c. Monitor and evaluate the effectiveness of drug abuse instruction in the D.C. Public Schools.	Office of the Superintendent	Teacher's Union		
— Develop monitoring and evaluation instruments.			8-1-83	9-30-83
— Conduct monthly monitoring visits to schools			10-3-83	5-31-84
— Evaluate the effectiveness of the program once a year.			5-2-84	5-31-84
d. Begin uniform instruction in all D.C. Public Schools.	Teaching Staff	Principals	9-6-83	6-30-84

ACTION PLAN TIMETABLE

FY: 1983

I-A.2 GOAL: To reduce truancy, provide mediation services for chronic traunt cases, implement a media campaign on truancy, develop an alternative school for truant youth, and to offer more innovative incentives for youth who perform well in school, improve their attendance and display more positive behavior patterns.

Action Steps	Primary Responsibility	Support	Start	End
A. Make contacts with private industry, citizens and local merchants to donate awards for the superintendent's search projects.	OCJPA, Student Services	D.C.Schools	4-1-83	4-30-83
B. Contact parent organizations, PTA and other organizations to determine the extent of their involvement in the fight against truancy.	OCJPA	PINS Center	4-30-83	5-1-83
C. Develop plans for the expansion of the Region D Truancy program.	D.C. Public Schools	OCJPA, PINS	5-15-83	summer
D. Meet with school board, school officials to determine feasibility of alternative school for truants.	OCJPA		6-15-83	as needed
E. Contact City Council members for their input into the incentives program.	OCJPA	D.C. Schools	3-30-83	4-15-83
a. obtain commitment from Councilmembers.				

ACTION PLAN TIMETABLE

FY: 1983

I-A.3 GOAL: A Crime Prevention Store should be established as a pilot project for the purpose of promoting awareness and the utility of crime prevention techniques and devices.

Action Steps	Primary Responsibility	Support	Start	End
A. Secure a firm commitment from MPD District Commanders in each police district to utilize community relations officers and reserve police officers in subsequent crime prevention store activities.	OCJPA	Chief of Police	4-15-83	4-30-83
B. Hold planning sessions for future displays with CR officers, citizens, business representatives and other persons as needed.	OCJPA	MPD	5-1-83	5-15-83
C. Train reserve officers and citizens in crime prevention techniques and home security device benefits.	MPD (trained personnel)	OCJPA		5-30-83
D. Acquire sites for demonstrations. Utilize outdoor locations.	OCJPA	MPD		5-30-83
E. Hold demonstrations during Crime Prevention Week.	MPD	OCJPA		

ACTION PLAN TIMETABLE

FY: 1983

I-A.4 GOAL: To encourage policymakers to place more emphasis on crime prevention; to encourage ANC's to promote crime prevention activities and coordinate with civic, citizen associations and other neighborhood based organizations; and to establish a permanent alliance between OCS, OCJPA, MPD and civic and citizen associations in the area of crime prevention on a neighborhood level, and serve as resource consultants to neighborhood crime prevention programs.

Action Steps	Primary Responsibility	Support	Start	End
A. Acquire crime prevention training package.	OCJPA		3-15-83	4-1-83
B. Designate key crime prevention personnel (MPD, OCS, OCJPA)	OCJPA	OCJPA	3-15-83	3-30-83
C. Select officers for training. Select citizens and public policymakers Hold crime prevention workshops and training. Inaugurate a special crime prevention week.	MPD-District Commanders ANC's, Citizen and Civic Associations, Mayor, OCS and OCJPA	OCJPA	4-15-83	On-going
D. Develop continuous long range plan for community crime prevention activities.	Crime prevention personnel	OCJPA	4-15-83	6-1-83
E. Monitor and evaluate progress	OCJPA		On-going	

ACTION PLAN TIMETABLE

FY: 1983

I-A.5 GOAL: To support and enhance Career High School effort.

Action Steps	Primary Responsibility	Support	Start	End
A. Encourage private sector business commitment to enhance efforts of Career High School.	D.C. Public Schools	D.C. Commission Staff	On-going	On-going
B. Create a mini task froce consisting of Commission members, citizens, public school officials et al.	D.C. Public Schools	D.C. Commission Staff	9-1982	On-going

ACTION PLAN TIMETABLE

FY: 1983

I-A.6 GOAL: To link D.C. citizens seeking employment in suburban location with the Council of Goverment 's car and van pool locator service.

Action Steps	Primary Responsibility	Support	Start	End
A. Identify employment center to be utilized in project.	OCJPA	DOES	4-15-83	4-20-83
B. Set up meeting with DOES, COG, and other interested agencies.	DOES	OCJPA	4-15-83	5-1-83
C. Contact private sector employers for update on employment opportunities.	DOES	OCJPA	5-[illegible]-83	5-30-83
D. Develop a task force to plan other strategies for linkages to suburban employment. Explore the possibility of utilizing existing Employment and Training Services Advisory Council.	DOES	OCJPA	6-30-83	9-1-83

FY: 1983

I-A.7 GOAL: To enhance and identify mechanisms in the community that provide services and support to families.

Action Steps	Primary Responsibility	Support	Start	End
A. Identify agencies with services to youth and families	OCJPA		5-1-83	5-30-83
B. Contact churches (Council of Churches) for services and activities provided.	OCJPA		5-1-83	5-30-83
C. Establish coalition of community organizations and leaders	OCJPA		6-30-83	On-going
D. Publish director of service providers	Coalition	OCJPA	6-1-83	7-30-83
E. Sponsor 20-30 families in Shiloh Family Life Center	Coalition	OCJPA		
F. Develop and present Family Life seminars around the community.	Coalition	OCJPA	6-30-83	September
G. Solicit funds for action E above.	Coalition	OCJPA	6-30-83	9-30-83

ACTION PLAN TIMETABLE

FY: 1983

I-A.8 GOAL: To provide extra curricular activities currently unavailable to many D.C. youth.

Action Steps	Primary Responsibility	Support	Start	End
A. Establish extra curricular activity task force comprised of parents, officials of schools, and volunteers.	D.C. Public Schools	OCJPA Dept. of Recreation	6-1-83	8-1-83
B. Identify public and private resources for extra curricular activities.	Task Force		5-1-83	5-30-83
C. Identify transportation resources	Task Force	Dept. of Recreation and Metro.	5-1-83	5-30-83
D. Develop fundraising strategies	Task Force	Community Volunteers, Priv.Sector	4-1-83	5-15-83
E. Implement summer activities	Task Force D.C. Public Schools Dept. of Recreation		6-15-83	8-15-83

ACTION PLAN TIMETABLE

FY: 1983

I-A.9 GOAL: To offer innovative incentives for youth who perform well in school, improve their attendance and display more positive behavior patterns.

Action Steps	Primary Responsibility	Support	Start	End
A. Contact D.C. City Council members.	OCJPA		4-8-83	4-11-83
B. Obtain commitment from D.C. City Councilmembers.	OCJPA		4-15-83	4-30-83
C. Determine awards to be given.	OCJPA		5-15-83	5-30-83
D. Seek sponsorships from the business community.	Councilmembers		4-8-83	4-20-83
E. Involve parent and community organizations by holding fundraising activities, etc.	Community members		5-1-83	On-going

Status Report and Workplan

I. APPREHENSION OF CRIMINALS

A. Commission Recommendations:

1. Upgrade 911 emergency assistance system

The new system has been designed, and the equipment and costs have been identified. Legislation to raise revenue to purchase and thereafter service the equipment is being drafted by MPD.

2. Develop and Implement Model Victim/Witness Program

Needed funds have been requested in the Department of Justice's supplemental FY 1983 budget. A temporary interagency group will be formed within the next 60 days to settle issues of coordination and plan recruitment of private support.

3. Computerize current fingerprint record system

Contract with equipment vendor has been negotiated and signed. Using a terminal linked to Prince George's system conversion of current manual files into computerized files has begun. Delivery of District equipment is scheduled for September.

4. Train small to moderate size business in ways to prevent and react to crime.

Task Force of private and public officials has been formed and planning is underway for workshops in various parts of the city during June.

5. Incorporate latest law enforcement management improvement techniques into MPD organization/practice.

Plan is being implemented according to schedule. A crime analysis center has been opened, current demand patterns for service calls have been analyzed and recommendations will shortly be made on standard response changes. District and beat boundaries are being redrawn to reflect demand loads and personnel in 1D and 6D have received or will shortly receive training in the new techniques for managing criminal investigations.

B. Transition Task Force Recommendations:

1. Expand use of propane as alternative fuel for police fleet

Entire fleet in the Seventh District is being converted to serve as test model.

2. Provide sanction for excessive false alarms by private alarm systems

General Counsel of MPD is drafting amendments to the laws to add sanctions to existent regulations.

3. Raise funds to purchese bulletproof vests for MPD's uniformed personnel

Fundraising campaign is being vigorously run by Fraternal Order of Police. $80,000 has already been raised.

4. Develop an automated maintenance and replacement system for MPD Fleet Vehicles.

Alternative systems used by other fleet managers are being considered.

ACTION PLAN TIMETABLE

FY: 1983

II-A.1 GOAL: To decrease response time for emergency Police and Fire Services; by expediting transfer of non-police/fire calls to other agencies; by reducing frivolous calls; to reduce loss time of Police and Fire fighters responding to false reports; to provide an emergency back-up site for 911 communications center.

Action Steps	Primary Responsibility	Support	Start	End
A. Establish system design.	MPD	DES	12/15/82	12/31/82
B. Develop action timetable.		FIRE	01/01/83	/31/83
C. Complete System Design.			01/01/83	03/31/83
D. Determine user fee amount and draft legislation.	MPD	DFR OCJPA CC IGR	04/01/83	06/30/83
E. City Council initiate, conduct hearings and approve legislation.	MPD		07/01/83	09/30/83
F. Monitor action timetable for: — system design, — hardware selection, — detail system design, — conversion and, — training.	OCJPA	CC	01/01/83	07/31/84

ACTION PLAN TIMETABLE

FY: 1983

II-A.2 GOAL: That the Commission Assist the U.S. Attorney's Office to Develop a Model Witness/Victim Program.

Action Steps	Primary Responsibility	Support	Start	End
A. Define further assistance needed.	U.S.A.O.	OCJPA	3/83	Continuing
B. Provide supporting testimony at appropriate points during appropriate points during appropriation process.	Commission	OCJPA	3/83	9/83
C. Form steering committee of District and Federal representatives.	Commission	USAO, Corp. Counsel, DGS, DOES, MPD	4/83	9/84
D. Solicit business and community participation.	Commission		4/83	9/84

ACTION PLAN TIMETABLE

FY: 1983

II-A.3 GOAL: To access entire fingerprint file to identify suspects in routine cases where latent prints exist; to increase speed of fingerprint file search; to close older cases that have latent prints; to link D.C. fingerprint file with the files of surrounding jurisdictions.

Action Steps	Primary Responsibility	Support	Start	End
A. Determine final configuration.	MPD		10/1/82	12/1/82
B. Draft our RFP.	MPD	DGS	11/1/82	12/1/82
C. Evaluate proposals/select vendor.	MPD		12/1/82	12/31/82
D. Negotiate final contract.	MPD	DGS	1/1/83	2/15/83
E. Convert current files.	MPD		2/15/83	9/30/83
F. Install equipment.	Vendor	MPD	7/1/83	9/30/83
G. Train records personnel.	Vendor	MPD	4/1/83	5/30/83
H. Train departmental supervisory personnel.	MPD	Vendor	2/15/83	4/15/83
I. Review/revise investigative procedures.	MPD		4/15/83	8/1/83
J. Train line investigators.	MPD	Vendor	7/1/83	9/30/83
K. Establish work program for initial period.	MPD		7/1/83	9/30/83

ACTION PLAN TIMETABLE

FY: 1983

II-A.4 GOAL: That a Crimes Against Businesses Task Force be established to conduct workshops for businesses.

Action Steps	Primary Responsibility	Support	Start	End
A. Form Task Force.	OCJPA		3/83	3/83
B. Plan workshops.	Task Force		4/83	4/83
C. Conduct workshops.	Task Force	OCJPA, MPD	5/83	6/83

ACTION PLAN TIMETABLE

FY: 1983

II-A.5 GOAL: To manage calls for service so that the priority resources can respond to priority situations. To convert patrol officers into preliminary crime investigators. To develop a centralized crime analysis capability to identify crime patterns and highly sophisticated data for operational planning. To institute directed patrol operations whereby patrol activities will be directed toward specific crime patterns.

Action Steps	Primary Responsibility	Support	Start	End
A. Develop plan.	MPD		9/81	4/82
B. Obtain approval.	MPD		4/82	4/82
C. Develop detail work plan.	MPD		5/82	9/82
D. Brief departmental supervisory personnel.	MPD			9/82
E. Brief middle/line management.	MPD		11/82	11/83
F. Implement, based on sequential phases.	MPD		1/83	9/84
G. Evaluate.	MPD		9/84	Continuing

ACTION PLAN TIMETABLE

FY: 1983

II-B.1 GOAL: To expand the use of propane, as an alternative fuel source to 20 police vehicles.

Action Steps	Primary Responsibility	Support	Start	End
A. Resolve procurement problems.	MPD		12/82	3/83
B. Con vert seventh district fleet.	MPD		3/83	6/83
C. Evaluate fleet performance	MPD		7/83	7/84

ACTION PLAN TIMETABLE

FY: 1983

II-B.2 GOAL: The District's law governing security alarm systems should be revised to include provisions for charging citizens for excessive false alarms.

Action Steps	Primary Responsibility	Support	Start	End
A. Draft legislation.	MPD		3/83	4/83
B. Review by Office of Intergovernmental Relations.	OIR		5/83	5/83
C. Introduction and hearings by Council.	CC	MPD, OCJPA	6/83	8/83
D. Enact ment and implementation.	CC, MPD			8/83

ACTION PLAN TIMETABLE

FY: 1983

II-B.3 GOAL: Finance the purchase of bullet-proof vests for uniformed members of MPD using private funds solicited from the Business Community and District residents.

Action Steps	Primary Responsibility	Support	Start	End
A. Organize fund-raising apparatus.	FOP	MPD	12/82	1/83
B. Launch Campaign.	FOP	MPD, Mayor	2/83	
C. Obtain City-Council support.	FOP		2/83	
D. Host fund-raising events.	FOP		2/83	6/83
E. Buy vests.	FOP	MPD	6/83	6/83

ACTION PLAN TIMETABLE
FY: 1983

II-B.4 GOAL: Develop an automated maintenance and repair history on each police vehicle and procedures/criteria for determining replacement requirements.

Action Steps	Primary Responsibility	Support	Start	End
A. Define objectives.	Budget, MPD, OCJPA		4/83	4/83
B. Develop workplan.	MPD, Budget, OCJPA		4/83	4/83
C. Implement workplan.	MPD		5/83	9/83
— Identify history data elements.				
— Identify replacement criteria.				
— Automate records.				
— Produce reports and replacement schedules.				

Status Report and Workplan

1. PROSECUTION AND TRIAL

A. Commission Recommendations:

1. Increase availability of civil legal services to indigents

Staff have developed a structure and working guidelines for the Civil Legal Services Advisory Commission, and prepared a mayoral order to formally establish the Commission.

2. Unify D.C. Government Services to indigents accused of criminal offenses

Discussions between staff at the Office of Criminal Justice Plans and Analysis and the Public Defender Service regarding this recommendation have transpired. A list of participants in unification discussions has been formulated. A letter has been drafted that requests these participants to meet regularly over the next six months for the purpose of developing a unification plan.

3. Increase current level of activities against "organized crime" in D.C.

A letter was sent to the Chief of Police by the Staff Director of the D.C. Commission on Crime and Justice requesting a written assessment of the extent of "Organized Crime" activity in the District.

4. Establish insurance fraud as a specific criminal offense in D.C.

Thus far, no actions have been undertaken to implement this recommendation.

5. Increase level of activities against white collar crime

A letter was sent to the Chief of Police by the Staff Director of the D.C. Commission on Crime and Justice requesting a written assessment of the District's capacity to investigate crimes of fraud in the District.

6. Enact and implement a speedy trial law over the next five years

Members of the D.C. Bar have indicated to Commission staff an interest in helping to formulate legislation. No specific actions have been undertaken to implement this recommendation although initial discussions with involved parties have transpired.

7. Establish citizens advisory committee on public safety issues

Staff have developed working guidelines and an initial list of agenda items for the Public Safety Citizens Advisory Committee. A mayoral order to formally establish Committee has been prepared and is currently undergoing internal review.

8. Design/implement a program to link drug detection/analysis/treatment activities within the criminal justice system

Efforts are being undertaken by the Pretrial Services Agency, the Alcohol and Drug Abuse Administration, and D.C. Superior Court to improve monitoring mechanisms regarding the supervision of pretrial arrestees with drug abuse problems. Ongoing monthly meetings are occurring for the purpose of facilitating the transfer of information among those agencies involved with the monitoring and supervision of pretrial arrestees with drug problems. Currently, efforts are being directed toward improving the manner in which violations of release conditions are reported to judges in the Superior Court.

9. Develop wider range of pretrial release alternatives for persons not a serious threat to the community.

a. Efforts are being undertaken by Pretrial Services Agency to develop strict guidelines regarding the timely reporting of release violations by defendants to the Courts.

b. Preliminary meetings have been held involving the Corporation Counsel, the Metropolitan Police Department, and OCJPA for the purpose of sharing information and identifying additional release alternatives.

10. Prioritize cases involving detained defendants in scheduling court calendars

a. At the request of Prosecution/Trial Committee members, the U.S. Attorney for the District indicated in writing that the policy of the U.S. Attorney's Office is to prioritize detention cases in scheduling their presentations before the grand jury. Also, the D.C. Superior Court has renewed its efforts to identify pretrial arrestees being held in lieu of bail for the purpose of scheduling bail review hearings when applicable.

b. The Public Defender of the District of Columbia has agreed to formally request that the Criminal Rules Advisory Committee of the D.C. Superior Court consider the proposed rule changes which, in essence, would require the prioritization of detention cases in court calendaring.

11. Extend to 90 days time during which defendant may remain detained under pretrial detention statute

In July of 1982, emergency legislation was enacted by the D.C. City Council which amended the District's Pretrial detention statute. These amendments included provisions that allow for holding defendants who meet the pretrial detention criteria for up to 90 days without bond. Also included in this legislation was a provision that allows for a 5-day hold (working days) of defendants who are arrested while on release in order to provide time for further judicial action. These measures reportedly have had a favorable impact on reducing the number of crimes committed by defendants on pretrial release.

Transition Task Force Recommendations:

1. Reduce court-related overtime for police officers

The Metropolitan Police Department is currently taking steps to improve the monitoring of court-related overtime involving MPD officers. The United States Attorney's Office has indicated that the proposal to assign prosecutors to evening duty is feasible but that obstacles related to staffing would have to be overcome. Further assessment of the current procedures and negotiations with the U.S. Attorney's Office in regards to the assignment of prosecutorial staff to evening duty is required.

2. Expand the Public Defender Service to handle current levels of service requirement

The Public Defender Service's "FY' 1984" budget was increased by 250,000 dollars, thus allowing the agency to hire additional attorneys and accompanying support staff.

3. Transfer all prosecutorial authority to the District Government for local criminal cases

Preliminary meetings between the Executive Vice Chairman of the Commission, staff and representatives for the District's business community have been held for the purpose of soliciting support for the transfer of prosecutorial authority. No other actions have been undertaken to implement this recommendation.

4. Grant the Mayor authority to commute prison sentences

This recommendation has generated public discussion and comments from the media. Thus far, there have been no specific actions undertaken to implement this recommendation.

5. Enact a Prison-overcrowding Emergency Powers Act

Thus far, there have been no specific actions undertaken to implement this recommendation.

6. Establish a Public Safety Policy Board composed of the heads of District Public Safety Agencies

The working guidelines and scope of activity for the Public Safety Advisory Board have been developed by Commission staff. Additionally, a request for technical assistance in organizing the initial workplan of the Board has been submitted to the National Institute of Corrections. Preliminary discussions with NIC staff indicate a favorable response to the request for technical assistance.

7. Develop and implement a comprehensive program for identifying, expediting and monitoring repeat violent offenders through the criminal justice system.

Efforts are currently underway to create a system-wide approach to apprehending, detaining, prosecuting, and sentencing repeat offenders who commit violent crimes. There are several existing programs that involve the targeting of resources in order to expeditiously process repeat violent offenders through the criminal justice system. However, there remains a lack of coordination among these various programs. Forming program linkages and improving monitoring functions wil be a major task of the soon to be activated Public Safety Advisory Board.

ACTION PLAN TIMETABLE

FY: 1983

III-A.1 GOAL: To increase the availability of legal services in the civil area to those persons who are financially unable to retain counsel.

Action Steps	Primary Responsibility	Support	Start	End
A. Issuance of a Mayoral Order formally establishing the "Mayor's Advisory Commission on Civil Legal Services for Indigents."	Office of Executive Secretary to the Mayor	OCJPA	5/83	6/83
B. Submission of names to Mayor's Special Assistant on Commissions for consideration of appointment to Advisory Commission.	Office of Criminal Justice Plans and Analysis	PDS	6/83	6/83
C. Appointment of Commission membership.	Mayor's Office	OCJPA	7/83	8/83
D. Assignment of staff support.	OCJPA		8/83	9/83

ACTION PLAN TIMETABLE

FY: 1983

III- A.2 GOAL: To improve the efficiency and quality of legal defense services for indigents in the criminal area.

Action Steps	Primary Responsibility	Support	Start	End
A. Formal request to the Public Defender, the Executive Officer of the D.C. Court System, and a representative of the D.C. Bar to begin discussions for the purpose of developing a proposal that would unify legal defense functions for indigents in the criminal area.	OCJPA		5/83	5/83
B. To monitor these discussions and provide information and mediation type services on an as needed basis.	OCJPA		5/83	10/83
C. Review of proposals resulting from discussions by impacted agencies.	OCJPA		10/83	11/83
D. Preparation of any needed legislation or Mayoral Orders required to implement proposal.	OCJPA	Intergovernmental Relations	12/83	1/84

ACTION PLAN TIMETABLE

FY: 1983

III-A.3 GOAL: To increase law enforcement and prosecutorial efforts in the area of white collar crime outside the government.

Action Steps	Primary Responsibility	Support	Start	End
A. Crime commission staff should formally request in writing an assessment of the District's capacity to investigate crimes of fraud in the District.	OCJPA		3/83	3/83
B. The Chief of Police should assess the District's capacity to investigate crimes of fraud in the District.	Metropolitan Police Department	OCJPA	4/83	5/83
C. The Chief of Police should initiate any needed changes in resource allocation, and to make provisions for additional staff and/or training as needed to increase fraud enforcement capability.	Metropolitan Police Department	OCJPA	5/83	6/83

ACTION PLAN TIMETABLE

FY: 1983

III-A.4 GOAL: To establish that insurance fraud is a specific criminal offense in the District of Columbia.

Action Steps	Primary Responsibility	Support	Start	End
A. Disseminate copies of proposed "Bill" to impacted District agencies for comment.	Intergovernmental Relations Agency	OCJPA	4/83	5/83
B. Review and incorporate salient agency comments into proposed "Bill".	Intergovernmental Relations Agency	OCJPA	5/83	6/83
C. Forward proposed "Bill" to the Mayor and Deputy Mayor for final review.	Intergovernmental Relations	OCJPA	6/83	7/83
D. Forward proposed "Bill" to D.C. City Council for consideration as part of Mayor's legislative package.	Intergovernmental Relations Agency	OCJPA	9/83	9/83
E. Monitor progress of proposed Bill.	Intergovernmental Relations	OCJPA	9/83	Until legislation is passed

ACTION PLAN TIMETABLE

FY: 1983

III-A.4 GOAL: To give a higher priority in efforts to curb "Organized Crime" activity in the District of Columbia.

Action Steps	Primary Responsibility	Support	Start	End
A. Crime Commission staff should request in writing that the Chief of Police assess "Organized Crime" activity in the District.			3/83	3/83
B. The Chief of Police should assess the extent of "Organized Crime" activity in the District and determine if reallocation of law enforcement manpower and equipment is required to further curtain such activity.	Metropolitan Police Department	OCJPA	5/83	6/83
C. The Chief of Police should assess the training needs of MPD officers assigned to the Investigative Services Division, and provide additional training as needed.	Metropolitan Police Department	OCJPA	5/83	7/83

ACTION PLAN TIMETABLE

FY: 1983

III-A.5 GOAL: To reduce case processing times for cases processed thru the District of Columbia Courts by creating "speedy trial legislation."

Action Steps	Primary Responsibility	Support	Start	End
A. Analysis of projected impact of speedy trial legislation on D.C. Court System.	OCJPA	D.C.Superior Court	5/83	7/83
B. Identification resource needs required to implement legislation.	OCJPA	D.C.Superior Court	7/83	8/83
C. Development of five year implementation timetable for speedy trial implementation.	OCJPA	D.C.Superior	8/83	9/83
D. Development of speedy trial legislative proposal for District.	OCJPA/Intergovernmental	D.C.Superior Court	9/83	10/83
E. Review of timetable and proposed legislation by impacted agencies	Intergovernmental Relations	OCJPA	10/83	11/83
F. Introduce legislation for D.C. City Council consideration.	Intergovernmental Relations	OCJPA	11/83	Until legislation is passed

ACTION PLAN TIMETABLE

FY: 1983

III-A.7 GOAL: To increase city-wide efforts in addressing problems stemming from local organizations involved in illicit drug sales and prostitution.

(Establishment of citizens advisory committee on public safety issues)

Action Steps	Primary Responsibility	Support	Start	End
A. Development of guidelines and delineation of scope for proposed committee.	OCJPA		3/83	4/83
B. Appointment of committee members by Mayor.	Mayor's Office - Special Assistance on Commissions and Boards	OCJPA	6/83	7/83
C. Assignment of staff to provide information and other forms of support for Committee deliberations.	OCJPA		7/83	On-going

ACTION PLAN TIMETABLE

FY: 1983

III-A.8 GOAL: Design/implement a program to link drug detection/analysis/treatment activities within the criminal justice system.

Action Steps	Primary Responsibility	Support	Start	End
Recommendation #1				
A. Review funding needs of urine analysis program FY 1983 and in FY 1984 and recommend additional appropriation if required to maintain program.	OCJPA	ADAA	3/83	4/83
B. Enhancement of interviewing procedures for arrestees in regards to drug use.	ADAA	OCJPA	6/83	10/83
C. Implementation of routine updating procedures of urine analysis results to courts.	ADAA	OCJPA	5/83	7/83
Recommendation #2				
A. Formally request that U.S. Attorney's Office consider establishment of program.	Mayor's Office	OCJPA	7/83	7/83
B. Identify additional resources required for program implementation.	OCJPA	U.S. Attorney's Office	7/83	8/83

Action Steps	Primary Responsibility	Support	Start	End
Recommendation #2 (Cont'd)				
C. Develop program participation criteria.	U.S. Attorney's Office	OCJPA	8/83	9/83
D. Program implementation.	U.S. Attorney's Office	OCJPA	3/84	3/84
Recommendation #3				
A. Determine FY 1984 budgetary needs in relation to anticipation caseloads for specialized third party custody program.	OCJPA	Pretrial Services Agency	5/83	5/83
B. Development of "request for proposal" outlining specific requirements of third party custodian in handling arrestees with drug problems.	Pretrial Services Agency	OCJPA	9/83	9/83
C. Develop criteria for program participation.	Pretrial Services	OCJPA	9/83	9/83
D. Selection of third party custodian organization.	Pretrial Services Agency		10/83	10/83
E. Identification of community-based drug treatment services that can be part of referral network.	Pretrial Services Agency	OCJPA	11/83	11/83
F. Development of referral mechanisms.	Pretrial Services Agency	OCJPA	11/83	11/83
G. Program implementation.	Pretrial Services Agency		Upon availability of funds	

ACTION PLAN TIMETABLE

FY: 1983

III-A.10 GOAL: Develop wider range of pretrial release alternatives for persons not a serious threat to the community.

Action Steps	Primary Responsibility	Support	Start	End
A. Improve current monitoring mechanisms related to the supervision of pretrial arresteeson release to third party custodians.	D.C. Superior Court	Pretrial Services	1/83	6/83
B. Identify additional pretrial detention alternatives that are currently not being utilized in District.	OCJPA	Pretrial Services	5/83	6/83
C. Feasibility study encompassing those identified additional alternatives.	OCJPA	Pretrial Services		
D. Delineation of programs and development of program descriptions.	OCJPA	Pretrial Services	7/83	8/83
E. Identification of funds and subsequent budget recommendations.	OCJPA	Pretrial Services	9/83	9/83
F. Prior Implementation	OCJPA	Pretrial Services	Upon availability of funds.	

ACTION PLAN TIMETABLE

FY: 1983

III-A.11 GOAL: Prioritize cases involving detrained defendants in scheduling court calendars.

Action Steps	Primary Responsibility	Support	Start	End
Initiate bail review mechanisms in D.C. Superior Court.	D.C. Superior Court	Pretrial Services	7/82	9/82
Commitment from U.S. Attorney's Office to priorities detention cases presented to the Grand Jury.	U.S. ATtorney's Office	OCJPA	8/82	8/82
Formally request that Criminal Rules Advisory Committee of D.C. Superior Court and the Board of Judges of the D.C. Superior Court modify court rules tomandate the priorification of detention cases.	PDS	OCJPA	3/83	3/83
Final Board of Judges Action	D.C. Superior Court	PDS/ OCJPA		

ACTION PLAN TIMETABLE

FY: 1983

IV-A-4 GOAL: Establish consortium of public and private agencies to sponsor training institute for ex-offenders.

Action Steps	Primary Responsibility	Support	Start	End
A. Convene meeting of directors of D.C. agencies involved (Corrections, Employment Services, Human Services, Police, Superior Court).	DOES	OCJPA Human Services Police Superior Court	4/83	
B. Select private sector employers who will assume leadership responsibility in this effort.	DOES, OCJPA	PIC	6/83	7/83
C. Develop planning implementation schedule.	DOES, OCJPA		8/83	9/84

ACTION PLAN TIMETABLE

FY: 1983

IV-A-5 GOAL: Expand services at a special school for youth (Washington Dix Street Academy) who have been in prison and recently released.

Action Steps	Primary Responsibility	Support	Start	End
A. Take necessary personnel actions to fill nine (9) vacant teacher and seven (7) counselor positions.	Office of the Superintendent	School Board Teacher's Union		
B. Provide teaching support staff with the proper training that would give them the necessary skills to teach effectively and provide needed support services in an alternative school setting.			This work plan will be acted upon when funds are available.	

24-295 O—83——9

ACTION PLAN TIMETABLE

FY: 1983

IV-A-6 GOAL: Improve mental health care available to inmates, parolees and probationers.

Action Steps	Primary Responsibility	Support	Start	End
A. Collect all background information and relevant data concerning mental health care available to inmates, parolees and probationers.	Corrections	DHS, D.C. General Hospital	5/83	
B. Refer all data to the Office of Policy and Program Evaluation for analysis and appropriate action within the confines of general improvements for health care.	OCJPA	OPPE DCDC	5/83	9/84

ACTION PLAN TIMETABLE

FY: 1983

IV-A-7 GOAL: Provide 24 hour detoxification services to worse case addicts.

Action Steps	Primary Responsibility	Support	Start	End
A. Collect background information and relevant data concerning inpatient detoxification services available to drug addicts.	DHS	OCJPA OPPE	5/83	On-going
B. Provide Office of Policy and Program Evaluation with all pertinent data for review and incorporation into City's overall mental health care delivery system.	DHS	OCJPA	5/83	9/84

ACTION PLAN TIMETABLE

FY: 1983

IV-A-8 GOAL: Develop and distribute directory of existing drug abuse treatment programs and services.

Action Steps	Primary Responsibility	Support	Start	End
A. Review current directory to determine its comprehensiveness and suitability for usage by the general public.	Alcohol and Drug Abuse Services Administration (DHS)		4/83	4/83
B. Make necessary revisions based on changes in service programs.	Alcohol and Drug Abuse Services Administration (DHS)		5/83	On-going
3. Publish the revised directory of drug and alcohol abuse treatment programs.	Alcohol and Drug Abuse Services Administration (DHS)		8/83	8/83
D. Systematically distribute revised copies throughout all areas of the District.	Alcohol and Drug Abuse Services Administration (DHS)		8/83	12/83

ACTION PLAN TIMETABLE
FY: 1983

III-A.12 GOAL: Extend to 90 days the time during which a defendant may remain detained without bond under the pretrial detention statute.

Action Steps	Primary Responsibility	Support	Start	End
A. Legislation to amend District's pretrial detention statute.	Corporation Counsel	Inter-Gov't Relations	7/82	7/82
B. Funding for hearing commissioners and prosecutors.	U.S. Congress	Inter-Gov't Relations	10/88	10/82

ACTION PLAN TIMETABLE

FY: 1983

III-B.1 GOAL: Reduce court-related overtime for police officers.

Action Steps	Primary Responsibility	Support	Start	End
A. Assess current overtime monitoring mechanisms.	OCJPA/MPD	MPD	10/82	5/83
B. Strengthen monitoring mechanisms based on assessment.	OCJPA	MPD/USAO	5/83	5/83
C. Determine costs and staffing needs to provide for evening "papering" by USAO.	OCJPA	USAO, MPD	7/83	8/83
D. Develop funding and staffing stretegy.	OCJPA	USAO, MPD	9/83	9/83
E. Program Implementation.	USAO	MPD	10/83	On-going

ACTION PLAN TIMETABLE

FY: 1983

III-B.2 GOAL: Expand the Public Defender Service to handle current levels of service requirements.

Action Steps	Primary Responsibility	Support	Start	End
A. Assessment of staffing needs.	PDS	OCJPA	12/82	12/82
B. Budget recommendations to address needs.	PDS	OCJPA	12/82	12/82
C. Incorporation of budget recommendations into FY 1954 budget	PDS	OBD	2/83	2/83

ACTION PLAN TIMETABLE

FY: 1983

III-B.3 GOAL: Transfer all prosecutorial authority to the District Government for local criminal cases.

Action Steps	Primary Responsibility	Support	Start	End
A. Meetings with special interest groups in the District to solicit support.	OCJPA	Inter-Governmental Relations	2/83	12/83
B. Analysis of budgetary impact of trustee and development of funding strategies.	OCJPA	OBD	9/83	12/83
C. Development of comprehensive proposal for transmittal to Council, Congress, and President regarding transfer.	OCJPA	OBD/	1/84	3/84

ACTION PLAN TIMETABLE
FY: 1983

III-B.4 GOAL: Grant the Mayor authority to commute prison sentences.

Action Steps	Primary Responsibility	Support	Start	End
A. Review and analyze commutation legislation in other jurisdictions.	OCJPA	DCDC	4/83	5/83
B. Develop legislative proposal.	OCJPA	DCDC/ Intergovernmental Relations	6/83	7/83
C. Disseminate legislative proposal for comments.	Intergovernmental Relations	OCJPA	7/83	8/83
D. Finalize legislative proposal	Intergovernmental Relations	OCJPA	9/83	10/83
E. Forward propose legislation to D.C. Council for consideration.	Intergovernmental Relations	OCJPA	10/83	Upon completion of legislation

ACTION PLAN TIMETABLE

FY: 1983

III-B. 5 GOAL: Enact a Prison-overcrowding Emergency Powers Act.

Action Steps	Primary Responsibility	Support	Start	End
A. Review and analyze "capping" legislation in other jurisdictions.	OCJPA	DCDC	4/83	5/83
B. Develop legislative proposal (using simulation modeling techniques to assess importance to develop classification guidelines).	OCJPA	DCDC	6/83	8/83
C. Disseminate legislative proposal for comments.	Intergovernmental Relations	OCJPA	9/83	10/83
D. Finalize legislative proposal.	Intergovernmental Relations	OCJPA	10/83	11/83
E. Forward propose legislation to D.C. City Council for consideration.	Intergovernmental Relations	OCJPA	11/83	On-going

ACTION PLAN TIMETABLE

Y: 1983

III-B.6 GOAL: Establish a Public Safety Policy Board composed of the heads of District Public Safety Agencies.

Action Steps	Primary Responsibility	Support	Start	End
A. Identification of membership.	OCJPA	MPD, USAO, D.C. Courts CC	3/83	4/83
B. Assignment of staff.	OCJPA	DCDC	3/83	4/83
C. Delineation of Scope of Activities.	OCJPA	DCDC	4/83	5/83
D. Development of Group's Agenda.	OCJPA	DCDC	5/83	6/83

ACTION PLAN TIMETABLE

FY: 1983

III-B.7 GOAL: Develop and implement a comprehensive program for identifying, expediting and monitoring repeat violent offenders through the criminal justice system.

Action Steps	Primary Responsibility	Support	Start	End
A. Establishment of Public Safety Advisory Board.				6/83
B. Development of systematic monitoring procedures encompassing repeat/violent offenders.	Advisory Board/OCJPA	MPD, USAO, Corporation Counsel	6/83	6/83
C. Identification of additional resource needs.	Advisory Board/OCJPA	MPD, USAO, Corporation Counsel	6/83	7/83
D. Long term strategy for system response to repeat/violent offenders.	Advisory Board/OCJPA	MPD, USAO, Corporation Counsel	7/83	On-going

IV. REHABILITATION

A. Commission Recommendations:

1. Increase the number of inmates released on furlough to pursue career development opportunities

   In an effort to increase the number of inmates eligible for the UDC on-campus Lorton College Program, several inmates convicted of non-violent misdemeanors have been identified. In addition, educational staff of Corrections are encouraging UDC to set aside a certain number of student employment jobs for inmates enrolled in the on-campus program. This would make the on-campus program more attractive for those inmates who would choose higher education, but who do not because it lacks financial incentives.

2. Improve staff skills and patterns in current halfway house facilities

   The Department of Corrections recently requested each of its 2100 employees to complete a "needs assessment questionnaire". The results suggest that employees want to receive job training in order to better perform their assigned duties and to enhance their chances for advancement. Corrections' executive staff will utilize the results when reviewing its personnel staffing patterns and its overall management system.

3. Increase private business support in training and hiring inmates and ex-offenders

   D.C. Corrections' Office of Volunteer Services was instrumental in forming a "Correctional Foundation", from the private business community, that will involve and encourage other private businesses to hire and train inmates and ex-offenders and to secure financial support for inmate training programs.

4. Establish consortium of public and private agencies to sponsor training institute for ex-offenders

   No definitive progress has been made on this recommendation because of fiscal constraints. However, a meeting has been scheduled to involve the Department of Employment Services, Department of General Services, Department of Corrections, the private business community, the Private Industry Council, Occupational Information Coordinating Committee and other pertinent agencies in establishing a functional framework for the consortium.

5. Expand services at a special school for youth (Washington Dix Street Academy) who have been in prison and recently released

No progress has been made on this recommendation because of budgetary constraints. The D.C. Public School System expects to fully fund this program in September, 1983. It is currently operating with $200,000 less than what was budgetted for this fiscal year.

6. Improve mental health care available to inmates, parolees, and probationers

This recommendation will be incorporated into the workplan of the Office of Policy and Program Evaluation for reviewing the City's overall health care delivery system.

7. Provide 24 hour detoxification services to worse case addicts

This recommendation will be incorporated into the workplan of the Office of Policy and Program Evaluation for reviewing the City's overall health care delivery system.

8. Develop and distribute directory of existing drug abuse treatment programs and services.

By August 1983, the Department of Human Services will have updated its directory of alcohol and drug abuse programs (public and private) in the District of Columbia.

9. Coordinate utilization of volunteer services among criminal justice agencies

Initial contact has been made with each of the respective agencies that will comprise the consortium. Subsequent meetings will be held to develop interagency agreements for referring clients and volunt rs.

10. Alleviate the impact of both overcrowding and staff shortages on educational programs operated within the Department of Corrections' institutions.

Two full-time teachers have been hired to augment the instructional staff at Youth Center I. In addition, a full-time librarian has been hired at the Central Facility.

11. Improve the quality of vocational training available in correctional institutions, and make curriculum consistent with requirements in community schools and training facilities.

A special education teacher and a librarian were hired at the Central Facility. The auto body repair program at Central Facility and at Youth Center II have been substantially expanded by the Metropolitan Police Department's patrol cars being repaired at the shop. Thus, inmates now learn to repair some of the latest model cars.

B. Transition Task Force Recommendations:

1. Increase capability of halfway houses

In the FY 1984 budget request, the D.C. Department of Corrections redirected $49,700 to purchase 10 additional bed spaces in contracted halfway houses. The 10 additional spaces will address the requirements of a legal stipulation, and subsequent inter-agency agreement, concerning parole hearings of D.C. female offenders sentenced to federal prisons.

2. Revise the parole practices to review eligibility records 12 months prior to eligibility date

No action has been taken on this recommendation

3. Enact a Community Service Law for the District of Columbia

On December 28, 1982, the City Council enacted the "District of Columbia Sentencing Improvement Act of 1982" (4-286). One of the Act's provisions provides for imposition of a sentence of community service.

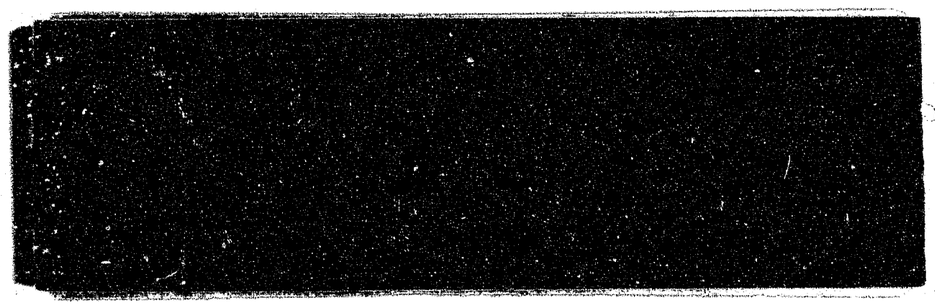
4. Expand the prison industries program

A tire retreading shop, metal furniture shop and upholstry apprenticeship program are expected to be operational by September 1983.

5. Require District agencies to purchase prison industry goods and services

No action has been taken on this recommendation.

CONTINUED



PAROLE TRANSFER

HEARING AND MARKUPS

BEFORE THE

SUBCOMMITTEE ON
JUDICIARY AND EDUCATION

AND THE

COMMITTEE ON
THE DISTRICT OF COLUMBIA
HOUSE OF REPRESENTATIVES

NINETY-EIGHTH CONGRESS

FIRST SESSION

ON

H.R. 2319 and H.R. 3369

TO TRANSFER PAROLE FROM THE U.S. PAROLE COMMISSION TO THE DISTRICT OF COLUMBIA BOARD OF PAROLE

MAY 3, JUNE 23, AND JULY 19, 1983

SERIAL NO. 98-2

i for the use of the Committee of the District of Columbia

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1984

COMMITTEE ON THE DISTRICT OF COLUMBIA

RONALD V. DELLUMS, California, *Chairman*

WALTER E. FAUNTROY, Delegate, District of Columbia
ROMANO L. MAZZOLI, Kentucky
FORTNEY H. (PETE) STARK, California
GEORGE (MICKEY) LELAND, Texas
WILLIAM H. GRAY III, Pennsylvania
MICHAEL D. BARNES, Maryland
MERVYN M. DYMALLY, California
STEWART B. McKINNEY, Connecticut
STANFORD E. (STAN) PARRIS, Virginia
THOMAS J. BLILEY, JR., Virginia
MARJORIE S. HOLT, Maryland

EDWARD C. SYLVESTER, JR., *Staff Director*
JOHN GNORSKI, *Minority Staff Director*

SUBCOMMITTEE ON JUDICIARY AND EDUCATION

MERVYN M. DYMALLY, California, *Chairman*

ROMANO L. MAZZOLI, Kentucky
MICHAEL D. BARNES, Maryland
THOMAS J. BLILEY, JR., Virginia
MARJORIE S. HOLT, Maryland

DONALD M. TEMPLE, *Staff Counsel*

CONTENTS

H.R. 2319

TUESDAY, MAY 3, 1983

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON JUDICIARY AND EDUCATION,
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, D.C.

The subcommittee met, pursuant to call, at 9:30 a.m., in room 1310, Longworth House Office Building, Hon. Mervyn M. Dymally (chairman of the subcommittee) presiding.

Present: Representatives Dymally and Bliley.

Also present: Delegate Fauntroy.

Staff present: Edward C. Sylvester, Jr., staff director; Donald Temple and Johnny Barnes, staff counsels; Donn Davis, senior legislative associate; John Gnorski, minority staff director; Ronald P. Hamm and Karen Ramos-Bates, minority staff assistants.

Mr. DYMALLY. The Subcommittee on Judiciary and Education of the Committee on the District of Columbia is hereby called to order.

I would first like to thank all of you who have taken time from your busy schedules to appear before the subcommittee this morning.

Today's hearing is convened to receive testimony and consider H.R. 2319, a bill which Congressman Fauntroy, Congressman Crockett and I introduced to transfer parole from the U.S. Parole Commission to the District of Columbia Board of Parole. This bill has evolved as a legislative remedy to what I perceive to be a legal, constitutional and administrative quagmire.

Our previous legislative hearing in May, and subsequent investigation by the staff, shows that section 24-209 parole ambiguity has consumed considerable judicial and administrative attention over the last 5 to 7 years. This attention, however, has not achieved resolution of fundamental constitutional and administrative issues. In fact, a state of limbo continues.

About 1,200 D.C. Code offenders are confined to Federal correctional facilities. Male D.C. Code offenders are placed in Federal facilities for selective custody and various other reasons.

Female D.C. Code offenders sentenced to terms greater than 1 year are placed in Federal facilities due to the absence of appropriate correctional facilities in the Washington area. The majority of these female offenders are sentenced to Alderson, W. Va., over 300 miles from the District of Columbia.

Pursuant to section 24-209, the place of an offender's confinement determines parole authority. If a D.C. Code offender is confined in a D.C. prison facility, the D.C. Parole Board has parole

review authority. To the contrary, if a D.C. Code offender is confined in a Federal facility, the U.S. Parole Commission has parole review authority.

On its face, this law is contrary to current Federal-State parole practices. All States which house their prisoners in Federal correctional facilities retain parole authority over them. In respective lawsuits, male and female D.C. Code offenders in Federal facilities have challenged section 24-209's constitutionality.

The female D.C. Code offender situation is highlighted by the *Garnes* decree and a subsequent implementation agreement between the D.C. Department of Corrections and the U.S. Bureau of Parole. This agreement was entered into in June 1982.

At first glance, it appears that the *Garnes* decree is an adequate remedy to female offender concerns. Further study of its implementation, however, reveals several administrative tensions. Moreover, the *Garnes* decree implementation raises an eyebrow as to whether it is the most practical solution to this particular problem.

Concerns regarding the strength of the *Garnes* decree are further exacerbated by allegations of male D.C. Code offender in Federal facilities. Their situation is highlighted by the *Cosgrove* case.

In *Cosgrove*, the male D.C. offenders challenged the application of section 24-209. They contended that they received different and harsher parole consideration than their male counterparts in D.C. prisons and, because of the *Garnes* decree remedy, their female counterparts in Federal prisons.

In March 1981 the U.S. District Court granted summary judgment to the Government, ruling against the male offenders. In January 1982 the U.S. Court of Appeals reversed the district court. I look forward to hearing more about both the *Garnes* and *Cosgrove* cases from our witnesses today.

Meanwhile, I think that several other points should be noted. Section 24-209, the provision which is at the heart of the dispute here, became law in 1934, almost 50 years ago, 40 years prior to the Home Rule Act. Whether the U.S. Parole Commission should apply D.C. parole standards in its consideration of federally confined D.C. Code offenders is not clear from a reading of this provision, or its history or, better put, its lack of history.

As the court of appeals stated in *Cosgrove*, there is no consensus judicial interpretation of section 24-209. Further, the court stated that resolution of this issue is complicated by the fact, again, that the statute is more than 40 years old. Indeed, the continuing interpretation problems of section 24-209 are related to the absence of a clear legislative history.

This morning I ask, what is the most practical and legally sound solution to this longstanding problem? Surely it is not continued judicial inference or legal advocation of this antiquated provision's legislative intent or continued application of administrative band-aid remedies.

My friends, it is time for the dog to stop chasing its tail. The facts before us strongly suggest that renewed legislative consideration of this problem is overdue. Unlike in 1934, today's legislative consideration of parole authority must factor in home rule, constitutional and equity interests and greater administrative efficiency. H.R. 2319 seeks to accomplish these objectives.

Again, I thank you for your time and look forward to your testimony.

I will now yield to the member from the District of Columbia.

Mr. FAUNTROY. Thank you, Mr. Chairman.

Uniformity and equality in decisionmaking concerning how D.C. prisoners are treated is a very difficult and elusive goal. That goal is made even more difficult and elusive under the present dual system, which provides for some decisions to be made by the Federal parole authorities and some to be made by District parole authorities.

H.R. 2319 seeks to cure this problem. I support this legislation because it is not only consistent with the trend throughout the United States but, more importantly, it is consistent with the thrust of home rule.

I believe most will agree that with the divided authority we now have regarding release of a District prisoner on parole, termination of parole or modification of the terms and conditions of parole, the inevitable result is disparate treatment. No law, rule, regulation, or guideline can overcome such a disparity. The answer is the creation of a single authority.

H.R. 2319 will affect some 1,200 D.C. prisoners now confined to Federal institutions. With the transfer of authority, some of these prisoners may be treated more harshly by the D.C. Parole Board than they would have been treated by the Federal Parole Board, but they will be treated equal to all other D.C. prisoners, and I believe they will be treated fairly.

I look forward to the testimony of the witnesses regarding the possible cost of this transfer. We have purposely left implementation wholly up to the District government. It can be done any one of several ways currently used by other States. The cost will depend upon the chosen method of implementation. However, I understand from staff that even the most expensive method of implementation is minimal, particularly when measured against a fundamental principle of our Government: equality of treatment.

I note also, Mr. Chairman, that this measure should ease the threat of litigation which constantly looms as a result of the dual system.

H.R. 2319 embodies concepts of fairness, equality and the spirit of home rule, and I urge support of it.

I thank you for allowing me this time to give this opening statement.

[H.R. 2319 follows:]

98TH CONGRESS
1ST SESSION

H. R. 2319

To give to the Board of Parole for the District of Columbia exclusive power and authority to release on parole, to terminate the parole of, and to modify the terms and conditions of the parole of, prisoners convicted of violating any of the District of Columbia, or any law of the United States applicable exclusively to the District.

IN THE HOUSE OF REPRESENTATIVES

MARCH 24, 1983

Mr. DYMALLY (for himself, Mr. CROCKETT, and Mr. FAUNTROY) introduced the following bill; which was referred to the Committee on the District of Columbia

---

A BILL

To give to the Board of Parole for the District of Columbia exclusive power and authority to release on parole, to terminate the parole of, and to modify the terms and conditions of the parole of, prisoners convicted of violating any of the District of Columbia, or any law of the United States applicable exclusively to the District.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of the first section of the Act entitled "An Act to reorganize the system of parole of prisoners convicted in the District of Columbia", approved July 17, 1947 (D.C. Code, sec. 24–201a; 61 Stat. 378), is amended by

striking out "for the penal and correctional institutions of the District of Columbia" and inserting in lieu thereof "for prisoners convicted of violating any law of the District of Columbia or any law of the United States applicable exclusively to the District of Columbia".

SEC. 2. The Act entitled "An Act to establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes", approved July 15, 1932 (D.C. Code, sec. 24–203 through sec. 24–209; 47 Stat. 696–699), is amended—

(1) in section 6 (D.C. Code, sec. 24–206)—

(A) by striking out "(a)" in subsection (a); and

(B) by striking out subsection (b); and

(2) by striking out section 10 (D.C. Code, sec. 24–209) and inserting in lieu thereof the following new section:

"SEC. 10. The Board of Parole for prisoners convicted of violating any law of the District of Columbia or any law of the United States applicable exclusively to the District of Columbia, created pursuant to the first section of the Act entitled 'An Act to reorganize the system of parole of prisoners convicted in the District of Columbia', approved July 17, 1947 (D.C. Code, sec. 24–201a; 61 Stat. 378), has exclusive power and authority, subject to the provisions of this Act, to

release on parole, to terminate the parole of, and to modify the terms and conditions of the parole of, any prisoner convicted of violating a law of the District of Columbia, or a law of the United States applicable exclusively to the District of Columbia, regardless of the institution in which the prisoner is confined.".

SEC. 3. Section 304(a) of the District of Columbia Law Enforcement Act of 1953 (D.C. Code, sec. 4–134(a); 67 Stat. 100) is amended by striking out ", or the United States Board of Parole has authorized the release of a prisoner under section 6 of that Act, as amended (D.C. Code, sec. 24–206),".

SEC. 4. The amendments made by this Act shall take effect with respect to (1) any determination to release a prisoner on parole, to terminate parole, or to modify the terms and conditions of parole, and (2) any issuance of a warrant by the Board of Parole for the District of Columbia or by any member of the Board of Parole for the District of Columbia, made after the date of the enactment of this Act.

Mr. DYMALLY. Thank you very much, Mr. Fauntroy.

Mr. Bliley?

Mr. BLILEY. I have no statement, Mr. Chairman.

Mr. DYMALLY. The first witness is our council president, Mr. Clarke. Ms. Rolark, would you please accompany Mr. Clarke?

Mr. Clarke, we are aware that you have a 10 o'clock council meeting, so we will postpone questions and send them to you in writing, to give you time to get away.

You may proceed.

STATEMENTS OF DAVID CLARKE, CHAIRMAN, D.C. CITY COUNCIL, AND WILHELMINA ROLARK, MEMBER, D.C. CITY COUNCIL

Mr. CLARKE. Thank you very much.

Mr. Chairman and members of the subcommittee, I would like to thank you for the opportunity to appear before you today to discuss H.R. 2319. The purpose of this bill is to give the D. C. Board of Parole exclusive authority over parole matters concerning prisoners convicted of D.C. Code offenses or of any laws of the United States applicable exclusively to the District of Columbia. I support any effort to expand home rule. However, I do have several concerns.

First, as you are aware, several years ago a much broader piece of legislation was introduced which would have basically transferred authority over the D.C. criminal justice system to the D.C. government. That bill, H.R. 1253, would have transferred prosecutorial authority, authority to appoint judges and numerous other functions related to the operation of the D.C. criminal justice system to the District.

H.R. 2319, on the other hand, touches upon one segment of the criminal justice system: the parole function. I am concerned that H.R. 2319 not be viewed as a substitute for the much broader plan of granting judicial and prosecutorial autonomy to the District. I join in the hope that Congress not lose sight of the need to transfer authority over other segments of the D.C. criminal justice system to the D.C. government as well.

My second concern relates to the fiscal impact and implementation of H.R. 2319. In terms of assuming the costs associated with this transfer of authority, the bill is very different from the predecessor omnibus bill. Included within the predecessor bill was a plan which took into account the additional expenses which would be assumed by the District in accepting its new responsibilities.

This plan called for a sharing of expenses between the Federal and local governments with gradual assumption of the costs by the D.C. government over a period of time. H.R. 2319 does not encompass such a plan and it must, therefore, be assumed that the D.C. government would bear the costs of implementing the bill.

As such, I suggest that the effective date of the bill be prolonged to permit sufficient time for the District to adjust its budgetary planning to take into account the additional costs which will be occasioned by the enactment of this legislation.

Prolonging the effective date will also give the D.C. government sufficient time in which to develop a plan for implementing this

transfer. It is clear that a great deal of advanced planning will be necessary in order to make the transfer of authority successful.

In conclusion, I view this bill as promoting equity and fairness within the D.C. criminal justice system by, in essence, providing that all D.C. prisoners will be subject to the same parole authority and will be judged according to the same standards.

It must be recognized, however, that this bill affects only one segment of the criminal justice system and is designed to address only one problem caused by having two different sovereigns sharing control over the D.C. criminal justice system.

I would rather see a comprehensive transfer of authority but, failing that, it is my hope that other issues, such as control over the selection and operations of local prosecutors and control over the custody and placement of D.C. offenders will be addressed in the near future.

Thank you very much, Mr. Chairman.

My colleague and the chairperson of our Committee on the Judiciary, council member Rolark, is with me.

Mr. DYMALLY. We know you have to go, but I want to reassure you that at least this member—and I think other members of the committee—shares your concern. We have been in negotiations with the Department of Justice, but this administration is for home rule and medicare in California, but not for home rule for the District of Columbia.

Mr. CLARKE. We understand that, Mr. Chairman, but it is our taxpayers who are going to have to pay for it here in the District of Columbia. We are willing to pay for it, but we just want all we are paying for.

Mr. DYMALLY. Thank you very much.

Ms. Rolark?

STATEMENT OF WILHELMINA ROLARK

Ms. ROLARK. Thank you, Mr. Chairman.

Because of the fact that I, too, have to leave, being a member of the council of which Mr. Clarke is the chairman, I would just like to say briefly that I am pleased to appear before this subcommittee today in strong support of this bill, H.R. 2319, which has been introduced by yourself, which would grant to the District of Columbia the exclusive jurisdiction to release on parole, terminate the parole of and modify the terms and conditions of parole of prisoners convicted of violating any law of the District of Columbia or any law of the United States applicable exclusively to the District.

However, the mere fact that I say I am in strong support does not affect the fact that I, too, concur in the sentiments expressed by my distinguished colleague, Mr. Clarke, who is chairman of our city council. I don't want us to get away from the main point, which is that we would like all of the criminal justice functions transferred to us.

This bill, in my opinion, will correct a long-standing inequity. It will cast away an uncomfortable mantle, which we have inherited and worn since the days prior to home rule, which vested the Federal Parole Board with the power and authority to render parole

decisions in cases where an individual, though sentenced pursuant to District law, was sentenced to a Federal institution.

It would bring us one step closer to the true meaning of home rule and self-determination, and that is the reason that I commend you, Chairman Dymally, and the members of this subcommittee for even considering this legislation. I urge you to vote favorably on it, considering also the reserves that we have that have been so eloquently expressed by Mr. Clarke.

I, too, would like to have the privilege of answering these questions in writing later because I am very concerned about one portion of the questions involving the female prisons. I would like to assure you we will be moving on that legislatively as soon as we can conduct hearings in order to construct the most appropriate form of legislation addressing that problem.

Mr. DYMALLY. To both of you, the staff will be in touch with you to supply you with the questions and to take further testimony from you.

Thank you very much.

Ms. ROLARK. Thank you.

[The questions and answers follow:]

QUESTIONS FOR
COUNCIL MEMBER WILHELMINA ROLARK

Q1. Assuming that Congress would set an effective date for this bill, would one year from the date of enactment be reasonable?

A1. Yes.

Q2. What are your views on federal financing of this transfer of authority?

A2. Based on the testimony of Patricia P. Taylor, Assistant Director for Community and Women's Program D.C. Department of Corrections, during the May 3,1983 hearing, the costs associated with the proposed transfer have not yet been determined. Certainly, in view of the District's current fiscal status, any additional expenditures would be burdensome. Congressional authorization, therefore, of additional funds is necessary to facilitate the successful transfer of parole authority.

Q3. Assuming, arguendo, that Congress does not authorize funds for this transfer, could the city finance it?

A3. In my budgetary oversight capacity of agencies within the Public Safety title of the District's budget, I would work diligently with the Executive Branch to identify funds to facilitate the transfer, should federal funds not be available.

Q4. Are there any legislative developments taking place concerning a local facility for DC Code female offenders?

A4. No legislation is currently pending before the Committee. As Chair, I have repeatedly stressed my unwavering commitment to bring our female offenders back to the District. I plan to hold Committee hearings on this issue after the Council returns from its summer recess.

Q5. Is there a forseeable date when this facility might open?

A5. Not at the present time.

COUNCIL OF THE DISTRICT OF COLUMBIA

WASHINGTON, D. C. 20004

DAVID A. CLARKE
Chairman

June 13, 1983

The Honorable Mervyn M. Dymally
Chairman
Subcommittee on Judiciary and Education
Room 1310
Longworth House Office Building
Washington, D. C. 20515

Dear Congressman Dymally:

Thank you for having provided me with the opportunity to testify before the Subcommittee with respect to H.R. 2319 on May 3, 1983. In response to the written questions posed in your letter of May 23, 1983, I offer the following information.

1. Assuming that Congress would set an effective date for this bill, would one year from date of enactment be reasonable?

It is evident that a great deal of planning will be necessary in order to assure that the transfer of parole authority is successfully implemented. Postponing the effective date for at least one year will provide the additional time required to adequately plan for the transfer. As such, I would urge that a delayed effective date be established for this legislation.

2. What are your views on Federal financing of this transfer of authority?

It is clear that the added responsibilities given to the District of Columbia Government by H.R. 2319 will generate additional costs. As Bernice Just, Chairperson of the District of Columbia Board of Parole, noted in her testimony before the Subcommittee, there are several different methods that may be used to implement the transfer. The exact cost of the legislation will in large part depend upon the method of implementation choosen to effectuate the transfer. Absent any increase in revenues, it will be

The Honorable Mervyn M. Dymally
June 13, 1983
Page 2

necessary to look to the Federal Government for further support, particularly in terms of an increase in the Federal payment, to finance the cost of this legislation. As such, I would strongly urge the Congress to authorize funds for this transfer.

3. Assuming arguendo that Congress did not authorize funds for this transfer, could the City finance it?

Should the Congress fail to authorize the funds for this proposal, the city will be placed in the difficult position of having to locate the additional funds necessary to effectuate the transfer. As you are aware, the District of Columbia Government is required by law to maintain a balanced budget. The increased expenditures occasioned by this bill would have to be compensated for by either making adjustments to other parts of the budget or by instituting additional revenue producing methods. In either case, if the city is required to assume the additional cost, it would be imperative that the city be given adequate time to develop a funding transition plan.

4. Are there any legislative developments taking place concerning a local facility for D.C. Code female offenders?

There is no bill currently pending before the Council that directly addresses this issue. However, as you are aware, we have attempted on several occasions in the past to address this issue in the context of the local budget process. In 1980, for instance, there was a proposal to close Youth Center #2 at Lorton. Rather than close the facility, the Council included a directive in the FY '82 budget that the D.C. Department of Corrections convert the Center into a facility for female offenders. Unfortunately, increases in the number of youthful offenders and increases in the sentences given to youthful offenders forestalled the successful implementation of this plan.

5. Is there a foreseeable date when this facility might open?

We are continuing to study all options. However, at this time it would be premature to attempt to predict an exact date on which a facility for women will open.

Thank you for the opportunity to add these additional comments to the record.

Sincerely,

Dave Clarke

DAC:JCS/bjm

Mr. DYMALLY. We have next Ms. Bernice Just and Ms. Pat Taylor, who appear on behalf of the Mayor, beginning with Ms. Just. Could the witnesses identify themselves for the record, please?

Ms. JUST. I am Bernice Just, Chair of the Board of Parole. With me is Shirley Wilson, who is director of the Office of Criminal Justice Plans and Analysis.

Ms. TAYLOR. My name is Patricia Taylor. I am an assistant director for the D.C. Department of Corrections. With me is Mr. Don Soskin, our legal counsel.

Mr. DYMALLY. Ms. Just, would you proceed, please?

STATEMENTS OF BERNICE JUST, CHAIRMAN, D.C. BOARD OF PAROLE, ACCOMPANIED BY SHIRLEY A. WILSON, DIRECTOR, OFFICE OF CRIMINAL JUSTICE PLANS AND ANALYSIS; AND PATRICIA P. TAYLOR, ASSISTANT DIRECTOR FOR COMMUNITY AND WOMEN'S PROGRAMS, D.C. DEPARTMENT OF CORRECTIONS, ACCOMPANIED BY DONALD R. SOSKIN, JUDICIAL AFFAIRS OFFICER

Ms. JUST. I want to say good morning to Chairman Dymally and Mr. Fauntroy and Mr. Bliley.

Thank you for this opportunity to speak in response to H.R. 2319, which would give the D.C. Board of Parole exclusive power and authority over all parole matters respecting the D.C. Code offenders and United States Code offenders applicable exclusively to the District of Columbia, regardless of the institutions in which the prisoner is confined.

It is, as you know, the position of Mayor Barry and this administration that the time has come to transfer to the District of Columbia all authority related to the criminal justice system, including appointment of judges, prosecution of offenders, and responsibility for incarceration and parole, by means of a transition plan which would take full account of the funding and implementation implications of such a transfer.

This legislation is therefore consistent with our overall goal. However, we strongly feel that planning for a transfer of authority be undertaken as a whole, rather than in incremental steps.

At the present time the U.S. Attorney General is responsible for the prosecution of D.C. Criminal Code violators, and it is the Attorney General who determines where their sentences shall be served. There are approximately 1,300 D.C. prisoners now confined in some 30 Federal prisons across the country. This amounts to 27 percent of the District's total sentenced felon population.

These 1,300 men and women are subject to all the laws and regulations of Federal prisoners, including the laws governing the U.S. Parole Commission. As such, these prisoners are held to standards which differ somewhat from those applied by the D.C. Corrections Department and the D.C. Board of Parole.

This is not to say that one set of standards is more harsh or more lenient than the other. The two parole standards, for example, differ mainly in the weighting of factors and in the timing of the initial consideration.

What is of concern is that under the present dual system one felon is now subject to the Federal rules for every three who are subject to District rules. The proposed legislation would hold all D.C. felons to the same standards only in respect to parole matters.

In addition to our concern about a piecemeal approach to transfer of authority, we are also concerned that the transfer of parole authority will present serious implementation and funding problems.

Options for implementation procedures include (1) transporting the federally housed prisoners to the District of Columbia for parole hearings; (2) sending D.C. Parole Board staff to the Federal prisons to conduct hearings; (3) having the hearings conducted by U.S. Parole Commission hearing examiners who would transmit a summary transcript of the hearings to the Board without recommendation; and (4) holding long-distance hearings by means of audiovisual technology. Questions of parole supervision responsibility, liability, and security also will have to be worked out.

In conclusion, we strongly recommend that if the Congress wishes to pass this partial legislation at this time, it do so in a manner which would give the District of Columbia legislative and executive branches a role in ratifying and setting an effective date for implementation of the plan. Precedence exists for this type of action.

Such an approach to the proposed transfer of parole authority would assure that this legislation will not be seen as a substitute for the fundamental issue of full judicial and prosecutorial autonomy for the District, and that implementation could be properly coordinated.

Thank you.

Mr. DYMALLY. Ms. Taylor?

STATEMENT OF PATRICIA P. TAYLOR

Ms. TAYLOR. Mr. Chairman, Mr. Fauntroy, Mr. Bliley, members of the subcommittee, good morning.

I appreciate the opportunity to present the administration's views on H.R. 2319. The bill would vest in the D.C. Board of Parole exclusive power and authority over all parole matters respecting D.C. Code offenders and United States Code offenders applicable exclusively to the District of Columbia, regardless of the institution in which the prisoner is confined.

The Mayor is concerned with the thrust of this legislation for he believes that Congress may perceive any transfer of parole authority to the District as distinct from our position to garner full prosecutorial and judicial autonomy.

The concept to transfer parole authority was one component of Representative Fauntroy's bill in the 97th Congress, H.R. 1253, the D.C. Criminal Justice Reform Act. It is precisely this complete transfer of authority that the Congress should be addressing. Nevertheless, the Mayor appreciates the concerns of this committee, for this bill, H.R. 2319, embodies the spirit of home rule.

The Mayor opposes the option of transporting federally housed prisoners to the District of Columbia for parole hearings. This opposition is based on the high security cost involved in such move-

ments and the inevitable exasperation of the current crowded conditions at the D.C. detention facility.

The Department of Corrections, in the case of *Leonard Campbell, et al.* v. *Anderson McGruder, et al.,* Civil Action No. 1462-71, has been ordered to relieve the crowded condition and a plan to accomplish this mandate has been presented to the U.S. district court. The plan will be successful only if the increasing trend of commitments to the detention facility can be reversed.

The population of the detention facility during April 1983 exceeded 2,000. The rated capacity is 1,355. This is an unacceptable status which the District of Columbia is committed to alleviating.

The Mayor believes that the following proposed options for implementation of this activity are left to his discretion, in conjunction with the Council of the District of Columbia:

One, hearings to be conducted by the U.S. Parole Commission in accordance with D.C. Board of Parole guidelines;

Two, the sending of D.C. Parole Board members or authorized representatives to the various Federal facilities to conduct hearings; and

Three, use of media technology.

The impact of the endorsed options would be vested in the department's Community Services Division, which is responsible for parolee supervision. The volume of additional parolees would determine additional staff and related administrative costs.

The Department of Corrections is now conducting a cost impact survey in order to plan for this increased responsibility. The costs are anticipated to have a wide variance, depending on the implementation arrangements.

The Mayor is also concerned with the effective date of this legislation. He asks that the committee not only allow him, in conjunction with the Council of the District of Columbia, the discretion of developing the type of program to be utilized but also the authority to decide the appropriate date of implementation.

This legislation is a noteworthy step in the direction of greater criminal justice autonomy for the District of Columbia. The opportunity to offer these views is appreciated.

I will try to answer any questions that the committee may have.

Mr. DYMALLY. Thank you very much.

Mr. Fauntroy?

Mr. FAUNTROY. Mr. Chairman, I want to thank the entire panel for the support of the concept of the full transfer of authority on criminal justice matters. I think this bill is a meaningful step in this direction and that we ought to take it with that understanding.

I would like to ask first, Ms. Just, if you would be kind enough to comment on your views on the effectiveness of the *Garnes* decree versus the effectiveness and fairness of the uniform parole system.

Ms. JUST. I would have to say that the implementation of the *Garnes* decree is certainly not a substitute for the uniform parole system. As a matter of fact, in attempting to resolve one inequity another one has grown out of it.

I think there are about 100 women at Alderson from the District of Columbia. There are about 1,200 men in Federal prisons across the country. The women now do have the benefit of being consid-

ered to be returned to Washington and appearing before the D.C. Parole Board. The men who are in the Federal prisons do not have that opportunity at the present time.

Mr. FAUNTROY. Under this legislation, what kind of increased caseload do you think the board would have to handle and, in your judgment, would it be manageable?

Ms. JUST. We would have to make it manageable. We tried to arrive at an estimate of the additional hearings that would be required, and we came out to a figure of about 300 additional hearings a year. That represents about one-third of our present case load of initial parole hearings.

We tend to grant parole in about 60 percent of the cases at the first hearing. That means that another 40 percent of the cases are denied parole and have to be reheard at a scheduled time. Depending on the sentence structure, we schedule rehearings either within 6 months or within 1 year, certainly no longer than a year.

Mr. FAUNTROY. The Mayor has indicated that he would not be supportive of the option of transporting the federally housed prisoners to the District of Columbia for such hearings. You have mentioned four options in your statement as you have gone along this morning. Which of the options, in your view, would be preferable?

Ms. JUST. I think to try to assure the application of D.C. standards, that the preferable option would be for the D.C. Board to send hearing examiners into the institutions. That is done at the present time with respect to the misdemeanant population.

We have a hearing examiner who conducts the hearings and then makes a recommendation to the Board, and then the Board acts on the recommendation. So, we have thought that we could probably try to send someone into each of the institutions perhaps on a schedule of four times a year.

Mr. FAUNTROY. Both you and the Mayor, together with members of the Council, have indicated that you want time to develop an implementation plan for additional parole authority. I am concerned about what seems to me to be the unfairness of the way it is done now and concerned about the time involved in developing that plan.

How much time do you think you would require?

Ms. JUST. That is a very difficult question. I would say at a minimum 2 years in order to get into—I am not an expert on fiscal affairs, but I know that a lot of budgetary planning would have to be done and means found to raise the money, to raise increased revenues and so on.

Mr. FAUNTROY. Ms. Taylor, I wonder if you would care to comment on that in terms of how long and why it would take that long.

Ms. TAYLOR. Sir, I would not envision it would take quite that long. If you are talking about computing the time studying the options and making a decision, bringing together all of the various agencies involved—the D.C. Board, the U.S. Board, the Bureau of Prisons, the Department of Corrections—the study could be completed within a 4- to 6-month period. However, taking the necessary implementation action would be then based on the outcome of that study, and it would be difficult to project a time frame on that.

Mr. FAUNTROY. Were the committee and the Congress to set the effective date of implementation, say, for 1 year from the time of enactment, would that create a problem, do you think?

Ms. TAYLOR. I do not believe so, sir.

Mr. FAUNTROY. Thank you, Mr. Chairman.

Mr. DYMALLY. Ms. Taylor, in your testimony you talked about the high security cost. Could you give us some ball park figure about what you perceive those costs to be?

Mr. FAUNTROY. The costs are figured in terms of bringing the prisoners back to the District of Columbia. There is the cost incurred from the marshal's service, two marshals to transport, the cost of transportation itself, the housing of these individuals at the detention facility, which is already overcrowded, and the necessity for hiring additional staff there.

Mr. DYMALLY. Ms. Just, for the record could you briefly describe the present parole process under *Garnes* as it affects the D.C. female offenders?

Ms. JUST. At the present time, if a woman is housed at Alderson and she comes within 9 months of her parole eligibility date as determined by the statute, she may then apply for a transfer to the District and the Alderson officials assemble a packet of materials which they submit to the Department of Corrections and to the Board of Parole.

The Parole Board reviews this packet of materials and makes an advisory opinion as to whether or not this person appears to be parolable and so advises the Bureau of Prisons.

The Department of Corrections also reviews the packet of materials and makes a decision as to whether the Department would be willing to place this woman in a halfway house until she becomes eligible for parole. Ultimately the woman is returned to the District and appears before the Board at the time of her parole eligibility.

Mr. DYMALLY. Ms. Taylor, it must have been about a year ago or more we held hearings on the developments regarding the facilities for women in the District of Columbia. Could you give us an update on that?

Ms. TAYLOR. Yes, sir. At that time we were examining some District-owned facilities in the Glenn Dale area. Since that time I have been instructed to examine the District-owned facilities in the Laurel area, the children's center area. I have already begun the programmatic planning for the new women's facility, looking at a population of 200.

Mr. DYMALLY. Do you have any idea how much this is going to cost?

Ms. TAYLOR. The startup costs would be approximately $2.5 million.

Mr. DYMALLY. Do you have an approximate date for the opening of this facility?

Ms. TAYLOR. Once given the go-ahead, it would take approximately 12 months to effect the opening of the facility.

Mr. DYMALLY. Do you have any idea how much this new procedure, if implemented, Ms. Just, will cost the Parole Board?

Ms. JUST. Assuming that we send hearing examiners into the institutions four times a year, we have estimated that it would cost about $300,000, which is nearly 50 percent of our annual budget.

Mr. DYMALLY. The U.S. Parole Commission conducts many of its hearings through hearing officers and makes recommendations. I think you have a different procedure. Your Parole Board conducts the hearing?

Ms. JUST. We have one hearing examiner who also conducts hearings with the misdemeanants and makes a recommendation to the Board.

Mr. DYMALLY. But on felonies your Board conducts the hearing?

Ms. JUST. Yes.

Mr. DYMALLY. So, in a way you differ from the Federal approach, which relies exclusively on hearing officers. Could you mix the two and tell us which one you prefer? Do you prefer your direct system? Is it more efficient?

Ms. JUST. I think that the D.C. system is efficient for our particular needs. I can't speak for the U.S. system.

Mr. DYMALLY. Do any of your accompanying witnesses have any testimony they wish to give?

Ms. JUST. I think Ms. Wilson might be able to answer the question with reference to leadtime in terms of the budget cycle.

Mr. DYMALLY. Ms. Wilson?

Ms. WILSON. I would just like to again reiterate what Ms. Just said in her testimony about leaving the leadtime to the executive and legislative branches of the D.C. government.

However, if the committee stresses the urgency of implementing this legislation right away, I think that the District government will require at least 2 years. It is too late right now to incorporate this into the 1984 budget planning cycle, and at the very earliest time we would have to be looking for fiscal year 1985.

Mr. DYMALLY. Thank you.

Ms. Taylor, does your witness want to add anything to what you had to say?

Ms. TAYLOR. No, sir.

Mr. DYMALLY. Thank you very much.

Mr. Fauntroy?

Mr. FAUNTROY. I do have one question for the panel concerning the high cost security and the like and the suggestion that the implementation of this would require an average of $300,000 of the budget.

My question first is could either of you provide us with a breakdown of those projected costs, particularly as relates to the vision of Federal marshal services, as you suggested, with a view to our assessing whether or not there is really a Federal role in the funding of this responsibility which would be acquired by the District government?

Ms. TAYLOR. Yes, sir.

Mr. FAUNTROY. Would you be kind enough to do that? Perhaps, Ms. Just, you might want to comment on how you see $300,000 being spent in categories.

Ms. JUST. We worked out an estimate of $96,000 for transportation of hearing officers to the sites; $62,000 for the employment of two additional hearing examiners; a hearing reporter, one or two,

and that is because the tapes have to be transcribed, that was $35,000.

I think what we did, Mr. Fauntroy, was we applied a factor of one-third to our present operating costs and then factored in also a transportation cost. So this is really very, very rough and quite unrefined.

Mr. FAUNTROY. I guess the transportation cost is the only thing that moves it up to about 50 percent of what you now contemplate?

Ms. JUST. That is right.

Mr. FAUNTROY. Any estimates done on the audio-visual or media costs?

Ms. JUST. No. Our figure did not include the cost of returning the prisoner upon a grant of parole to the District.

Mr. FAUNTROY. I see.

Thank you so very much. As with the chairman and members of the Council, we may well submit further questions to you prior to our final decision.

Mr. DYMALLY. Before you leave, let me ask minority counsel if they have any questions.

Mr. GNORSKI. No, Mr. Chairman, but we may wish to submit written questions, also.

Mr. DYMALLY. Thank you very much for coming.

Ms. JUST. Thank you.

Mr. DYMALLY. Our final panel will include Ms. Steinitz, Ms. McCarthy, and Ms. Hartman.

Before we hear the witnesses, without objection we want to enter into the record a statement from the American Civil Liberties Union, submitted by the staff attorney.

[The information follows:]

STATEMENT OF

Edward I. Koren

Staff Attorney

The National Prison Project

of the

American Civil Liberties Union Foundation

I am Edward I. Koren, Staff Attorney, The National Prison Project of the American Civil Liberties Union Foundation, and I want to first thank Chairman Dymally for again providing the opportunity to present the views of the Prison Project before this Subcommittee.

The National Prison Project is the largest advocacy organization in the corrections field in the country, and since 1972 has been engaged in a program of litigation and public education designed to improve the conditions of our nation's jails and prisons and to develop less costly and more humane alternatives to incarceration for the large numbers of offenders who pose no danger to society. Members of the Prison Project staff have testified many times before the Congress and numerous state legislatures and we are presently engaged in litigation in approximately 20 states.

We welcome the Subcommittee invitation to provide its views with which the Project has been deeply involved and committed to resolving since we filed the original Garnes v. Taylor complaint over a decade ago. Little did we realize in 1972 (the first year of the Project's existence) that this issue would still be with us in 1983. I'm afraid knowing what I know now about corrections, parole, and the criminal justice system I should not be surprised to be sitting here in 1993.

THE PROJECT SUPPORTS HR 2319

The Project supports HR 2319 for the reasons that follow. We

view the legislation if it indeed passes, as an important interim measure on the road toward our longstanding goal of bringing D.C. women back to D.C., to their families, friends, children, and community. Beyond the issue of "Home Rule" is the issue of simple justice for people. This objective should not be lost in your efforts to gain the passage of the bill and hopefully future monitoring of its implementation.

HR 2319, if written into the law, would effectively cut through the "gordian knot" of interjurisdictional disputes raised by confinement of District offenders throughout the federal prison system. Basically, some 1700 men and women convicted of D.C. crimes are confined to federal prison facilities[1] located across the nation, from Danbury, Connecticut in the East to Lompoc, California in the West, the women primarily winding up in Alderson, West Virginia, about six hours by automobile from Washington, D.C.[2] The women are incarcerated in federal facilities because there are no District facilities to house them; the men because of the availability of treatment programs in the federal system, as well as fears for their safety if confined at Lorton. As a consequence of this lack of adequate local facilities, District of Columbia prisoners in the federal

---

1 Norman Carlson, Director of the Federal Bureau of Prisons, presentation to Yale law students on February 23, 1982 in New Haven, Connecticut.

2 Others usually are confined at Lexington, Kentucky or Morgantown, West Virginia if they are sentenced under the Youth Corrections Act.

system are subjected to different and harsher treatment as compared to the men confined in District of Columbia facilities.[3] More particularly, D.C. offenders, both men and women, spend more time in prison than do D.C. offenders at Lorton, primarily due to the different standards for parole release applicable in the two jurisdictions.[4] In the case of the women, this is pure and simple sex discrimination and in the case of the men it is a violation of their rights to the equal protection of the law.

Some background is certainly necessary to put this bill in

---

3 For a comprehensive evaluation of the problems confronted by at least the D.C. women in the federal system, see "The Female Offender 1979-80", Hearings before House Committee of the Judiciary, Subcommittee for Courts, Civil Liberties and the Admn. of Justice, 96th Cong., 1st Sess., Serial No. 59 (hereinafter, The Female Offender Hearings). Also see "District of Columbia Female Offenders in the Federal Prison System", Oversight Hearings before Subcommittee on Judiciary and Education, of the House Committee on the District of Columbia, 97th Cong., 2nd Sess., Serial No. 97-9 (hereinafter 1982 Hearings).

4 Norman Carlson has confirmed this state of affairs, see n.1 above; conversation with John Pottenger, Director of Yale Legal Services and counsel for plaintiffs in Cosgrove v. Smith, see below; the Female Offender Hearings at 123 and 159; the findings in U.S. v. Williams, #SP-792-76 (D.C. Sup.Ct. 6/9/76)(opinion and order) established that D.C. women served longer periods. If anything further is necessary to demonstrate this point, the District of Columbia stipulated in a lawsuit entitled Jackson v. Jackson, #80-2305 filed in the U.S. District Court, that "the U.S. Parole Commission's decisions result in an offender serving a greater proportion of his sentence than do the District of Columbia Parole Board's decisions." Stipulation para. 7, p.4, Dec. 17, 1980, signed by Michael Zelinsky, Assistant Corporation Counsel.

proper perspective. In 1932, Congress passed legislation establishing indeterminate sentencing for offenders convicted of crimes in the District of Columbia. Act of July 15, 1932, 47 Stat. 696. In conjunction with this sentencing scheme, Congress created a Parole Board with authority to grant parole to prisoners incarcerated in District of Columbia facilities who met the standards of parole suitability, (§7 of the Act), and gave the Attorney General authority to assign prisoners convicted of District criminal conduct to D.C., federal, and other facilities. (§11 of the Act). Almost immediately a question arose concerning the disparity in parole eligibility requirements between D.C. and federal prisoners confined in federal facilities.[5] An equal protection challenge was mounted and rejected in Aderhold v. Lee, 68 F.2d 824 (5th Cir. 1934), but this lawsuit did have the effect in 1934 of triggering Congressional action. This 1934 statute, codified at D.C. Code Ann. §24-209 (1981), provided that "The [U.S.] Board of Parole...shall have and exercise the same power and authority over prisoners convicted in the District of Columbia of crimes against the United States or now or hereafter confined in any United States penitentiary or prison (other than the penal institutions of the District of Columbia) as is vested in the District Board of Parole over prisoners confined in penal institutions of the District of Columbia." Act of June 5, 1934,

---

5 The minimum period of confinement for federal prisoners was one-third of the sentence while D.C. offenders only needed to serve one-fifth to be eligible for parole release.

48 Stat. 880 (hereinafter the 1934 Act).

The practice under this provision, until fairly recently, required the federal parole authorities to see and review all D.C. offenders that were housed in federal facilities. The Williams case[6] and 1976 Garnes Decree[7] changed this situation for the women but not the men. Under the Decree (and the subsequent 1982 Agreement), once a D.C. woman offender was parole eligible, the federal parole authorities would review her case and send a package of materials to the District authorities to determine if she was a suitable candidate for parole release. If the D.C. authorities determined that she indeed was, the prisoner would be transferred to a D.C. facility - the D.C. Jail - where she would be seen by the D.C. Parole Board itself, and parole release granted or denied.[8]

The Cosgrove case[9] was later brought by male D.C. offenders in federal facilities who contended that the disparity in parole treatment between themselves and male D.C. offenders housed at

---

6 See n.4 above and 1982 Hearings at 45 and n.1.

7 See 1982 Hearings at 48-52.

8 The 1982 agreement between the Bureau of Prisons and the D.C. Dept. of Corrections attempted to smooth out some of the difficulties with the Garnes decree. Primarily the materials worked up by federal authorities would be forwarded to District of Columbia Parole Board rather than to District of Columbia Department of Corrections (D.C.D.C.), which removed a major obstacle to parole release. Also see Pitts v. Smith, #79-1559 presently pending before Judge Penn in the U.S.D.C. for the District of Columbia.

9 See Cosgrove v. Smith, 697 F.2d 1125 (D.C. Cir. 1983).

Lorton violated their constitutional rights to equal protection of the laws.[10] The district court granted the government's motion for summary judgement on grounds that the 1934 Act gave full authority to the Federal Parole Commission to treat District offenders as they treat federal offenders; and that the D.C. and federal standards for parole release were the same. On appeal the Court of Appeals held that there were material facts at issue, therefore summary judgement was not appropriate and remanded the case for trial. Essentially the court sent the parties back to "square one":

> ...the record did not explore crucial factual issues. The important threshold question of whether the federal and the District of Columbia parole suitability standards are in fact different cannot be resolved from the present record. Nor does the record yet permit resolution of the difficult question of what, if any, legitimate governmental interests would be served by the application of federal parole standards to D.C. Code offenders in federal custody as opposed to women offenders or D.C. Code offenders in local custody. The parties must be given the opportunity to probe these, and perhaps other, questions pertinent to final determination of the scope of federal parole authority over D.C. Code offenders in federal custody.
> 697 F.2d at 1134.[11]

---

10 The Cosgrove plaintiffs also pointed out the disparity between themselves and women D.C. offenders in the federal system under the Garnes decree. This is the so-called sex discrimination claim.

11 Judge Bork concurred with the majority that further factual development was indeed necessary but only on the sex discrimination claim (disparity between the treatment of the male D.C. code offenders in federal facilities and the women D.C. code offenders). But he dissented and would not have required a hearing on the statutory and equal protection claims. 697 F.2d at 1134, 1135.

The operative language of HR 2319 deals with this situation by empowering the D.C. Parole Board to hear and determine parole matters for D.C. offenders, male or female, "regardless of the institution in which the prisoner is confined." §2.

If the bill is passed, revocation, release on parole, and other parole matters concerning D.C. Code offenders at Alderson and in the rest of the federal system will be placed in the hands of the D.C. Parole Board. No longer will the Federal Parole Commission hear these cases. Thus in terms of parole release, the District will have control over the actual period of time that sentenced prisoners must serve. It is contemplated that this legislation will directly result in more equitable periods of confinement for D.C. prisoners in the federal system as compared to Lorton prisoners, and perhaps shorter periods of confinement for D.C. prisoners as compared to all other federal prisoners. The Project unequivocally supports this result and therefore supports HR 2319.

HR 2319 IS AN INTERIM MEASURE ONLY

The Subcommittee should be aware that passage of HR 2319 is not the end of this story by any means. The District government must implement this legislation. After passage, the D.C. Parole Board (hopefully working together with the D.C. Department of Corrections, the Federal Bureau of Prisons, and the Federal Parole Commission) must write new regulations to establish a procedure under which D.C. prisoners are evaluated for parole release. Also, the District government must come up with adequate monies to finance this effort.

The National Prison Project would suggest that the guiding principle in drafting these new regulations (and any new agreements with other agencies) must be fairness to the individuals involved. At a minimum, District offenders in the federal system must have the same opportunities to obtain parole release under D.C. law that D.C. offenders ~~now receive if~~ housed normally in D.C. facilities. Nothing less will do. Inadequate budgetary support[12] is not a legitimate reason for not carrying out this principle. It should go without saying that in this context we are concerned with fundamental constitutional guarantees of individuals[13] which go beyond even the weighty struggle for "Home Rule".

Moreover, it should be recognized there is an opportunity here to reduce the substantial amount the District pays to the Bureau of Prisons for housing its prisoners. If application of D.C. parole standards do indeed result in shorter periods of

---

12 The Parole Board made this contention after the 1983 Hearings. Letter of Chairman Bernice Just to Hon. Mervyn M. Dymally, dated May 20, 1982 at 18-19.

13 See, for example, Watson v. City of Memphis, 373 U.S. 526, 83 S.Ct. 1314, 1321 (1963); Rhodes v. Chapman, 101 S.Ct. 2392, 2404-2405, and n.7 (1981)(Brennan, J. concurring); Holt v. Sarver, 309 F.Supp. 3621 (E.D. Ark. 1970) aff'd 442 F.2d 304 (8th Cir. 1971); Battle v. Anderson, 564 F.2d 388 (10th Cir. 1977); Ruiz v. Estelle, 503 F.Supp. 1265 (S.D. Tex. 1980); and LaReau v. Manson, 507 F.Supp. 1177 (D. Conn. 1980).

confinement,[14] D.C.'s total bill paid to the Federal Bureau of Prisons can be reduced significantly.[15] Moreover, if no D.C. facilities are used to house prisoners awaiting parole hearings, there exists a further opportunity to reduce the severe overcrowding at the D.C. Jail and other D.C. penal facilities. Therefore it may make sense for the District to consider holding parole hearings in the various federal facilities rather than transfering prisoners to the District as Garnes requires.

If, however, the Board does consider a Garnes approach to implementation, the sad history of that case and the 1982 Agreement is obviously relevant. Lucy Steinitz' critique is a good starting point.[16] The Subcommittee should also be aware of the recent problems particularly with the 1983 Agreement, including:

(1) Months of delay whenever a woman is transferred back to the D.C. Jail for parole hearings before the Board and release from her confinement.

(2) Parole Board refusal to hear women already at the D.C. Jail who are within nine months of parole eligibility at the time of sentencing. Although excluded from the

---

14 See p. 3 and n.4 above.

15 Also, this would reduce the Bureau's overcrowded, overburdened facilities as well.

16 L. Steinitz, "The Garnes Decree in Reality: Parole Eligibility and Determinations for D.C. Women in Federal Corrections Institutions" (June 1981)(unpublished research paper). Also see her testimony and statement in the 1982 Hearings at 34-40.

original Garnes decree, the Bureau of Prisons had agreed to accept such women for federal placement if screened for possible community placement or parole release by D.C. authorities. The D.C. Board will conduct a D.C. status review on these women if designated into the federal system and immediately referred back. However, the problem has been that the Board has taken the position that it will not screen those women who are already at the Jail until their actual parole eligibility date. The human result of this policy is that a number of women are essentially warehoused in grossly overcrowded facilities at the D.C. Jail for up to nine months before designation to a federal facility.

(3) Until recently, the D.C. Board has refused to grant any woman sentenced under the federal Youth Corrections Act an initial parole hearing prior to federal placement despite the fact that she is already confined at the Jail and eligible. Under pressure from the Superior Court, this policy in principle has been changed. Some nine months have elapsed from the execution of the interagency agreement between the Bureau and the D.C. Department of Corrections, yet the Parole Board has not worked out formal implementation procedures. Again, warehousing in overcrowded facilities is the sad result.

It should be noted that (2) and (3) above will remain problems even if the Board agrees that the way to implement HR 2319 is for the Board or its agents to travel to federal facilities.

24-295 O—83——3

Moreover, these problems will increase in severity because of the additional male population involved.

We again urge the Subcommittee that the long-term resolution of at least the women's problems in the federal system lies with establishing facilities and programs for them here in the District of Columbia. We should not forget the days of hearings and testimony previously devoted to the nature of confinement in remote areas such as Alderson.[17] The D.C. Department of Corrections and the Parole Board are in essential agreement with us on this point.[18] We urge the Subcommittee to press the District for local facilities and programs. George Holland, former Acting Director of the D.C. Department of Corrections at the 1982 Hearings explained that the Youth Center II facility on the Lorton reservation was no longer an option (after 10 years of presenting it as such) because of overcrowding pressures. He then outlined renovation "plans" for the so-called Rehabilitation Center for Alcoholics (RCA) also on the Lorton reservation. We would respectfully ask the Subcommittee to look into the status of this proposal[19] with the view toward determining its feasibility. If it is indeed feasible, we urge its speedy

---

17 See the Female Offender Hearings, n.3 above.

18 See 1982 Hearings at 9-10.

19 If this proposal is no longer viable, the Subcommitte should recommend the authorities look into the availability of D.C.'s Cedar Knolls juvenile facility in Maryland. The National Prison Project has learned this institution has been zero-budgeted by the D.C. government.

implementation with the following caveat: Before D.C. spends any money at all on facilities locally they should study who these women are and make an assessment of their actual needs in terms of security and programs. In other words, we believe some prior planning is necessary. This has not been done as far as we know. Money will be wasted and women who do not need maximum security housing will be confined in such housing. Ominously, with respect to the RCA facility, Mr. Holland wrote last year to the Subcommittee that, "The renovation is being done to covert [sic] a portion of the facility from an open institution to a secure one...." 1982 Hearings, Letter of May 20, 1982 at 16. If we ever have a local facility for women in the District we should make sure it serves the needs of those women as well as the community.

Thank you again for this opportunity to appear before this committee and give our views. We are pleased that the Subcommittee has in effect assumed an oversight role with respect to this subject. We hope that it will see fit to become involved in resolving the larger issue of returning the D.C. women offenders to their families and children, friends, and community and providing a real basis for their eventual successful reintegration with their communities upon release.

Mr. DYMALLY. To Ms. McCarthy and Ms. Hartman, we have copies of your testimony. You may feel free to summarize same.

Ms. MCCARTHY. Thank you, Mr. Chairman. We will do that.

Mr. DYMALLY. You may proceed.

STATEMENTS OF LUCY STEINITZ, DIRECTOR, CLIENT SERVICES FOR THE JEWISH FAMILY AND CHILDREN'S SERVICE; AND MARY McCARTHY, JEROME N. FRANK LEGAL SERVICES ORGANIZATION, YALE LAW SCHOOL, ACCOMPANIED BY JOAN HARTMAN

Ms. STEINITZ. My name is Dr. Lucy Steinitz. I am the interim executive director of the Jewish Family and Children's Service in Baltimore.

I would like to offer my appreciation at being asked to testify here this morning. The wheels of progress are turning slowly, but it is nice to know with your ongoing commitment, Mr. Chairman, and your support we are still moving in the right direction.

I support this bill for three reasons:

First, it is reasonable and consistent with home rule, since it allows the District of Columbia to be treated like most of the 50 States that happen to send State code violators to Federal prisons.

Second, it removes the equal protection arguments that were highlighted in the 1972 lawsuit by *Lana Phoebe Garnes et al.* v. *Patricia Taylor, et al.*, and more recently in *Michael Cosgrove, et al.* v. *William French Smith, et al.*

Third, it addresses one of the key past abuses of the *Garnes* decree, which had been the focus of the research I presented at the last oversight hearing on the subject almost exactly a year ago, on May 6, 1982.

Although the *Garnes* decree, enacted in 1976, does not mention the U.S. Parole Commission or its influence on the District of Columbia's consideration of transfer of parole, the District of Columbia authorities voluntarily abdicated their parole responsibility by relying on the decisions rendered by the preliminary U.S. Parole Commission hearings at Alderson, or at the other women's prisons. This usually resulted in longer sentences for the women involved and essentially rendered the *Garnes* decree meaningless.

By formally transferring parole authority for all D.C. Code violators to the District of Columbia's Board of Parole, this bill seeks to offset and ideally eliminate the interference of these U.S. Parole Commission hearings. This is a noble goal and one I have supported for several years now, but I am not entirely sure this bill is going to get us where we want to go.

Although my current involvement and activities no longer afford me the opportunity to be as involved in this issue or its implications as I would like, I have two specific concerns.

The first relates to an item of technical confusion; that is, how does this proposed legislation apply to someone who is simultaneously a D.C. Code violator and a United States Code violator, let us say serving concurrent sentences. Perhaps someone can answer this during or after this hearing.

My immediate concern, however, relates to the implementation of this bill. As I see it, the District of Columbia's Board of Parole has four options in terms of implementation:

One, it could go down to Alderson and the other Federal correction facilities and, at regular intervals, conduct hearings there or do them via TV monitor, as was suggested last year by Representative Dymally.

Two, it could make arrangements for Federal courtesy hearings by U.S. Parole Commission members. I think this legislation would permit that.

Third, it could have the women or male prisoners come up to the D.C. jail or other local site and await hearings here.

Four, it could choose to follow the procedures originally outlined in the *Garnes* decree back in 1976 and confirmed in the memorandum of understanding signed last year by the U.S. Bureau of Prisons and the District of Columbia Department of Corrections.

Let me go into a little greater detail on each one of these.

In the first option, the D.C. Board of Parole would exercise authority by conducting hearings of D.C. prisoners in Alderson or whatever Federal facility they may be housed. The problem is that when this option was suggested at last year's hearing to Bernice Just, Chairperson of the District of Columbia Board of Parole, she explained, "Given the present budgetary position in which the Board finds itself, this is just not possible." I am concerned that the proposed legislation, which refers to both male and female prisoners, would only exacerbate the cost and staffing problems identified by Ms. Just.

There are approximately 1,700 D.C. Code violators in Federal prisons across the country, so the question is can the D.C. Board of Parole handle this. Even if it could, this solution raises another problem. Because of Alderson's location in the hinterland, 280 miles from here, more women would end up having hearings far away from Washington than would the men, which brings up some new equal protection concerns.

Specifically, this long distance would preclude prisoners in places like Alderson from having access to legal counsel with whom they are familiar and who are easily available. It would also be more difficult for these prisoners to obtain supportive testimony by family members or prospective employers, who could promise to facilitate their reentry into the community following parole. This means that, on average, women prisoners at Alderson would remain at a disadvantaged compared to the men at Lorton, who could more easily muster their troops in presenting a case for parole.

Two, I mentioned the possibility of Federal courtesy hearings. As I see it, this could greatly endanger the very purpose of the entire legislation we are discussing. As we are all aware, the U.S. Parole Commission operates under a very different system of salient factors than the D.C. Board of Parole's method of determining parole. Even if during these so-called courtesy hearings the Federal authorities would temporarily abandon their own system in favor of the D.C. guidelines, the experience and mind set of these Commissioners, no matter how well intentioned, would inevitably influence the outcome of parole.

I would like to see this option expressly prohibited in this legislation. If that is not possible, however, and if these courtesy hearings are, in fact, adopted, a careful followup study should be conducted with the intent of eliminating any differences in bias between the decisions of the U.S. Parole Commission and those of the District of Columbia's Board of Parole.

The third option would be to have the D.C. Code violators moved back to some District of Columbia facility, presumably a jail or a halfway house, prior to the Board of Parole hearing. Unfortunately, this option runs us headlong into the problem of space, both at the overcrowded D.C. jail and at existing halfway house facilities.

Although I cannot speak to the situation right now, one of the stumbling blocks I confronted in my research a few years ago had to do with the woefully limited number of available beds at the D.C. Halfway House for Woman and the D.C. Rehabilitation Facility. Thus, this solution is a somewhat shaky alternative at best. Also related to the lack of space is the virtual absence of opportunities for women, especially at the jail, for continuing education, work experience and recreation.

The last option, which is really a variation of the third, leads us back to the *Garnes* decree itself. It is quite conceivable that under this statute the District of Columbia Board of Parole and Department of Corrections may simply decide to return to the procedures originally outlined in the *Garnes* decree under this statute in 1976.

This would mean that in order to insure that an offender's transfer to the District of Columbia only occurs when her imminent release and supervision are assured, the District of Columbia Department of Corrections, or possibly in this case the D.C. Board of Parole, would have to review a referral packet send by the Bureau of Prisons 9 months prior to the prisoner's parole eligibility, expiration or mandatory release date.

This packet must contain information and materials about the inmate, including sentence data, a presentence report when available, a progress report about the offender's institutional adjustment and progress, and for any D.C. woman committed for a violent offense, a psychiatric or psychological report.

In those cases where the Department of Corrections or the Board of Parole decides that it would either parole or supervise the mandatory release of the offender, the prisoner would be subsequently transferred to Washington, D.C. and either paroled directly or more likely placed in a work release program.

The *Garnes* decree, when it was initially enacted, sought to make the best out of a tough situation, and I don't want to criticize it here, especially as some of its fuzzier points finally got clarified in last September's memorandum of understanding between the Bureau of Prisons and the District of Columbia Department of Corrections.

I would like to ask, Mr. Chairman, to have a copy of this memorandum of understanding included in the record.

Mr. DYMALLY. Without objection, so ordered.

Ms. STEINITZ. Thank you.

However, I confess that I am worried. Implementation has been a problem of the *Garnes* decree from day one, almost 7 years ago. It isn't likely, in my opinion, that any single piece of legislation, no

matter how well intended or carefully written, will solve the basic problems of interagency communication or the lack of it, equal protection and the lack of funding and facilities for women.

To me, being the social worker that I am, the process of what we are doing here this morning is as important as our purpose. I am very pleased that this subcommittee has, in effect, assumed an oversight role with respect to the implementation of the *Garnes* decree. These hearings keep attention focused on the issue, forcing all the different agencies involved to stay on their toes.

I would like to see some form of oversight hearing continued, perhaps incorporated within a statute itself. Annual reports to the subcommittee should be requested, with followup information comparing the numbers of male and female prisoners falling under the jurisdiction of the statute and what happens to them over time.

When I did my research 2 years ago I was shocked that neither the Department of Corrections nor the Bureau of Prisons could give me even the most rudimentary data about the number of women prisoners who had applied for parole under the *Garnes* decree and what had happened to their applications.

If we are going to get anywhere in this quagmire of an issue, solid recordkeeping, with statistical analysis, must take place. I believe the place to start is to request annual oversight hearings for at least the next 3 years by this subcommittee

Thank you for your time and the opportunity to speak to you this morning.

Mr. DYMALLY. Thank you, Ms. Steinitz.

[The memorandum of understanding follows:]

JOINT AGREEMENT BETWEEN THE BUREAU OF PRISONS AND
THE DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS
REGARDING FEMALE OFFENDERS

The Bureau of Prisons and the District of Columbia Department of Corrections agree to the procedures outlined below to formalize the provisions for designating Bureau of Prisons' facilities for District of Columbia women and for transferring District of Columbia women to and from facilities of the Bureau of Prisons.

Under Section 24-201 of the D.C. Code, the District of Columbia Board of Parole has jurisdiction over prisoners confined in any District of Columbia facility, and may impose a release date or modify one already established by the United States Parole Commission. To mitigate the effects of the distance at which D.C. women are housed from their homes, and to give them an opportunity to have their cases heard by the District of Columbia Board of Parole, this Agreement formalizes the procedures for designating federal facilities for D.C. women. This Agreement also establishes a review process for determining a D.C. woman's appropriateness for placement in a D.C. halfway house or for release on parole. That review process will be known as a "transfer status review" and will be conducted by the D.C. Department of Corrections and D.C. Board of Parole upon request from the federal institution housing the woman.

Because the District of Columbia has no facilities to house long-term D.C. women, the Bureau of Prisons has agreed to:

1. Designate federal institutions for most D.C. code violators serving sentences of more than one year but who are not within nine months of a statutory parole eligibility, expiration, or mandatory release date.

2. Refer to the D.C. Department of Corrections and the D.C. Board of Parole for transfer consideration any D.C. woman in its custody who makes such a request and is within nine months of statutory parole eligibility, an expiration date, or a mandatory release date.

A parole eligibility date is the date on which a D.C. woman becomes eligible for parole consideration. An expiration date is the date on which a D.C. woman is to be released with 180 days or less of accumulated good time. A mandatory release date is the date on which a D.C. woman is to be released with more than 180 days of accumulated good time. Because a decision to seek a hearing with the U.S. Parole Commission is entirely voluntary, the absence of any U.S. Parole Commission action or the presence of a presumptive parole date established by the U.S. Parole Commission will not influence the time at which a referral is made, nor will any U.S. Parole Commission action be required for favorable transfer consideration by the D.C. Department of Corrections and D.C. Board of Parole.

Designation of Institutions for District of Columbia Female Offenders

The procedures described in Interagency Agreement, Department of Justice and District of Columbia Superior Court, signed June 15, 1981, describing each agency's designation responsibilities, delineates the procedures to be followed in designating institutions for D.C. women. In addition to those procedures, the Bureau of

Prisons has the authority to review all requests for designation to ensure that a D.C. woman is not within nine months of a statutory parole eligibility, expiration, or mandatory release date. If the D.C. woman is within nine months of a statutory parole eligibility, expiration, or mandatory release date, the Assistant Director, Correctional Programs, Bureau of Prisons, will notify:

Director
Legal Assistance Branch
District of Columbia Superior Court
451 Indiana Avenue, N.W., Room 537
Washington, D.C. 20001

Once the Legal Assistance Branch has been notified, the Correctional Programs Branch will hold the designation request in abeyance until a determination has been made as to community placement or parole. The D.C. Department of Corrections and the D.C. Board of Parole will make those determinations within 60 days. If the offender is unsuitable for community placement at that time or is unlikely to be paroled in the near future, the Chief Classification and Parole Officer, D.C. Detention Facility, will make a written request to the Administrator, Correctional Programs Branch, that the designation proceed. Upon receipt of this written request, the Bureau of Prisons will designate an appropriate federal facility.

If the offender is found to be a suitable candidate for community placement or parole, the Chief Classification and Parole Officer, D.C. Department of Corrections Detention Facilities, will notify the Assistant Director, Correctional Programs, of the disposition. A courtesy copy will be sent to the Director, Legal Assistance Branch. The Federal Prison System will then notify the United States Marshals Service, Washington, D.C., that a federal designation is not required.

Transfer Referrals of D.C. Women to the D.C. Department of Corrections and the D.C. Board of Parole

To ensure that every D.C. woman in federal custody is aware of the referral process and her right to request referral, Bureau of Prisons staff will discuss with each, at her initial classification, this right and the procedures to be followed. Also at initial classification, each woman will be given a "Notice of Eligibility Form" (See Attachment A) to sign. A D.C. woman may choose not to be referred. If a woman declines referral, a copy of the form reflecting this declination will be forwarded to the D.C. Department of Corrections and D.C. Board of Parole. Any woman who declines referral at the time of her initial orientation will be given a second opportunity when she is within nine months of parole eligibility or whenever she so requests. If she again declines, notice of this action will again be forwarded to the D.C. Department of Corrections and D.C. Board of Parole. Each woman who requests referral will be referred for transfer status review when she is within nine months of a parole eligibility, expiration or mandatory release date.

For each referral of a D.C. woman, Bureau of Prisons staff will provide the following information:

(a) A cover letter from Warden (the cover letter will not include a recommendation);

(b) Sentence Data (BP-5);

(c) Pre-Sentence Report, when available;

(d) Progress Report completed not more than 90 days prior to the referral.

(e) A psychiatric or psychological report completed not more than 90 days prior to the referral for any D.C. woman committed for a violent offense or with a prior record including a violent offense.

To expedite the referral process, all referral packages will be mailed directly to:

Assistant Director
Women's Programs and Community Services
District of Columbia Department of Corrections
614 H Street, N.W., #1001
Washington, D.C. 20001

and:

District of Columbia Board of Parole
614 H Street, N.W., #563
Washington, D.C. 20001

If the Department of Corrections or the Board of Parole require more information to make a decision, the institution will provide it upon request. To expedite such a request and the referral process, either of the D.C. agencies may contact the Correctional Programs Branch at 724-3081, which will relay the request to the appropriate institution.

Referral of D.C. Women on Writ to the District of Columbia. If a D.C. woman becomes eligible for referral while in the District of Columbia on writ, the Department of Corrections Case Management staff will, upon the woman's request, refer her for transfer. The D.C. staff will send for appropriate referral material from the institution and prepare an additional progress report covering any new information. The material will be forwarded by the Department of Corrections Case Management staff to the Assistant Director, Women's Programs, and the District of Columbia Board of Parole for the transfer status review. In any such case, the Legal Assistance Branch, D.C. Superior Court, will be contacted to assure that the prisoner is not returned on the writ prior to the review and to assist in quashing the writ if appropriate.

Transfer Denial. If the D.C. Department of Corrections and D.C. Board of Parole determine a D.C. woman is inappropriate for halfway house placement or parole, each will send a letter to the Warden of the federal institution, indicating the reasons for the denial.

The decision of a D.C. woman, in federal custody, to have a hearing before the United States Parole Commission is entirely voluntary; therefore, the absence of United States Parole Commission decision cannot be the basis for denying a D.C. woman's request for transfer to the D.C. Department of Corrections.

Transfer Approval. If the Assistant Director, Women's Programs, D.C. Department of Corrections and/or the D.C. Board of Parole agree to accept a D.C. woman for transfer, notice will be given to the Warden of the federal institution. Each D.C. agency will advise the other of its decision by way of a carbon copy of its notice to the Warden.

If transfer is approved for community placement, the Assistant Director of Women's Programs, D.C. Department of Corrections will provide notice of the transfer date. If transfer is approved for parole consideration, but not through community placement, the Warden of the federal institution will coordinate the transfer date with the Assistant Director of Detention Services.

Grievances Relating to Designation and Transfer of D.C. Women. D.C. women wishing to express a formal complaint regarding any action under the procedures in this Agreement may:

(1) Use the Bureau of Prisons Administrative Remedy procedure for matters under Bureau of Prisons jurisdiction.

(2) Use the D.C. Department of Corrections grievance procedure for matters under D.C. Department of Corrections jurisdiction.

Both the Bureau of Prisons and the D.C. Department of Corrections will assist D.C. women in their custody in obtaining the appropriate grievance procedure forms in matters outside their reviewing authority.

For the Bureau of Prisons:

Norman A. Carlson
NORMAN A. CARLSON, Director

June 28, 1982
(Date)

For the D.C. Department of Corrections:

George G. Holland
GEORGE G. HOLLAND, Acting Director

July 1, 1982
(Date)

OPTIONAL FORM NO. 10
JULY 1973 EDITION
GSA FPMR 101 CFR 101-11.6

UNITED STATES GOVERNMENT

Memorandum

Bureau of Prisons
Washington, D. C.

TO : Wardens: Alderson, Lexington, Ft. Worth, Terminal Island, Pleasanton

DATE: December 8, 1976

FROM : Roy Gerard, Assistant Director, Correctional Programs Division

SUBJECT: Referral of D. C. Women Confined in Bureau Facilities to the District of Columbia Department of Corrections

The purpose of this memorandum is to clarify and make certain amendments to the Bureau of Prisons' procedure for referring D. C. women in Federal institutions back to the District of Columbia Department of Corrections (D.C.D.C.). As used in this memorandum, the term "D.C. women" includes those females in Federal institutions who are D. C. Code violators or U. S. Code violators whose legal residence or approved release destination is Washington, D. C.

Since the District of Columbia has no facilities for holding long-term female offenders, the Bureau of Prisons has agreed to:

1. Designate to Federal institutions most female D.C. Code violators with sentences of more than one year who are not within nine months of a parole eligibility, expiration, or mandatory release date, and

2. Refer to D.C.D.C. for transfer consideration any D.C. woman in its custody who makes a request and is within nine months of a parole eligibility, expiration, or mandatory release date.

Under the D. C. Code, the D. C. Board of Parole has jurisdiction over prisoners confined in the penal institutions of the District of Columbia including both D. C. Code violators and U. S. Code violators. When the Bureau of Prisons refers a D.C. woman for transfer to D.C.D.C., she is screened for parole release by the D. C. Board of Parole. If the Board decides that it will either parole or supervise the mandatory release of the women, D.C.D.C. will request transfer. Upon transfer to Washington, D. C., the woman will either be paroled or placed in a halfway house.

ACTION. Bureau of Prisons institutions shall refer D. C. women offenders to D.C.D.C. in the following manner:

ATTACHMENT B

(1) To insure that every D. C. woman in a Federal institution is aware of the referral process and her right to request referral, each woman shall, upon commitment to a Federal institution, be given a "Notice of Eligibility Form" (Attachment A) to sign. A D. C. woman may choose not to be referred, but if she is within nine months of a parole eligibility, expiration or mandatory release date and requests referal, she shall be referred.

(2) To expedite the referral process, all referrals, including a cover letter from the Warden, shall be made directly to: James Freeman, Chief Executive Services, District of Columbia Department of Corrections, Suite 1114, 614 H Street, N. W., Washington, D. C. 20001. A recommendation is not necessary. In order to evaluate this system of direct referrals, each institution shall, until further notice, complete and forward to the Central Office a monthly report on the referral status of D. C. Women (Attachment B).

(3) The following information shall be provided by the institution in each referral of a D. C. woman to D.C.D.C.:

a. Sentence Data (BP-5);

b. Presentence report when available;

c. A progress report completed less than 90 days prior to the referral. (In addition to information concerning the offender's institutional adjustment and progress, the report shall include current information on outstanding detainers, parole and pre-release eligibility status, the offender's medical condition, and psychological condition, if known); and

d. In the case of any D. C. woman committed for a violent offense or who has a prior record which includes a violent offense, a psychiatric or psychological report completed not more than 90 days prior to the referral.

In some cases D.C.D.C. or the D. C. Board of Parole may need further information to make a decision on the referral. The institution shall provide additional information to D.C. D.C. requested to expedite the referral process, particularly where additional information is needed, we have asked D.C.D.C. to contact Bureau institutions by telephone. If institution staff need further information from D.C.D.C. concerning a referral, staff can contact D.C.D.C. by telephoning Mrs. Coopersmith at (202) 629-2531. If problems arise that require Central Office assistance, contact Steve Pontesso at 724-3257 (FTS).

(4) If a D. C. woman becomes eligible for referral while in D. C. on writ she may either write to the Federal institution and request referral or ask D. C. case management staff to make the request. To enable D.C.D.C. to make a decision on the referral as soon as the writ is resolved, the material shall be promptly forwarded upon request.

ATTACHMENT A

NOTICE OF ELIGIBILITY FOR REFERRAL

NAME: _____

REG. NO.: _____

Applicability

Female D.C. Code Violators may be referred to the D.C. Department of Corrections for consideration for possible transfer to a D.C. Department of Corrections facility.

Eligibility

Female inmates described above who are within nine months of parole eligibility, expiration of sentence, or Mandatory Release, shall, upon request, be referred by the institution to the D.C. Department of Corrections for transfer consideration.

By initialing Box A, you will be referred to D.C.D.C. when eligible. By initialing either Box B or C, you will not be referred without your concurrence at some later time.

A. _____ I wish to be referred to D.C.D.C. as soon as eligible.

B. _____ I do not wish to be referred to D.C.D.C.

C. _____ I have not decided but will inform staff of my decision at a later date.

_____ WITNESS

_____ SIGNATURE

Mr. DYMALLY. We will hear Ms. McCarthy, and then we will come back for some questions.

STATEMENT OF MARY McCARTHY

Ms. MCCARTHY. My name is Mary McCarthy. I am a member of the faculty at Yale Law School. I am accompanied by my colleague, Ms. Hartman, who is a law student intern with the legal services organization of the Yale Law School and is counsel to the plaintiff in the *Cosgrove* case.

We thank you, Mr. Chairman, for inviting us to testify today. We heartily endorse this bill. We feel that it will remedy an unjust and unconstitutional dual parole system. In addition, it will provide that the decisionmaking body rendering parole decisions affecting D.C. citizens will be a group of people who are familiar with the D.C. community. We believe, therefore, it will not only protect the rights of the inmates, but it will also protect the interests of the D.C. community.

Although we are engaged in litigation, we represent, as I mentioned, the plaintiff in the *Cosgrove* case, which alleges that the present system is unconstitutional and also makes the statutory argument for the application of the D.C. parole criteria to D.C. offenders in the Federal system.

We believe that the legislative remedy proposed in the bill before you today is far superior to the potential judicial remedy.

First of all, the litigation process is an extremely slow one. The *Cosgrove* case was actually started by Michael Cosgrove in 1978, when he filed a motion pro se seeking relief in the D.C. courts. It has now, in 1983, only reached the stage of pretrial discover. Trial and subsequent appeals could take many more years, so relief is not anywhere in sight in the litigation process.

Second, the remedy that you propose is a more comprehensive and effective one than the remedy which may result from the Cosgrove litigation. For example, the Cosgrove class consists only of male offenders who have been convicted in D.C. Superior Court of D.C. Code offenses. It does not include women who have been convicted, and it does not include men who have been convicted in Federal court of D.C. Code offenses. Your legislation would cover all of the D.C. Code offenders.

Also, the type of relief that may result from *Cosgrove* is not as effective as that provided in the bill. The court in *Cosgrove* may direct only that the Federal commission apply D.C. parole criteria. We believe that is not the perfect remedy. We believe that if the D.C. Board of Parole is making all the parole determinations, the results are much more likely to be uniform and also much more likely to represent the interests of the D.C. community more closely.

Finally, of course, the outcome of litigation is always uncertain. It may turn on procedural irregularities that have nothing to do with the merits of the case, so one cannot be sure that any relief will result from the various cases being pursued in Federal court.

I also believe that ultimately, if the plaintiffs do prevail in *Cosgrove,* as I believe they will, that we will be back before the Congress asking for legislation to implement the court's decree. For

that reason, I think it is clearly preferable that Congress act now, before the expenditure of time and resources that the litigation would involve.

I would like to point out one factor here. I am from the District of Columbia and have been a staff attorney with the Public Defender's Service here for years, until last year when I joined the Yale faculty. During that time I represented many, many people in the Lorton facilities, particularly in postconviction matters.

I think the dual parole system has a very insidious effect on the population of Lorton. Everybody in Lorton knows that the Federal Parole Commission is likely to give them a harsher sentence for the same offense. Therefore, there is fear in that community to speak out. Clients have told me that if they were the victim of a crime, they were reluctant to tell the administration for fear that they might be sent to the Federal system for their own protection.

Likewise, clients who are in protective custody in Lorton have told me that they were reluctant to request a transfer to the Federal system, where they might enjoy more pleasant conditions of confinement because of their fear of the harsher criteria applied by the Federal Parole Commission.

It is my hope that this legislation, assuming it is adopted, will have a positive effect on the Lorton population, as well as creating a uniform system of parole for D.C. Code offenders.

If I may now defer to Ms. Hartman, she is prepared to explain the status of the *Cosgrove* litigation; also, some problems we see in the interpretation of the statute.

Mr. FAUNTROY [presiding]. We will be very happy to Ms. Hartman. Let me say we will insert your prepared statements in their entirety in the record without objection.

[The prepared statement of Mary Abigail McCarthy follows:]

PREPARED STATEMENT OF MARY ABIGAIL MCCARTHY

I am Mary Abigail McCarthy, Supervising Attorney and Lecturer in clinical Studies at Yale Law School. I am accompanied by my colleague, Joan Hartman, who is a third year law student, working as a law student intern with Yale Law School's Jerome N. Frank Legal Services Organization.

We thank Chairman Dymally for inviting us to appear and testify before the Subcommittee on Judiciary and Education of the House Committee on the District of Columbia.

We strongly endorse the purpose of H.R. 2319—to give the D.C. Parole Board exclusive jurisdiction over parole determinations affecting D.C. Code offenders. This legislation presents an opportunity to remedy a system of parole which is unconstitutional and unfair, a system in which certain D.C. offenders are subject to different and relatively harsh parole criteria for reasons having nothing to do with legitimate parole considerations. It is also our opinion that the parole of persons who are from the D.C. community and who will be returning to the D.C. community upon their release from prison is best determined by a parole authority that is familiar with this community and that is therefore in a position to represent its best interests. The proposed legislation not only protects the rights of inmates but it promotes the interests of the public as well.

Our position is based upon our experience representing persons subject to the current dual parole system. Yale law students and faculty are co-counsel for the plaintiffs in *Cosgrove* v. *Smith,* Civ. No. 80-0516, a case now pending in the United States District Court for the District of Columbia, which seeks relief similar to that which H.R. 2319 would grant to D.C. offenders incarcerated in federal institutions. In *Cosgrove,* we argue on behalf of the plaintiffs that the dual parole system violates the principles of equal protection because it discriminates arbitrarily between different classes of D.C. offenders. We also argue that an existing D.C. Code provision, D.C. Code Ann. § 24-209, requires that all D.C. Code offenders be governed by D.C. parole

criteria. Ms. Hartman will describe the status of that litigation in her testimony. We also represent individual D.C. offenders who are incarcerated in the Federal Correctional Institution in Danbury, Connecticut, who are subject to the authority of the Federal Parole Commission and who suffer the consequences of the current dual parole system.

In addition, I have personally represented many men incarcerated in the Lorton facilities of the D.C. Department of Corrections. I am from the District of Columbia and until joining the Yale faculty last year I was a staff attorney with the Public Defender of the District of Columbia. I was a staff attorney with the Mental Health Division and earlier with the Correctional Services Program of the Public Defender Service. In the course of representing persons incarcerated in Lorton in connection with post-conviction problems, I had an opportunity to observe the subtle and insidious effects of the dual parole system on the D.C. prison population and the daily life of the prison. Prisoners in the Lorton facilities are aware of the harsh practices of the Federal Parole Commission and fear transfer to the federal system. As a result, clients of mine at Lorton were reluctant to inform the Lorton administration of crimes they had suffered while in Lorton because they believed this information could lead to their being transferred for their own protection to the federal system. Under these circumstances, a frightened inmate may be forced to remain in the general population at Lorton under unsafe conditions and the prison administrators may be deprived of information that might assist them in identifying dangerous and violent inmates who are victimizing others.

In addition, it was my experience that inmates who had sought protective custody within Lorton were willing to endure—sometimes for years—the then extremely harsh conditions of protective custody rather than request a transfer to the federal system. If the same parole criteria were uniformly applied to D.C. Code offenders regardless of the place of their incarceration, Lorton inmates would have less reason to accept dangerous or harsh conditions of confinement in silence. Thus, the passage of the bill before you may have positive effects on conditions within the Lorton facilities beyond its immediate purpose of remedying an unjust parole system.

We are now engaged in litigation which seeks to remedy the inequities of the dual parole system, but we believe that a legislative remedy is far superior to a judicial remedy.

The judicial process is extremely slow. The *Cosgrove* case was initiated in 1978 when Michael Cosgrove filed a motion pro se seeking relief in the courts of the District. It is now 1983 and, having been taken to the United States Court of Appeals on preliminary issues, the case is only now reaching the stage of pretrial discovery. It could be years before a trial of the merits and any subsequent appeals are completed. The problems created by the dual parole system for D.C. offenders are serious ones of constitutional magnitude. In terms of providing a prompt resolution of these problems, Congressional action is likely to be more effective than judicial action.

Legislative action can provide a more comprehensive and effective solution to the problems of a dual parole system than the judicial system. For example, the plaintiff class in the *Cosgrove* case includes only male prisoners sentenced to adult terms of incarceration by the Superior Court of the District of Columbia (although a class has not yet been certified). It does not include persons sentenced in the Federal Courts of the District of Columbia for D.C. Code offenses and therefore this class of prisoners will not necessarily be affected by any relief provided by the court in *Cosgrove.* In contrast, the proposed legislation can provide a comprehensive scheme of parole consideration for all D.C. Code offenders.

Similarly, the type of relief granted as a result of the *Cosgrove* litigation may be more limited than that provided by the bill before you. The court may direct only that the federal parole authority apply D.C. parole criteria to D.C. offenders. The remedy provided for in H.R. 2319—granting the D.C. Board exclusive jurisdiction over D.C. Code offenders—is the superior remedy. It assures uniformity of result by assigning authority to one decision-making body and it ensures that D.C. parole decisions are made by an authority familiar with this community, its laws and its parole practices and priorities.

The outcome of litigation is also always uncertain. A case may be dismissed for jurisdictional or procedural reasons having little to do with the merits of the case. This means that the judicial process may not provide any solution to the problem of the dual parole system.

On the other hand, in the event that plaintiffs prevail in *Cosgrove,* it is likely that Congress will be called upon to provide legislation implementing the court's order granting relief. If this is the case, it is obviously preferable that legislative action

24-295 O—83——4

occur now before the great expedition of time and resources that continuing litigation will inevitably entail.

For all of these reasons, we urge that H.R. 2319 be adopted with some minor modifications that Ms. Hartman will suggest in her testimony.

Mr. FAUNTROY. Ms. Hartman?

STATEMENT OF JOAN HARTMAN

Ms. HARTMAN. Thank you.

I would like to thank the subcommittee for giving me the opportunity to appear before it today. I was law student counsel for plaintiffs in *Cosgrove* v. *Smith,* which is the case presently in the Federal district court seeking the relief that today's bill would grant to D.C. offenders.

I would like to make one general point, which is about certain ambiguities that I see in the bill.

First, it is our understanding that the bill covers all D.C. Code violators, whether they are sentenced in Federal or superior court.

Second, it is our understanding that a defendant who is serving both a United States and a D.C. Code sentence will receive separate hearings on the Federal and District sentences that he has, and the current practice of abrogating the two sentences will be discontinued.

Third, it is our understanding that the D.C. Board will now have the authority to recommend sentence reductions under 24 D.C. Code, Section 201(c) on behalf of all D.C. Code offenders, no matter where they are incarcerated.

Fourth, it is our understanding that the relief granted by the bill will apply to all D.C. offenders incarcerated at the date the bill is passed, granting D.C. offenders in Federal prisons new hearings under D.C. criteria, whether or not they already have been heard by the U.S. Parole Commission.

I address a fifth problem, which is the nature of D.C. Code offenses and the general problem surrounding trials in Federal court of people who are ultimately convicted only of D.C. Code offenses, in my testimony and in an article that I would like to submit to the subcommittee.

If you have any questions, I would be happy to answer them. Thank you very much.

[The prepared statement of Ms. Hartman follows:]

PREPARED STATEMENT OF JOAN HARTMAN

I am law student counsel for Plaintiffs in *Cosgrove* v. *Smith,* a case in the Federal District Court for the District of Columbia seeking the relief that the bill you are considering today would grant: parole of all D.C. prisoners, no matter where incarcerated, according to the D.C. Parole Board's parole statute and criteria.

Under the current dual parole system, male D.C. offenders incarcerated in the federal prison system are subject to the jurisdiction of the United States Parole Commission rather than the D.C. Parole Board's jurisdiction. The operation of the Board and the operation of the Commission differ in several critical respects. Those two bodies apply different criteria to the offenders under their respective jurisdictions—the rehabilitation-oriented D.C. guidelines emphasize prison performance and future prospects upon release, while the deterrence-oriented federal guidelines give little weight to those considerations, instead emphasizing the past history of the offender and the seriousness of his offense. These different emphases are not accidental or purely discretionary products of the two different paroling agencies, but are inherent in their two separate parole statutes.

As a matter of practice, the application of these different standards results in substantially different periods of incarceration before parole, and a D.C. Code offender who is assigned to the federal prison system is likely to serve a much longer period of incarceration before being paroled than he would serve if he were to remain in the D.C. system. The D.C. Board's statistics show that a large majority of offenders under D.C. Board jurisdiction are released after service of their minimum term. Although we do not have the exact statistics, our experience at F.C.I. Danbury has shown that D.C. offenders in the federal system are treated much more harshly. For example, one of our clients actually had a D.C. Board hearing on his 1–3 year D.C. Code sentence while at Lorton, and then had a federal hearing following his transfer to a federal institution. The difference in the dates given by the two parole authorities was stark: under the D.C. Board's criteria, our client was given a parole release date of January, 1983. Under the federal criteria, he will not be released until January, 1984—a 100 percent increase in the time that he is required to serve.

There is no special characteristic of those D.C. offenders assigned or transferred to federal prisons that would justify this harsher treatment: reasons for transfer include overcrowding at Lorton, the availability of special drug or alcohol programs in federal facilities, or the need to protect an inmate who is an informer. None of these reasons bears any relation to proper parole considerations, and the harsher parole treatment is thus arbitrarily imposed on those who have the misfortune to be assigned to federal prisons.

Furthermore, under current law, although D.C. offenders in the federal system are not granted the advantages of D.C. law, they are subject to its disadvantages. D.C. offenders in federal institutions are subject to the harsher D.C. good time law, and to mandatory minimum sentences for D.C. life terms that are 50 percent longer than the parallel federal minimum. These disadvantages inherent in D.C. law continue to be applied to D.C. offenders despite their federal location, while the one advantage of being a D.C. offender—the rehabilitation-oriented parole criteria developed by the D.C. Board under its parole statute—is denied them.

In addition, D.C. offenders in federal institutions are the only group of offenders, to the best of our knowledge, who are governed by the parole law of their place of incarceration, rather than their sentencing jurisdiction. State prisoners housed in federal institutions are governed by the parole law of their sentencing state, and territorial offenders in federal institutions are governed by territorial parole law. In fact, the U.S. Parole Commission grants to its own, federal offenders, the relief it denies to D.C. offenders: federal offenders housed in state prisons may apply for federal parole consideration by the U.S. Parole Commission. Only D.C. offenders are singled out for different, and harsher, treatment.

The *Cosgrove* suit was brought to remedy this continuing discrimination against D.C. offenders. Plaintiffs in *Cosgrove* argue that the dual parole system violates the principles of equal protection because it discriminates arbitrarily between different classes of D.C. offenders according to sex and according to location. The plaintiffs also argue that an existing D.C. Code statute, D.C. Code Ann. § 24–209, was enacted with a purpose similar to that of the bill before you today: to require that all D.C. Code offenders be governed by D.C. parole law, and to require the U.S. parole authority to apply D.C. criteria to D.C. offenders housed in federal institutions. The trial court in *Cosgrove* initially granted defendant's motion for summary judgment, but the Court of Appeals reversed, holding that the legislative history of this statute "points toward the interpretation urged by the plaintiffs." *Cosgrove* v. *Smith,* 697 F.2d 1125, 1130 (D.C. Cir. 1983). As a result of the determination by the Court of Appeals that our claim is colorable, the case has been remanded to the district court for trial, and the pretrial discovery process may begin this summer.

The legislative history of D.C. Code Ann. § 24–209 is extremely meager and somewhat ambiguous. See *Cosgrove* v. *Smith,* 697 F.2d at 1128–30. The provision was enacted at a time when the D.C. and federal paroling authorities used the same criteria to determine parole suitability. The two systems differed only with respect to parole eligibility dates and the statute was enacted to make all D.C. inmates eligible for parole according to D.C. law. While the rationale underlying § 209 applies with equal force to parole suitability criteria, the further delegation of D.C. parole authority to the U.S. Parole Commission is not the best remedy for the differences in the current parole systems.

In our opinion, the ideal remedy for the discrimination against D.C. offenders would be to grant D.C. Board hearings for all such offenders. Delegating the paroling power of the D.C. Board to the U.S. Parole Commission is a second-best remedy, and may afford uncertain results because of the Commission's ignorance of D.C. paroling practices and priorities. If the outcome in *Cosgrove* ultimately is favorable to the plaintiffs, the court may be able only to grant this second-best relief. This is

why today's legislation is so necessary: it provides a remedy that is superior to the incomplete, as well as much-delayed, judicial remedy that may result from the *Cosgrove* suit.

In addition, today's bill promotes Congress' intent in enacting the Court Reform Act, to create a self-contained autonomous local criminal justice system meeting the special needs of the District. The bill would regularize and make consistent the relationship between Superior Court sentencing judges and the D.C. Parole Board. It is the sentencing judge, who has heard the evidence in the case, who is in the best position to evaluate the offense, and to tailor his sentence with precision to fit the offender. The judge can insure that his intent is effected only if he knows in advance how the paroling authority is likely to act in the case. Familiar with the D.C. Board's usual practice of granting release at the expiration of an offender's minimum term, the sentencing judge can set a minimum term representing his determination of the proper amount of time for the offender to serve, assuming good behavior. The Parole Board, in turn, can defer to this evaluation by releasing a majority of inmates at that date. This relationship is disrupted when a D.C. offender is transferred to the federal system. Although local judges could become familiar with the federal parole regulations, the lottery-like fashion in which D.C. offenders are sent to federal prisons deprives the minimum term of its intended effect, and therefore denies the sentencing judge the evaluative function that he, and not the U.S. Parole Commission, is in the best position to perform.

The proposed bill contains five problems that should be addressed. First, the bill does not state expressly that a defendant convicted of separate U.S. and D.C. sentences is to receive separate U.S. and D.C. parole hearings on those sentences. Under current practice, the two sentences are treated as a unit, and the offender receives only one, federal, hearing. See 18 U.S.C. §§4161, 4205 and *Goode* v. *Markley,* 603 F.2d 973 (D.C. Cir. 1979), cert denied, 444 U.S. 1083 (1980). D.C. sentences should be treated in all respects like state sentences. Second, the language in section 4 of the bill about its retroactive effect is ambiguous. The section should state that the bill's provisions apply to all D.C. offenders incarcerated at the date the bill is passed, granting them new hearings under D.C. criteria whether or not they already have been heard by the U.S. Parole Commission. Third, the bill should state that it empowers the D.C. Board of Parole to recommend sentence reductions under D.C. Code §24-201(c) for D.C. offenders in federal institutions, despite the fact that those prisoners are in the custody of the Federal Bureau of Prisons rather than the D.C. Department of Corrections. Fourth, the bill does not make clear the status of the substantial body of offenders who are convicted in federal court of U.S. and D.C. charges, or D.C. charges alone. It is our opinion that the bill covers all D.C. Code offenders, whether convicted in Superior Court or in Federal District Court, and accordingly, offenders convicted in federal court for a D.C. charge should be considered for parole under D.C. criteria.

A fifth problem, not directly addressed by today's bill, is that defendants may be convicted in federal court only of D.C. offenses, these defendants are tried by a federal judge and jury under federal evidentiary standards, and often have federal bail, sentence enhancement, and other U.S. Code provisions applied to them. The continued trial of D.C. offenders in two court systems under different substantive standards is as egregious as their consideration under two different sets of parole criteria. The problem here is a definitional one, and is endemic to the District's criminal justice system, promoting the confusion between federal and local D.C. spheres not only in regard to parole, but also in a whole range of other provisions.

The core of this problem is whether D.C. offenses are to be defined as crimes against the District of Columbia, or as crimes against the United States. The District's local criminal law is created not only by Congress acting as a substitute state legislature for D.C., but also by the D.C. Council, which may enact criminal provisions, as well as by the local D.C. courts, which have inherited criminal common law powers from their Maryland court predecessors; *United States* v. *Davis,* 71 F. Supp. 749, 750 (D.D.C. 1947), rev'd on other grounds, 167 F.2d 228 (D.C. Cir.), cert. denied, 334 U.S. 849 (1948); see D.C. Code Ann. § 49-301. The D.C. Court of Appeals, in *Palmore* v. *United States,* 290 A.2d 573, 579 (D.C. 1972), aff'd, 411 U.S. 389 (1973), noted that it is unlikely that Maryland common law offenses were transformed into general federal offenses by virtue of the District's cession from Maryland, and therefore common law D.C. crimes, as well as Council enactments, plainly are local, not federal, law. The desirability of maintaining uniformity among these three sources of District law mandate the characterization of this law in its entirety as local in nature, and require that local criminal offenses be defined as crimes against the District of Columbia. Congress' intent to so treat local offenses is made clear in the Court Reform and Home Rule Acts. Yet some courts persist in describing the D.C.

Code as federal law, and D.C. offenses as "Crimes against the United States." It is this definition that encourages ongoing discrimination against D.C. offenders, because by blurring the obvious distinctions between federal and local offenses it allows inappropriate federal provisions to be applied to those offenders. We urge this Subcommittee not only to look favorably upon the present bill, but in the future to consider the present ambiguous status of D.C. offenders as a whole in order to remedy the current pervasive discrimination against them.

APPENDIX: THE DIFFERENCE BETWEEN FEDERAL AND D.C. PAROLE STANDARDS

Until 1976, the D.C. and federal parole boards were governed by similar statutes, and similar considerations informed their parole release judgments. In 1976, however, Congress completely revamped the federal parole system, changing even the very purpose of federal parole. While the federal system formerly was, and the D.C. system still is, premised upon a philosophy of incarceration emphasizing and encouraging rehabilitation of offenders, the federal system now is oriented instead toward uniformity, deterrence and punishment.

Methods of evaluation

The two parole authorities differ in their methods of evaluating both the offender, and the offense.

A. The Offender.—While the D.C. Board's parole regulations place great weight upon current and prospective factors, like the offender's institutional experience and his prospects for successful community adjustment upon release, the federal Commission considers only retrospective factors: the number of offenses the defendant previously has committed, his age at first conviction, whether he has violated parole in the past, and the like. The operation of the federal Commission's rules to a great extent forecloses consideration of the offender's rehabilitative progress while incarcerated: the offender has no chance to demonstrate progress to the Commission because his parole hearing will be held just a few months after his arrival in prison. By contrast, D.C. Board hearings are not held until the offender nears completion of his minimum term.

B. The Offense.—The D.C. Board defers to the sentencing judge's evaluation of the seriousness of the offense, and for purposes of its parole guidelines, the Board rates only the offense for which the offender was convicted. The D.C. Board's purpose is to implement the recommendation of the sentencing judge as reflected in the offender's minimum term. The function of the federal Commission is completely different: its hearings are extensions of the sentencing process, since Congress gave it the function of equalizing disparate federal sentences. The Commission does not merely evaluate the offense of conviction, like the D.C. Board: instead, using Presentence Investigation Reports and other information, it reconstructs what it thinks was defendant's underlying criminal behavior, that is, his "real offense," and it even considers charges of which the defendant was acquitted. The U.S. Parole Commission's guidelines are structured to fit U.S. Code offenses, and can be manipulated to fit local D.C. Code offenses only with difficulty.

The D.C. criminal justice system is small, self-enclosed, and state-like. There is no large disparity in this system among sentences meted out for identical offenses requiring the use of a supra-national sentencing body, like the U.S. Parole Commission, which is in business precisely to ignore the sentencing judge's evaluation of the offender. Even if such a body were needed, the U.S. Parole Commission cannot serve this function for D.C. because its guidelines are extended to state-like crimes only with strain.

SUPPLEMENT TO TESTIMONY OF MARY ABIGAIL MCCARTHY AND JOAN HARTMAN

We strongly support the purpose of H.R. 2319, to bring all D.C. prisoners, no matter where incarcerated, under the jurisdiction of the D.C. Board of Parole. We are concerned, however, that District officials may be permitted to exercise their authority under the bill by delegating their responsibility to the Federal Parole Commission. This was a possible method of administration mentioned by D.C. parole authorities during the hearing on May 3, 1983. We believe that if this method of administration is permitted, D.C. offenders will receive no actual relief from the unfair and unconstitutional effects of the current dual parole system which H.R. 2319 is intended to remedy. Only a hearing before the D.C. Board (or its own hearing examiners) or a case review by that Board based on written information will ensure meaningful relief. In addition, it is self-evident that the principle of self-determination and the goal of creating a self-contained autonomous local criminal jus-

tice system in District are not well-served by permitting District officials to cede their responsibility back to the federal government.

At the hearing on the bill on May 3, 1983, officials of the D.C. government and Parole Board mentioned several methods of administration that might be available to the D.C. Board in implementing its responsibilities under H.R. 2319, should it become law. Among these were: first, transfer of D.C. offenders to D.C. for an in-person hearing before the D.C. Board; second, the use of a special examiner or panel that would travel to the different federal prisons to hear D.C. offenders under D.C. Board criteria; third, file reviews by the D.C. Board (the Board would issue recommendations to the U.S. Parole Commission, which would give those recommendations great weight in applying D.C. parole criteria during in-person hearings for D.C. offenders); and fourth, full delegation of authority by the D.C. Board to the U.S. Parole Commission to hear D.C. prisoners under D.C. guidelines.

In our view, only the first three alternatives would grant any substantive relief to D.C. prisoners. The D.C. and U.S. parole authorities have completely different purposes and operate under radically different rules and presumptions. The D.C. parole criteria are rehabilitative in nature and take as their reference point the parameters of the sentence set by the sentencing judge. The D.C. Board operates not only under its published parole criteria and guidelines, but also under a set of long-established assumptions and rules of practice. Among the latter are the emphasis on the sentencing judge's recommendation and the method for evaluating rehabilitative progress and prospects for community adjustment upon release. The Board acts very much like a social welfare agency in making these expert judgments, which of necessity are individualized and based on personal impressions.

By contrast, U.S. Parole Commission examiners apply relatively rigid rules in making parole determinations. The Commission's parole guidelines are oriented toward deterrence. They are tailored to fit federal, not local, offenders and they give little weight to the sentencing judge's evaluation. A long series of court decisions establish the fact that the U.S. Parole Commission follows its published guidelines between 85 and 95 percent of the time. Very little evaluative function is present in the role of the examiners in the parole process; and the factors built into the guidelines call only for objective facts about the offender's history and the nature of his present and past offenses. No direct evaluation of the offender as he stands in the parole hearing, or of the offender's future prospects, is required as part of the federal parole examiners' job. Consequently, those examiners have no experience making the type of evaluation that is at the heart of the D.C. parole hearing. It is our firm belief that it is only the D.C. Board or its authorized employees that can adequately perform this job and that if the D.C. Board is permitted to delegate its authority to the U.S. Parole Commission as a means of implementing H.R. 2319, if enacted into law, the bill will have failed of its essential purpose—to equalize the treatment of D.C. offenders, no matter where incarcerated.

Mr. FAUNTROY. Let me begin by asking, Ms. Hartman, in the understandings which you cited, is there any perception of unfairness, in your view?

Ms. HARTMAN. You mean unfairness in the bill?

Mr. FAUNTROY. Unfairness in the understandings which you have about how the bill would apply?

Ms. HARTMAN. No, sir. These were just certain ambiguities that we saw in the language of the bill, and I just thought it would be better to have them clarify it.

Mr. FAUNTROY. Let me see if we can't, before we vote on this, make sure we are clear.

If a person has been convicted of both a D.C. Code violation and a Federal Code violation, it would be our intent to have the D.C. Board of Parole handle the D.C. Code violation and the Federal, of course, Federal.

Ms. HARTMAN. Right.

Mr. FAUNTROY. That, in my view, is a fair way to handle it. You have no problem with that, do you?

Ms. HARTMAN. No. I think that is right. There was just a case in which someone challenged the fact that District of Columbia and

United States sentences are aggregated for purposes of parole. The D.C. circuit said there was no problem in that aggregation. I just wanted to make sure that the bill actually remedies that problem.

Mr. FAUNTROY. Moreover, you raise the question of whether, when a person has had his parole handled by the Federal Board subsequent to the passage of this measure, would that mean that he would be eligible for consideration of his parole appeal by the new authority, the District Parole Board?

It is my understanding and feeling that once we have fixed the implementation date, which we are disposed not to make the date of enactment of this transfer of authority, the rule would apply; namely, once the implementation date were fixed, if thereafter a person were judged by a Federal parole board, then obviously he would have the option, failing to have qualified under Federal standards, for parole on his D.C. Code violation.

Ms. HARTMAN. Right.

Mr. FAUNTROY. He obviously would be in the position to apply for parole under the new authority.

Ms. HARTMAN. Yes.

Mr. FAUNTROY. Ms. McCarthy, you raise several good questions about not so much purpose, as you know what our purpose is, but process, to assure that the implementation of the authority was carried out in both a prompt, efficient and cost-saving manner.

We have been tempted in the committee to address those problems and to indicate either in our legislative history or in the legislation itself precisely how we want this implemented. I say we have attempted to do that, but I would hope that both you and Ms. Steinitz would be sure to become involved in the process which we want to delegate to our local elected government to work out the implementation.

Therefore, my question of both of you would be the same that we tendered to Ms. Just and Ms. Taylor; that is, how much time do you think would be required to work out a fair and cost efficient way of implementing this new authority?

Ms. MCCARTHY. Mr. Congressman, it is hard for me to answer that. I don't know the internal circumstances of the Board of Parole. I would hope that it would not take as long as Ms. Just suggested it might. I think she said 2 years.

I think that there may be ways in which the Federal Bureau of Prisons may be of assistance to the District in this connection. For example, it was mentioned in testimony that the D.C. Code offenders who are in the Federal system are in as many as 30 different facilities, which suggests they are very spread out.

It may be possible, if it is Congress intent that the Parole Board of the District see all of these people, it may be an incentive to concentrate them more closely to home, which would obviously have other benefits, but also might have the effect of making it less expensive and less time consuming for them to be heard by the Board.

In addition, it occurs to me that if I were an inmate, a D.C. Code offender, and I were in a Federal facility, that I would not object to a paper review of my case prior to applying for an actual in-person hearing, either before an examiner or before the Board.

If the results of the paper review of the case were that the Board told me they would release me at the expiration of my minimum sentence, there would be no need for an in-person hearing for that particular inmate. I think in that way there is potential to cut the cost and speed the effective implementation of the bill.

Mr. FAUNTROY. Ms. Steinitz, before you address the question which you raise in your testimony about the timeliness of implementation, also include in your response any recommended solutions to the distance inequality variable that you pointed out.

Ms. STEINITZ. I will do my best.

First, with regard to the implementation and the time necessary, I would urge the D.C. authorities involved to begin now, as the bill proceeds through Congress, and that hopefully will shorten the amount of leadtime required.

I think that the notion of oversight hearings, as I recommended strongly in my testimony, would also help considerably in allowing the subcommittee and others to feel assured that the progress was occurring in a reasonable and timely manner. So that as obstacles arise they can be dealt with openly and not allow us to once again fall into the mystery that we did prior to the hearing last year, when we first brought to light, 6 years after the *Garnes* decree was initially implemented, how many interagency problems around communication, around implementation actually existed. These regular oversight hearings would allow us to take some preventive or early intervention measures, as would be necessary.

I am gravely concerned, however, that Ms. Just's cost estimate of the dollars required is a gross underestimation. I think that 2 hearing officers to roam the country at over 30 different Federal facilities, where there are someplace between 1,200 and 1,700 prisoners, as was mentioned today through various figures, is far too few and would create too much of a strain on those hearing officers and would again lead to untimely delays. So, that would have to be reviewed.

In answer to the second part of your question, it is much easier in these situations to point out all the problems—there are so many—than the solutions. Not mentioned here today but what had been considered at the earlier testimony was a prison facility for women in the District of Columbia or an expansion of facilities for men as well.

What I would prefer to see would be an expansion of community-based programs. The lack of space is not only true of the jails, not only true for women who are forced to go to Federal facilities outside the District, but definitely in the halfway house, in the rehabilitation center and in other community-based facilities.

Hopefully as vocational and training programs would be expanded on that front, that would relieve some of the spacing and alleviate also the tremendous cost and physical stress.

Mr. FAUNTROY. Ms. Steinitz, you raise a number of questions in my mind, which I would like to share with you.

The first is the fact that D.C. Code violators are kept in some 30 different Federal facilities across the country?

Ms. STEINITZ. That is both men and women. My understanding is that the men, in particular, are scattered through the Federal system. They are at a variety of different security facilities.

Although I would support bringing them as close to home as possible, I understand that one of the problems there would be people who need maximum facilities, where there isn't that available close to the District; or, by contrast, placing somebody in a facility that was at a higher level of security than the person's history really required.

Mr. FAUNTROY. My question was to have been what prospect is there for the Federal Government reducing the spread by two-thirds, to 10 facilities rather than 30? I suggest the answer is that 10 might not give you the spread of the kinds of facilities the Federal Government would require to hold D.C. Code violators?

Ms. STEINITZ. That would be one response I would surmise, but I can't answer for the Bureau of Prisons.

Mr. FAUNTROY. You have mentioned that Ms. Just's estimate with respect to the cost of handling this additional load was rather modest, in your view. I thought it was rather costly in that she said that they would handle an average of around 300, rather than the 1,700 who are incarcerated outside.

With $300,000 and 300 people to deal with, that is a cost of $10,000 per parolee application. I wonder if you want to revise your estimate that it is a low estimate.

Ms. STEINITZ. I was referring to Ms. Just's second estimate that she presented this morning, which was $60,000 to $65,000 for the two hearing officers.

Mr. FAUNTROY. I see.

The third suggestion that you had in terms of our continuing some Federal oversight was one from which I shrink, being a devotee to, of course, self-determination. But we are anxious to see to it that should this authority be granted, that it be implemented in a timely fashion.

Therefore, our dilemma is whether to accede to the request of the Mayor and City Council that implementation be left to them in an open ended way, or whether we ought to exercise the leverage of saying that 1 year subsequent to enactment it must be implemented.

I wonder, therefore, what is your view on a 1- or 2-year implementation requirement.

Ms. STEINITZ. I would certainly prefer, like you, that these oversight hearings not be necessary and that the implementation be left entirely to the District of Columbia. I would prefer that in the ideal, but I think the history of this case, the multitude of problems interlocking with each other, do not allow us that type of freedom. Therefore, I think that at this time we do need the set of guidelines and pressure that oversight hearings or that a time line, as you are suggesting, would require.

Mr. FAUNTROY. One or two years?

Ms. STEINITZ. I prefer one, and if there are good reasons for why it doesn't work for 1 year, we will be sitting here 2 years from now as well, and perhaps even 10 at this point. I am not optimistic, I must confess.

Mr. FAUNTROY. I detected that sentiment.

May I ask, Ms. McCarthy and Ms. Hartman, if you would elaborate on the problem regarding the legislative history of the 1934 act, section 24-209.

Ms. HARTMAN. The legislative history is somewhat ambiguous, as the court in *Cosgrove* pointed out. Our argument in *Cosgrove* centered on section 209. We argued that it was enacted to insure that the initial parole eligibility of all D.C. offenders, regardless of where they were incarcerated, would be governed by the local law of the district.

We argued further that although when section 209 was enacted the parole suitability criteria that were applied by the D.C. and U.S. parole boards were the same, they are now completely different.

Therefore, we made the argument that even though section 209 was not initially enacted to specifically cover suitability criteria, that its rationale should be extended to require that all D.C. offenders be governed by D.C. parole criteria, no matter where they are incarcerated.

The D.C. circuit seemed to agree with our interpretation of the point of the statute. It agreed, in reviewing the legislative history, that its purpose was to equalize all D.C. offenders, no matter where they are incarcerated. Although it did not decide the issue, it reviewed the legislative history in the cases and seemed to indicate that we were correct in our interpretation.

Mr. FAUNTROY. My second question to the panel is really sort of rhetorical, but in your view, is the judicial process likely to remedy these parole disparity problems?

Ms. MCCARTHY. I think that while in the long run it is possible that piece by piece the judicial process might remedy these problems, we may all be dead and gone by the time that happens. The process is extremely slow, even when it is positive in results. As I mentioned, *Cosgrove* began in 1978 and at this point is not necessarily even close to trial.

Second, as I mentioned, the remedies provided by litigation are piecemeal. It depends on who the plaintiffs are and what exactly is proven in the case. So that the comprehensive remedy that this bill can provide is not likely to be reached in any one case before the courts.

There is no question in my mind, and I believe it is not debatable, that a comprehensive legislative remedy is far superior to litigation.

Mr. FAUNTROY. I wonder if you would elaborate also on your concern regarding changing the term "crime against the United States" versus "crime against the District of Columbia."

Ms. HARTMAN. The major problem is by virtue of the fact that some courts continue to describe D.C. Code offenses as crimes against the United States. D.C. offenders are made subject to all kinds of harsher Federal parole criteria and not only regarding parole, but also regarding trial standards and evidentiary standards when those offenders are in Federal court.

They are in Federal court under a unique jurisdictional statute enacted within the D.C. Code. We think that there is actually a very comprehensive problem here with the definition, and that the best thing to do would be to say definitively that D.C. Code offenses are local. The D.C. Code can be enacted by the D.C. Council. It can be interpreted by the local D.C. courts, and that these offenses are not crimes against the United States. They are not Federal offenses. They are not national offenses. Therefore, they should be definitively defined as crimes against the District of Columbia.

Mr. FAUNTROY. Let me conclude my questioning by simply registering my strong support for the law students in court program. I think Ms. Hartman obviously symbolizes the value of this program to our system of justice. I want to say that to you and thank you for your testimony and encourage your vigorous participation in the implementation process, which if we have our way will be carried out by the local elected officials.

Ms. HARTMAN. Thank you very much.

Mr. FAUNTROY. Thank you.

With that, we will bring to a close our hearing on H.R. 2319. The subcommittee will reconvene, subject to call of the Chair.

[Whereupon, at 11 a.m. the subcommittee adjourned, subject to call of the Chair.]

[The follow additional material was subsequently received for the record and may be found on p. 71.]

SUBCOMMITTEE MARKUP OF H.R. 2319 AND H.R. 3369

THURSDAY, JUNE 23, 1983

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON JUDICIARY AND EDUCATION,
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, D.C.

The subcommittee met, pursuant to call, at 9:05 a.m., in room 1310, Longworth House Office Building, Hon. Mervyn M. Dymally presiding

Present: Representatives Dymally and Bliley.

Mr. DYMALLY. Good morning. The subcommittee will come to order. We will proceed to mark up a bill for the full committee. Are there any objections?

Without any objections, we will let be scheduled H.R. 2319, the original bill, which would transfer parole authority from U.S. Parole Commission to the D.C. Board of Parole.

At our May 3 hearing on the bill, constructive suggestions were made by several witnesses and incorporated into a clean bill, H.R. 3369, scheduled here today. The added provisions would: (1) Require separate sentences be given to offenders convicted of both Federal and State law; (2) require that U.S. Parole Commission retain parole authority over offenders convicted of violating both laws of the District of Columbia and the United States, until the effective date of the act; (3) require that within 1 year of the enactment of the act, the D.C. Parole Board make parole eligibility determinations and reschedule dates for parole hearings for persons brought under the parole authority of the D.C. Board, under this act.

This requirement is effective immediately upon the date of passage of this bill. I would like to move that the Subcommittee on Judiciary and Education consider H.R. 3369.

Mr. BLILEY. Second.

Mr. DYMALLY. Are there any amendments?

Mr. BLILEY. No amendments.

Mr. DYMALLY. The Chair will entertain a motion to report the bill to the full committee.

Mr. BLILEY. Aye.

Mr. DYMALLY. Is there any other matter to be brought before this meeting is adjourned?

Meeting adjourned.

[A copy of H.R. 2319, a copy of H.R. 3369, and an analysis of H.R. 3369 follow:]

I

98TH CONGRESS
1ST SESSION

H. R. 2319

To give to the Board of Parole for the District of Columbia exclusive power and authority to release on parole, to terminate the parole of, and to modify the terms and conditions of the parole of, prisoners convicted of violating any of the District of Columbia, or any law of the United States applicable exclusively to the District.

IN THE HOUSE OF REPRESENTATIVES

MARCH 24, 1983

Mr. DYMALLY (for himself, Mr. CROCKETT, and Mr. FAUNTROY) introduced the following bill; which was referred to the Committee on the District of Columbia

---

A BILL

To give to the Board of Parole for the District of Columbia exclusive power and authority to release on parole, to terminate the parole of, and to modify the terms and conditions of the parole of, prisoners convicted of violating any of the District of Columbia, or any law of the United States applicable exclusively to the District.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of the first section of the Act entitled "An Act to reorganize the system of parole of prisoners convicted in the District of Columbia", approved July 17, 1947 (D.C. Code, sec. 24–201a; 61 Stat. 378), is amended by

2

striking out "for the penal and correctional institutions of the District of Columbia" and inserting in lieu thereof "for prisoners convicted of violating any law of the District of Columbia or any law of the United States applicable exclusively to the District of Columbia".

SEC. 2. The Act entitled "An Act to establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes", approved July 15, 1932 (D.C. Code, sec. 24–203 through sec. 24–209; 47 Stat. 696–699), is amended—

(1) in section 6 (D.C. Code, sec. 24–206)—

(A) by striking out "(a)" in subsection (a); and

(B) by striking out subsection (b); and

(2) by striking out section 10 (D.C. Code, sec. 24–209) and inserting in lieu thereof the following new section:

"SEC. 10. The Board of Parole for prisoners convicted of violating any law of the District of Columbia or any law of the United States applicable exclusively to the District of Columbia, created pursuant to the first section of the Act entitled 'An Act to reorganize the system of parole of prisoners convicted in the District of Columbia', approved July 17, 1947 (D.C. Code, sec. 24–201a; 61 Stat. 378), has exclusive power and authority, subject to the provisions of this Act, to

release on parole, to terminate the parole of, and to modify the terms and conditions of the parole of, any prisoner convicted of violating a law of the District of Columbia, or a law of the United States applicable exclusively to the District of Columbia, regardless of the institution in which the prisoner is confined.".

SEC. 3. Section 304(a) of the District of Columbia Law Enforcement Act of 1953 (D.C. Code, sec. 4–134(a); 67 Stat. 100) is amended by striking out ", or the United States Board of Parole has authorized the release of a prisoner under section 6 of that Act, as amended (D.C. Code, sec. 24–206),".

SEC. 4. The amendments made by this Act shall take effect with respect to (1) any determination to release a prisoner on parole, to terminate parole, or to modify the terms and conditions of parole, and (2) any issuance of a warrant by the Board of Parole for the District of Columbia or by any member of the Board of Parole for the District of Columbia, made after the date of the enactment of this Act.

O

YSH069

98TH CONGRESS
1ST SESSION

H. R. 3369

IN THE HOUSE OF REPRESENTATIVES

Mr. DYMALLY (for himself, Mr. CROCKETT, and Mr. FAUNTROY) introduced the following bill; which was referred to the Committee on _____

A BILL

To give to the Board of Parole for the District of Columbia exclusive power and authority to release on parole, to terminate the parole of, and to modify the terms and conditions of the parole of, prisoners convicted of violating any law of the District of Columbia, or any law of the United States applicable exclusively to the District.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

24-295 O—83——5

YSH069

2

SECTION 1. The first sentence of the first section of the Act entitled ''An Act to reorganize the system of parole of prisoners convicted in the District of Columbia'', approved July 17, 1947 (D.C. Code, sec. 24-201a; 61 Stat. 378), is amended by striking out ''for the penal and correctional institutions of the District of Columbia'' and inserting in lieu thereof ''for prisoners convicted of violating any law of the District of Columbia or any law of the United States applicable exclusively to the District of Columbia''.

SEC. 2. The Act entitled ''An Act to establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes'', approved July 15, 1932 (D.C. Code, sec. 24-203 through sec. 24-209; 47 Stat. 696-699), is amended--

(1) in section 6 (D.C. Code, sec. 24-206)--

(A) by striking out ''(a)'' in subsection (a); and

(B) by striking out subsection (b); and

(2) by striking out section 10 (D.C. Code, sec. 24-209) and inserting in lieu thereof the following new section:

''SEC. 10. The Board of Parole for prisoners convicted of violating any law of the District of Columbia or any law of the United States applicable exclusively to the District

YSH069

3

of Columbia, created pursuant to the first section of the Act entitled 'An Act to reorganize the system of parole of prisoners convicted in the District of Columbia', approved July 17, 1947 (D.C. Code, sec. 24-201a; 61 Stat. 378), has exclusive power and authority, subject to the provisions of this Act, to release on parole, to terminate the parole of, and to modify the terms and conditions of the parole of, any prisoner convicted of violating a law of the District of Columbia, or a law of the United States applicable exclusively to the District of Columbia, regardless of the institution in which the prisoner is confined.''.

SEC. 3. Section 304(a) of the District of Columbia Law Enforcement Act of 1953 (D.C. Code, sec. 4-134(a); 67 Stat. 100) is amended by striking out '', or the United States Board of Parole has authorized the release of a prisoner under section 6 of that Act, as amended (D.C. Code, sec. 24-206),''.

SEC. 4. (a) After the date of enactment of this Act, individuals convicted of violating both a law of the District of Columbia (including any law of the United States applicable exclusively to the District) and a law of the United States shall be given separate and distinct sentences for such convictions.

(b) The United States Board of Parole shall retain parole authority over individuals who, prior to the date of

YSH069

4

enactment of this Act, received unified sentences for violations of both a law of the District of Columbia (including any law of the United States applicable exclusively to the District of Columbia) and a law of the United States.

SEC. 5. Within one year after the date of enactment of this Act, the Board of Parole for the District of Columbia, under applicable guidelines, shall make parole eligibility determinations and shall set a date certain for full parole hearings for all individuals brought within the parole authority of such Board under this Act. Each such individual shall be notified in writing of any determinations made under this section.

SEC. 6. (a) The amendments made by sections 1, 2, and 3 of this Act shall take effect one year after the date of enactment of this Act.

(b) The provisions of sections 4 and 5 of this Act shall take effect on the date of enactment of this Act.

SECTION BY SECTION ANALYSIS
OF
H.R. 3369

Section 1 — Would amend Section 24-201(a), "Board of Parole..." to extend the Board's authority over all violators of D.C. law or U.S. laws applicable exclusively to the District of Columbia, regardless of place of confinement.

Section 2(1) — Would amend Section 24-206, "Hearing after arrest; confinement in non-District institution" by deleting subsection (6) regarding the authority of the U.S. Parole Commission.

Section 2(2) — Would amend Section 209 by substituting language enumerating the expressed powers of the D.C. Parole Board over violators of D.C. laws or U.S. laws applicable exclusively to the District of Columbia.

Section 3 — Would amend Section 4-134a of the D.C. Code, which requires notice of release of a prisoner to be given to the Chief of Police by deleting language requiring the U.S. Parole Board to give similar notice.

Section 4(a) — Provides that separate sentences be given to offenders convicted of violating both D.C. law and Federal law.

Section 4(b) — Provides that the U.S. Board shall retain parole authority over offenders convicted of violating both laws of D.C. and the United States, until the effective date of this Act.

Section 5 — Provides that within one year of the enactment of this Act, the D.C. Parole Board shall make parole eligibility determinations and reschedule dates for parole hearing for individuals brought under the Parole authority of the D.C. Board, pursuant to this Act.

Section 6(a) — Provides that substantive amendments in Section 1, 2 and 3 - transferring parole authority to the District - shall take effect one year from the date of enactment.

Section 6(b) — Provides that amendments in Section 4 and 5 shall take effect on the date of the enactment of the Act.

[Whereupon, the hearing was adjourned at 9:15 a.m.]

COMMITTEE MARKUP OF H.R. 3369

TUESDAY, JULY 19, 1983

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, D.C.

The committee met, pursuant to call, at 10:15 a.m., in room 1310, Longworth House Office Building, Hon. Ronald V. Dellums (chairman of the committee) presiding.

Present: Representative Dellums, Delegate Fauntroy, Representatives Barnes, Dymally, McKinney, Parris, and Bliley.

Also present, Edward C. Sylvester, staff director; Dale MacIver, senior staff counsel; Johnny Barnes and Donald M. Temple, staff counsels; Robert B. Brauer, and Hugh B. Calkin, staff assistants; John Gnorski, minority staff director; William Carey, assistant minority staff director, Ronald Hamm, Gina Bancroft, and Deborah Zitzke, staff assistants.

The CHAIRMAN. The full Committee on the District of Columbia will come to order.

As the notices sent out last week indicate, three bills are to be considered today by the full committee: H.R. 3369, dealing with the District of Columbia Board of Parole; H.R. 3425, transferring RFK Stadium to the District of Columbia Government; and finally, H.R. 3547, permitting Treasury borrowing for capital projects.

To bring up the H.R. 3369, we will call upon the distinguished chairman from California, the Chair of the Subcommittee on Judiciary and Education, Congressman Dymally.

Mr. DYMALLY. Thank you very much, Mr. Chairman.

H.R. 3369 proposes to transfer parole authority from the U.S. Parole Commission to the D.C. Board of Parole over D.C. Code offenders and violators of laws applying excusively to the District of Columbia who are confined in the Federal Corrections System.

This bill addresses long-standing constitutional, legal and administrative concerns. But most importantly, it is consistent with our efforts to transfer greater and, ultimately, full home rule to the District of Columbia.

Section 24-209 of the D.C. Code is the provision at the heart of H.R. 3369. It became law in 1934, nearly 50 years ago, and 40 years prior to the enactment of the Home Rule Act. Pursuant to section 24-209, the place of an offender's confinement determines parole authority. For example, a D.C. Code offender sentenced to a Federal correction institute is subject to the U.S. Parole Commission authority.

In respective lawsuits, male and female D.C. Code offenders in the Federal system have challenged the constitutionality of section

24-209. Combined resolution of this legislation has taken 10 years. The District Court of Appeals recently considered the male offenders case. It was remanded and is still pending.

According to the court of appeals, the major problem concerning section 24-209 is that there is no consensus of judicial interpretation of its meaning and application. This is the case because there is little or no legislative history regarding its intended purpose.

In my view, the real problem here is that section 24-209 is antiquated, and its legislative intent is outweighed by significant and recent developments. Since passage of that section in 1934, the most important development is that the District of Columbia has achieved self-government status. Therefore, it should be treated accordingly.

Presently, all States which house their prisoners in Federal correction institutions retain parole authority over them. So should the District of Columbia.

In the final analysis, H.R. 3369 culminates an overture legislative reconsideration of the parole authority problem. Moreover, it is comprehensive. While providing greater self-government to the District of Columbia, it also resolves longstanding constitutional legal and policy concerns. It has been endorsed by some Members of both sides of the aisle, and is also endorsed by the city.

Mr. Chairman, it is a very technical and legal piece of legislation and, if there are any further questions, I would like to refer to counsel.

Thank you very much.

The CHAIRMAN. I thank the gentleman for his opening statement and his explanation of the bill H.R. 3369.

Are there any requests for time in order to engage in discussion or debate?

The gentleman from Virginia.

Mr. PARRIS. Mr. Chairman, thank you.

I wonder if I could just propound several questions in the way of clarification for both my benefit and perhaps for the benefit of the balance of the membership.

Mr. DYMALLY. Counsel.

Mr. PARRIS. Very quickly, and I have no desire to take a lot of time with this. As I understand it, the fundamental purpose of this legislation would be to conform the treatment of male and female prisoners from the District of Columbia in procedures that would be predicated on the D.C. Code provisions.

Mr. DYMALLY. That is correct.

Mr. PARRIS. Essentially, this is a matter of basic equity. Whether or not, as has been alleged at least in the pending *Garnes* v. *Taylor* case, female prisoners in some way are being treated differently than males because of the application of the Federal parole procedures, vis-a-vis the D.C. procedures, in the two differences of classification of prisoners. So, if we conform on this legislation, the parole process would be predicated on the D.C. process and the D.C. procedures. The litigation, if this was adopted by the Senate and became a law, would correct that present imbalance?

Mr. DYMALLY. Mr. Chairman, I would like to refer to counsel.

Mr. TEMPLE. That is, in part, correct.

I think the deeper issue is that the parole decisionmaking process is administered by the D.C. Board of Parole, and that is a fundamental distinction. So there are two parts. One is that the procedures are the procedures of the D.C. Board of Parole, but the administration and implementation of those procedures are executed by the D.C. Board of Parole as well.

Mr. PARRIS. And in the future the administration would be by the District of Columbia?

Mr. TEMPLE. Pardon me?

Mr. PARRIS. The administration of the process would be by the District of Columbia?

Mr. TEMPLE. That is correct.

Mr. PARRIS. It would be based on the D.C. Code of provisions in regard to parole.

Mr. TEMPLE. That is correct.

Mr. PARRIS. So we would, in effect, equalize the process and in accordance with Mr. Dymally's, the gentleman from California, comments, ratify the principle of home rule in terms of its application of its law to its prisoners. Is that correct?

Mr. TEMPLE. That is correct.

Mr. PARRIS. Thank you very much, Mr. Chairman.

The CHAIRMAN. Is there any further discussion or debate?

The gentleman from Connecticut.

Mr. MCKINNEY. Mr. Chairman, I would just like to ask unanimous consent to put my opening statement in the record. I would like to congratulate the chairman and the ranking member of the subcommittee for the tremendous bipartisan effort you have put in on this. I wish all committees I worked on had that same cooperation.

The CHAIRMAN. I thank the gentleman for his statement.

Without objection, so ordered.

[The prepared statement of Mr. McKinney follows:]

STATEMENT OF STEWART B. MCKINNEY

Mr. Chairman, I want to compliment our colleague from Virginia, Mr. Bliley, as well as our colleague from California, Mr. Dymally, for their leadership on this issue. If all of our Subcommittees worked in the bipartisan fashion exhibited by the Subcommittee on Judiciary and Education we would be much closer to complete home rule.

I will defer to Mr. Bliley for any detailed comments on this bill, and simply state that I wholeheartedly support the measure as a step in the right direction. If nothing else, simple fairness and equity would compel one to support this bill. Beyond that, it is a measure that has the support of all of the parties involved.

I understand that the original bill did not have the delay of one year in the effective date of the change proposed. Including such a provision should give the city adequate time to insure that needed staff and funding is provided to the D.C. Parole Board so that the added responsibility can be smoothly accepted by the city.

With that I will yield back my time.

The CHAIRMAN. Unless there is any further business to come before the full committee, the committee stands adjourned.

[Whereupon, at 10:35, the committee was adjourned.]

ADDITIONS TO THE RECORD

DISTRICT OF COLUMBIA

COMMISSION ON CRIME AND JUSTICE

REPORT

APRIL 1983

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE

ICE OF CRIMINAL JUSTICE PLANS
AND ANALYSIS

REPLY TO:
421 8TH STREET, N.W., 2ND FLOOR
WASHINGTON, D.C. 20004
(202) 727-6537

April 14, 1983

Dear Commission Member:

You received a letter from Mayor Barry in March, 1983 that indicated a meeting of the full Commission would be scheduled soon. That meeting has been scheduled for 3:30 p.m. on April 26, 1983, at the D.C. City Council Chamber (District Building, Room 500).

The purpose of the meeting is to report the status of each recommendation, including those developed by the Transition Task Force; to discuss resolution of the items that were deferred at the December meeting; and to decide upon the future activities of the Commission.

Briefing materials are enclosed. They include:

- meeting agenda;
- summary recommendations of the Transition Task Force on Criminal Justice (denoted by blue divider);
- a summary chart and status reports from each committee, including revised workplans (denoted by green divider); and
- a report on the procedures for resolving the five items that were deferred at the December, 1982 meetings (denoted by yellow divider).

I shall look forward to seeing you on April 26th. If you have questions or comments please call me at 727-6537.

Very truly yours,

Shirley A. Wilson

Shirley A. Wilson, Director
OCJPA

Enclosure

MEETING AGENDA

D.C. COMMISSION ON CRIME AND JUSTICE

April 26, 1983
3:30 - 5:00 p.m.
District Building
Room 500 City Council Chamber

Welcome	Lawrence P. Doss Executive Vice Chairman
Remarks	Mayor Marion S. Barry, Jr.

Status Reports from Committees

Crime Prevention	Thomas Duckenfield Former President Washington Bar Association
Apprehension of Criminals	Frank H. Rich President, Rich's Shoes
Prosecution/Trial	Arthur V. Meigs Former President D.C. Federation of Civic Association
Rehabilitation	John H. Rohrbeck Vice President and General Manager WRC-TV
Juvenile Justice	The Honorable Marjorie M. Lawson Attorney with Krooth and Altman
Items Deferred from December Meeting	Lawrence P. Doss
Future Activities of Crime Commission	Lawrence P. Doss

TRANSITION TASK FORCE REPORT

CHAPTER V

CRIMINAL JUSTICE

Two seemingly divergent needs drive this Government's policies in the criminal justice area: (1) the need to be tough in our enforcement of laws and punishment of violators; and (2) the need to decrease an unreasonably high growth rate in the inmate population by selecting non-violent and minor offenders for alternative programs outside a prison setting.

Relative to the first need, we are directing police officers to be more vigorous in their efforts to sweep the streets of people who congregate for illegal purposes and in tracking down and monitoring known criminals. Those with prior records for serious crimes will be under constant surveillance by the Metropolitan Police Department. We are mindful of the Constitutional rights granted all citizens, but also have great concern for the law abiding citizens.

New methods for deploying police resources will result in greater numbers of experienced officers being actively engaged in crime fighting, with heightened attention aimed at violent and repeat offenders and drug related crimes. Also, through improved coordination with the U.S. Attorney and the courts, we will make sure that serious predators receive maximum sentences.

Targeting special efforts at hard core criminals, requires an even greater emphasis on prioritizing resources. Faced with reduced revenues and increased demands for services, tough decisions must be made about the allocation of limited resources. We must take a hard look at our crime problem and decide whether it makes sense socially and economically to continue spending thousands of dollars to prosecute and incarcerate a minor misdemeanant or status offender who poses no threat to the safety and welfare of the community. Non-violent offenders include persons convicted of forgery/fraud, embezzlement, receiving stolen property, vandalism, commercial vice (e.g., prostitution and gambling), vagrancy, disorderly conduct, loitering and traffic violations. Limited resources might be better used to ensure swift apprehension and prosecution of serious offenders. It may be more beneficial to structure community-based programs, such as diversion conditioned upon community service or restitution rather than punishment and rehabilitate non-violent, less serious offenders. For example, a person convicted of vandalism could be diverted from incarceration and required to pay for the cost of their damage by working in community service programs (e.g., cleaning and repairing public housing, parks, streets and alleys.)

The Criminal Justice Task Force of the Mayor's Transition Committee was asked to give the Mayor guidance on ways to prevent crime, quickly apprehend and prosecute those who prey on society, and reduce the staggering costs of operating the criminal justice system. The following recommendations, approved by the Steering Committee, address the difficult task of doing more to reduce crime by at least one third over the next four years with fewer resources.

PROPOSALS

1. Maximize the Use of Police Resources (V-15). The Police Department should allocate personnel and equipment annually based on service demand, priority objectives of the City, and an analysis of crime trends and patterns. Clear guidelines and criteria should be provided to District Commanders to ensure that resources are deployed according to Department policy. Both the allocation plan and the criteria and guidelines should be submitted to the Commission on Crime and Justice for review before the end of FY 83. The City's effectiveness in reducing crime depends on its ability to place resources where they are needed most and where they can be most effective. With the information obtained from the Police Department we will be able to determine the most appropriate allocation of resources to maximize our crime reduction efforts.

2. Increase Citizen Involvement in Crime Prevention (V-20). The Community Relations Division of the Police Department should develop methods to involve more citizens in the Department's crime prevention programs and to motivate citizens already involved to continue their participation. Although the MPD has a formal program aimed at involving citizens in crime prevention, and despite the fact that there are proven links between some of the programs such as Neighborhood Watch and reduced crime rates, less than one fourth of D.C. residents are involved in these programs. The Police Department should increase its efforts to involve citizens in proven programs as a means of fostering the partnership needed to reduce crime. Accomplishment of this recommendation can be achieved using existing resources.

3. Maximize the allocation of criminal justice resources for targetted monitoring of violent offenders. The District's criminal justice system has been criticized for its high rates of recidivism and ineffectiveness in processing major violent offenders. Major violent offenses include murder, manslaughter, rape, robbery, aggravated assault, arson and other offenses that

involve use of a weapon. The District's criminal code also considers burglary as a dangerous violent offense. Criminal justice agencies have created independent administrative units to process chronic offenders. The District expends approximately 15 percent of its budget in the criminal justice system, yet it lacks a comprehensive mechanism or procedure for coordinating and developing policy for the most serious offendergroup. Efforts are currently underway to create a system-wide approach to apprehending, detaining, prosecuting, sentencing and institutionalizing violent offenders. The Metropolitan Police Department currently targets its investigatory resources to insure that arrested repeat offenders receive thoroughly documented case preparation and are duly detained following arrest; the United States Attorney's Office provides enhanced prosecutorial efforts that expedite serious offender trials to keep them out of the community; and the court's sentencing policies for repeat offenders are becoming tougher. The proposed Public Safety Committee (see recommendation number five) should coordinate the efforts to reduce violent offenses. Although no direct cost-savings can be identified, this innovation will reduce overlapping programs and unnecessary costs. The first full year of impact of this proposal is FY84, and it can be implemented by an administrative action.

4. Permit Auxiliary Enforcement Personnel to Transport and Process Arrestees (V-25). If transport and processing authority were given to properly trained auxiliary law-enforcement personnel (with arrest powers), there would be a significant increase in the enforcement capability available in the community. Some security personnel have considerable training and are capable of performing greater duties than they are currently authorized to perform. Maximum use should be made of these personnel. Other security personnel are authorized to perform functions for which they are inadequately trained. Training should be made available to this group. The Police Training Academy is capable of developing a training program that would equip security personnel with the skills necessary to transport persons they arrest and to complete the

necessary reports for processing. Training costs could be covered by charging each security agency for training its personnel. Implementation of this proposal would free police officers from transporting and processing prisoners arrested of other trained personnnel. This could be accomplished beginning FY 84.

5. Establish a Public Safety Committee and an Office of Public Safety (V-67). Establish a Public Safety Committee and an Office of Public Safety to develop and implement a strategic plan for the criminal justice system. The Committee, comprised of the Mayor and the heads of all the criminal justice agencies, would be responsible for: (1) allocating resources to accomplish system-wide goals and (2) overseeing implementation of activities designed to achieve these goals. As staff to the Committee, the Office of Public Safety would collect, compile, and analyze the data needed to make decisions about priorities and appropriate resource allocation. This organizational change, which can be accomplished by a Mayor's order, is the basis for improved coordination of the criminal justice system. As such, it is important that the Office be given the prestige and visibility it needs to coordinate the work of independent agencies and non-District entities, e.g., the U.S. Attorney. Creation of the Committee would eliminate the need for the Criminal Justice Supervisory Board which could be abolished by legislation repealing the Criminal Justice Supervisory Board Act. The Office of Public Safety would replace the Office of Criminal Justice Plans and Analysis, which can be abolished by executive order. Both new structures could be in place by FY 84.

6. Establish a Public Safety Advisory Board (V-65). A Public Safety Advisory Board should be established in FY 84 to set policy for the criminal justice system. Its membership should be limited to 25 and should include the heads of the criminal justice agencies and representatives from business, professional, labor, educational, social services, and community organizations in the City. The Board would be a permanent advisory group with broad community perspectives whose primary function would be to set the tone and framework for the City's criminal justice policies. Staff work for the Board would be the responsibility of the Office of Public Safety. Creation of this Board could be accomplished by executive order.

Groups such as the Commission on Crime and Justice should be disbanded and their functions delegated to this permanent organization.

7. Freeze Vehicle Purchases until Replacement Guidelines are Established (V-40). Requiring the Police Department to develop vehicle replacement guidelines based on an analysis of maintenance and replacement costs is expected to result in a reduction (by approximately 75 percent) in the number of vehicles purchased in FY83 and FY84. MPD currently proposes to purchase 230 vehicles over the next two years. Applying stringent replacement criteria would reduce the number to approximately 55. Delaying replacement would require that the maintenance budget be increased by approximately $275,000 over two years. Net savings to be derived in FY 83 and FY 84 approach $1.1 million. These savings could be accomplished by an executive order requiring that the guidelines be developed and approved before purchasing documents are approved.

8. Reduce Court Related Overtime for Police Officers by One-Third (V-35). Adding an evening prosecutor and making available the services of the Pretrial Services Agency between 3 p.m. and 11 p.m. could result in savings of $1 million in overtime expenditures. The Pretrial Services Agency is capable of providing services during this time period and is, in fact, already providing some services to clients during evening hours. The U.S. Attorney is conducting a study (to be completed by Summer, 1983) to determine the cost and logistical implications of providing an evening prosecutor. Because most criminal activity occurs between 3 p.m. and 11 p.m., a high proportion of officers are assigned to work during this period. Consequently, when these officers have to appear in court, they must do so during their off-duty hours. Addition of evening hours would extend court hours to the time when more than one-third of the Departments' officers are on duty. Implementation of the expanded hours could begin in early FY 84 if the findings of the U.S. Attorney's Office are favorable.

9. Convert At Least 50 Percent of the Police Department Fleet to Propane (V-38). Converting a minimum of 50 percent of the Police Department's 4-wheel fleet from gas to propane could generate savings of approximately $500,000. Several cities have converted their entire fleets to propane gas with few problems, if any.

24-295 O—83——6

(It has been reported that vehicles using propane fuel require less maintenance.) MPD is currently testing propane in 20 vehicles throughout the city. A limited test program of nine vehicles showed a savings in fuel costs of about $1400 per vehicle. This program was limited to one district, however, and MPD officials were concerned that the vehicles were not exposed to the conditions of more congested districts. Hence, the expanded test program will permit them to assess the vehicles' performance under a wider variety of conditions. If the test is successful, MPD should be required to begin conversion of at least half of its fleet beginning in FY 84.

10. Expand the Lorton Prison Industries Program (V-44). Expand the Lorton Industries Program and require District agencies to purchase Industry goods. Planned reactivation of services for which the Industry is already equipped (tire recapping and metal furniture repair) is expected to produce revenues in excess of $3.5 million in FY 84 from two major contracts. Requiring District agencies to purchase goods they would purchase otherwise on the open market from the Industries program would provide additional revenue to the program and produce savings for the District. A portion of the additional revenue would be allocated to a victim compensation fund. Other uses of the revenue might include defraying incarceration costs, and repayment of assistance grants to prisoners' families.

    The program's potential as a source of revenue should not be overlooked. The formation of a private-sector oriented board to direct the program's operation and growth would facilitate its stability while providing an important link between the community and the corrections population.

    Reactivation of the tire capping and metal furniture repair programs is already a part of the Department of Corrections' plans. A mandatory use decree or executive order is necessary to require agencies to negotiate with the Industries Program before contracting with outside vendors. Both aspects of the proposal could be operative by FY 84.

11. Assess a Fine for Excessive False Security Alarm Calls (V-55). Revising DC Law 3-107 on private security alarms to allow the City to charge a $30 fine for false alarms could provide as much as $.5 million in revenue even if citizens were fined only after the third occasion. (Prince Georges County recently enacted legislation which allows the County to charge owners after the third false alarm). The Police Department answered more than 53,000 calls in 1981 for which there

were no apparent burglaries. In most cases, alarms were triggered by extraneous factors such as weather and animals. Although the current law requires alarm dealers to be licensed and establishes owners' responsibility for the proper operation of their systems, malfunctioning or poorly operating alarm systems continue to generate thousands of false alarms. It is clear that our current law has not had the intended effect on this problem. If citizens have an incentive to maintain properly operating alarm systems, police resources could be used more effectively to answer valid calls for service. The revised legislation and the fine system could be operational by FY 84.

12. Expand the Public Defender Service to Enable them to Handle Overflow Cases from the Criminal Justice Act Program (V-52). Increase the Public Defender Service budget in order to process 1,000 additional cases in FY 84. These funds should be transferred from the D.C. Superior Court's Criminal Justice Act (CJA) Program. Legal representation for indigents in the District is hampered by escalating costs and budgetary short falls in the CJA program and by inconsistent legal representation by CJA attorneys. The Public Defender Service (PDS) is currently under-utilized, (while legally authorized to handle 60 percent of indigents, it is currently handling only 22 percent of such cases). Expansion of the Public Defender Service will provide a more cost-effective and quality controlled system for representing indigent offenders. Since clients represented by PDS are less likely to be imprisoned, considerable savings may be effected in the District's correctional system. The first full year of impact would be FY 84, pending federal agency approval to redirect $250,000 from the D.C. Court System's CJA program.

13. Finance the purchase of bullet proof vests for uniformed officers by soliciting funds from the community (V-28). Soft body armor vests enhance the security and safety of uniformed officers. They are widely used in police departments throughout the country. Police officials have asked the City to make vests part of the standard equipment for each officer. Funds to purchase vests have not been requested in the current budget.

    The Mayor and the Chief of Police should initiate a major fund raising drive to solicit funds from citizens and the business community. Both Philadelphia and New

York have raised funds to purchase bullet proof vests for their police officers. If the fund raising effort is successful, the City will avoid initial procurement costs of approximately $500,000. Additional purchases and replacement vests would become the responsibility of the City.

14. Lobby to Transfer Prosecutorial Authority (V-27). The transfer of complete prosecutorial authority to the District of Columbia would give the City control over a critical component of the criminal justice system. To advance Home Rule and the ideals and philosophy of self government, the District should have the right to appoint or elect a District Attorney to manange prosecutorial proceedings. The Federal City Council and the Metropolitan Board of Trade should be encouraged to work with the Mayor's staff and the Congress to develop and pass this legislation. Passage of the legislation is not likely to occur before FY 85; implementation of the authority will require additional spending.

15. Increase the Capacity of Halfway Houses by 100 Beds in FY 84 (V-32). Savings of approximately $370,000 would be realized if 100 additional spaces were provided in halfway houses in the community. This increased capacity would accommodate 400 additional inmates per year (the average stay in a halfway house is three months). Persons residing in halfway houses or pre-release centers require minimum supevision as they are offenders who are nearing the end of their sentences. This type of setting is not only less costly, but it also provides an intermediate step between total supervision and full independence. Thus, it is a valuable part of the offender's adjustment back into the community. Additional capacity in halfway houses may be achieved by increasing the current contract with the Bureau of Rehabilitation Services and by expanding the capacity of District-operated facilities. The annual cost of this added capacity is approximately $1.1 million or $370,000 less than the annual cost of housing 100 offenders in institutional settings.

16. Enact Legislation that will Enable Judges to Sentence Non-dangerous Offenders to Community Services Instead of Incarceration or Probation (V-98). Enactment of community service legislation in the District would substantially reduce probation and parole case loads and the incarcerated population. The District's facilities

for detention and correctional services are experiencing high level growth, with the greatest precentage of cases involving misdemeanor offenders. In order to reduce and relieve current and projected prison population growth, this proposal urges the development of a community service sentence alternative for non-violent offenders. Examples of non-violent offenses include: forgery/fraud, embezzlement, receiving stolen property, vandalism, commercial vice (e.g., prostitution and gambling), vagrancy, disorderly conduct, loitering,and traffic violations.

Other jurisdictions throughout the United States are employing this sentencing alternative as a means of dealing with first offenders convicted of certain misdemeanor offenses. The advantage of such an alternative is that it provides a mechanism for getting the less serious and first time misdemeanant offenders to repay their debt to society without placing excessive stress on the already over-burdened jail or probation case loads. The restitution and community service programs can compensate the victim, pay court costs and repay the community. For example a person convicted of disorderly conduct could be diverted from incarceration and required to work in a community service program (e.g., cleaning and repairing public housing, parks, streets, and alleys).

In the District, community service can only be ordered following a sentence to probation with community service being a specific condition. In order to make this option more widely available, the D.C. Superior Court should be authorized to provide a separate sentencing alternative exclusive of probation. Passage of legislation to this effect could be accomplished in FY 84. Assuming that 900 misdemeanants participate in community service programs, the resulting savings will be approximately $.4 million in FY 85.

17. Refine and Augment Programs Designed to Divert Offenders from Adjudication and Sentencing (V-100). The District under-utilizes diversionary mechanisms. This results in a larger incarcerated population and higher expenditures than necessary. Approximately 450 incarcerees currently in detention could be considered for either community, police or court-based alternatives if minor felony and non-violent offenders were eligible for participation. The net savings in operational costs associated with pretrial diversion of 90 offenders is $.2 million annually. The projected first full year of impact is

FY 84. Some aspects of pre-and post-trial diversion may require new legislation.

18. Review Eligiblity for Parole Twelve Months Prior to the Parole Eligibility Date (V-103). The D.C. Parole Board conducts an accelerated parole hearing for prisoners whose minimum sentence is at least three years and who are within six months of their pre-established parole eligibility date. If parole policies were changed in order to include prisoners whose minimum sentence is at least three years and who are within twelve months of their initial parole eligibility date, approximately 355 prisoners would become eligible for Parole Board Review in FY 84. This would reduce the sentenced incarcerated population. The net savings in operational expenditures associated with the change would be $660,000 in FY 84. In order for this proposal to be implemented by FY 84, there must be approval from the U.S. Attorney General.

19. Close Cedar Knoll School by October, 1984 (V-70). The District should close Cedar Knoll School (the minimum security facility for juvenile offenders) and provide community-based services for its residents. Aside from institutional placement at Cedar Knoll, DHS has three pre-trial and two post-conviction placement options for juveniles. For pre-trial supervision, youth can be placed in group homes, foster care or home detention at annual per capita costs ranging from $3600 for the latter two options to $20,000 for the first option. Committed youth can be placed in group homes and foster care at the costs indicated above. The annual per capita cost of placement at Cedar Knoll is approximately $30,000. The less expensive alternative programs are frequently underutilized, although there are many youth in Cedar Knoll who pose no threat to the community and could benefit from community-based placements.

Operation of Cedar Knoll has historically been problemmatic. The institution lacks sufficient staff to provide basic supervision and treatment; the plant is in need of major repairs; and, the quality of programs provided has long been a source of legal and community concern. Closing Cedar Knoll is expected to prevent a projected deficit of approximately $1 million in FY 85. Staff at Cedar Knoll could be transferred to enhance other Youth Services programs and to prevent further overtime expenditures at other YSA institutions. Legislative, judicial and policy changes would have to be made before the planned closing of Cedar Knoll could be accomplished.

20. Grant the Mayor Authority to Commute Prison Sentences (V-93). The District of Columbia's authority over its sentenced incarcerated and convicted criminal code violator population lags behind all other jurisdictions in the country. Governors in each of the fifty states are empowered to commute sentences of criminal code violators within their jurisdiction, yet the District's executive branch lacks such authorization. The Mayor has no authority to reduce the sentences for persons whose sentences might be reduced if they were convicted in any other part of the country. Many jurisdictions throughout the United States, faced with tight fiscal constraints and escalating incarcerated populations have structured programs for granting executive clemency to sentenced incarcerated offenders whose early release would present no threat to the community..

Guidelines and procedures will have to be developed in order to provide a mechanism for granting executive clemency or pardons. These guidelines will specify the type of offenders that would be eligible for consideration. The first full year of impact of this authorization is dependent upon the passage of this legislation by the City Council.

21. The District of Columbia should Enact a Prison Overcrowding Emergency Powers Act which would Limit Prison Capacity (V-106). The current capacity of D.C. Corrections facilities, excluding community correctional centers (or halfway houses) is approximately 4200 (as of December, 1982). Current population exceeds capacity by approximately 700 persons. Cost savings of at least $2 million could be derived by creating a mechanism that would reduce the incarcerated population to capacity. This can be accomplished by continuously reducing the minimum sentence of all prisoners, thereby increasing the number of persons eligible for either release or parole. Legislation is required to implement this mechanism; it is unlikely that passage would occur before FY 84.

CRITICAL ISSUES NOT ADDRESSED

1. Providing a local facility for female offenders at Cedar Knoll (V-73). This issue was researched, but since the per capita cost of operating a women's facility at Cedar Knoll exceeded current

expenditures for housing women in the Federal system, no proposal was developed. Operating a local facility would cost approximately $550,000 more per year. Renovation of Cedar Knoll would require approximately $4 million in capital expenditures.

2. Streamlining the jury selection and assignment process.

3. Reducing court backlogs by having experienced attorneys serve as magistrateson certain kinds of cases on a pro bono basis.

4. Reducing broad disparity in length of sentences by establishing sentencing guidelines.

5. Operation of the police helicopter service.

6. Operation of the harbor patrol.

7. Combining the emergency communications functions of the Police and Fire Departments and the Mayor's Command Center.

8. Decriminalizing certain categories of offenses.

9. Contracting for food, maintenance and custodial services in correctional institutions.

10. Eliminating the job requirement for persons released to halfway houses.

SUMMARY CHART

ON STATUS OF CRIME COMMISSION AND TASK FORCE RECOMMENDATIONS

COMMITTEE		NUMBER OF RECOMMENDATIONS	COMPLETED	OPEN FOR MONITORING
CRIME PREVENTION	C.C.	9	1	8
	T.F.	0	0	0
APPREHENSION	C.C.	5	0	5
	T.F.	4	0	4
PROSECUTION TRIAL	C.C.	11	1	10
	T.F.	7	1	6
REHABILITATION	C.C.	12	1	11
	T.F.	4	0	0
JUVENILE JUSTICE	C.C.	6	0	6
	T.F.	1	0	1

CC. - Commission on Crime & Justice
T.F. - Transition Task Force on Criminal Justice

Status Report and Workplan

I. CRIME PREVENTION

A. Commission Recommendations:

1. Expand D.C. Public School's drug abuse prevention education program. Make instruction mandatory.

   a. Board of Education approved 1983 curriculum which makes drug abuse instruction mandatory.

   b. U.S. Department of Education has implemented an intensive drug education program in two D.C. junior high schools.

   c. D.C. Public School system is currently recruiting a full time Drug Abuse Coordinator for the 1983-84 school year.

2. Reduce truancy in the D.C. Public Schools and establish arbitration unit for serious truant youths and their families.

   a. D.C. Public Schools hired 40 attendance aides to assist attendance officers in monitoring truancy.

   b. Interagency Center for PINS has established a mediation unit to handle serious truant cases with mediators from the Citizens Complaint center.

   c. Various private agencies and businesses have donated sports tickets, fast food coupons, funds for media campaigns and incentive awards for youth to stay in school.

3. Organize and staff "crime prevention stores" or displays of crime prevention equipment and techniques in commercial areas throughout the city.

   a. Received approximately $1,000 worth of locks and home security devices from Hechinger Company and Kwikset Lock Company for use on displays.

   b. Displays were placed in several stores in December 1982.

   c. Alternative planning strategies being developed for the summer displays throughout the city.

4. Implement a Model Crime Prevention Training Project to include public officials, community organizations, ANC's and civic associations.

   a. Crime Prevention Training Package ordered and received.

   b. Initial meeting has been held with Office of Community Services.

   c. Correspondence sent to MPD Community Relations Division and Chief of Police for coordination and participation.

   d. Above strategies also recommended by the Transition Task Force and are included in the Commission recommendation.

5. Increase private support for Career High School Program.

   a. The Greater Washington Board of Trade established an Advisory Council for the career high schools which consists of representatives from the private business sector, D.C. career high school principals and a representative from the superintendants' office.

   b. Two new programs are scheduled to open in the fall of 1983, hospitality professions and finance.

6. Link D.C. Citizens seeking employment in suburban location with cab's car and van pool locator service.

   a. Alternate strategies are being developed as a result of meeting with DOES officials.

   b. Several strategies have been implemented by DOES, and expansion on these are being planned with representatives of suburban public employment offices.

7. Develop and publish family services directory for use by citizens of the District of Columbia.

   a. Strategies are being planned to publish directory by fall of 1983.

8. Provide additional extra curricular activities for public school students.

   a. Current financial deficits in the public school budget have prohibited action on this proposal.

9. Provide innovative incentives for youth who perform well in school, improve their attendance and display more positive behavior patterns.

   a. D.C. City Council members contacted to request their involvement in the program.

   b. Private businesses have been contacted for their contribution to the program.

ACTION PLAN TIMETABLE

FY: 1983

I-A.1 GOAL: To expand and strengthen the D.C. Public Schools' drug abuse prevention education program and make drug abuse instruction mandatory.

Action Steps	Primary Responsibility	Support	Start	End
A. Have Superintendent issue an administrative order outlining the administration's policy and support for drug abuse instruction for students from kindergarten through 12th grade.	Office of Superintendent	Teacher's Union	9/1/82	10/1/82
— Convene a meeting of all principals, department heads, teachers, PTA presidents, and other pertinent staff.				7-1-83
B. Provide training in drug abuse to teachers and other pertinent staff.	Director, Staff Development Program	Teacher's Union		
— Arrange to have area colleges and universities provide courses in drug and alcohol abuse for graduate credit, certification purposes, and non-credit through the D.C. Public School system's staff development program.				8-30-83
— Conduct monthly workshops and seminars for teachers, counselors, principals, and PTA presidents with the assistance of the school system's health and physical education department and community drug abuse treatment agencies.			9-1-83	On-going

CONTINUED

1 OF 2

ACTION PLAN TIMETABLE

FY: 1983

IV-A-1 GOAL: Increase the number of inmates released on furlough to pursue career development opportunities.

Action Steps	Primary Responsibility	Support	Start	End
A. Collect all background information and relevant data concerning the impact of the Saxbe Decree on the educational pursuits of inmates.	Corrections	OCJPA Public Safety Policy Board	7/83	
B. Refer all data to the Public Safety Policy Board for review and negotiation with the U.S. Dept. of Justice.				12/83

ACTION PLAN TIMETABLE

FY: 1983

IV-A-2 GOAL: Improve staff skills and patterns in current halfway house facilities.

	Action Steps	Primary Responsibility	Support	Start	End
A.	Appoint an ad hoc management committee to conduct a management study of halfway house staff organization.	Department of Corrections		10/83	10/83
B.	Increase training levels of halfway house staff.	Department of Corrections		10/83	On-going
C.	Improve case load management methods.	Department of Corrections		10/83	6/84

ACTION PLAN TIMETABLE

FY: 1983

IV-A-4 GOAL: Establish consortium of public and private agencies to sponsor training institute for ex-offenders.

Action Steps	Primary Responsibility	Support	Start	End
A. Convene meeting of directors of D.C. agencies involved (Corrections, Employment Services, Human Services, Police, Superior Court).	DOES	OCJPA Human Services Police Superior Court	4/83	
B. Select private sector employers who will assume leadership responsibility in this effort.	DOES, OCJPA	PIC	6/83	7/83
C. Develop planning implementation schedule.	DOES, OCJPA		8/83	9/84

ACTION PLAN TIMETABLE

FY: 1983

IV-A-5 GOAL: Expand services at a special school for youth (Washington Dix Street Academy) who have been in prison and recently released.

Action Steps	Primary Responsibility	Support	Start	End
A. Take necessary personnel actions to fill nine (9) vacant teacher and seven (7) counselor positions.	Office of the Superintendent	School Board Teacher's Union		
B. Provide teaching support staff with the proper training that would give them the necessary skills to teach effectively and provide needed support services in an alternative school setting.			This work plan will be acted upon when funds are available.	

ACTION PLAN TIMETABLE

FY: 1983

IV-A-6 GOAL: Improve mental health care available to inmates, parolees and probationers.

Action Steps	Primary Responsibility	Support	Start	End
A. Collect all background information and relevant data concerning mental health care available to inmates, parolees and probationers.	Corrections	DHS, D.C. General Hospital	5/83	
B. Refer all data to the Office of Policy and Program Evaluation for analysis and appropriate action within the confines of general improvements for health care.	OCJPA	OPPE DCDC	5/83	9/84

ACTION PLAN TIMETABLE

FY: 1983

IV-A-7 GOAL: Provide 24 hour detoxification services to worse case addicts.

Action Steps	Primary Responsibility	Support	Start	End
A. Collect background information and relevant data concerning inpatient detoxification services available to drug addicts.	DHS	OCJPA OPPE	5/83	On-going
B. Provide Office of Policy and Program Evaluation with all pertinent data for review and incorporation into City's overall mental health care delivery system.	DHS	OCJPA	5/83	9/84

ACTION PLAN TIMETABLE

FY: 1983

IV-A-9 GOAL: Coordinate utilization of volunteer services among criminal justice agencies.

Action Steps	Primary Responsibility	Support	Start	End
A. Convene meeting of agency heads who will comprise the proposed consortium and obtain preliminary agreement to participate.	OCJPA	Parole Corrections Pretrial Services	5/83	5/83
B. Determine funding level(s) necessary to support continued consortium operations and activities, including future space rental and the hiring of two new full time paid "volunteer specialists" at the DS-9 and DS-11 levels.	Ad hoc Planning Committee	Complaint Center Human Services Bureau of Rehabilitation	5/83	5/83
C. Write program description and mission statement of consortium.	Ad hoc Planning Committee	Consortium agency heads	7/83	7/83

ACTION PLAN TIMETABLE

FY: 1983

IV-A-10 GOAL: Alleviate the impact of both overcrowding and staff shortages on educational programs operated within the Department of Corrections' institutions.

Action Steps	Primary Responsibility	Support	Start	End
RECOMMENDATION #1				
A. Measure current and projected extent of overcrowding in the Department's institutions.	DCDC budget/planning staffs, OCJPA	C.J. Policy Board	6/83	7/83
B. Identify as many legislative, administrative and programmatic alternatives to incarceration as might be feasible so that current educational programs might continue unhampered by conditions of overcrowding.	DCDC planning staff OCJPA	C.J. Policy Board	7/83	10/83
RECOMMENDATION #2				
A. Hire additional education staff at Detention Facility.	Acting Asst. Director for Detective Services	Budget	10/83	9/84
B. Hire additional education staff for Central Facility (twelve John Does suit).	Assistant Director for Correction Services	Budget	10/83	9/84
C. Hire additional education staff at Maximum Security.	Assistant Director for Correction Services	Budget	10/83	9/84

Action Steps	Primary Responsibility	Support	Start	End
RECOMMENDATION #3				
A. Hire additional staff needed to operate the Central Classification & Diagnostic Unit.	Administrator , C&D Unit	Budget	10/83	9/84
B. Develop educational testing, screening, and evaluation procedures for new Adult commitments.	Administrator, C&D Unit	Education Staff-CDF	10/83	9/84
C. Implement C&D Unit at Central Facility (to test new commitments)	DCDC - Director	Administrative, C&D Unit	(Conditional upon availability of space-possibly late 10/83	12/83
RECOMMENDATION #4				
A. Contract with D.C. Public Schools to provide instructor to conduct evening classes at Central Facility.	Administrator, Central Facilities	Education Staff, C.F.	Partially completed - One instructor now on board-conducts classes for 38 students. 10/83	9/84
B. Realign teaching assignments/schedules to enable DCDC teachers to conduct early evening classes.	Assistant Director for Programs, C.F.	Education Staff, C.F.	10/83	9/84
RECOMMENDATION #5				
A. Increase the number of volunteer tutors at Maximum Security and Minimum Security Facilities.	Project New Start	OVS	10/83	9/84

ACTION PLAN TIMETABLE

FY: 1983

IV-A-11 GOAL: Improve the quality of vocational training available in correctional institutions, and make curriculum consistent with requirements in community schools and training facilities.

Action Steps	Primary Responsibility	Support	Start	End
A. Make tire retreading shop operational. -complete building renovations and put equipment in place.	DCDC	General Services	9/82	12/83
B. Make metal furniture repair shop operational. -complete plans for shop.	DCDC		9/82	12/83
C. Make Upholstery Apprenticeship Training Program operational.	DCDC	General Services	9/82	12/83
-complete vocational and academic testing of student candidates		Vocational Rehabilitation	2/83	9/83
D. Make the printing silkscreening shop an apprenticeship training program.	DCDC			
-complete pre-apprenticeship requirements for shop.		Vocational Rehabilitation	1/83	9/84

ACTION PLAN TIMETABLE

FY: 1983

IV-B-1 GOAL: Increase capability of halfway houses.

Action Steps	Primary Responsibility	Support	Start	End
A. Conduct a survey of DCDC and Bureau of Rehabilitation halfway houses to determine if the existing houses lend themselves to expansion.	Department of Corrections' Bureau of Rehabilitation	Zoning Office	7/83	8/83
B. Where possible expand halfway houses owned and operated by DCDC and the Bureau of Rehabilitation.	Department of Corrections Bureau of Rehabilitation		8/83	8/83
C. Identify possible buildings owned by the D.C. Government that could be converted into halfway houses.			7/83	7/83
D. Convert identified District Government owned buildings into halfway houses.			9/83	9/84

ACTION PLAN TIMETABLE

FY: 1983

IV-B-2 GOAL: Revise the parole practices to review eligibility records 12 months prior to eligibility date.

Action Steps	Primary Responsibility	Support	Start	End
A. Develop legislation that would authorize the parole board to increase the scope of accelerated parole options.	Public Safety Policy Board	Parole DCDC Council	5/83	7/84
B. Develop parole guidelines to complement the new changes.	Parole Board	OPPE	6/83	7/83
C. Evaluate criteria for parole revocation.	Parole Board		7/83	7/83
D. Develop guidelines for direct release to the community.	Parole Board		8/83	10/83

ACTION PLAN TIMETABLE

FY: 1983

IV-B-4 GOAL: Expand the prison industries program.

Action Steps	Primary Responsibility	Support	Start	End
A. Expand the prison industries scope of operation beyond the existing six shops (furniture repair & upholstery; printing and silkscreening; metal fabrication; clothing, laundry; business office) to include:	DCDC	OCJPA		
— computer technology & repair shop;			9/82	9/84
— tire retreading shop;			9/82	12/83
— establishing a private sector oriented board of directors;			6/83	8/83
— double shifting of shops.			12/83	9/84

ACTION PLAN TIMETABLE

FY: 1983

IV-B-5 GOAL: Require District agencies to purchase prison industry goods and services.

Action Steps	Primary Responsibility	Support	Start	End
A. Draft executive order requiring District agencies to contract with the Industry Division of Corrections for goods and services.	OCJPA	Office of the Staff Director IGR	6/83	8/83

Status Report and Workplan

V. JUVENILE JUSTICE COMMITTEE

A. Crime Commission Recommendations

1. Provide treatment services for youth on probation

This recommendation was addressed in the FY 1983 Juvenile Justice Plan submitted to the Federal Office of Juvenile Justice and Delinquency Prevention. After the Plan has been approved and the block grant award received by the District, this program will be funded for $136,875. The projected start-up date is October 1, 1983.

2. Explain plea process to juveniles

The suggested language revisions have been forwarded to the Chief Judge of D.C. Superior Court.

3. Provide training for practioners in juvenile justice

Limited training on an individual agency basis is provided and the pending closure of Cedar Knoll necessitated OCJPA and JJAG awarding $3,420 to DHS/YSA to train Cedar Knoll staff who will assume different responsibilities. However, no actions have been taken to develop a comprehensive city wide training package or to acquire private funding for such training.

4. Increase use of home detention

As with the previous recommendation, the OCJPA/JJAG grant of $3,420 will support actions for required enhancement of the home detention program. Training of staff will occur in April and May. Increased use of the home detention program should actualize by July, 1983.

5. Make community service a condition of consent decrees for juvenile first offenders

No formal action has been taken yet on this recommendation. Although funding for additional staff (community service workers) will not be available for FY 1984, efforts will be made to incorporate this recommendation into community crime prevention programs planned for Advisory Neighborhood Councils (ANC's). An initial meeting was held with the Director of Community Services to discuss procedures for involving ANC's in this program.

6. Coordinate among public and private agencies to enhance academic and job related skills of youth

(a) Utilize D.C. Employment Service Youth Employment program as a vehicle for job readiness for area school age youth.

- No action taken.

(b) Promote programs that provide youth with increased opportunity for exposure to positive adult role models.

- No action taken.

(c) Improve and expand the public school system's ability to identify special emotional and educational needs of youth.

- The superintendant of schools issued a directive in October, 1982 to provide for the delivery of supportive services to students with special needs. As a result of the directive, the Office of Special Services (D.C. Public Schools) developed a draft document entitled "Local School Partnership Programming" that outlines a model program to provide instruction for mild and moderately handicapped youth within the local schools. This model provides for early screening and identification of youth with special educational and emotional needs. The program has not yet been implemented.

(d) Enhance and promote the continued coordination between D.C. Public Schools and the Youth Services Administration on the transfer and sharing of educational information about youth placed in YSA institutions.

- This proposal will be implemented by the addition of an automated management system at the YSA institutions which will provide added data between the institutions and the public schools. This system is being funded by the Juvenile Justice Advisory Group.

B. Transition Task Force Recommendations

1. Close Cedar Knoll School by 10/83

A detailed plan for closure has been approved by the City Administrator; renovations to the Receiving Home are almost completed; and closure should occur by October 1, 1983.

ACTION PLAN TIMETABLE

FY: 1983

V-A.1 GOAL: To enable the D.C. Superior Court to purchase treatment services for youth placed on probation.

Action Steps	Primary Responsibility	Support	Start	End
A. Obtain commitment of Chief Judge of D.C. Superior Court to implement program.	OCJPA	Court Social Svs. DIIS	1/83	2/83
B. Identify treatment resources.	Court Social Services	DIIS	3/83	On-going
C. Develop intake guidelines.	Court Social Services	OCJPA, DIIS, OCC	4/83	6/83
D. Inform court personnel and prosecuting attorneys of availability of program.	Director, Court Social Services	OCJPA	9/83	On-going
E. Implement program.	Court SOcial Services	Community Treatment Providers	10/83	

ACTION PLAN TIMETABLE

FY: 1983

V-A.2 GOAL: To ensure that juveniles understand the rights they are waiving in entering a guilty plea.

Action Steps	Primary Responsibility	Support	Start	End
A. Prepare draft of recommended language for insertion in D.C. Superior Court Benchbook.	Crime Commission members from Public Defender Service, Office of the Co rporation Counsel and OCJPA	Youth Advocates service providers	10/82	11/82
B. Forward statement to the Chie f Judge of D.C. Superior Court for comments/approval.	OCJPA		4/83	4/83
C. Print statement and insert in Benchbook.	D.C. Superior Court		5/83	5/83

ACTION PLAN TIMETABLE
FY: 1983

V-A.3 GOAL: To prevent crime and delinquency by increasing the effectiveness of those who work with young people, through the provision of ongoing training and support.

Action Steps	Primary Responsibility	Support	Start	End
A. Establish a training advisory board to set priorities and obtain private sector funding.	OCJPA, Juvenile Justice Advisory Group	DHS, Superior Court, MPD OCC	4/83	6/83
B. Designate central training coordination agency to deliver training and related services.	Advisory Board		7/83	
C. Assess training needs.	Training agency	Advisory Board	9/83	10/83
D. Deliver training.	Training agency	Advisory Board	11/83	8/84
E. Institutionalize training.	Advisory Board		10/84	

ACTION PLAN TIMETABLE

FY: 1983

V-A.4 GOAL: To make greater use of home detention, especially for juveniles committing property offenses, and discourage the use of punishment as a criterion for making detention decisions.

Action Steps	Primary Responsibility	Support	Start	End
A. Develop a package explaining the home detention concept, its current and future implications.	Youth Services Admin.		3/30/83	
B. Select a specific training program for Youth Services Administration personnel in the area of family interactions and communications.	Youth Services Admin.		2/16/83	On-going
— Set curriculum			2/16/83	
— Hire consultant for initial training			4/1/83	
C. Examine existing support services for improvement and/or coordination with above training.	Youth Services Admin.		3/1/83	On-going
D. Develop method to re-evaluate youth in shelter care status	Youth Services Admin.		3/31/83	6/31/83

ACTION PLAN TIMETABLE
FY: 1983

V-A.5 GOAL: To provide effective intervention for juvenile offenders who are placed under consent decree supervision by the court.

Action Steps	Primary Responsibility	Support	Start	End
A. Institutionalize the notion of community services into the consent decree status.	D.C. Superior Court	OCC	4/83	6/83
B. Conduct training sessions with ANC Commissioners.	Office of Community Services	OCJPA	5/83	7/83
C. Identify community service sites.	D.C. Superior Court	OCJPA, OCC	8/83	On-going
D. Implement program.	D.C. Superior Court	OCC, OCJPA	10/83	

ACTION PLAN TIMETABLE

FY: 1983

V-A.6a GOAL: Utilize D.C. Employment Services Youth Employment Program as a vehicle for job readiness for area school age youth.

Action Steps	Primary Responsibility	Support	Start	End
A. Incorporate job readiness into summer job program.	DOES	D.C. Public Schools	5/30/83	8/15/83
— Hold weekly seminars;	DOES		Weekly	Summer '83
— Expose youth to suburban employment opportunities;	DOES	5/30/83	5/30/83	On-going
— Monitor jobs program for meaningful and useful experience of youth.	DOES		5/30/83	On-going

24-295 O—83——12

ACTION PLAN TIMETABLE

FY: 1983

V-A.6 b GOAL: Promote programs that provide youth with increased opportunity for exposure to positive adult role models.

Action Steps	Primary Responsibility	Support	Start	End
A. Work toward establishing one-on-one interface between youth and adults. — Provide information on needs of inner city youth to service organizations.	D.C. Public Schools	JJAG	6/1/83	8/15/83
B. Secure means of providing positive role models for youth. — Identify role models. — Plan activities for youth. — Solicit "mentors" for youth.	D.C. Public Schools PTA	Community Based Organization	6/1/83	On-going
C. Continue and increase use of private sector personnel as train ers in Career High Schools.	D.C. Public Schools	Private Sector	In Existence	On-going

ACTION PLAN TIMETABLE

FY: 1983

V-A.6 c GOAL: To improve and expand the public school system's ability to identify special emotional and educational needs of youth.

Action Steps	Primary Responsibility	Support	Start	End
A. Review proposed model for identifying and servicing needs of the handicapped in D.C. Schools.	JJAG	OCJPA	6/1/83	6/15/83
B. Work with schools to assure implementation of plan.	JJAG	OCJPA	6/30/83	7/30/83
C. Propose adequate monitoring of plan implementation.	JJAG	OCJPA	8/1/83	On-going
D. Explore possibility of D.C. School/DHS based satellite screening program at D.C. Receiving Home.	JJAG	D.C. Public Schools DHS/YSA	8/1/83	On-going

ACTION PLAN TIMETABLE
FY: 1983

V-A.6d GOAL: Enhance and promote the continued coordination between D.C. Public Schools and the Youth Services Administration on the transfer and sharing of educational information about youths placed in YSA institutions.

Action Steps	Primary Responsibility	Support	Start	End
A. Continue coordinated sharing of educational information by schools and YSA personnel.	D.C. Public Schools, YSA		Currently in operation	On-going
B. Provide technical assistance to YSA Programs for operation of computer terminals.	D.C. Public Schools, YSA		Currently in operation	On-going
— Automated management system established at YSA institutions.	YSA	JJAG	2/83	9/84

ACTION PLAN TIMETABLE

FY: 1983

V-B.1 GOAL: Close Cedar School by October 1, 1984.

Action Steps	Primary Responsibility	Support	Start	End
A. Develop and distribute plan and obtain approval from City Administrator.	DHS/YSA	YSA Advisory Group Policy	1/83	4/83
B. Make renovations to Receiving Home.	DHS/YSA	DGS	3/83	4/83
C. Obtain court approval for increased use of Receiving Home.	Corporation Counsel	DHS/YSA	4/83	5/83
D. Train and re-assign staff.	DHS/YSA		5/83	9/83
E. Develop range of alternative programs.	DHS/YSA	YSA Advisory Group	3/83	9/83
F. Transfer youth from Cedar Knoll and phase them into alternative programs.	DHS/YSA	Corporation	7/83	9/83

REPORT ON ITEMS DEFERRED FROM LAST COMMITTEE MEETING

As you may recall, there were five deferred items that were not addressed at the last Commission meeting. Some of them were presented as minority reports from the Prosecution/Trial Committee, and the others were presented as motions by Ronald Drake, a member of the Prosecution/Trial Committee. Since the last Commission meeting, the Executive Vice Chairman and staff met with the members of the Prosecution/Trial Committee who raised these issues at the last meeting. Three of those items can be resolved without further deliberation by the Commission, one item is on the agenda for April 26, and the remaining one will be discussed at a future Commission meeting. The five deferred items and steps to be taken to resolve them are as follows:

1. Establish the D.C. Office of Inspector General by Statute or Executive Order

Joyce Blalock, the Inspector General for the District of Columbia, in response to an inquiry by staff, stated that "the need to establish OIG by statute has not been demonstrated in the last 4½ years of experience." After reviewing her response, the sponsors of this Prosecution/Trial Committee minority report withdrew their request for full Commission consideration of this recommendation. Staff agreed to request from the D.C. Inspector General, information regarding the number of agency-initiated investigations and the number of cases investigated that were referred to prosecution during FY 1983. Once this information becomes available, it will be shared with members of the Prosecution/Trial Committee.

2. Devise a plan for classifying inmates according to the degree of danger they pose to community safety so less dangerous persons can be released to community based programs

Staff indicated that the Office of Criminal Justice Plans and Analysis has been awarded a research grant by the National Institute of Justice to perform a risk-assessment study. Using District parolees, an array of factors, including the nature of the crime, prior criminal histories, and socio-demographic variables, will be used to assess and eventually predict public safety risk posed by inmates it released to the community. Mr. Drake, who offered this motion, indicated that the study represented a satisfactory response and further requested that findings of the study be shared with members of the Mayor's Public Safety Citizen's Advisory Committee (to be established by the fall of 1983).

3. Adopt a proposed citizen's rights program that includes a procedure for having citizens, including witnesses and victims, advocate for stiff penalties in criminal cases.

It was agreed that issues related to witness-victim rights would be placed on the agenda of the Mayor's Public Safety Citizen's Advisory Committee for further study and subsequent action.

4. Amending the pretrial detention statute to allow for the consideration of dangerousness in setting bail.

This item is on the agenda for the April 26th meeting. It will involve two presentations, brief discussion, and subsequent vote by Commission members on whether or not to accept this recommendation. Written arguments by proponents and opponents of this recommendation will be forwarded to Commission members prior to the April 26th meeting.

5. Decide on a proposal to reduce court backlogs by eliminating the right to jury trials for misdemeanants through a reduction of penalties for misdemeanor offenses.

Upon advice of the Vice-Chair of the Commission, the group agreed to refer this issue to the soon to be formed Public Safety Advisory Board for further consideration. It was felt that more research and analysis is required prior to rendering a decision on this issue. After further study, the Public Safety Advisory Board shall present its findings to the full Commission at a subsequent meeting.

The Executive Vice-Chair, staff, and Prosecution/Trial Committee members who raised the issues, agreed that these actions adequately address the five items that were raised but not covered at the previous Commission meeting.

WRITTEN ARGUMENTS ON AMENDMENTS TO BAIL SETTING PROVISIONS

April 20, 1983

TO: Members, D.C. Crime Commission

FROM: Proponents,
Prosecution/Trial Committee

RE: To Allow Dangerousness to be Considered as One Factor in Setting Financial Conditions of Release

The District of Columbia Code, § 23-1321(b), lists the factors that a judicial officer should consider in determining the conditions of release after an arrest has occurred. These factors include: the nature and circumstances of the offense charged; the weight of the evidence against the defendant; the defendant's length of residence in the community, family ties, employment status, financial resources, character, and mental condition; and the defendant's past conduct, record of convictions, and record of appearance in court. After evaluating these factors, a judicial officer may impose any one or more of the conditions of release enumerated in subsection (a) -- conditions which range from release on personal recognizance through placement in third party custody to the imposition of a money bond -- in order to "reasonably assure the appearance of the person as required or the safety of any other person or the community." (emphasis supplied). Only one exception is made: "No financial condition may be imposed to assure the safety of any other person or the community."

Thus, financial conditions of release may be imposed to assure a defendant's appearance in court, but such conditions may not be imposed to assure the safety of any individual or the community. Moreover, a judicial officer is required to consider the dangerousness when releasing a defendant on his own recognizance or imposing some community supervision, but the officer cannot consider dangerousness in setting bond. The absurd nature of this exception is apparent; and the need to eliminate it is compelling.

Criminal recidivism is a major problem confronting the community and law enforcement authorities in this city and throughout the nation. The sincere and growing concern voiced by citizens of the District led to the enactment of amendments to the pretrial detention laws last July. The subsequent use of the new pretrial detention provisions (which permit the detention without bond of certain violent recidivists if they are accorded special procedural and time-consuming rights), while effective, has not and cannot reduce greatly the number of recidivists who remain in the community victimizing others. This is so because of the requirements of the statute itself, as well as the severely limited judicial, prosecutorial, and investigative resources that can be devoted to the required accelerated prosecution and trial of pretrial detention cases. Simply stated, we do not, and in the foreseeable future will not, have the resources to detain without bond all recidivist offenders.

Most members of our community want to discourage criminals from repeatedly victimizing innocent persons by including "dangerousness," or the likelihood of repeated criminal conduct, as one factor to be considered in setting bond. The community expects, and experience and common sense dictate, that a defendant

who must put up a substantial surety or percentage bond to guarantee not only his return to court, but also his lawful and peaceful conduct while awaiting trial or plea, is less likely to violate any of the conditions of his release. Where one's pocketbook is concerned, one is bound to be more circumspect.1/

Opponents claim that an alleged inability to predict future conduct mitigates against allowing dangerousness to be a factor in setting bond. This claim proves specious, however, when one realizes that currently a judicial officer is required to predict future conduct with regard to the likelihood of reappearance in court. If the defendant's past and present conduct can serve as a basis for predicting flight, then certainly it can provide a sound basis for predicting dangerousness. Moreover, the law clearly contradicts opponents' claim. In United States v. Edwards, 430 A.2d 1321 (1981), the Court declared that the judicial officer's task of determining dangerousness "is thus qualitatively no different than, and in some aspects identical to," the task of predicting the likelihood of flight, at a bail hearing, a pretrial detention hearing, or a release pending appeal hearing. Clearly, ensuring the safety of the community is as desirable a goal as ensuring respect for the court, and reasonable efforts to attain both goals do not impose unduly upon defendants.

Equally transparent is opponents' argument that because bond alone fails to guarantee detention for dangerous defendants, considerations of dangerousness in setting bond are irrelevant. The primary purpose for imposing bond is deterrence, not detention. However, if the inability to post a reasonable bond results in the detention of a person who has demonstrated continuing contempt for the law and law-abiding citizens, then the delicate balance between the rights of defendants and the rights of the community and the individual not be criminally victimized will be maintained. The law expressly endorses detention to protect the safety of the community from repeated criminal conduct. United States v. Edwards, supra. Moreover, the right of any defendant to request a review of the conditions of release, as well as his or her rights to a speedy and fair trial, are sufficient to guarantee that the defendant will not be affected unfairly if dangerousness becomes a legitimate concern in setting bond.

Further, we note that currently judicial officers do consider dangerousness as a condition of bond, and they do so to preserve a sense of justice in the criminal justice system; but the language of the D.C. Code forces them to enunciate only factors concerning flight. Therefore, if even judicial officers are forced to ignore the law to do justice, then the law must be changed.

1/ The available statistics (e.g., those gathered by the Commission staff) which purportedly contradict this conclusion are misleading and inadequate to address this issue. The statistics involve general pretrial release data, and do not focus on recidivists or on the crimes that recidivists are most likely to commit.

Finally, there is no consitutional right to release, or even to bond, pending trial. United States v. Edwards, supra. Moreover, no Supreme Court decision prohibits a judicial officer from considering dangerousness in setting bond. Supreme Court rulings have addressed only the question of excessive bond and the use of bond specifically to deny a defendant release prior to trial. Thus, contrary to opponents' claims, where dangerousness is but one factor to be considered among many in the setting of bond, and where it is set specifically to discourage recidivist conduct, there is no legal impediment to, and there are compelling civic reasons for, inserting dangerousness into the statutory scheme describing bond. Insofar as any established standards differ from our recommendation, they are the product of an outdated concern for the defendant to the exclusion of any concern for the community. The epidemic of criminal activity victimizing law-abiding citizens must be contained, recidivists must be deterred, good law must be followed, the integrity of the bond-setting process must be restored, and public confidence in the criminal justice system must be encouraged. The lone and erroneous statutory barrier to allowing a judicial officer the discretion to consider the safety of the community in imposing bond therefore should be removed.

MEMORANDUM

To: District of Columbia Commission on Crime and Justice Date: 4/20/83

From: Francis D. Carter, Member Prosecution/Trial Committee

Subject: Whether Judicial Officers of the Superior Court Should Have the Power to Consider Dangerousness in Setting Bail for Persons Accused of Crimes?

> "[N]either psychiatrists nor anyone else has reliably demonstrated an ability to predict future violence or 'dangerousness.'" American Psychiatric Association, "Task Force Report on the Clinical Aspects of Violent Individuals," at 28 (1974).

The District of Columbia Code requires that "[n]o financial condition [of bond] may be imposed to assure the safety of any other person or the community." (D. C. Code § 23-1321(a)). You, as Commission members, must now decide whether that provision should be modified. Let us set aside, for a moment, that the proposal for a change in the Code was defeated by a vote of 9 to 4 at the May 18, 1982 Prosecution/Trial Committee meeting and review the wisdom of this proposal. I continue to believe there are sound reasons for agreeing with the majority of the Prosecution/Trial Committee. If you try to answer three simple questions, I think you will reach the same conclusion.

I. IS THERE A PROBLEM?

No. The section of the D. C. Code I previously quoted was designed to prevent judges from keeping people in jail on money bonds before their trial merely because they did not have enough to pay for the bond. Simply stated, the poor have the same right to be free before trial as the middle class or the rich. If a person charged with a crime poses a problem to the safety of the community, the Code, right now, gives the prosecutor a tool to use: preventive detention. This will allow a court, on the request of the prosecutor, to hold a person based on alleged actions in the crime charged

in combination with crimes previously committed. The law currently says the prosecutor can ask that a person be held in jail without bond if he comes within any one of six categories: (1) anyone charged with a dangerous crime (for example, breaking or attempting to break into your house; (2) someone charged with a crime of violence (for example, rape or taking indecent liberties with a child under 16); (3) a narcotics addict charged with a crime of violence (for example, breaking into a store or robbery); (4) anyone who attempts to or does threaten any juror or witness; (5) any person charged with first degree murder; and (6) any person convicted (either by trial or a plea) and awaiting sentence for any crime that carries a jail term. Surely this shows that if there is a problem, it is not with the law as it exists (See the attached February 18, 1983 letter from Chief Turner to members of the police force).

II. WHAT IS DANGEROUSNESS?

As you can see from the quote at the beginning of this memo, some experts say no one can predict future dangerousness. However, the current provision of our Code in order to guide judges points to established patterns (that is, crimes for which an individual has been convicted and substantial probability that the person committed the crime charged). I will be the first to express my personal doubts on anyone's ability to predict what another human being will do in the future. But, if we arrive at a decision to allow judges to forecast dangerousness to the community in all cases, how do we expand or change the present standard so that it will not allow a person to be detained for racial, social or political reasons. Think for a moment about the late Julius Hobson. Did he not stir up unrest? Was he not arrested several different times in situations that called for more than one police officer to be present? Did he ever suggest that he would, in the future, do other acts to get himself arrested?

III. WHAT CAN CHANGE ACCOMPLISH?

Focus on what preventive detention can now do. In 1971 a group from Harvard Law School*/ looked at cases in our local courts and the current standard for predicting dangerousness. In one sample of cases based upon accused persons who

*/ Preventive Detention: An Empirical Analysis, 6 Harv. C.R.-C.L.L. Rev. 288, 314 (1971).

fit the standard and looking at whether they were subsequently convicted of the crime for which they were charged, the study concluded that for every recidivist detained, eight non-recidivists would be detained. Do we take steps to lower that rate or should we develop a larger net to hold more people.

If the Bill of Rights does not interest you, turn now to the dollars and cents figures of the bills. Under our current system of bail laws the jail population has shot through the roof. In March, 1981 the average daily count of the population at D. C. Jail was 1419. In March, 1982 that same average daily count was 1769 (a 24% increase). But we had a big change in 1983. Our local government asked for, and received from a federal judge permission to put two people in a cell at D. C. Jail designed for one. Additionally, they opened Occoquan (a part of the Lorton Complex) to house people charged with misdemeanors (crimes with penalties of one year or less). As a result, the average daily count for both facilities in March, 1983 was 2565 (a 44% increase over 1982). If a low estimate for housing someone before trial is $40.00 a day (the 1981 figure) and it takes a case anywhere from 6 to 18 months to get to trial (and this does not count time awaiting sentence nor time actually spent serving a sentence), you get a good idea of the cost to our city for keeping people locked up. If that is true and we decide to increase at a greater rate the number of people locked up, who will be the first to sign a petition to increase property and income tax rates to pay for this?

I think the conclusion is clear. We do not need to increase the present awesome arsenal in our fight against crime. We need to concentrate on true repeat offenders and find ways to get people who commit non-violent crimes out of jail and into jobs, able to repay our community (through restitution or just paying taxes like the rest of us).

Attachment

GOVERNMENT OF THE DISTRICT OF COLUMBIA
METROPOLITAN POLICE DEPARTMENT
OFFICE OF THE CHIEF OF POLICE
WASHINGTON, D. C. 20001 2168

February 18, 1983

TO THE FORCE:

I am extremely pleased to inform you that the District of Columbia has achieved a 3.3 percent reduction in reported crime for calendar year 1982 compared to calendar year 1981.

All too often, the efforts and personal commitment of individual members to the reduction of crime go unrecognized. Therefore, I would like to take this opportunity to personally commend each of you for the significant contributions that you have made this past year towards achieving this reduction in crime. I recognize that much of this achievement is attributable to your hard work, both independently and as a member of an outstanding and dedicated law enforcement team.

In making this letter a permanent part of your personnel folder, I extend to you my sincere appreciation for a job well done.

Maurice T. Turner, Jr.
Chief of Police

END