statement of	66
King, Hon. Rufus G., III, Chief Judge, Superior Court of the District of Columbia	1
Prepared Statement of	16
Statement of	15
Landrieu, Senator Mary L., U.S. Senator From Louisiana: Prepared Statements of	2, 37
Quander, Paul A., Jr., Director, Court Services and Offender Supervision Agency, District of Columbia	28
Prepared Statement of	29
Sanchez, Joseph, Administrative Officer, District of Columbia Courts	1
Washington, Hon. Eric T., Chief Judge, District of Columbia Court of Appeals, and Chair, Joint Committee on Judicial Administration, District of Columbia	1
Prepared Statement of	6
Wicks, Anne, Executive Officer, District of Columbia Courts	1
Williams, Hon. Anthony A., Mayor, District of Columbia	35
Prepared Statement of	43

SUBJECT INDEX

	Page
DISTRICT OF COLUMBIA	
A Responsible Budget	43
Budget:	
Goals and Fiscal Discipline	50
Process and Highlights	50
Capital Spending	56
Citizen Priorities	44
Democracy for the Nation's Capital	47
Economic Development	51
Education	50
Fiscal Recovery 1996–2005	54
Following Through on Landmark Initiatives	43
General Fund Balance Use	55
Gross Funds Budget	55
Highlights of Fiscal Year 2007 Proposed Budget and Fiscal Year 2007-Fiscal Year 2010 Financial Plan	55
Other Federal Payment Items	52
Priority Federal Funding for Critical Projects	45
Revenue Outlook	54
Voting Representation	52
COURTS	
Administrative Accomplishments	28
Background	20
Capital Budget Request	16
Complete Budget Request Summary	13
Critical Fiscal Year 2007 Priority—Infrastructure	8
Family Court Implementation	16
Fiscal Year:	
2005 Accomplishments	20
2007 Request	20
General Program Accomplishments	21
Integrated Justice Information System	17
Recent Achievements	7
The President's Recommendation	7
Training	27

