PRISON OVERCROWDING EMERGENCY POWERS ACT OF 1987

HEARING AND MARKUPS

BEFORE THE

SUBCOMMITTEE ON JUDICIARY AND EDUCATION

AND THE

COMMITTEE ON THE DISTRICT OF COLUMBIA

HOUSE OF REPRESENTATIVES

ONE HUNDREDTH CONGRESS

FIRST SESSION

ON

H.R. 2850

TO REPEAL THE DISTRICT OF COLUMBIA PRISON OVERCROWDING EMERGENCY POWERS EMERGENCY ACT OF 1987

H.J. Res. 341

TO DISAPPROVE THE DISTRICT OF COLUMBIA PRISON OVERCROWDING EMERGENCY POWERS ACT OF 1987

SEPTEMBER 10; OCTOBER 7 AND 8, 1987

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On June 30, 1987, Mr. Parris introduced H.R. 2850, a bill to repeal District of Columbia Council Act 7-40, the District of Columbia Prison Overcrowding Emergency Powers Emergency Act of 1987. Pursuant to District of Columbia law, emergency acts become effective immediately for a 90-day period. In this case, Emergency Act 7-40 became effective immediately for a 90-day period through September 30, 1987.

On July 22, 1987, Mr. Parris introduced H.J. Res. 341, a bill to "disapprove" District of Columbia Council Act 7-56, the District of Columbia Prison Overcrowding Emergency Powers Act of 1987. By law, Act 7-56, a permanent act, was required to "lay over" in the Congress for 30 legislative days prior to becoming effective.

Both acts were enacted to provide the Mayor authority to grant early release of select categories of District of Columbia offenders incarcerated in local facilities should the Mayor determine that an emergency existed regarding legal prison population limits. Pursuant to these acts, the Mayor could declare an emergency when the prison population exceeded its noted design capacity for 30 consecutive days, and after all administrative options for reducing the population had been exhausted. Eligible prisoners would have to be within 180 days of release and could receive a sentence reduction of not greater than 90 days.

On September 10, 1987, the Subcommittee on the Judiciary and Education held a hearing on H.R. 2850 and H.J. Res. 341. District of Columbia government witnesses included Thomas Downs, city staff administrator and deputy mayor for operations; Hallem H. Williams, Jr., director, District of Columbia Department of Corrections; Gladys Mack, chairperson, District of Columbia Board of Parole; and Frederick D. Cooke, acting corporation counsel. Other witnesses included Richard R. Atkinson, former commissioner, District of Columbia Prison Facilities Study Commission; Peggy McGarry, State coordinator for effective public policy; and Gary Hankins, chairman of District of Columbia Metropolitan Police/Labor Committee. Additionally, Assistant Attorney General John R. Bolton and Councilwoman Wilhelmina J. Rolark submitted written statements.

During the subcommittee hearing, much of the testimony addressed the merits of District of Columbia Council Acts 7-40 and 7-56, pertinent court orders regarding population limits imposed on District of Columbia prisons and its actual prison population, and specific data regarding crime in the District of Columbia. District of Columbia Council Act 7-40 expired on September 30, prior to further committee consideration. H.R. 2850 and District of Columbia Council Act 7-40 thus became moot for legislative purposes and H.J. Res. 341 and District of Columbia Council Act 7-56 became the exclusive legislative matter before the committee.

On October 7, 1987, subcommittee chairman, Mr. Dymally, notified subcommittee members that consistent with committee rules, he had requested committee chairman, Mr. Dellums, to consider the bill in the full committee. On October 8, 1987, the full committee convened to consider H.J. Res. 341. Consistent with committee precedent, Mr. Dellums, applied the committee's traditional three-prong test regarding congressional review of District of Columbia legislation. (1) Whether the local act was constitutional? (2) Whether the local act violated the District of Columbia Self-Government Act of 1973? (3) Whether the local act affected a Federal interest, which justified congressional disapproval?

The committee determined that the answers to the above questions were negative and voted unanimously by an 8 to 0 vote to defeat H.J. Res. 341.

HEARING ON H.R 2850 AND HOUSE JOINT RESOLUTION 341

THURSDAY, SEPTEMBER 10, 1987

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

The subcommittee met, pursuant to call, at 9:10 a.m, in room 1310, Longworth House Office Building, Hon. Mervyn M. Dymally (chairman of the subcommittee) presiding.

Present: Representatives Dymally, Martin, Bliley, and Parris.

Staff present: Edward C. Sylvester Jr., staff director; Donald M. Temple and Johnny Barnes, senior staff counsels; Donn G. Davis, senior legislative associate; Mark J. Robertson, Jeff Schlagenhauf, Lori Bounds, and Shahid Z. Abdullah, minority staff assistants.

Also present: Representative Fauntroy.

[The text of H.R. 2850 and H.J. Res. 341 follow:]

I

100TH CONGRESS
1ST SESSION

H. R. 2850

To repeal the District of Columbia Prison Overcrowding Emergency Powers Emergency Act of 1987.

IN THE HOUSE OF REPRESENTATIVES

JUNE 30, 1987

Mr. PARRIS introduced the following bill; which was referred to the Committee on the District of Columbia

---

A BILL

To repeal the District of Columbia Prison Overcrowding Emergency Powers Emergency Act of 1987.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the District of Columbia Prison Overcrowding Emergency Powers Emergency Act of 1987 (D.C. Act 7–40), signed by the Mayor of the District of Columbia on June 22, 1987, is repealed.

100TH CONGRESS
1ST SESSION

H. J. RES. 341

Disapproving the action of the District of Columbia Council in approving the "Prison Overcrowding Emergency Powers Act of 1987", District of Columbia Act 7-56.

IN THE HOUSE OF REPRESENTATIVES

JULY 22, 1987

Mr. PARRIS introduced the following joint resolution; which was referred to the Committee on the District of Columbia

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JOINT RESOLUTION

Disapproving the action of the District of Columbia Council in approving the "Prison Overcrowding Emergency Powers Act of 1987", District of Columbia Act 7-56.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress disapproves of the action of the District of Columbia Council described as follows: "Prison Overcrowding Emergency Powers Act of 1987", (D.C. Act 7-56), acted upon by the Council of the District of Columbia on July 14, 1987, and transmitted to the Congress pursuant to section 602(c) of the District of Columbia Self-Governmental Reorganization Act on July 21, 1987.

Mr. DYMALLY. The Subcommittee on Judiciary and Education is called to order.

Good morning. Today's hearing on H.R. 2850 and House Joint Resolution 341 is hereby called to order.

H.J. Res. 341 seeks to disapprove the District of Columbia Prison Overcrowding Emergency Powers Act of 1987, which amends title 24 of the D.C. Code. As such, this legislation is subject to a 60-day legislative review period, which expires on or around November 19, 1987. On that date the D.C. legislation will become effective unless disapproved by the Congress.

H.R 2850 seeks to repeal the District of Columbia Prison Overcrowding Emergency Powers Act of 1987. This act, passed by the D.C. City Council was effective immediately for a 90-day period through September 28. At that time the local act expires.

Inevitably, these local acts and the congressional legislation before this subcommittee raises several critical and complex judicial, legal, political and social issues, and bring into play the merit of the District's proposed solution as it affects the Federal interest. It is worth noting, however, that the prison overcrowding problem is a common one for many States and local governments and, as of May 1985, 17 States had passed similar legislation.

Today, the subcommittee is charged with consideration of H.R. 2850 and House Joint Resolution 341 not based, however, on the merits of the local legislation which they seek to overturn, but based more narrowly on whether the District of Columbia has offended the will of the Congress as expressed in congressional passage of the Home Rule Act. This act created a local government with enumerated authority to govern itself without compromising the Federal interests in the District of Columbia. Thus we must determine whether there exists a distinct basis upon which we should repeal or disapprove these local acts.

It is the history and practice of this committee to consider three criteria in evaluating whether Congress should overturn laws passed by the D.C. government:

First, whether the local government exceeded the powers delegated to it pursuant to the Home Rule Act?

Second, whether those District of Columbia acts violate the United States Government Constitution?

And, third, whether the D.C. acts impose upon or obstruct the Federal interest?

Today, the committee will hear testimony on these issues. Due to the Democratic caucus, which is scheduled at 10 o'clock today, the subcommittee hopes to postpone the markup until Thursday, October 8, at 9 o'clock.

I thank the witnesses for coming to today's hearing, and I now yield to the gentleman from Virginia, Mr. Parris.

[The prepared opening statement of Mr. Dymally follows:]

OPENING STATEMENT OF HON. MERVYN M. DYMALLY

Good morning: Today's hearing on H.R. 2850 and H.J. Res. 341 is hereby called to order.

H.J. Res. 341 seeks to disapprove the District of Columbia Prison Overcrowding Emergency Powers Act of 1987, which amends title 24 of the D.C. Code. As such, this legislation is subject to a 60 day legislative review period, which expires on or

around November 19, 1987. On that date the D.C. legislation will become effective unless disapproved by the Congress.

H.R. 2850 seeks to repeal the District of Columbia Prison Overcrowding Emergency Powers Emergency Act of 1987. This act, passed by the D.C. City Council was effective immediately for a 90 day period through September 20, at which time the local act expires.

These local acts and the congressional legislation before this subcommittee raises several critical and complex judicial, legal, political and social issues. Moreover, today's hearing inevitably brings into focus the merit of the District's proposed solution—particularly as it affects the Federal interest.

This problem is not peculiar to the District alone. Prison overcrowding is a common problem for many States and local governments and as of May, 1985, at least 17 States had passed similar emergency powers acts.

While, the subcommittee is charged with consideration of H.R. 2850 and H.J. Res. 341, its consideration is not based on the merits of the local legislation which these bills seek to overturn. It is more narrowly based on whether the District of Columbia has offended the will of the Congress—as expressed in congressional passage of the Home Rule Act. This act, passed by this Congress in 1973, created a local government with enumerated authority to govern itself, without compromising the Federal interests in the District of Columbia. We must determine whether there exists a distinct basis upon which we should repeal or disapprove these local acts. What is that basis?

It is the history and practice of the District of Columbia Committee to consider three criteria in evaluating whether Congress should overturn laws passed by the D.C. Government.

First, whether the local government exceeded the powers delegated to it pursuant to the home rule act?

Second, whether those District of Columbia acts violate the United States Constitution?

And third, whether the D.C. acts impose upon or obstruct the Federal interest?

Clearly the District acted within its legislative and constitutional authority in passing this legislation. Thus, we will learn in today's hearing whether the District's act obstructs the Federal interest.

Due to Democratic Caucus which is scheduled at 10:00 a.m., the subcommittee is postponing mark-up of H.R. 2850 and H.J. Res. 341 until Thursday, October 8th, at 9:00 a.m.

I thank our witnesses for participating in today's hearing and I look forward to your testimony and insights.

Mr. PARRIS. I thank you very much, Mr. Chairman, and ask unanimous consent that my entire statement be included in the record.

Mr. DYMALLY. Without objection, it is so ordered.

Mr. PARRIS. First, Mr. Chairman, let me thank you and extend my appreciation to you for scheduling these hearings in a timely way.

As we are all aware, these hearings will address two pieces of legislation: D.C. Act 740—and House Joint Resolution 341 would disapprove that act—as well as the Emergency D.C. Act 7-56, or the Emergency Powers Act.

Let me, before I make a few comments, Mr. Chairman, about these particular proposals, let me once again for the record reiterate my position in regard to the three criteria that you have alluded to in your opening statement regarding the traditional position of this committee in reviewing the acts of the city council. I have never supported those criteria. I do not now support them. The question of whether or not the D.C. Council acts in a constitutional way is in my view not the criteria by which this Congress should exercise its oversight functions.

The simple question here is: Is this city—consistent with our responsibility to our constituents and the people of this Nation, is this city being administered in a proper way? I don't care whether

that question is constitutional or whether it has an overriding Federal interest. In my opinion, everything that happens in this city has a Federal interest, and I just wanted, for the record, to once again extend those remarks with regard to my rejection of that criteria which, in my view, was wrong from the first days. I think if you will review the record of the activities of this committee that position will have been consistently stated, at least by this Member, and I suggest respectfully that I think that view is shared by a very large number of other Members of this Congress.

Let me just very quickly make a couple of comments with regard to the acts that we are considering today and then get on to receiving the testimony of the people, which we do appreciate their presence here today.

These acts, in my view, pose a present and direct threat to the safety of the residents of Washington and the surrounding areas, one of which I am privileged to represent, not to mention the tens of thousands of persons who visit the city every year. These acts simply represent the latest in a long series of knee-jerk attempts by the city administration to deal with Federal court orders regarding prison population caps. In my view, the motivation for these enactments are just about that simple.

They give the Mayor the authority to reduce the prison sentence of all eligible inmates in the D.C. Department of Corrections by 180 days—6 months—without involvement of any judiciary, without the input of the parole system, without any other authority of any kind—making who knows how many dangerous criminals eligible for early release from prison. And that, obviously, does not include those that would be paroled in any event in the normal process of things. It is simply unreasonable to expose the residents of this city and the surrounding communities and visitors to the unnecessary danger presented by these individuals.

Why are they being released? Is it a well thought out correctional policy? Is it because they have served their terms imposed by the court? The answer is; obviously not. The logic is clearly absent.

They will be given early parole because, to quote my friend, Mr. Downs, "This is the only rational solution to the problem." I reject that assumption. I don't think it is correct. I think there are other alternatives and this approach to this problem is, in my opinion, unacceptable. I find it particularly troubling that after 16 years of litigation and other problems facing the District's correctional system this is the best solution. However consistent this may be with the city's past record of dealing with prison overcrowding, these two acts are, in my view, not the solution.

It would appear from recent activities to the casual observer that perhaps there is got to be an emergency court order of some kind, some kind of litigation before something happens. The District is now faced with a court-imposed deadline, a cap. It must reduce the prisoner population. It must do something. The deadline was imposed back in December 1986. No action was taken by the city to comply with the passage till 2 weeks ago—excuse me—until passage 2 weeks ago of the Prison Overcrowding Emergency Powers Emergency Act. It has been more than 2 weeks, as a result of the recess, I think. But essentially, my point is that the city as a result of this litigation in the court cap case has been forced to take some

action. And only until it was faced with that responsibility and came to the end of that road was some kind of affirmative action taken, which I regret.

But the inmates—and we will review Mr. Downs' testimony here in a moment—the inmates we are told that are being released are not dangerous persons, but I think the facts suggest otherwise. There are robbers, drug offenders not covered under the mandatory sentence statutes. The city has 2,000 former inmates on parole, 70 supervisory agents. I am told and I believe that proper supervision is already at least marginal, if not less than adequate. That is a function of the system, in my view. Certainly it is a problem with the system in this city. The release of 860 additional convicts under these acts will only serve to further tax the city's ability to adequately monitor the parolees, and these acts represent a serious tradeoff, in my view, to public safety that we can ill afford.

It does endanger public safety, but it also, as I have indicated earlier, attempts to circumvent the Federal court-ordered population cap. The act contains language that in my judgment may permit the city administration to redefine what is called "rated design capacity" to exclude several structures now used to house inmates. By removing such facilities as modular units, dayrooms, trailers, gymnasiums from the definition of rated design capacity, the inmates housed in these facilities—and they are and there will be more of them in future—would not count against the court-ordered population cap. Well, in my opinion, that is a very subtle subterfuge to avoid the implications of the cap.

In the interest of public safety, I urge my colleagues on this subcommittee to support the bills to repeal and disapprove these acts which I consider to be unreasonable and irresponsible. Must we pay the personal price for this? How many innocent citizens in the Washington area will be harmed or killed at the hands of criminals released under this act? How many of our children will die with the drugs that will be fed them by the dealers who will be released under this act? Who in the District government will take responsibility for the families of these persons who will be impacted by these persons who will be released?

Mrs. King in testimony on this bill said: "The law-abiding citizens of this community deserve a solution to prison overcrowding which does not endanger them in their homes, in their workplaces or in the streets. This bill will have a potentially dangerous effect on public safety, it telegraphs all the wrong messages to those involved in criminal activity, and is an irresponsible and ill-conceived solution to prison overcrowding." This, a member of the city council—and Mrs. Winter said: "What's the emergency? We've had jail overcrowding for 10 years." Mr. Wilson said: "There is a mechanism in the courts we ought to use." All members of the city council—in my view, all correct in their observations.

As I have indicated earlier, Mr. Downs' testimony which we reviewed indicates that, of the persons released so far, 46 percent of them were convicted on drug crimes of one kind or another, and many of them under plea bargains. So let us face it. These two acts are simply not rational, responsible and successful corrections policy. They are not a way to relieve the overcrowding, at least not the way the temporary act has been implemented, and I would

hope very much, Mr. Chairman, that my colleagues could support the resolution of disapproval of this action by the city council. I thank the gentleman for his courtesy.

[The prepared statement of Mr. Parris follows:]

OPENING STATEMENT OF HON. STAN PARRIS

Mr. Chairman, I would first like to thank you for scheduling these hearings in such a timely manner. As we are all aware, these hearings deal with two pieces of legislation. The first, H.R. 2850, would repeal D.C. Act 7-40, the temporary Prison Overcrowding Emergency Powers Act, which expires at the end of this month. The second is H.J. Res. 341 which would disapprove of the permanent Prison Overcrowding Emergency Powers Act, D.C. Act 7-56.

The two D.C. Acts which we reference today are, without question, serious mistakes. They pose a direct and present threat to the safety of the residents of Washington and the surrounding jurisdictions—not to mention the tens of thousands of individuals who visit our nation's capital every year. These D.C. Acts represent the latest in a long series of knee-jerk attempts by the city to deal with Federal Court orders regarding prison population caps.

The Acts gives the Mayor authority to reduce the prison sentences of all eligible inmates in the Department of Corrections by 180 days, making who knows how many dangerous criminals eligible for early release from prison. This figure does not include the inmates who would be paroled anyway. It is unreasonable to expose the residents of this city and surrounding communities and visitors to the unnecessary danger presented by these inmates.

Why are they being released? Is it the result of a well thought-out and tested correctional policy? Is it because these inmates have served the terms of imprisonment imposed by the courts? The answer is simple—No! The logic is clearly absent—They will be given early parole because, to quote Deputy Mayor Thomas Downs, "this is the only rational solution to the problem." (Wash. Post, June 20, 1987)

I find it particularly troubling that after more than 16 years of litigation and other problems plaguing the District's correctional system, this is their best solution. However consistent this is with the city's past record of dealing with prison overcrowding, D.C. Acts 7-40 and 7-56 are certainly not the solution.

It would appear to the spectator that nothing ever gets done in the Department of Corrections unless there is an emergency or unless there is a court order stemming from litigation. Unfortunately, the insider sees the same picture. The District is now faced with a court-imposed deadline under which it must reduce the prisoner population in Lorton's Occoquan facilities by several hundred. Although this deadline was imposed back in December 1986, no action was taken by the city to comply until passage two weeks ago of the "Prison Overcrowding Emergency Powers Emergency Act." The result of this legislation is that dangerous prisoners will be released into the community.

Who are these inmates? We are told by the city that they will not be the most dangerous persons. However, the facts suggest otherwise—D.C. Act 7-40 has allowed the early release of two categories of quite dangerous criminals, including robbers and many drug offenders not covered under the mandatory sentence statutes. The city already has more than 2,000 former inmates on parole, supervised by 70 agents. I am told that proper supervision is already less than adequate. The release of 860 additional convicts under the temporary D.C. Act 7-40 alone will only serve to further tax the city's ability to adequately monitor these parolees. In short, the Prison Overcrowding Acts represent a serious trade-off to public safety that we can ill afford.

This Act must be repealed not only because it endangers public safety, but it also attempts to circumvent Federal Court-ordered population caps. The Act also contains language that, in my judgment, may allow the District to redefine "rated design capacity" to exclude several structures now used to house inmates [sec. 4(c)]. By removing such facilities as modular units, day rooms, trailers and gymnasiums from the definition of "rated design capacity," the inmates housed in these facilities would not count against the Court-ordered population caps.

In the interest of public safety, I strongly oppose D.C. Acts 7-40 and 7-56, and urge my colleagues to support my bills to repeal and disapprove, respectively, these irresponsible Acts. The District of Columbia must not be allowed to jeopardize the safety of American citizens because it has failed to act responsibly in managing its correctional system over the last sixteen years. Must we each pay the personal price for the District's management failures? How many innocent citizens of the Washing-

ton area will be harmed or killed at the hands of the dangerous criminals released under this Act? How many of our children will die from the drugs which will be fed them by the dealers who will be released under this act? Who in the District Government will take responsibility for these acts with the families of these victims?

During D.C. Council debate on the temporary act, Councilwoman Kane said that this bill is an example of ad hoc legislating at its worst . . . the Council is taking precipitous action intended to ease the overcrowding by letting convicts out before they have even served their full minimum or maximum sentences." She also made the most valid point that "What a person was convicted of does not reflect what that person was charged with, and in fact, the conviction is often the result of a defendant pleading guilty to a lesser charge" and that "these are not cub scouts whom we are granting early release back into the community." In closing her testimony, Ms. Kane said that "The law abiding citizens of this community deserve a solution to prison overcrowding which does not endanger them in their homes, in the workplace, or in the streets. Bill 7-177 will have a potentially dangerous effect on public safety. It telegraphs all the wrong messages to those involved in criminal activity, and is an irresponsible and ill-conceived solution to prison overcrowding."

During those same hearings, other members of the council made equally pertinent statements:

Mrs. WINTER. What's the emergency? We've had jail overcrowding for 10 years.

Mr. WILSON. There is a mechanism through the courts in which the courts can reduce the sentence. And if the courts can put a cap on, I don't know why they can't get themselves together to reduce the sentence." He also said "The second problem is that we resisted for too long to build decent facilities . . ."

In testimony which Mr. Downs will present today, we are informed that a total of 860 inmates will have gained early release as a direct result of the temporary legislation by the time its authority expires on September 30, 1987. That figure is more than double the number we were told would be released last July.

Mr. Downs will also tell us that of the 599 released between July 3 and August 28:

Forty-six percent (276 inmates) were in jail on drug convictions—no doubt plea bargains; 8.8 percent in jail on larceny convictions; 5.7 percent on weapons convictions; and 6.3 percent on robbery convictions. Seventeen of those released were rearrested, seven were charged with drug offenses—others were charged with everything from weapons charges to assault.

The above statistics point to exactly what Ms. Kane and Mrs. Winter and many others among us, myself included, said back in July. A majority of these individuals who have been released since July 3 do, in fact, pose a clear and present danger to the community. Any statement to the contrary is just plain irresponsible and totally ignorant. Perhaps the greatest threat to our community, as we all know, are the drug dealers and users.

Let's face it, D.C. Acts 7-40 and 7-56 are not consistent with a rational, responsible and successful corrections policy. They are not the way to achieve relief from overcrowding—at least not the way the temporary act has been implemented. It is my intention to dig for some answers and alternatives during the question and answer periods with our witnesses, so I will not pursue them now.

Thank you, Mr. Chairman.

Mr. DYMALLY. Thank you.

The Chair recognizes the gentleman from the District of Columbia, Mr. Fauntroy.

Mr. FAUNTROY. Thank you, Mr. Chairman. I want to thank you for scheduling this hearing so early after the August recess. Your responsiveness reflects the kind of dedication and commitment to the concerns of the District of Columbia that you have so often demonstrated.

I want also to say that I know that our colleague, Mr. Parris, is sincere and I understand the rationale which led him to introduce House Joint Resolution 341 and H.R. 2850. The former would have us disapprove a permanent act of the D.C. Council, D.C. Act 7-56, now undergoing the 30-day congressional review process; and the latter would have us repeal an emergency act of the D.C. Council.

Indeed, I think it is important that those who would prey upon others and engage in criminal activity get a clear and unequivocal

message, and that simply is "Don't do crime if you can't do the time." But our system of laws has long recognized that there are grades of criminal behavior and all convicted of crimes need not be treated the same. Moreover, we historically recognize that rigid sentencing can harm, more than help, the goals of our criminal justice system. I think it is vitally important that the District of Columbia's Prison Overcrowding Emergency Powers Act of 1987 be put into proper prospective.

First, it ought to be clear that this is not unique. At least 10 other States have adopted emergency early release programs since 1980. Second, like the District, these States have adopted these programs in response to severe conditions of overcrowding, conditions which according to expert opinion tend to breed future criminal behavior rather than rehabilitate. Moreover, like the District and at least 28 other jurisdictions throughout the U.S. Government, these 10 States have institutions under court order to relieve overcrowding and other conditions of confinement.

We should also note that those inmates who will and have benefited from the District's early release program must fit into narrowly defined categories and must meet certain clear circumstances. The legislation expressly excludes those convicted of homicide, rape, other sexual offenses, robbery, extortion, kidnapping, assault with a dangerous weapon and armed robbery. If any inmate has a remaining sentence in excess of 6 months, he, too, may not benefit from the program.

I believe that there is a qualitative difference between the thug who assaults a senior citizen and the welfare mother with six children who takes a chicken from the local grocery store in order to feed those children. Indeed, rather than seeking to overturn the District's not-so-unusual early release program, it might be more useful to seek further ways to relieve our prisons of those who may not necessarily belong there. We all know that it takes $20,000 a year to incarcerate one inmate; yet, it takes far less than that to educate that inmate. That is why, Mr. Chairman, I tend to pursue questions about what progress is being made to implement other programs to rid our jails of those who can make a positive contribution to the community.

I am particularly interested in alternative sentencing programs with which I have become thoroughly familiar recently, and I look forward to working with my colleagues in local government in implementing some of those alternatives.

Mr. Chairman, we should not forget that in the history of this Nation we have pardoned a fallen President, we have granted immunity to gunrunners and forgiven convicted felons, including murderers. It pleases me that the Prison Overcrowding Emergency Powers Act of 1987 would not tolerate anyone being released who had run guns and gotten immunity for the same or been convicted of felonies, including murders.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Fauntroy follows:]

THE PREPARED STATEMENT OF CONGRESSMAN WALTER E. FAUNTROY

Mr. Chairman, I want to first thank you for scheduling this hearing so early after the August recess. Your responsiveness reflects the kind of dedication and commitment to the concerns of the District of Columbia that you so often demonstrate.

I also want to say that I know our colleague, Mr. Parris is sincere, and I understand the rationale which led him to introduce H.J. Res. 341 and H.R. 2850. The former would have us disapprove a permanent act of the D.C. Council, D.C. Act 7-56, now undergoing the 30-day congressional review process, and the latter would have us repeal an emergency act of the D.C. Council, D.C. Act 7-40. Indeed, I think it is important that those who would prey upon others and engage in criminal activity get a clear, unequivocal message, "don't do the crime, if you can't do the time."

But our system of laws has long recognized that there are grades of criminal behavior and all convicted of crimes need not be treated the same. Moreover, we have historically recognized that rigid sentencing can harm more than help the goals of our criminal justice systems.

I think it is vitally important that the District of Columbia's "Prison Overcrowding Emergency Powers Act of 1987" be put into proper perspective.

First, it is not unique. At least 10 other States have adopted emergency early release programs since 1980. Secondly, like the District, these States have adopted these programs in response to severe conditions of overcrowding, conditions which, according to expert opinion, tend to breed future criminal behavior rather than rehabilitate. Moreover, like the District and at least 28 other jurisdictions throughout the United States, these ten States have institutions under court order to relieve overcrowding and other conditions of confinement.

We should also note that those inmates who will and have benefitted from the District's early release program must fit into narrowly defined categories and must meet certain clear circumstances. The legislation expressly excludes those convicted of homicide, rape, other sex offenses, robbery, extortion, kidnapping, assault with a dangerous weapon and armed robbery. And if an inmate has a remaining sentence in excess of six months, he too may not benefit from the program.

I believe that there is a qualitative difference between the thug who assaults a senior citizen and the welfare mother with six children who takes a chicken from the local grocery store in order to feed those children.

Indeed, rather than seeking to overturn the District's not so unusual early release program, it might be more useful to seek further ways to relieve our prisons of those who may not necessarily belong there. We all know that it takes $20 thousand to incarcerate one inmate each year, yet it takes far less than that to educate him. That is why, Mr. Chairman, I intend to pursue questions about what progress is being made to implement other programs to rid our jails of those who can make a positive contribution to the community. I am particularly interested in alternative sentencing programs.

Mr. Chairman, we should not forget that in the history of this Nation, we have pardoned a fallen President, granted immunity to gun runners and forgiven convicted felons, including murderers.

It pleases me that the "Prison Overcrowding Emergency Powers Act of 1987" would not tolerate any of that activity. Thank you.

Mr. DYMALLY. The Chair recognizes Mrs. Martin.

Mrs. MARTIN. I will wait to hear the testimony of our witnesses.

Mr. DYMALLY. Mr. Bliley.

Mr. BLILEY. Thank you, Mr. Chairman.

I regret that it is necessary for this subcommittee to conduct this hearing today. It is unfortunate that the city has chosen to continue to ignore the fact that it faces a real long-term problem with overcrowding at its Lorton facility. Instead of taking the bold action necessary to construct correctional facilities within the District's boundaries that will meet its prison needs, it has taken action which can only be likened to giving a drug addict more heroin to treat its condition.

The Prison Overcrowding Emergency Powers Emergency Act of 1987 represents a threat to the health and safety of the residents of Washington and neighboring communities, as well as to the citizens who work in or visit the Washington area. D.C. Act 7-40 gives

the Mayor the authority to reduce the prison sentences of all prison inmates in the D.C. Department of Corrections by 180 days. That will make more than 400 dangerous criminals eligible for early parole.

Prisoners housed at Lorton are not innocents who have made one mistake in their lives. According to the study done by the District's own Office of Criminal Justice Plans and Analysis on March 19, 1986, there were 5,791 inmates serving sentences at Lorton, the D.C. Jail and halfway houses; 93 percent of that population was 35 years or younger; 50 percent were serving felony sentences for violent crimes; 18 percent were serving felony drug offense sentences; 16 percent were serving property offense sentences; 82 percent had three or more convictions, and 40 percent had five or more convictions. Less than 10 percent suffered only one conviction.

Mr. Chairman, the answer to prison overcrowding is not to put the criminals back on the street where they threaten the lives and properties of this area's law-abiding citizens. Criminals belong behind bars. The city must face up to its responsibility to construct the facilities necessary to deal with its prison population.

I thank you, Mr. Chairman.

[The prepared statement of Mr. Bliley follows:]

STATEMENT OF REPRESENTATIVE THOMAS J. BLILEY, JR.

Mr. Chairman, I regret that it is necessary for this subcommittee to conduct this hearing today. It is unfortunate that the city has chosen to continue to ignore the fact that it faces a real, long term problem with overcrowding at its Lorton facility. Instead of taking the bold action necessary to construct correctional facilities within the District's boundaries that will meet its prison needs, it has taken action which can only be likened to giving a drug addict more heroin to treat his addiction.

The "Prison Overcrowding Emergency Powers Emergency Act of 1987" [DC Act 7-40] represents a threat to the health and safety of the residents of Washington and neighboring communities as well as to the citizens who work in or visit the Washington area. DC Act 7-40 gives the Mayor the authority to reduce the prison sentences of all prison inmates in the Department of Corrections by 180 days. That will make more than 400 dangerous criminals eligible for early parole.

Prisoners housed at Lorton are not innocents who have made one mistake in life. According to a study done by the District's Office of Criminal Justice Plans and Analysis, on March 19, 1986 there were 5791 inmates serving sentences at Lorton, the DC Jail, and halfway houses. Ninety-three percent of that population was 35 years or younger; 50 percent were serving felony sentences for violent sentences; 18 percent were serving felony drug offense sentences; 16 percent were serving property offense sentences; 82 percent had three or more convictions and 40 percent had five or more convictions. Less than 10 percent suffered only one conviction.

Mr. Chairman, the answer to prison overcrowding is not to put criminals back on the street where they threaten the lives and properties of this area's law abiding citizens. Criminals belong behind bars—the city must face up to its responsibility to construct the facilities necessary to deal with its prison population. I look forward to today's hearing and look forward to working with the other members of this committee to devise a meaningful solution to this longstanding problem.

Mr. DYMALLY. Thank you very much. We now call on our first witness, Mr. Downs, and I understand Mr. Downs is accompanied by some other members of his staff. They may join him.

Mr. Downs, would your colleagues be kind enough to identify themselves for the reporter?

Mr. DOWNS. Thank you, Mr. Chairman.

Mr. WILLIAMS. Mr. Chairman, I am Hallem Williams, director of the D.C. Department of Corrections.

Ms. MACK. I am Gladys Mack, chairperson of the D.C. Board of Parole.

Mr. COOKE. I am Frederick D. Cooke, Jr., acting corporation counsel of the District of Columbia.

Mr. DYMALLY. Thank you. Proceed, Mr. Downs.

STATEMENT OF THOMAS M. DOWNS, CITY ADMINISTRATOR/ DEPUTY MAYOR FOR OPERATIONS, DISTRICT OF COLUMBIA, ACCOMPANIED BY HALLEM H. WILLIAMS, JR., DIRECTOR, DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS; GLADYS MACK, CHAIRPERSON, D.C. BOARD OF PAROLE; FREDERICK D. COOKE, JR., ESQUIRE, ACTING CORPORATION COUNSEL, DISTRICT OF COLUMBIA

Mr. DOWNS. Mr. Chairman, I have a statement and I would ask your indulgence—rather than having it entered into the record, given the seriousness of an issue about a hearing on an override of District legislation, I would ask your indulgence about reading a substantial portion of it. We think that it is serious enough to warrant it.

Let me begin as well by saying that, as I feared, this issue is overladen with a tremendous amount of, at times, irrational rhetoric. I intend to try and stick to as many facts as possible and not stoop to rhetorical baiting of the District or this particular problem, which is shared jointly between the District and the National Government. I would, though, only remind, I hope, the members of the committee, having been here several times before in this room, that I have been told at various times by members of this subcommittee that we ought never think about building another prison cell at Lorton. That at one time I was told by a member of the committee sitting here that Lorton was a tinderbox waiting to explode, a riot in waiting, and that something had to be done immediately and that it was a dereliction of duty of the District of Columbia to not take drastic steps to remedy that. It is only a reflection of the difficulty of this kind of problem that it becomes all things to all people. For us it is a relatively simple matter about managing a correctional system within a truncated criminal justice system.

You had stated earlier that there are three ground rules that we try and live by in terms of legislation within the District of Columbia: One, whether or not it is constitutional—I do not think that there is an issue over that since a number of States have already enacted similar types of legislation; whether the council violated the charter—we do not think that there is any question about that; and whether the legislation infringes upon the Federal interest. In trying to run a government you have to have some rational criteria, and we have been given those criteria about our actions. Whether others choose to put other criteria on us is not something that we can manage, nor legislate within.

When Congress created the District of Columbia and its charter it intentionally, apparently, left us with a truncated criminal justice system. We have a local metropolitan police department, we have a prosecutor who is a U.S. attorney responsible to the Attorney General and the President of the U.S. Government confirmed by the Congress; and we have a judicial system where all of the

judges, local and Federal, are nominated by the President and confirmed by the Congress. They are accountable to the Federal Government. Our product of that system, who are prosecuted and sentenced by the Federal system, are then housed in a local prison system with shared accountability with the Bureau of Prisons, which houses some 2,400 prisoners—sentenced D.C. prisoners, as an indication of the shared accountability. I think if there is a Federal interest, the issue also has to be addressed as to what the Federal interest is at the Bureau of Prisons level as well. We have been denied any further additions to the Bureau of Prisons by Federal officials and that avenue of Federal accountability has been closed to us.

Our prison system is under, in a number of respects, the control of not one but several Federal judges, and that is an issue beyond our control as well.

The Emergency Powers Act takes place in a context that does stretch back to almost before home rule, and I would like, with your indulgence, to give you some of that background.

The Emergency Powers Act was never intended to provide the solution to overcrowding. It is an important part, but not the entire part of a comprehensive plan that the city is undertaking to manage the prison problem on a daily basis and arrived at some permanent solutions. I know that it raises questions. It raises emotional questions, questions of public safety. We have been raising those questions for some time. It is an approach that raises questions about what will happen in our prisons and in our community as a result of the legislation, questions about how the city is implementing the legislation and what impact it has had and will have on the population, concerns about what the city is doing to stabilize the population so that we will not have emergencies in the future and anxiety about public safety as a result of the legislation.

I would like to begin by telling you what has happened in our prisons since the Mayor declared a prison overcrowding state of emergency on July 3, 1987, and I will then provide a broad perspective on the situation in our prisons, trends in the criminal justice system that have contributed to the overcrowding problem, and our overall strategy for long-range population management.

As you well know, prison overcrowding is a national problem. Only, I think, three or four States have avoided in any way the problem of overcrowding within their correctional systems. Thirty-eight correctional systems across the country have at least one institution under court order because of overcrowding or conditions of confinement. The District's correctional system has court-ordered population caps at six of nine institutions at Lorton and at the D.C. Detention Facility. While court-ordered caps limit the number of prisoners that can be housed in an institution, they do not stop the flow of inmates that comes through our prosecution and court system. Even without court-ordered population limits, a correctional system has a finite amount of space within which to manage prison population and programs on a daily basis.

With the incarceration rate increasing consistently, correctional administrators are faced with the daily dilemma of staying within court-ordered limits or as close to rated design capacity as possible

and finding beds for newly sentenced inmates. Let me give you an example of what that involves.

The week before the Mayor declared a prison state of emergency the prison population was 7,874, which was 555 above the rated capacity of 7,319. During that week we took in 353 new prisoners and released 290. At the end of the week we were 616 inmates above the rated capacity, and we had lost ground. That pattern of new admissions staying ahead of releases week after week after week and month after month contributed to the need for a special strategy to get ahead of the curve on population controls.

Emergency powers legislation is designed to provide short-term relief in overcrowded facilities by moving people out of the system before their scheduled release dates. The legislation includes very specific criteria for who can be released early and, more importantly, spells out what types of offenders cannot be released. The Mayor's commitment to encourage the council to adopt this legislation was embodied in a stipulation he signed along with plaintiffs' counsel in the *Campbell* v. *Magruder* civil litigation case before a Federal judge. It was part of a Federal court order that we seek this legislation, to again show the difficulties in a truncated system.

The stipulation was approved by the U.S. District Court. The legislation was adopted by the District Council on an emergency basis on June 16 and signed into law on June 22. The emergency legislation expires on September 20. The council passed a permanent bill on July 14 which was signed by the Mayor and forwarded for congressional review. This legislation, therefore, is scheduled to take effect on November 17, 1987.

On July 3, the Mayor declared a prison overcrowding state of emergency under the authority of the Prison Overcrowding Emergency Powers Act of 1987. The act authorizes the Mayor to declare an emergency whenever the population of the prison exceeds rated design capacity for 30 consecutive days and after all administrative options for reducing prison population have been exhausted. During the state of the emergency, minimum sentences of prisoners who have established minimum sentences can be reduced by 90 days and maximum sentences of all eligible prisoners can be reduced by 90 days or 10 percent, whichever is less. To be eligible for consideration, prisoners must be within 180 days of their maximum or minimum sentences. I would only add parenthetically that the Emergency Powers Act allows for a sentence reduction of 90 days, not 180.

Between July 3 and August 28 a total of 599 inmates were released from our prisons and community correctional facilities. Of that total, 521 were serving the full sentences imposed on them by the courts, and therefore did not have to appear before the board of parole. The remaining 78 inmates were released on parole. They appeared before the parole board and were released under terms established by the board for all parolees. An additional 123 inmates have been approved for release by the parole board and are awaiting completion of their parole plans before they can be released.

Some facts about the inmates who have been released: They were released an average of 21 days, not 90 days, early. That means that nearly all of them would have been released by now anyway. All of

the people who were released under the Emergency Powers Act would now be in the general population without the Emergency Powers Act—in other words. Nearly 60 percent of the inmates who were released had no previous conviction for which they had served time, and 58 percent of those who had served time had only one previous conviction. Forty-six percent had been incarcerated for drug-related offenses. Other offenses for which these inmates had been incarcerated included larceny, robbery, weapons charges, bail violations, contempt of court, and prostitution. Seventeen inmates who were released early have been rearrested: Seven were charged with drug offenses; others were charged with robbery, second degree burglary, destruction of property, simple assault, second degree theft, unlawful entry, carrying a dangerous weapon, and prostitution.

We expect to release an additional 260 inmates before the state of emergency expires on September 30, which will bring the total to 860. This estimate includes 123 residents who have been already approved for release by the board of parole.

The department of corrections has followed the letter of the law in determining who to release during the emergency period. We have not released any inmates who were convicted of homicide, rape, assault with a dangerous weapon or other serious violent crimes such as armed robbery or kidnapping. The intent of the legislation and our approach to its implementation have been to gain control over the burgeoning population by releasing offenders who pose the least threat to public safety and who were closest to their statutory release or parole eligibility dates.

The Emergency Powers Act, in evaluating the impact and reasonableness of the act, it is essential to consider both the intent of the legislation and the mission of the correctional system. The emergency powers legislation is a short-term management tool. It gives the correctional administrators a framework for speeding up release processes, so that they can focus on their primary mission of incarceration and creation of an environment more conducive to rehabilitation. We have talked with correctional officials in five other States that use similar emergency release legislation to ease overcrowding. In all cases the legislation has been viewed as a short-term release valve to help the systems stay within court-ordered limits and provide management flexibility. The States that have used similar legislation and used it successfully are Florida, North Carolina, Oklahoma, South Carolina, and Texas. Several other States, including Georgia, Tennessee, Oregon, and Wisconsin, have other statutory and administrative options to permit early release when prisons reach capacity levels.

There are several ways to look at the impact the emergency release program has had on our system. We will have released 825 inmates, as I said, by September 30. As of September 8, the total population had decreased by 2 percent. Population will still be over the rated capacity at the conclusion of the emergency period; yet it has made some difference. The opportunity for early release has had a calming effect on the residents of our overcrowded institutions. The population flow in the system has shifted from a daily increase of 6.5 to a daily decrease of about 2.5 inmates.

Overcrowded conditions do not facilitate rehabilitation. In fact, in some instances, overcrowding contributes to constitutional violations and compromises public safety by turning out prisoners who are more skilled in their criminal craft than they were when they entered the institution.

In the District, the average minimum sentence for a felony offense had increased from 2 years in 1981 to 3.2 years in 1986. The average stay in the institution has increased from 2.8 years in 1981 to 3.27 years in 1986. I would add parenthetically that we have the longest average sentence per prisoner of any sentencing jurisdiction in the United States—maybe in the free world—and it has still not had an impact on the recidivism rate. Our recidivism rate is unacceptable, and too many of our citizens continue to fear for their safety. We must focus a lot more attention and energy on the creating of institutions where academic, vocational and industrial programs can be broadly implemented, increasing the likelihood that time spent in prison will be productive and rehabilitative. It is virtually impossible to carry out such programs effectively in institutions that are bulging with inmates.

As I mentioned earlier, the Emergency Powers Act is a piece of the District's overall population management strategy. Between 1979 and 1986 the District's total correctional population, including prisoners housed in Federal facilities, increased by more than 100 percent, or about 650 people per year. During the first 7 months of 1987, population increased at the rate of 198 inmates per month, which would translate to an annual increase of 2,370 inmates this year. If the city were to build new prisons to keep pace with that growth, it would cost $150 million in capital expenditures for each 2,000-bed facility and a $40 million annual increase in operating expenses per every 2,000 prisoners. That is $150 million per year capital and $40 million a year for operating expenses. That is more than the capital budget of the entire Federal Bureau of Prisons. I think it is more than the entire capital budget for the Federal Bureau of Prisons for at least 2 years.

The growth in the prison population is a direct reflection of the trends in the criminal justice system, fueled largely by dramatic increases in arrests, prosecutions and convictions for drug-related offenses. During the past 5 years, adult felony convictions increased by 136 percent, while adult felony drug convictions rose by 559 percent. I am sure you have heard those figures before, but they bear repeating to give you a perspective on the causes of our population problem and the rationale behind our strategy for dealing with it.

The most obvious solution to prison overcrowding—building new prisons—is often the least viable option because of the difficulty in finding sites, the prohibition any longer from the Congress of building outside of the District, the high cost of construction and the time it takes to build new facilities. We have expanded our constructional system capacity during the past 8 years and the new correctional treatment facility which will be completed in the District in 1990. There will have been added 3,087 beds since 1979; I think the only prison system in the United States that will have doubled in size, with a new prison every year for 6 years; the only prison in the United States to have doubled in size. It is not an issue about willingness to spend the capital or hire the people to

build new prisons. Building new prisons has not solved this problem. It will not solve this problem over either the short term or the long term. This new facility will not only add 800 beds to our system, but also introduce a new approach to treatment and rehabilitation which we hope will at some time reduce that prison population by reducing recidivism. It is, obviously, a long-range solution which will provide more space and offers intensive treatment particularly for substance abusers.

We also plan to expand community correctional capacity by 214 beds which will bring the rated capacity of community correctional beds to 736. I might add that those are in our neighborhoods, in our community; that is the District taking care of a substantial portion of its own problem. We are also erecting a preengineered housing unit at Lorton which will be ready for occupancy late this fall and will facilitate court-ordered housing renovations throughout the complex.

The city is also working to change court-ordered caps on some of our facilities by reducing the square foot housing standards. We feel strongly that the 95-square-foot housing standard agreed to at the central facility and imposed at the Occoquan's is too liberal. I don't think it is a standard that has been accepted at any other prison system within the United States for all of their facilities. With the U.S. District Court's blessing, the city is negotiating with plaintiffs' counsel to reach an agreement on a more reasonable standard. Obviously, a redefined housing standard will permit a reasonable increase in rated capacity, and we feel this is prudent and will not compromise safety or rehabilitative goals. On the contrary, prospects will be improved.

While capacity expansion is an important part of the solution to prison overcrowding, we know we can't build our way out of the system. Major system expansion beyond what I have already mentioned is highly unlikely. The fact that our primary correctional complex is located in another State, in another jurisdiction, adds another layer of political and emotional debate, which we feel all the time, to an already complex and highly charged issue. There is stiff opposition to system expansion in Fairfax County. There is equally stiff opposition in the city with limited room for major expansion. People tend to forget that we are 68 square miles. About 40 percent of the city's land is either owned or used by the Federal Government, leaving at the bottom about 30 square miles on which 630,000 people are to live. That is an average in the District of 20,000 people per square mile, and the expectation that major prison complexes will be built on that 20 square miles is not a reasonable expectation. This high density development actually leaves little space for any major prison construction.

The department of corrections has developed an overall population management plan with a group of senior managers working regularly to implement and evaluate the strategies, and I would like to mention a couple of those steps:

A special parole process for misdemeanors which permits some carefully selected offenders to be referred to the parole board before scheduled short-term release dates, and this process has reduced their population by approximately 40.

An alternate placement program for nonserious technical parole violators. Under the halfway back program, certain parole violators can be committed to a community correctional center in the District for a 15-day stabilization period, followed by intensive parole supervision once they are back on the street. This program, when implemented this fall, will reduce the strain on our institutions by providing a short-term correction option for minor parole violations, and we expect it will reduce population at the institutions by about 150.

A community service program for weekend offenders to minimize the weekly population surge at the jail. Under this program, individuals sentenced to serve time on weekends meet their sentence obligations through carefully supervised community service, and this program has reduced population by 45.

Implementation of the Good Time Credits Act of 1986 permits reductions in total time to be served through participation in educational programs and satisfactory behavior in the institution. The act offers the department a tool for managing and motivating inmates while reducing population. We estimate the act will reduce population by about 400 over 2 years.

Expansion of the special temporary employment program to ensure that all parole eligible inmates have jobs when they are ready for parole. The absence of a verified job can cause a backlog in our institutions for inmates who could be out on parole. The Mayor created the program to provide temporary jobs in the District government for parolees who could not find other work. It has been highly successful both in terms of reducing parole backlog and producing successful permanent job placements for parolees.

The use of Virginia prisons to house some misdemeanants, and this action has reduced population by about 45.

Most of these strategies rely on careful identification of inmates who, for a variety of reasons, can be released from our correctional system early, both to relieve overcrowding and to encourage successful reentry into the community. Our intent, in all cases, is to manage the prison population responsibly and provide the best possible rehabilitation programs for the inmates while they are in the system.

In summary, Mr. Chairman, let me close by focusing specifically on the concerns about public safety that have emerged as a result of this legislation. I share those concerns, as does the Mayor. As a public servant, I am responsible for ensuring the safety and well-being of our residents. Our police department is the finest in the country without question. Its day-to-day attention to public safety and diligence in apprehending violators has obviously had an impact on our prison population. The police department will continue its aggressive approach to dealing with people who break the law. The department of corrections is responsible for managing the incarceration and rehabilitation process. The department is carrying out that responsibility very effectively under extremely difficult circumstances and facing what sometimes seem like insurmountable odds. In implementing the Emergency Powers Act, the department has made every effort to ensure that this management action in no way jeopardizes the safety of our residents or the many visitors to our city.

I want to reiterate that the city is moving aggressively on several fronts to provide the permanent relief to overcrowding in our prison system, and the overcrowding problem cuts across Federal and local government lines and will not be solved by District government actions alone. As the numbers show, the impact of the Emergency Powers Act has been small. If anything, the results of this emergency period reaffirm the magnitude of the problem. The rapid flow of new prisoners into the system has offset much of the gain from early releases. That is why a comprehensive and coordinated approach to overcrowding that looks at what happens inside our prisons to the rehabilitation of inmates and involves the community in dealing with problems that lead to recurring criminal behavior is the only real solution. The solution will require the combined efforts of the District government, the Federal Government, and the entire community.

As an independent government, the District of Columbia must make legislative and executive decisions that reflect the will of the people and meet the needs of the community. I believe that we have carried out the mandate responsibly in the enactment and implementation of the Prison Overcrowding Emergency Powers Act of 1987.

In closing, I would simply like to make an additional observation. There are two functions of a prison system. One is to punish. As I said, we have the longest length of sentence for prisoners of any sentencing jurisdiction in the United States. After the Emergency Powers Act, we will still have the longest length of sentence of any sentencing jurisdiction in the United States. We sentence people to longer terms of time than any other State or probably any other country in the world, and we will continue to do that after the Good Time Credits Act and after the Emergency Powers Act. No one can say that punishment is not still the top agenda item.

The second issue is public safety. The responsibility of the department of corrections is to help reduce the recidivism rate by making sure that prisoners leave that prison system, as almost all of them do, better fit to be citizens of the District of Columbia. Again, and not repeat, that is the way that you ultimately reduce the public's risk and improve public safety. I don't think there is a penologist in the country who finds a correlation between length of sentence and recidivism. If there was a correlation, having the longest length of sentence in the United States would mean that we had one of the lower rates of recidivism. We do not.

We have a high rate of recidivism, in part, because we have a prison system that has to manage crisis-to-crisis situations, no matter how many beds we build and no matter how many correctional officers and programs we add, because we simply receive an ever-increasing flow of prisoners. It gets in the way of rehabilitation. It does not ensure public safety. On the contrary, I think without the Emergency Powers Act and the Good Times Credit Act the public's ultimate safety is increasingly jeopardized. There is no other way to run a safe, constitutionally sound system that helps in the rehabilitation of prisoners who return to the community, except to have more manageable numbers within the system.

With that, Mr. Chairman, I conclude my remarks, and would be glad to answer any questions that you or members of the committee have.

[The prepared statement of Mr. Downs follows:]

STATEMENT OF

THOMAS M. DOWNS, CITY ADMINISTRATOR,

DISTRICT OF COLUMBIA GOVERNMENT

Before the

COMMITTEE ON THE DISTRICT OF COLUMBIA

SEPTEMBER 10, 1987

INTRODUCTION

Mr. Chairman, I welcome this opportunity to present information about the "Prison Overcrowding Emergency Powers Act" and how this legislation fits into the District of Columbia's strategy for dealing with overcrowding in our prison system. Let me emphasize at the outset that the Emergency Powers Act was never intended to provide the solution to overcrowding. It is an important part of a comprehensive plan that the city is undertaking to manage the overcrowding problem on a daily basis and arrive at a permanent solution. I recognize that it is an approach that raises questions, concerns, and anxiety about what will happen in our prisons and in our community as a result of this legislation -- questions about how the city is implementing the legislation and what impact it has had and will have on population; concerns about what the city is doing to stabilize the prison population so that we will not have emergencies in the future; and anxiety about public safety as a result of the legislation.

I would like to begin by telling you what has happened in our prisons since Mayor Barry declared a prison overcrowding state of emergency on July 3, 1987. I will then provide a broad perspective on the situation in our prisons, trends in the criminal justice system that have contributed to the overcrowding problem, and our overall strategy for long range population management.

AN OVERVIEW OF THE EMERGENCY POWERS ACT

As you well know, prison overcrowding is a national problem. There are 38 correctional systems across the country that have at least one institution under court order because of overcrowding or conditions of confinement. The District's correctional system has court-ordered population caps at six of nine institutions at the Lorton Correctional Complex and at the D.C. Detention Facility. While court-ordered caps limit the number of prisoners that can be housed in an institution, they do not stop the flow of inmates into the overall system. Even without court-ordered population limits, a correctional system has a finite amount of space within which to manage prison population and programs on a daily basis.

With the incarceration rate increasing consistently, correctional administrators are faced with the daily dilemma of staying within court-ordered limits or as close to rated design capacity as possible and finding beds for newly sentenced inmates.

Let me give you an example of what that involves. The week before Mayor Barry declared a prison state of emergency, the prison population was 7,874 which was 555 above the rated capacity of 7,319. During that week, we took in 353 new prisoners and released 290. At the end of the week, we were 616 inmates above the rated capacity. We had lost ground. That pattern of new admissions staying ahead of releases week after week, month after month, contributed to the need for a special strategy to get ahead of the curve on population control.

Emergency powers legislation is designed to provide short-term relief in overcrowded facilities by moving people out of the system before their scheduled release dates. The legislation includes very specific criteria for who can be released early and, more importantly, spells out what types of offenders cannot be released. The Mayor's commitment to encourage the Council to adopt this legislation was embodied in a stipulation he signed along with plaintiffs' counsel in the Campbell v. Magruder civil litigation.

That stipulation was approved by the U.S. District Court. The legislation was adopted by the District Council on an emergency basis on June 16 and signed into law on June 22. The emergency legislation expires on September 20. The council passed a permanent bill on July 14 which was signed by the Mayor and forwarded for Congressional review. The legislation, therefore, is scheduled to take effect on November 17, 1987.

On July 3, Mayor Barry declared a prison overcrowding state of emergency under the authority of the "Prison Overcrowding Emergency Powers Act of 1987." The Act authorizes the Mayor to declare an emergency whenever the population of the prison exceeds rated design capacity for 30 consecutive days and after all administrative options for reducing prison population have been exhausted. During the state of emergency, minimum sentences of prisoners who have established minimum sentences can be reduced by 90 days and maximum sentences of all eligible prisoners can be reduced by 90 days or 10 percent, whichever is less. To be eligible for consideration, prisoners must be within 180 days of their minimum or maximum sentence.

Between July 3 and August 28, a total of 599 inmates were released from our prisons and community correctional centers.

Of that total, 521 were serving the full sentences imposed on them by the courts and, therefore, did not have to appear before the Board of Parole. The remaining 78 inmates were released on parole. They appeared before the Parole Board and were released under terms established by the board. An additional 123 inmates have been approved for release by the Parole Board and are awaiting completion of their parole plans before they can be released.

Here are some facts about the inmates who have been released:

- They were released an average of 21 days early. That means that nearly all of them would have been released anyway during the 90-day emergency period.
- Nearly 60 percent of the inmates who were released had no previous convictions for which they had served time and 58 percent of those who had served time had only one previous conviction.
- Forty-six (46) percent had been incarcerated for drug related offenses.
- Other offenses for which these inmates had been incarcerated include larceny (53 inmates or 8.8 percent); robbery (38 inmates or 6.3 percent); weapons charges (34 inmates or 5.7 percent);

bail violation or contempt of court (34 inmates or 5.7 percent); and prostitution (33 inmates or 5.5 percent).

- Seventeen (17) inmates who were released early have been rearrested. Seven were charged with drug offenses. Others were charged with robbery, second degree burglary, destruction of property, simple assault, second degree theft, unlawful entry, and carrying a dangerous weapon, and prostitution.

We expect to release an additional 260 inmates before the state of emergency expires on September 30 which will bring the total to 860. This estimate includes the 123 residents who have already been approved for release by the Board of Parole.

The Department of Corrections has followed the letter of the law in determining who to release during the emergency period. We have not released any inmates who were convicted of homicide, rape, assault with a dangerous weapon, or other serious violent crimes such as armed robbery or kidnapping. The intent of the legislation and our approach to its implementation have been to gain control over the burgeoning population by releasing offenders who pose the least threat to public safety and who were closest to their statutory release or parole eligibility dates.

At the start of the emergency period, a team of senior records officers and experienced classification officers visited each of our facilities to identify the affected population, screen out individuals who did not meet all of the criteria, review records for any pending charges or detainers, and then recompute minimum and maximum sentences for all prisoners who met the criteria. Individuals who became eligible for early parole were referred to the Parole Board after preparation of a progress report by the assigned classification officer and a recommendation to the board.

ASSESSING EPA

In evaluating the impact and reasonableness of the Emergency Powers Act, it is essential to consider both the intent of the legislation and the mission of the correctional system. Emergency powers legislation is a short-term management tool. It gives correctional administrators a framework for speeding up the release process so that they can focus on their primary mission of incarceration and creation of an environment more conducive to rehabilitation. We have talked with correctional officials in five other states that have used similar emergency release legislation to ease prison overcrowding.

In all cases, the legislation has been viewed as a short term release valve to help systems stay within court-ordered limits and provide more management flexibility in crowded systems. The states that have used similar legislation are Florida, North Carolina, Oklahoma, South Carolina, and Texas. Several other states including Georgia, Tennessee, Oregon, and Wisconsin have other statutory and administrative options to permit early releases when prisons reach capacity levels.

There are several ways to look at the impact the emergency release program has had on our system. We will have released about 825 inmates by September 30. As of September 8, the total population had decreased by about two percent. Population will still be over the rated capacity at the conclusion of the emergency period. Yet, it has made a difference. The opportunity for early release has had a calming effect on the residents of our overcrowded facilities. The population flow in the system has shifted from a daily increase of 6.5 to a daily decrease of about 2.5 inmates.

Overcrowded conditions do not facilitate rehabilitation. In fact, in some instances, overcrowding contributes to constitutional violations and compromises public safety by turning out prisoners who are more skilled in their criminal craft than when they entered the institutions.

In the District, the average minimum sentence for a felony offense has increased from 2.02 years in 1981 to 3.22 years in 1986. The average stay in the institution has increased from 2.8 years in 1981 to 3.27 years in 1986. Yet, recidivism rates continue to be unacceptable, and too many of our citizens continue to fear for their safety. We must focus more attention and energy on creating institutions where academic, vocational, and industrial programs can be broadly implemented, increasing the likelihood that time spent in prison will be productive and rehabilitative. It is virtually impossible to carry out such programs effectively in institutions that are bulging with inmates.

THE DISTRICT'S OVERALL STRATEGY

As I mentioned earlier, the Emergency Powers Act is one piece of the District's overall population management strategy. Between 1979 and 1986, the District's total correctional population including prisoners housed in federal facilities increased by more than 100 percent or about 650 persons annually. During the first seven months of 1987, population increased at a rate of 198 inmates per month, which would translate to an annual increase of 2,376 inmates. If the city were to build new prisons to keep pace with that growth rate, it would cost at least $150 million in capital expenditures for each 2,000 bed facility and an estimated $40 million in annual operating expenses per 2,000 additional inmates.

The growth in prison population is a direct reflection of trends in the criminal justice system, fueled largely by a dramatic increase in arrests, prosecutions, and convictions for drug-related offenses. During the past five years, adult felony convictions increased by 136 percent, while adult felony drug convictions rose by 559 percent. I'm sure you have heard these figures before, but they bear repeating to give you a perspective on the causes of our population problem and the rationale behind our strategy for dealing with it.

The most obvious solution to prison overcrowding -- building new prisons -- is often the least viable option because of the difficulty in finding sites, the high cost of construction, and the time it takes to build new facilities. The District has expanded its correctional system capacity significantly during the past eight years. When the new Correctional Treatment Facility is completed in 1990, there will have been 3,087 beds added since 1979 -- an unprecedented doubling in capacity. The new facility will not only add 800 beds to our system, but also introduce an innovative approach to treatment and rehabilitation. This is obviously a long range solution which will provide more space and offer intensive treatment, particularly for substance abusers. We also plan to expand our community correctional capacity by 214 beds which will bring rated capacity to 736.

We are also erecting a pre-engineered housing unit at Lorton which will be ready for occupancy late this fall and will facilitate court-ordered housing renovations throughout the complex.

The city is also working to change court-ordered caps on some of our facilities by reducing the square foot housing standards. We feel strongly that the 95 square foot housing standard agreed to at the Central Facility and imposed at the Occoquans is too liberal. With the U.S. District Court's blessing, the city is negotiating with plaintiffs' counsel to reach agreement on a more reasonable standard. Obviously, a redefined housing standard will permit a reasonable increase in the rated capacity. We feel this is prudent and will not compromise safety or rehabilitative goals. On the contrary, prospects will be improved.

These combined actions will produce an increase in our rated design capacity, which is the sum total of all available beds at the Detention Center, the Lorton Correctional Complex, Community Correctional Centers, and, eventually, the Correctional Treatment Facility.

While capacity expansion is an important part of the solution to prison overcrowding, we know that we cannot build our way out of this problem. Major system expansion beyond I have already mentioned is highly unlikely.

The fact that our primary correctional complex is located in another jurisdiction adds another layer of political and emotional debate to an already complex and highly-charged issue. There is stiff opposition to system expansion in Fairfax County. There is equally stiff opposition in the city with limited room for major expansion anyway. The area of the city is 69 square miles including nine square miles of water. About 40 percent of the city's taxable land is owned or used by the federal government. Another nine (9) percent is owned by non profit institutions and four (4) percent is District-owned. Less than 4.2 percent of the taxable land is listed as vacant (including parking space). That leaves about 30 square miles for the more than 600,000 residents of the city or an average of 20,000 people per square mile. This high density development leaves little space for major prison construction.

The Department of Corrections has developed an overall population management plan with a group of senior managers working regularly to design, implement, and evaluate various strategies. Specific action steps that have been implemented include:

- A special parole process for misdemeanants which permits some carefully selected offenders to be referred to the Parole Board before their scheduled short term release dates. This process has reduced population by 40.

- An alternatives placement program for non-serious technical parole violators. Under the "Halfway Back Program," certain parole violators can be committed to a community correctional center for a 15-day stabilization period, followed by intensive parole supervision once they are back on the street. This program, when implemented this fall, will reduce the strain on our institutions by providing a short term corrective option for minor parole violations. We expect that it will reduce population at the institutions by about 150.
- A community service program for weekend offenders to minimize the weekly population surge at the Detention Facility. Under this program, individuals sentenced to serve time on weekends meet their sentence obligations through carefully supervised community service projects. This program has reduced population by 45.
- Implementation of the "Good Time Credits Act of 1986" which permits reductions in total time to be served through participation in educational programs and satisfactory behavior in the institution. The Act offers the Department a tool for managing and motivating inmates while reducing population. We estimate the Act will reduce population by about 400 over two years.

- Expansion of the Special Temporary Employment Program (STEP) to ensure that all parole eligible inmates have jobs when they are ready for parole. The absence of a verified job can cause a backlog in our institutions for inmates who could be out on parole. Mayor Barry created the program to provide temporary jobs in the District government for parolees who could not find other work. It has been highly successful both in terms of reducing parole backlog and producing successful permanent job placements for parolees.
- Use of Virginia prisons to house some misdemeanants. This action has reduced population by about 45.

Most of these strategies rely on careful identification of inmates who, for a variety of reasons, can be released from our correctional system early both to relieve overcrowding and to encourage successful reentry into the community. Our intent, in all cases, is to manage the prison population responsibly and provide the best possible rehabilitation programs for the inmates while they are in the system.

SUMMARY

Mr. Chairman, let me close by focusing specifically on the concerns about public safety that have emerged as a result of this legislation. I share those concerns. As a public servant, I am responsible for ensuring the safety and well-being of our residents. Our Metropolitan Police Department is the finest in the country. Its day-to-day attention to public safety and diligence in apprehending violators has obviously had an impact on our prison population. The Police Department will continue its aggressive approach to dealing with people who break the law. The Department of Corrections is responsible for managing the incarceration and rehabilitation process. The Department is carrying out that responsibility very effectively under extremely difficult circumstances and facing what sometimes seem like insurmountable odds. In implementing the Emergency Powers Act, the Department has made every effort to ensure that this management action in no way jeopardizes the safety of our residents or the many visitors to our city.

I want to reiterate that the city is moving aggressively on several fronts to provide permanent relief to overcrowding in our prison system. The prison overcrowding problem cuts across federal and local government lines, and will not be solved by District government actions alone. As the numbers show, the impact of the Emergency Powers Act has been small.

If anything, the results of this emergency period reaffirm the magnitude of the problem. The rapid flow of new prisoners into the system has offset much of the gain from early releases. That is why a comprehensive and coordinated approach to overcrowding that looks at what happens inside our prisons to rehabilitate inmates and involves the community in dealing with problems that lead to recurring criminal behavior is the only real solution. "The" solution will require the combined efforts of the District government, the Federal government, and the entire community.

As an independent government, the District of Columbia must make legislative and executive decisions that reflect the will of the people and meet the needs of the community. I believe we have carried out that mandate responsibly in the enactment and implementation of the "Prison Overcrowding Emergency Powers Act of 1987."

Thank you.

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

I have a couple of questions. The first one: What are the legal implications of congressional disapproval relative to the present court-mandated ceilings on your prison population?

Mr. DOWNS. I'm sorry, Mr. Chairman.

Mr. DYMALLY. What would be the legal implications if we were to disapprove?

Mr. DOWNS. Mr. Cooke, could you address the consent decree in *Campbell* v. *Magruder?*

Mr. COOKE. Sure. The court-mandated ceilings issued by Judge Bryant in the *Campbell* v. *Magruder* case, which covers the D.C. Detention Facility, also known as the D.C. Jail, as well as the court-ordered population ceilings that are still pending in the Occoquan facilities and at the central facility pending before Judge June Green of the U.S. District Court for the District of Columbia would be impossible to meet were we not able to continue to implement the provisions of the Emergency Powers Act in conjunction with the other methodologies in terms of management of the population that Mr. Downs has spoken to.

It is important to reiterate that this is an element in a larger management philosophy, all of which is necessary in order to satisfy these court-ordered ceilings. Were we to not meet these ceilings, we would be potentially in contempt of court. The city would be eligible for financial sanctions. We would also quite probably expose the city to additional litigation by prisoners in terms of alleged violations of their constitutional rights because of the overcrowding and any other negative things that may befall them while they are incarcerated in our prisons.

Mr. DYMALLY. Mr. Downs.

Mr. DOWNS. Mr. Chairman, I might add as well that the court has always reserved the option to order the release themselves absent the legislation and appoint a Federal master to run our prison system. One of the courts has indicated that absent this legislation they are more than willing to do that. Have the Federal court make this decision about the Emergency Powers Act release and manage the system on behalf of the Federal Government.

Mr. COOKE. Mr. Chairman.

Mr. DYMALLY. Mr. Cooke.

Mr. COOKE. One more point I should add is that, without the Emergency Powers Act, the city has no legal or other statutory authority for early release of people incarcerated in our institutions. Once they are committed to the D.C. Department of Corrections to serve their sentence, without the Emergency Powers Act we have no authority to release anyone early. And that is why Mr. Downs indicated the court's willingness to order release of prisoners, which is the only other way they are going to get out in advance of their normal expiration of their sentence.

Mr. DYMALLY. Mr. Counsel, can you elaborate further on the pending lawsuit which seeks to require Federal correctional facilities to house the D.C. inmates?

Mr. DOWNS. Mr. Cooke.

Mr. COOKE. Yes, sir.

Mr. DYMALLY. What is the basis of that lawsuit?

Mr. COOKE. That lawsuit was filed by the attorneys for prisoners at the Occoquan and central facilities, where they sought as an additional part of the relief in their lawsuit the cessation of prisoners being delivered to the District of Columbia Department of Corrections by the Attorney General. As you may or may not know, the District of Columbia Code provides that prisoners sentenced for violations of the District of Columbia Code are sentenced to the custody of the United States Attorney General. The Attorney General in the great majority of instances then designates the place of confinement of those individuals who are sentenced to his custody to—designates the D.C. Department of Corrections as the place of confinement. The prisoners in an attempt to resolve what they saw as the adverse consequences of overcrowding requested that Judge Green enjoin the Attorney General from designating any additional prisoners to the D.C. Department of Corrections. The U.S. Attorney General opposed that request. Judge Green ordered the cessation of designation of prisoners to the D.C. Department of Corrections by the Attorney General. The U.S. Attorney General has appealed that decision to the United States Circuit Court of Appeals for the District of Columbia Circuit. Briefs have been filed in that matter and it is scheduled for oral argument on September 25.

Mr. DYMALLY. Can you elaborate—perhaps, the parole chair—on how decisions are made regarding whether D.C. offenders should be housed in Federal versus local facilities?

Ms. MACK. Mr. Cooke spoke to that, and that decision is made—

Mr. DYMALLY [continuing]. By the Attorney General. OK. Thank you.

What criteria does the Attorney General use, do you know?

Mr. COOKE. Point of clarification, Mr. Chairman. Could you reiterate that question again, please?

Mr. DYMALLY. Yes. How does the Attorney General make that decision to send or not to send to you?

Mr. COOKE. The Attorney General has very broad discretion in deciding where to incarcerate individuals. The typical situation is that, if it is a violation of the District of Columbia Code, an offense committed in the District of Columbia, those individuals typically are designated to the D.C. Department of Corrections. If the U.S. Attorney General decides, through the Federal Bureau of Prisons that that individual is not appropriately placed in the D.C. Department of Corrections because of the seriousness of the offense, the seriousness of previous offenses—his escape potential, for example—he may determine that a more appropriate place of confinement is a more secure Federal facility.

But we have a number of prisoners—I believe that we have approximately 2,400 to 2,500 District of Columbia sentenced prisoners in the Federal prison system.

Mr. DYMALLY. Mrs. Martin, any questions?

Mrs. MARTIN. No.

Mr. DYMALLY. Mr. Fauntroy.

Mr. FAUNTROY. Thank you, Mr. Chairman. I want to thank Mr. Downs and the entire panel for very succinct, clear and well-documented testimony that, in my view, more than justifies the action of the council in enacting the Emergency Powers Act and the per-

manent legislation which is to go into effect, hopefully, in the near future.

As I indicated in my opening statement, I am particularly concerned about what progress is being made to further reduce our prison population beyond legislation which is at issue today. The comments in your statement, Mr. Downs, were therefore appreciated, and I have several questions about specific programs that have been brought to my attention by citizens who like you want to deal with reducing the prison population pursuant not only to court orders but to expressed concerns of inmates themselves.

Has any consideration been given to expanding the Washington pretrial services program so that we might weed out more of the criminally accused who need not be incarcerated?

Mr. WILLIAMS. Mr. Congressman, with respect to the pretrial services area, one of the programs that indeed has been implemented is a program entitled the intensive pretrial third-party custody program. In addition to that intensive third-party custody program, which has a residential component for persons who would otherwise be incarcerated pending trial, there is the usual range of third-party custody programs that with the assistance and leadership from the council and the Mayor we have been able to operate.

Over the past year, it is my recollection that an average of about 400 persons per month were in status, in pretrial third-party custody status and being supervised within the community who otherwise might have been incarcerated in the jail and contributing to our population problem.

We are, again in cooperation with the council, working feverishly to identify additional third-party custodians within the community who could facilitate the prudent supervision of these people on pretrial release. But these are persons who have not yet been adjudicated and for whom alternative placement is being argued by the government.

Mr. FAUNTROY. How much of a problem does the number of persons in pretrial detention cause? What is the nature of that?

Mr. WILLIAMS. On today's count we have approximately 1,670 individuals within the D.C. Jail. I think about 900 of them would be in pretrial status, both males and females.

Mr. FAUNTROY. Are you aware of something called the Vera Model program in New York, which targets community service alternative sentencing and pretrial activity as well for defendants who receive jail sentences of less than 6 months?

Mr. WILLIAMS. Yes, I am aware of that program. In addition, there are several others, including short probation, the split-sentencing provisions, the community service, the restitution program, the electronics surveillance—all those options are actively being considered and pursued by the city.

Mr. FAUNTROY. When you say are being actively pursued, do you mean that the likelihood is that there may be additional alternative sentencing programs implemented in the future, in the near future without the need to incarcerate persons who might be deemed really not needing incarceration at this point?

Mr. WILLIAMS. We are hopeful of a favorable outcome. I would emphasize, though, that is not a unilateral decision that the department of corrections can make. With respect to sentencing op-

tions, obviously, that is something that the court would have to adopt. We would, obviously, have to have the input from the prosecutor and other parties associated with the criminal justice system.

My statement to you is that we are actively pursuing discussion with the other components of the criminal justice system and with the council about available options at the disposal of the city, and I am optimistic that we will be able to translate some of them into reality.

Mr. FAUNTROY. You are working with others within the system.

I wonder if you would just take a moment to outline for the committee the entities that would have to participate in that process of arriving at a decision that did not require legislation to implement alternatives to sentencing?

Mr. WILLIAMS. All right.

Mr. FAUNTROY. Incarceration, rather.

Mr. WILLIAMS. There are several ways to look at that. With respect to a program like short probation, under which a judge makes a decision to impose a sentence of a brief period of incarceration to be followed by a period of supervised probation under strict guidelines, violations of which would lead to the reincarceration of that offender, obviously the scenario would be that a presentence report would be prepared by the social services unit within the D.C. Superior Court, the judge would take that recommendation under advisement, the prosecutor would either oppose or support the imposition of such a sentence, so that you have the prosecutorial function, the defense counsel and the Superior Court of the District of Columbia involved in that kind of decisionmaking.

We have already, as Mr. Downs' testimony alluded to, moved on a couple of programs which involve the board of parole and the department of corrections, one of which is the halfway back program. As the committee is aware, the parole board imposes a number of strict requirements on all parolees for the manner in which they would comport themselves while under parole supervision. Some of the violations for which a parolee can be returned to incarceration do not involve criminal behavior. They would involve such things as failure to report regularly to the parole officer or failure to maintain employment or failure to abide by some other technical requirement imposed by the parole board.

Previous to now there have been very few options for the parole board in terms of having those people brought in under violator warrants and indeed having them remain incarcerated while the parole board considers the matter of revoking parole.

We have instituted a program in conjunction with the parole board under which we have 15-community correctional bed capacity at any given time. Persons accused of technical violations would be eligible for residential placement in the community corrections center for a period of about 15 days to be followed by intensive parole supervision which then obviates the need to reincarcerate those people. That is something that we are implementing in conjunction with the parole board now.

The D.C. Superior Court is implementing an intensive probation supervision program. We are attempting to work out some of the bugs in terms of eligibility criteria with the court now. Under that

program, persons who are incarcerated are interviewed and reviewed for enrollment in this intensive probation program with a ration of 1 to 12, I think, in terms of probation officer to probationers. These persons are intensely supervised and are then gradually moved into the more traditional forms of probation supervision.

In addition, we had earlier this year, or actually last year ascertained that the courts were sentencing a number of individuals to periods of incarceration on the weekends only, meaning that these persons were deemed to be suitable risks for being within our community 5 days a week and were then housed, between Friday night and Sunday night, within our institutions; in some instances, upward of 75 such persons. Obviously, this 75-person infusion on a weekly basis was wreaking havoc on our ability to stay in front of some of the court-ordered caps at the jail and the other institutions.

During negotiations with the D.C. Superior Court and with representatives of the U.S.—I am sorry—with the D.C. Court of Appeals, we were able to obtain the cellblock located in the old building B. We were also able to construct a program under which the vast majority of these weekenders would be allowed to participate in public works projects over the weekend, so that they would perform community service at no charge to the community in lieu of being incarcerated on the weekend. So that, in other words, the sentencing objective of punishment and incapacitation was being met without the need to add to our overcrowding woes.

There are many such programs, Mr. Congressman, and I would be happy to share with you a couple of documents that we have put together and will be putting together which would delineate what our plans are and what the component parts of those plans would be.

Just as a final statement, I am happy to announce that the District will be availing itself of the services of the National Institute of Sentencing Alternatives and, in fact, a delegation of us will be leaving this Sunday night to go to Brandeis University to spend 3 days working with our local courts, public defender, council representatives, corporation counsel representatives, to talk about sentencing options and alternatives. We are also in continuing dialogue with the Superior Court Sentencing Guidelines Commission so that we can walk in lockstep relative to the design of sentencing policies and practices and we will all understand the impact or potential impact of incarceration.

[The following information was subsequently submitted by Mr. Williams, Jr. for the record:]

Information on First Offenders and Drug Treatment Programs

Overview

Provide a list of and background on all first offenders in the incarcerated population.

As of September 18, 1987, there were 785 sentenced first time offenders in the incarcerated population. A first time offender is defined here as an individual who has had no contact with the Department of Corrections within the last five years, except for the offence for which he/she is currently serving time. It may include persons who have been previously convicted and given court administered probation terms without ever being incarcerated in a pre-trial status. It may also include persons previously convicted and sentenced to incarceration who completed their entire sentence, including any parole supervision term, more than five years before their return on the current commitment, without any other institutional commitments, pre-trial or otherwise.

In the case of individuals convicted of multiple offenses, the most serious offense is the charge for which he/she received the longest sentence. For all others, the most serious offense is the convicted offense.

The data reveals that the majority of the first time offenders were about equally divided between violent (42.2%) and drug convictions (41.8%), while the remaining 16% were convicted of property and other non-violent offenses. First offenders are housed in all 10 of the Department's secure facilities with the highest number (18.5%) at the D.C. Detention Facility.

The attached listing and frequency distributions provide more detailed information.

Provide information on the status of existing drug treatment programs relating to capacity and need.

The attached tables contain summary and cumulative workload statistics for the Department's substance abuse program (DAAP). This data covers CY 1986 and the first five months of CY 1987.

The last two tables provide historical data on the number of drug offenders in the District's prison population and estimates for the period 1987-1990. The estimates are based on projected adult drug arrests, convictions and new admissions of drug offenders for the corresponding time period. The historical and estimated data provide an indication of the need for substance abuse treatment services among the prisoner population.

FIRST TIME OFFENDERS
(NO SENTENCED COMMITMENT WITHIN LAST 6 YEARS)

DOC NO.	INSTITUTION	MOST SERIOUS OFFENSE	MINIMUM SENTENCE YR-MO-DAY	MAXIMUM SENTENCE YR-MO-DAY
74031	MEDIUM SECURITY	HOMICIDE	20-00-000	88-88-888
92449	MINIMUM SECURITY	ROBBERY	15-00-000	15-00-000
97296	DETENTION FACILITY	OTHER	00-00-000	00-00-120
98840	MINIMUM SECURITY	HOMICIDE	88-88-888	88-88-888
102673	MEDIUM SECURITY	HOMICIDE	20-00-000	88-88-888
105098	OCCOQUAN 3	HOMICIDE	08-00-000	24-00-000
111560	MEDIUM SECURITY	HOMICIDE	88-88-888	88-88-888
120456	OCCOQUAN 3	HOMICIDE	20-00-000	88-88-888
120872	MODULAR	HOMICIDE	15-00-000	88-88-888
126781	OCCOQUAN 3	HOMICIDE	15-00-000	88-88-888
127736	OCCOQUAN 3	HOMICIDE	12-00-000	45-00-000
132648	MEDIUM SECURITY	HOMICIDE	00-00-000	88-88-888
134069	MEDIUM SECURITY	HOMICIDE	12-00-000	88-88-888
141583	MEDIUM SECURITY	HOMICIDE	35-00-000	88-88-888
141883	MINIMUM SECURITY	RAPE	07-00-000	35-00-000
142449	MODULAR	HOMICIDE	00-20-000	15-00-000
147441	MEDIUM SECURITY	HOMICIDE	08-00-000	25-00-000
147905	DETENTION FACILITY	TRAFFIC	00-00-000	00-00-009
148303	OCCOQUAN 3	ROBBERY	02-00-000	06-00-000
149414	MINIMUM SECURITY	HOMICIDE	88-88-888	88-88-888
152976	MINIMUM SECURITY	RAPE	06-00-000	20-00-000
153216	MODULAR	FORG/EMB	00-09-000	00-27-000
153266	MEDIUM SECURITY	DRUG SALE	04-00-000	12-00-000
153654	DETENTION FACILITY	ROBBERY	07-00-000	88-88-888
155003	DETENTION FACILITY	ROBBERY	05-00-000	15-00-000
156669	MEDIUM SECURITY	ROBBERY	10-00-000	30-00-000
157575	MINIMUM SECURITY	ROBBERY	04-00-000	12-00-000
158183	MEDIUM SECURITY	HOMICIDE	15-00-000	88-88-888
158288	MINIMUM SECURITY	HOMICIDE	88-88-888	88-88-888
158567	MAXIMUM SECURITY	RAPE	15-00-000	45-00-000
158720	MEDIUM SECURITY	HOMICIDE	20-00-000	88-88-888
159202	DETENTION FACILITY	TRAFFIC	00-00-000	00-00-006
159394	MEDIUM SECURITY	HOMICIDE	06-00-000	20-00-000
159924	MEDIUM SECURITY	HOMICIDE	30-00-000	88-88-888
160293	MAXIMUM SECURITY	ASSAULT	15-00-000	88-88-888
160777	MEDIUM SECURITY	HOMICIDE	00-00-000	88-88-888
162454	MEDIUM SECURITY	OTHER	10-00-000	30-00-000
162501	MEDIUM SECURITY	HOMICIDE	04-00-000	15-00-000
162852	MEDIUM SECURITY	HOMICIDE	00-00-000	88-88-888
162969	OCCOQUAN 1	ASSAULT	55-55-555	00-06-000
163095	MINIMUM SECURITY	HOMICIDE	00-00-000	88-88-888
163134	MEDIUM SECURITY	RAPE	04-00-000	18-00-000
163486	DETENTION FACILITY	HOMICIDE	14-00-000	88-88-888
165138	DETENTION FACILITY	DRUG SALE	07-00-000	21-00-000
167455	MEDIUM SECURITY	HOMICIDE	10-00-000	30-00-000
169204	OCCOQUAN 2	DRUG SALE	00-00-000	00-09-000

NOTE: ALL SENTENCING DATA IS BASED ON THE MOST SERIOUS OFFENSE.

SENTENCING DEFINITIONS: 55-55-555 - SPLIT SENTENCING
66 66-666 - SPECIAL SENTENCING (E.G. WEEKENDERS)
88-88-888 - LIFE SENTENCE

FIRST TIME OFFENDERS
(NO SENTENCED COMMITTMENT WITHIN LAST 6 YEARS)

DCDC	INSTITUTION	MOST SERIOUS OFFENSE	MINIMUM SENTENCE YR-MO-DAY	MAXIMUM SENTENCE YR-MO-DAY
170213	DETENTION FACILITY	DRUG SALE	01-00-000	03-00-000
170317	MINIMUM SECURITY	ROBBERY	09-00-000	35-00-000
171518	OCCOQUAN 1	BURGLARY	00-20-000	07-00-000
171967	MODULAR	BURGLARY	07-00-000	18-00-000
171978	MINIMUM SECURITY	LARCENY	00-06-000	09-00-000
172083	MINIMUM SECURITY	DRUG SALE	00-20-000	05-00-000
172111	OCCOQUAN 3	DRUG SALE	02-00-000	06-00-000
173087	MAXIMUM SECURITY	ROBBERY	05-00-000	15-00-000
173447	MEDIUM SECURITY	HOMICIDE	00-00-000	20-00-000
173613	MEDIUM SECURITY	HOMICIDE	08-00-000	30-00-000
174234	MEDIUM SECURITY	HOMICIDE	40-00-000	88-88-888
174244	MEDIUM SECURITY	DRUG SALE	05-00-000	15-00-000
174466	OCCOQUAN 3	ASSAULT	05-00-000	15-00-000
174498	OCCOQUAN 2	DRUG POSS.	00-00-000	00-00-120
174694	OCCOQUAN 1	HOMICIDE	00-00-000	88-88-888
175304	MINIMUM SECURITY	HOMICIDE	03-00-000	12-00-000
175395	MEDIUM SECURITY	DRUG SALE	01-00-000	03-00-000
175761	MEDIUM SECURITY	HOMICIDE	13-00-000	45-00-000
176173	MINIMUM SECURITY	DRUG SALE	00-20-000	00-60-000
176458	MEDIUM SECURITY	RAPE	07-00-000	21-00-000
177091	OCCOQUAN 3	DRUG SALE	02-00-000	10-00-000
177107	DETENTION FACILITY	HOMICIDE	04-00-000	12-00-000
177272	MEDIUM SECURITY	HOMICIDE	20-00-000	88-88-888
177849	OCCOQUAN 1	DRUG SALE	00-08-000	00-24-000
178310	MODULAR	DRUG POSS.	01-00-000	03-00-000
178542	OCCOQUAN 3	ASSAULT	03-00-000	09-00-000
179284	OCCOQUAN 1	ROBBERY	05-00-000	15-00-000
179364	MEDIUM SECURITY	HOMICIDE	15-00-000	88-88-888
179635	DETENTION FACILITY	ROBBERY	00-30-000	10-00-000
179748	OCCOQUAN 3	DRUG POSS.	02-06-000	09-00-000
179764	OCCOQUAN 3	ASSAULT	08-00-000	24-00-000
180017	MEDIUM SECURITY	HOMICIDE	20-00-000	88-88-888
180026	MEDIUM SECURITY	HOMICIDE	20-00-000	88-88-888
180158	DETENTION FACILITY	DRUG POSS.	00-00-000	00-00-060
180183	OCCOQUAN 3	DRUG SALE	00-15-000	00-45-000
180821	MINIMUM SECURITY	BURGLARY	02-00-000	06-00-000
180960	MEDIUM SECURITY	HOMICIDE	20-00-000	88-88-888
181021	DETENTION FACILITY	RAPE	00-10-000	05-00-000
181294	MINIMUM SECURITY	SEX	03-00-000	10-00-000
182817	OCCOQUAN 1	UUV	01-00-000	03-00-000
182976	MEDIUM SECURITY	HOMICIDE	04-00-000	27-00-000
182985	MEDIUM SECURITY	HOMICIDE	20-00-000	88-88-888
183470	MINIMUM SECURITY	DRUG SALE	00-20-000	05-00-000
183692	MINIMUM SECURITY	RAPE	07-00-000	21-00-000
184466	MEDIUM SECURITY	HOMICIDE	15-00-000	88-88-888
185403	OCCOQUAN 2	UUV	00-00-000	00-07-000

NOTE: ALL SENTENCING DATA IS BASED ON THE MOST SERIOUS OFFENSE.

SENTENCING DEFINITIONS: 55-55-555 - SPLIT SENTENCING
66-66-666 - SPECIAL SENTENCING (E.G. WEEKENDERS)
88-88-888 - LIFE SENTENCE

FIRST TIME OFFENDERS
(NO SENTENCED COMMITTMENT WITHIN LAST 6 YEARS)

DCDC	INSTITUTION	MOST SERIOUS OFFENSE	MINIMUM SENTENCE YR-MO-DAY	MAXIMUM SENTENCE YR-MO-DAY
186374	MEDIUM SECURITY	ROBBERY	05-00-000	15-00-000
186396	MINIMUM SECURITY	DRUG SALE	03-00-000	09-00-000
186716	MINIMUM SECURITY	DRUG SALE	00-20-000	05-00-000
187072	OCCOQUAN 1	DRUG POSS.	00-20-000	05-00-000
187177	MEDIUM SECURITY	HOMICIDE	13-00-000	45-00-000
187618	DETENTION FACILITY	DRUG POSS.	00-00-000	00-00-120
187650	DETENTION FACILITY	LARCENY	00-00-000	00-00-030
188111	MODULAR	DRUG SALE	00-00-000	01-00-000
189129	OCCOQUAN 1	DRUG SALE	00-00-000	00-00-120
189510	MINIMUM SECURITY	DRUG SALE	00-20-000	05-00-000
189527	OCCOQUAN 2	DRUG POSS.	00-00-000	00-00-180
190067	MINIMUM SECURITY	DRUG SALE	55-55-555	00-20-000
190427	OCCOQUAN 3	ROBBERY	06-00-000	18-00-000
190856	DETENTION FACILITY	DRUG SALE	03-00-000	09-00-000
191103	MEDIUM SECURITY	HOMICIDE	09-00-000	27-00-000
191462	DETENTION FACILITY	ROBBERY	03-00-000	15-00-000
192247	MODULAR	ROBBERY	01-00-000	03-00-000
192376	MAXIMUM SECURITY	ROBBERY	00-08-000	00-24-000
192840	MAXIMUM SECURITY	HOMICIDE	20-00-000	88-88-888
192878	OCCOQUAN 2	ROBBERY	00-09-000	03-00-000
193023	YOUTH CENTER 1	ROBBERY	00-00-000	10-00-000
193200	MODULAR	DRUG SALE	01-00-000	03-00-000
194004	MAXIMUM SECURITY	ROBBERY	05-00-000	15-00-000
194244	OCCOQUAN 3	ROBBERY	06-00-000	25-00-000
194251	DETENTION FACILITY	DRUG SALE	00-00-000	00-06-000
194613	MEDIUM SECURITY	HOMICIDE	12-00-000	40-00-000
194759	MAXIMUM SECURITY	ASSAULT	03-06-000	12-00-000
194790	MEDIUM SECURITY	HOMICIDE	20-00-000	88-88-888
194922	MODULAR	WEAPONS	02-00-000	06-00-000
195047	MEDIUM SECURITY	HOMICIDE	15-00-000	88-88-888
195139	MINIMUM SECURITY	WEAPONS	00-25-000	00-75-000
195149	OCCOQUAN 3	HOMICIDE	12-00-000	36-00-000
195567	OCCOQUAN 1	ROBBERY	04-00-000	12-00-000
196211	MAXIMUM SECURITY	HOMICIDE	20-00-000	88-88-888
196391	MEDIUM SECURITY	HOMICIDE	10-00-000	88-88-888
196511	DETENTION FACILITY	HOMICIDE	00-00-000	10-00-000
196737	MODULAR	DRUG SALE	00-18-000	00-54-000
196983	OCCOQUAN 1	DRUG SALE	01-00-000	05-00-000
197378	MEDIUM SECURITY	DRUG SALE	04-00-000	15-00-000
197382	MEDIUM SECURITY	HOMICIDE	14-00-000	45-00-000
197428	MEDIUM SECURITY	ROBBERY	06-00-000	18-00-000
197530	MEDIUM SECURITY	ROBBERY	08-00-000	25-00-000
197689	OCCOQUAN 2	BAIL V./CONTEMPT	00-00-000	00-00-090
197836	MEDIUM SECURITY	HOMICIDE	20-00-000	88-88-888
197840	MEDIUM SECURITY	ROBBERY	08-00-000	36-00-000
198028	DETENTION FACILITY	LARCENY	00-00-000	00-08-000

NOTE: ALL SENTENCING DATA IS BASED ON THE MOST SERIOUS OFFENSE.

SENTENCING DEFINITIONS: 55-55-555 - SPLIT SENTENCING
66-66-666 - SPECIAL SENTENCING (E.G. WEEKENDERS)
88-88-888 - LIFE SENTENCE

FIRST TIME OFFENDERS
(NO SENTENCED COMMITTMENT WITHIN LAST 6 YEARS)

DCDC	INSTITUTION	MOST SERIOUS OFFENSE	MINIMUM SENTENCE YR-MO-DAY	MAXIMUM SENTENCE YR-MO-DAY
198084	MINIMUM SECURITY	DRUG SALE	04-00-000	12-00-000
198320	MAXIMUM SECURITY	ROBBERY	15 00 000	88-88-888
198401	MEDIUM SECURITY	HOMICIDE	15-00-000	50-00-000
198674	MODULAR	BURGLARY	02-00-000	08-00-000
198779	MEDIUM SECURITY	SEX	03-00-000	09-00-000
198842	OCCOQUAN 1	ROBBERY	05-00-000	30-00-000
198894	YOUTH CENTER 1	DRUG POSS.	00-00-000	16-00-000
199093	MEDIUM SECURITY	DRUG SALE	04-00-000	12-00-000
199124	MINIMUM SECURITY	ROBBERY	03-00 000	09-00-000
199134	MODULAR	ROBBERY	00-12-000	00-36-000
199138	MINIMUM SECURITY	ROBBERY	08-00-000	24-00-000
200405	MODULAR	DRUG SALE	00-20-000	05-00-000
200467	MEDIUM SECURITY	HOMICIDE	10-00-000	30-00-000
201151	DETENTION FACILITY	DRUG POSS.	00-00-000	01-00-000
201262	OCCOQUAN 2	DRUG POSS.	00-00-000	01-00-000
201941	MEDIUM SECURITY	ROBBERY	06-00-000	18-00-000
201971	MODULAR	ASSAULT	02-00-000	06-00-000
201985	OCCOQUAN 1	DRUG POSS.	00-00-060	00-00-180
202330	MEDIUM SECURITY	HOMICIDE	15-00-000	88-88-888
202442	MEDIUM SECURITY	HOMICIDE	09-00-000	30-00-000
202652	MEDIUM SECURITY	HOMICIDE	15-00-000	54-00-000
202765	OCCOQUAN 1	ROBBERY	04-00-000	12-00-000
203018	MODULAR	FORG/EMB	55-55-555	00-00-120
203100	YOUTH CENTER 1	BURGLARY	00-00-000	06-00-000
203187	MEDIUM SECURITY	HOMICIDE	14-00-000	45-00-000
203655	MEDIUM SECURITY	RAPE	05-00-000	15-00-000
203660	DETENTION FACILITY	RAPE	01-00-000	04-00-000
203719	MINIMUM SECURITY	OTHER	04-00-000	12-00-000
203739	DETENTION FACILITY	DRUG SALE	00-00-000	00-00-180
203749	MEDIUM SECURITY	HOMICIDE	06-00-000	24-00-000
204067	MEDIUM SECURITY	ROBBERY	05-00-000	15-00-000
204092	OCCOQUAN 1	ROBBERY	04-00-000	12-00-000
204190	YOUTH CENTER 2	HOMICIDE	00-00-000	15-00-000
204204	MAXIMUM SECURITY	HOMICIDE	07-00-000	20-00-000
204316	YOUTH CENTER 1	ASSAULT	00-00-000	06-00-000
204328	MAXIMUM SECURITY	ROBBERY	10-00-000	30-00-000
204455	MINIMUM SECURITY	HOMICIDE	06-00-000	21-00-000
204580	MEDIUM SECURITY	HOMICIDE	14-00-000	42-00-000
204734	MEDIUM SECURITY	HOMICIDE	15-00-000	50-00-000
204741	MAXIMUM SECURITY	ASSAULT	00-40-000	10-00-000
204794	MEDIUM SECURITY	ROBBERY	05-00-000	15-00-000
204798	MEDIUM SECURITY	OTHER	06-00-000	20-00-000
204811	MODULAR	DRUG SALE	03-00-000	09-00-000
205122	YOUTH CENTER 1	RAPE	00-00-000	20-00-000
205269	MAXIMUM SECURITY	ROBBERY	06-00-000	18-00-000
205277	YOUTH CENTER 1	ROBBERY	00-00-000	06-00-000

NOTE: ALL SENTENCING DATA IS BASED ON THE MOST SERIOUS OFFENSE.

SENTENCING DEFINITIONS: 55-55-555 - SPLIT SENTENCING
66-66-666 - SPECIAL SENTENCING (E.G. WEEKENDERS)
88 88 888 - LIFE SENTENCE

FIRST TIME OFFENDERS
(NO SENTENCED COMMITTMENT WITHIN LAST 6 YEARS)

DOBC	INSTITUTION	HOST SERIOUS OFFENSE	MINIMUM SENTENCE YR-MO-DAY	MAXIMUM SENTENCE YR-MO-DAY
205337	YOUTH CENTER 1	HOMICIDE	00-00-000	25-00-000
205443	MAXIMUM SECURITY	HOMICIDE	11-00-000	33-00-000
205460	DETENTION FACILITY	HOMICIDE	14-00-000	45-00-000
205469	YOUTH CENTER 1	UUU	00-00-000	06-00-000
205571	MEDIUM SECURITY	HOMICIDE	10-00-000	40-00-000
205709	MEDIUM SECURITY	HOMICIDE	11-00-000	35-00-000
205787	YOUTH CENTER 1	ROBBERY	00-00-000	07-00-000
205833	OCCOQUAN 3	HOMICIDE	10-00-000	35-00-000
205879	OCCOQUAN 2	ASSAULT	00-00-000	00-10-000
205941	MAXIMUM SECURITY	DRUG SALE	00-20-000	05-00-000
206019	OCCOQUAN 2	ROBBERY	01-00-000	03-00-000
206029	YOUTH CENTER 1	HOMICIDE	00-00-000	15-00-000
206401	MEDIUM SECURITY	ASSAULT	05-00-000	15-00-000
206559	YOUTH CENTER 1	ROBBERY	00-00-000	08-00-000
206632	YOUTH CENTER 1	BURGLARY	00-00-000	06-00-000
206823	YOUTH CENTER 2	DRUG SALE	00-00-000	10-00-000
206902	MEDIUM SECURITY	ROBBERY	10-00-000	30-00-000
206904	MEDIUM SECURITY	ROBBERY	08-00-000	24-00-000
206931	MAXIMUM SECURITY	ROBBERY	00-00-000	20-00-000
207091	DETENTION FACILITY	DRUG SALE	00-00-000	00-09-000
207094	OCCOQUAN 2	ROBBERY	03-00-000	10-00-000
207176	YOUTH CENTER 1	ROBBERY	00-00-000	08-00-000
207227	YOUTH CENTER 1	BURGLARY	00-00-000	06-00-000
207576	MEDIUM SECURITY	HOMICIDE	12-00-000	36-00-000
207578	MINIMUM SECURITY	DRUG SALE	00-20-000	00-60-000
207605	MODULAR	FORG/EMB	00-00-000	00-00-180
207726	MODULAR	DRUG SALE	00-18-000	00-54-000
207752	MEDIUM SECURITY	HOMICIDE	08-00-000	88-88-888
207831	YOUTH CENTER 2	HOMICIDE	00-90-000	10-00-000
207937	MEDIUM SECURITY	DRUG SALE	00-30-000	10-00-000
207939	MEDIUM SECURITY	HOMICIDE	14-00-000	45-00-000
207992	YOUTH CENTER 1	DRUG SALE	00-30-000	06-00-000
208062	YOUTH CENTER 2	ASSAULT	00-00-000	06-00-000
208097	MAXIMUM SECURITY	HOMICIDE	10-00-000	30-00-000
208197	MEDIUM SECURITY	HOMICIDE	10-00-000	88-88-888
208225	YOUTH CENTER 1	ROBBERY	00-00-000	10-00-000
208238	MINIMUM SECURITY	RAPE	05-00-000	15-00-000
208270	YOUTH CENTER 1	BURGLARY	00-00-000	10-00-000
208344	YOUTH CENTER 1	ROBBERY	00-00-000	10-00-000
208351	MEDIUM SECURITY	ROBBERY	06-00-000	18-00-000
208457	MINIMUM SECURITY	DRUG SALE	00-18-000	00-54-000
208547	OCCOQUAN 2	SEX	03-00-000	09-00-000
208636	DETENTION FACILITY	WEAPONS	00-00-000	06-00-000
208758	OCCOQUAN 1	DRUG SALE	00-04-000	03-00-000
208872	MODULAR	DRUG SALE	00-20-000	12-00-000
208957	MEDIUM SECURITY	HOMICIDE	20-00-000	88-88-888

NOTE: ALL SENTENCING DATA IS BASED ON THE HOST SERIOUS OFFENSE.

SENTENCING DEFINITIONS: 55-55-555 - SPLIT SENTENCING
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88-88-888 - LIFE SENTENCE

FIRST TIME OFFENDERS
(NO SENTENCED COMMITMENT WITHIN LAST 6 YEARS)

DC	INSTITUTION	MOST SERIOUS OFFENSE	MINIMUM SENTENCE YR-MO-DAY	MAXIMUM SENTENCE YR-MO-DAY
9005	MEDIUM SECURITY	HOMICIDE	05-00-000	15-00-000
9191	YOUTH CENTER 2	OTHER	00-00-000	06-00-000
9277	DETENTION FACILITY	ASSAULT	04-00-000	12-00-000
9435	OCCOQUAN 1	ROBBERY	03-00-000	09-00-000
9603	DETENTION FACILITY	UUV	00-20-000	05-00-000
9631	DETENTION FACILITY	HOMICIDE	06-00-000	18-00-000
9646	YOUTH CENTER 1	DRUG SALE	00-00-000	08-00-000
9894	OCCOQUAN 2	DRUG SALE	55-55-555	00-20-000
9911	MODULAR	DRUG SALE	00-20-000	05-00-000
9913	MEDIUM SECURITY	ROBBERY	08-00-000	30-00-000
9944	MINIMUM SECURITY	BURGLARY	05-00-000	20-00-000
9947	MEDIUM SECURITY	ROBBERY	06-00-000	30-00-000
9975	MAXIMUM SECURITY	OTHER	00-00-000	01-00-000
0035	MAXIMUM SECURITY	HOMICIDE	10-00-000	30-00-000
0054	MAXIMUM SECURITY	ROBBERY	06-00-000	18-00-000
0078	MODULAR	DRUG SALE	00-09-000	03-00-000
0087	OCCOQUAN 1	ROBBERY	00-40-000	10-00-000
0179	YOUTH CENTER 1	DRUG POSS.	00-00-000	06-00-000
0227	YOUTH CENTER 2	DRUG SALE	00-00-000	06-00-000
0247	YOUTH CENTER 2	OTHER	00-00-000	06-00-000
0281	MEDIUM SECURITY	HOMICIDE	07-06-000	25-00-000
0509	YOUTH CENTER 2	ASSAULT	00-00-000	08-00-000
0559	OCCOQUAN 1	ROBBERY	01-00-000	03-00-000
0651	YOUTH CENTER 2	HOMICIDE	00-00-000	15-00-000
0670	MINIMUM SECURITY	ROBBERY	03-00-000	09-00-000
0681	MINIMUM SECURITY	HOMICIDE	05-00-000	15-00-000
0752	MAXIMUM SECURITY	RAPE	06-00-000	20-00-000
0760	OCCOQUAN 1	WEAPONS	07-00-000	21-00-000
0778	MAXIMUM SECURITY	DRUG SALE	00-30 000	00-90-000
0892	MAXIMUM SECURITY	ROBBERY	07-00-000	21-00-000
0932	OCCOQUAN 3	DRUG SALE	04-00-000	12-00-000
0936	YOUTH CENTER 1	ROBBERY	00-00-000	10-00-000
0954	YOUTH CENTER 2	ROBBERY	00-00-000	06-00-000
1003	MODULAR	ASSAULT	00-18-000	00-54-000
1065	YOUTH CENTER 1	ROBBERY	00-00-000	10-00-000
1097	MEDIUM SECURITY	HOMICIDE	07-00-000	21-00-000
1112	YOUTH CENTER 2	ROBBERY	00-00-000	12-00-000
1303	OCCOQUAN 2	DRUG SALE	03-00-000	09-00-000
1328	MEDIUM SECURITY	ASSAULT	05-00-000	15-00-000
1357	YOUTH CENTER 1	DRUG POSS.	00-00-000	06-00-000
1431	MINIMUM SECURITY	DRUG SALE	03-00-000	09-00-000
1504	OCCOQUAN 1	DRUG SALE	01-00-000	03-00-000
1534	MEDIUM SECURITY	UUV	00-32-000	00-96-000
1655	YOUTH CENTER 2	ROBBERY	00-00-000	10-00-000
1683	MEDIUM SECURITY	HOMICIDE	12-00-000	36-00-000
1709	OCCOQUAN 2	RAPE	02-00-000	08-00-000

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NCING DEFINITIONS: 55-55-555 - SPLIT SENTENCING
-66-666 - SPECIAL SENTENCING (E.G. WEEKENDERS)
88-888 - LIFE SENTENCE

FIRST TIME OFFENDERS
(NO SENTENCED COMMITMENT WITHIN LAST 6 YEARS)

DCDC	INSTITUTION	MOST SERIOUS OFFENSE	MINIMUM SENTENCE YR-MO-DAY	MAXIMUM SENTENCE YR-MO-DAY
211719	OCCOQUAN 2	DRUG SALE	00-14-000	00-42-000
211721	MAXIMUM SECURITY	DRUG SALE	00-20-000	05-00-000
211739	OCCOQUAN 1	DRUG SALE	00-20-000	00-60-000
211770	YOUTH CENTER 1	DRUG SALE	00-00-000	00-06-000
211885	MEDIUM SECURITY	HOMICIDE	12-00-000	88-88-888
211912	MINIMUM SECURITY	ROBBERY	04-00-000	12-00-000
212074	YOUTH CENTER 1	DRUG SALE	00-00-000	06-00-000
212089	MEDIUM SECURITY	HOMICIDE	15-00-000	88-88-888
212169	YOUTH CENTER 2	UUV	00-00-000	06-00-000
212175	MODULAR	DRUG SALE	00-18-000	00-54-000
212179	MEDIUM SECURITY	ROBBERY	05-00-000	15-00-000
212181	DETENTION FACILITY	DRUG SALE	00-00-000	04-00-000
212352	OCCOQUAN 2	DRUG SALE	00-00-000	00-20-000
212357	YOUTH CENTER 1	RAPE	00-00-000	15-00-000
212527	MINIMUM SECURITY	HOMICIDE	05-00-000	15-00-000
212544	MODULAR	DRUG POSS.	00-00-000	00-00-020
212643	OCCOQUAN 3	DRUG SALE	00-20-000	05-00-000
212750	OCCOQUAN 3	ASSAULT	04-06-000	20-00-000
212861	YOUTH CENTER 1	UUV	00-00-000	06-00-000
212953	MAXIMUM SECURITY	ROBBERY	05-00-000	15-00-000
212964	MEDIUM SECURITY	ROBBERY	00-03-000	00-09-000
213055	OCCOQUAN 1	DRUG SALE	00-20-000	05-00-000
213057	YOUTH CENTER 1	BURGLARY	00-00-000	06-00-000
213300	MAXIMUM SECURITY	HOMICIDE	10-00-000	30-00-000
213308	YOUTH CENTER 2	DRUG POSS.	00-00-000	06-00-000
213325	OCCOQUAN 2	DRUG POSS.	00-00-000	00-00-180
213461	MINIMUM SECURITY	DRUG SALE	00-20-000	05-00-000
213514	YOUTH CENTER 1	RAPE	00-00-000	06-00-000
213551	YOUTH CENTER 2	DRUG SALE	00-00-000	09-00-000
213641	DETENTION FACILITY	ROBBERY	00-08-000	00-24-000
213643	DETENTION FACILITY	WEAPONS	00-00-000	00-02-000
213663	MINIMUM SECURITY	DRUG SALE	04-00-000	12-00-000
213806	MEDIUM SECURITY	DRUG SALE	04-00-000	12-00-000
213851	MAXIMUM SECURITY	DRUG SALE	00-20-000	00-60-000
213938	YOUTH CENTER 1	ROBBERY	00-00-000	03-00-000
214019	MINIMUM SECURITY	HOMICIDE	00-56-000	20-00-000
214047	YOUTH CENTER 2	DRUG SALE	00-00-000	06-00-000
214051	MEDIUM SECURITY	ROBBERY	06-00-000	18-00-000
214059	MEDIUM SECURITY	ROBBERY	05-00-000	15-00-000
214155	YOUTH CENTER 1	UUV	00-00-000	06-00-000
214257	MODULAR	ROBBERY	00-06-000	02-00-000
214414	MAXIMUM SECURITY	HOMICIDE	07-00-000	21-00-000
214597	OCCOQUAN 1	BURGLARY	02-00-000	06-00-000
214719	DETENTION FACILITY	DRUG POSS.	00-00-000	00-00-150
214819	DETENTION FACILITY	HOMICIDE	12-00-000	50-00-000
214913	MINIMUM SECURITY	ROBBERY	05-00-000	15-00-000

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FIRST TIME OFFENDERS
(NO SENTENCED COMMITTMENT WITHIN LAST 6 YEARS)

DOC#	INSTITUTION	MOST SERIOUS OFFENSE	MINIMUM SENTENCE YR-MO-DAY	MAXIMUM SENTENCE YR-MO-DAY
214980	MINIMUM SECURITY	ROBBERY	02-00-000	06-00-000
214995	YOUTH CENTER 1	ASSAULT	00-00-000	07-00-000
214998	MODULAR	DRUG SALE	00-00-000	01-00-000
215104	OCCOQUAN 2	DRUG POSS.	00-00-000	00-08-000
215137	OCCOQUAN 2	DRUG POSS.	00-00-000	01-00-000
215214	OCCOQUAN 1	DRUG POSS.	00-00-000	00-00-180
215217	OCCOQUAN 2	ROBBERY	02-00-000	06-00-000
215230	OCCOQUAN 2	UUV	00-00-000	00-09-000
215323	MEDIUM SECURITY	HOMICIDE	01-00-000	24-00-000
215353	MEDIUM SECURITY	RAPE	12-00-000	36-00-000
215367	DETENTION FACILITY	DRUG SALE	00-00-000	06-00-000
215404	YOUTH CENTER 2	DRUG SALE	00-00-000	03-00-000
215463	MINIMUM SECURITY	DRUG SALE	00-20-000	05-00-000
215518	MINIMUM SECURITY	ROBBERY	04-00-000	12-00-000
215549	MEDIUM SECURITY	ROBBERY	07-00-000	21-00-000
215683	MEDIUM SECURITY	HOMICIDE	15-00-000	88-88-888
215712	MAXIMUM SECURITY	HOMICIDE	05-00-000	15-00-000
215748	OCCOQUAN 2	DRUG SALE	00-20-000	05-00-000
215889	MODULAR	DRUG SALE	00-00-000	01-00-000
215961	MEDIUM SECURITY	HOMICIDE	10-00-000	30-00-000
216036	MAXIMUM SECURITY	ROBBERY	55-55-555	03-00-000
216089	MINIMUM SECURITY	RAPE	04-00-000	20-00-000
216154	MEDIUM SECURITY	ROBBERY	00-42-000	15-00-000
216231	OCCOQUAN 1	RAPE	04-00-000	12-00-000
216234	MAXIMUM SECURITY	RAPE	03-00-000	15-00-000
216244	MEDIUM SECURITY	ASSAULT	08-00-000	24-00-000
216270	MEDIUM SECURITY	RAPE	15-00-000	88-88-888
216328	DETENTION FACILITY	ROBBERY	00-00-000	00-00-364
216407	MINIMUM SECURITY	DRUG SALE	04-00-000	12-00-000
216432	MINIMUM SECURITY	DRUG SALE	04-00-000	12-00-000
216513	OCCOQUAN 3	DRUG SALE	03-00-000	09-00-000
216557	MEDIUM SECURITY	RAPE	03-00-000	12-00-000
216621	MAXIMUM SECURITY	ROBBERY	00-06-000	03-00-000
216867	MEDIUM SECURITY	RAPE	08-00-000	25-00-000
217030	DETENTION FACILITY	TRAFFIC	66-66-666	00-00-003
217080	OCCOQUAN 2	DRUG SALE	00-20-000	05-00-000
217207	MINIMUM SECURITY	ROBBERY	03-00-000	09-00-000
217216	MINIMUM SECURITY	DRUG SALE	03-00-000	09-00-000
217221	OCCOQUAN 1	DRUG SALE	00-20-000	05-00-000
217250	DETENTION FACILITY	DRUG SALE	04-00-000	12-00-000
217299	MODULAR	ROBBERY	00-08-000	00-24-000
217315	OCCOQUAN 3	ROBBERY	05-00-000	15-00-000
217471	YOUTH CENTER 1	ROBBERY	05-00-000	15-00-000
217467	MINIMUM SECURITY	RAPE	05-00-000	15-00-000
217665	YOUTH CENTER 1	OTHER	00-00-000	06-00-000
217829	MEDIUM SECURITY	ROBBERY	05-00-000	15-00-000

NOTE: ALL SENTENCING DATA IS BASED ON THE MOST SERIOUS OFFENSE.

SENTENCING DEFINITIONS: 55-55-555 - SPLIT SENTENCING
66-66-666 SPECIAL SENTENCING (E.G. WEEKENDERS)
88-88-888 - LIFE SENTENCE

FIRST TIME OFFENDERS
(NO SENTENCED COMMITTMENT WITHIN LAST 6 YEARS)

DCDC	INSTITUTION	MOST SERIOUS OFFENSE	MINIMUM SENTENCE YR-MO-DAY	MAXIMUM SENTENCE YR-MO-DAY
217838	MEDIUM SECURITY	ROBBERY	04-00-000	12-00-000
217911	MINIMUM SECURITY	DRUG SALE	00-20-000	05-00-000
217945	MODULAR	DRUG SALE	03-00-000	09-00-000
217949	MODULAR	DRUG SALE	00-15-000	08-00-000
217984	YOUTH CENTER 1	ROBBERY	00-00-000	12-00-000
218027	MAXIMUM SECURITY	HOMICIDE	05-00-000	20-00-000
218059	MODULAR	ROBBERY	00-30-000	00-90-000
218223	MEDIUM SECURITY	ASSAULT	09-00-000	27-00-000
218237	DETENTION FACILITY	DRUG SALE	00-14-000	00-42-000
218279	MINIMUM SECURITY	ASSAULT	03-00-000	09-00-000
218305	MEDIUM SECURITY	DRUG SALE	04-00-000	12-00-000
218408	YOUTH CENTER 1	DRUG SALE	00-00-000	05-00-000
218480	MINIMUM SECURITY	FORG/EMB	00-40-000	10-00-000
218563	MINIMUM SECURITY	ASSAULT	03-00-000	09-00-000
218597	OCCOQUAN 1	DRUG SALE	00-20-000	05-00-000
218627	MAXIMUM SECURITY	ROBBERY	05-00-000	15-00-000
218750	YOUTH CENTER 2	DRUG SALE	00-00-000	08-00-000
218754	DETENTION FACILITY	DRUG SALE	00-15-000	00-45-000
218838	MAXIMUM SECURITY	HOMICIDE	55-55-555	00-30-000
218849	YOUTH CENTER 2	DRUG SALE	00-00-000	05-00-000
219033	YOUTH CENTER 2	DRUG SALE	00-00-000	05-00-000
219057	OCCOQUAN 3	ROBBERY	01-00-000	03-00-000
219279	OCCOQUAN 1	DRUG SALE	00-20-000	05-00-000
219343	MODULAR	RAPE	04-00-000	12-00-000
219467	OCCOQUAN 2	DRUG SALE	55-55-555	00-20-000
219493	OCCOQUAN 1	DRUG SALE	00-20-000	00-60-000
219507	DETENTION FACILITY	HOMICIDE	05-00-000	30-00-000
219650	MODULAR	BAIL V./CONTEMPT	00-00-100	00-00-090
219751	MODULAR	SEX	09-00-000	28-00-000
219866	OCCOQUAN 1	DRUG SALE	00-20-000	05-00-000
219877	OCCOQUAN 1	DRUG SALE	01-00-000	03-00-000
219901	OCCOQUAN 1	ROBBERY	01-00-000	03-00-000
219968	OCCOQUAN 2	ROBBERY	03-06-000	12-00-000
220064	YOUTH CENTER 2	ROBBERY	00-00-000	03-00-000
220075	OCCOQUAN 1	DRUG SALE	00-20-000	05-00-000
220127	DETENTION FACILITY	ROBBERY	01-00-000	03-00-000
220131	OCCOQUAN 1	ASSAULT	03-00-000	10-00-000
220151	YOUTH CENTER 2	DRUG SALE	00-00-000	05-00-000
220190	MODULAR	DRUG SALE	00-20-000	05-00-000
220193	OCCOQUAN 1	DRUG SALE	55-55-555	00-20-000
220211	OCCOQUAN 3	HOMICIDE	05-00-000	20-00-000
220222	YOUTH CENTER 1	DRUG SALE	01-00-000	03-00-000
220265	YOUTH CENTER 1	DRUG SALE	00-00-000	05-00-000
220386	OCCOQUAN 1	DRUG SALE	00-20-000	00-60-000
220404	DETENTION FACILITY	ROBBERY	00-00-000	04-00-000
220444	YOUTH CENTER 1	DRUG SALE	00-00-000	02-00-000

NOTE: ALL SENTENCING DATA IS BASED ON THE MOST SERIOUS OFFENSE.

SENTENCING DEFINITIONS: 55-55-555 - SPLIT SENTENCING
66-66-666 - SPECIAL SENTENCING (E.G. WEEKENDERS)
88-88-888 - LIFE SENTENCE

FIRST TIME OFFENDERS
(NO SENTENCED COMMITTMENT WITHIN LAST 6 YEARS)

DOC	INSTITUTION	MOST SERIOUS OFFENSE	MINIMUM SENTENCE YR-MO-DAY	MAXIMUM SENTENCE YR-MO-DAY
220578	MODULAR	ROBBERY	01-00-000	03-00-000
220[illegible]5	YOUTH CENTER 2	BURGLARY	00-00-000	10-00-000
220677	MAXIMUM SECURITY	ROBBERY	02-00-000	06-00-000
220695	MODULAR	DRUG SALE	00-12-000	00-36-000
220702	OCCOQUAN 3	HOMICIDE	06-06-000	19-06-000
220736	MEDIUM SECURITY	HOMICIDE	10-00-000	30-00-000
220753	DETENTION FACILITY	DRUG SALE	00-00-000	00-20-000
220797	MINIMUM SECURITY	DRUG SALE	00-20-000	05-00-000
220841	OCCOQUAN 1	HOMICIDE	55-55-555	05-00-000
220871	OCCOQUAN 3	HOMICIDE	07-00-000	88-88-888
220972	DETENTION FACILITY	UUV	00-00-000	00-00-120
221033	DETENTION FACILITY	DRUG SALE	04-00-000	12-00-000
221055	MEDIUM SECURITY	ROBBERY	07-00-000	21-00-000
221078	MAXIMUM SECURITY	ROBBERY	02-00-000	06-00-000
221109	MEDIUM SECURITY	RAPE	05-00-000	15-00-000
221111	MINIMUM SECURITY	DRUG SALE	03-00-000	09-00-000
221193	YOUTH CENTER 2	DRUG SALE	00-00-000	02-00-000
221303	DETENTION FACILITY	ROBBERY	03-00-000	09-00-000
221391	OCCOQUAN 2	ASSAULT	00-00-000	00-00-180
221411	MINIMUM SECURITY	HOMICIDE	03-00-000	09-00-000
221445	OCCOQUAN 2	WEAPONS	00-00-000	00-15-000
221480	YOUTH CENTER 1	DRUG SALE	00-00-000	12-00-000
221564	MAXIMUM SECURITY	ROBBERY	04-00-000	12-00-000
221678	MODULAR	ASSAULT	00-18-000	06-00-000
221771	OCCOQUAN 2	ASSAULT	00-00-000	00-00-090
221940	YOUTH CENTER 1	DRUG SALE	00-20-000	05-00-000
221988	YOUTH CENTER 1	DRUG POSS.	00-00-000	02-00-000
222016	OCCOQUAN 1	DRUG SALE	01-00-000	03-00-000
222049	YOUTH CENTER 2	DRUG SALE	00-00-000	05-00-000
222071	OCCOQUAN 1	ROBBERY	02-00-000	08-00-000
222108	YOUTH CENTER 1	ROBBERY	00-00-000	15-00-000
222117	OCCOQUAN 2	DRUG SALE	55-55-555	02-00-000
222147	DETENTION FACILITY	UUV	01-00-000	03-00-000
222172	MEDIUM SECURITY	OTHER	03-00-000	09-00-000
222178	MEDIUM SECURITY	DRUG SALE	00-20-000	05-00-000
222204	MINIMUM SECURITY	DRUG SALE	00-20-000	05-00-000
222213	YOUTH CENTER 2	DRUG SALE	00-00-000	06-00-000
222240	YOUTH CENTER 2	DRUG SALE	00-00-000	06-00-000
222300	YOUTH CENTER 2	ROBBERY	00-00-000	06-00-000
222344	YOUTH CENTER 1	DRUG SALE	00-00-000	03-00-000
222467	MAXIMUM SECURITY	HOMICIDE	03-00-000	09-00-000
222529	DETENTION FACILITY	ROBBERY	02-00-000	10-00-000
222540	OCCOQUAN 1	DRUG SALE	00-20-000	05-00-000
222542	DETENTION FACILITY	HOMICIDE	55-55-555	02-00-000
222547	MINIMUM SECURITY	DRUG SALE	00-16-000	00-48-000
222564	MEDIUM SECURITY	RAPE	08-00-000	24-00-000

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SENTENCING DEFINITIONS: 55-55-555 - SPLIT SENTENCING
66-66-666 - SPECIAL SENTENCING (E.G. WEEKENDERS)
88-88-888 - LIFE SENTENCE

FIRST TIME OFFENDERS
(NO SENTENCED COMMITTMENT WITHIN LAST 6 YEARS)

DOC#	INSTITUTION	MOST SERIOUS OFFENSE	MINIMUM SENTENCE YR-MO-DAY	MAXIMUM SENTENCE YR-MO-DAY
222589	DETENTION FACILITY	SEX	55-55-555	00-18-000
222635	OCCOQUAN 3	DRUG SALE	04-00-000	12-00-000
222740	YOUTH CENTER 1	ASSAULT	00-00-000	03-00-000
222816	OCCOQUAN 2	OTHER	02-00-000	06-00-000
222887	MINIMUM SECURITY	DRUG SALE	02-00-000	06-00-000
222916	OCCOQUAN 3	DRUG SALE	04-00-000	12-00-000
222936	MODULAR	HOMICIDE	10-00-000	30-00-000
222943	OCCOQUAN 3	HOMICIDE	07-00-000	21-00-000
222969	MEDIUM SECURITY	DRUG SALE	05-00-000	15-00-000
223020	MEDIUM SECURITY	DRUG SALE	03-00-000	09-00-000
223066	MAXIMUM SECURITY	OTHER	00-20-000	05-00-000
223091	OCCOQUAN 1	DRUG SALE	55-55-555	00-20-000
223150	MEDIUM SECURITY	DRUG SALE	00-20-000	00-60-000
223155	YOUTH CENTER 2	DRUG SALE	00-00-000	05-00-000
223165	MODULAR	DRUG SALE	00-20-000	05-00-000
223211	DETENTION FACILITY	ASSAULT	00-18-000	00-54-000
223218	YOUTH CENTER 2	ROBBERY	00-00-000	02-00-000
223234	MODULAR	ASSAULT	00-20-000	05-00-000
223248	DETENTION FACILITY	HOMICIDE	05-00-000	15-00-000
223343	MODULAR	DRUG SALE	00-12-000	00-36-000
223344	DETENTION FACILITY	DRUG SALE	00-00-000	03-00-000
223348	MODULAR	WEAPONS	00-00-000	00-00-180
223369	DETENTION FACILITY	ROBBERY	01-00-000	05-00-000
223377	MAXIMUM SECURITY	RAPE	13-00-000	39-00-000
223399	YOUTH CENTER 2	DRUG SALE	00-00-000	06-00-000
223400	OCCOQUAN 1	DRUG SALE	04-00-000	12-00-000
223422	DETENTION FACILITY	FORG/EMB	00-00-000	00-00-180
223565	OCCOQUAN 2	SEX	03-00-000	09-00-000
223589	MAXIMUM SECURITY	DRUG SALE	05-00-000	15-00-000
223616	MODULAR	DRUG SALE	00-12-000	00-36-000
223618	OCCOQUAN 1	ASSAULT	01-00-000	05-00-000
223674	YOUTH CENTER 2	DRUG SALE	00-00-000	05-00-000
223701	OCCOQUAN 2	DRUG SALE	00-00-000	00-00-180
223726	MODULAR	TRAFFIC	00-00-000	00-00-030
223737	YOUTH CENTER 2	DRUG SALE	00-00-000	09-00-000
223746	MODULAR	DRUG SALE	00-20-000	05-00-000
223832	YOUTH CENTER 1	BURGLARY	00-00-000	00-18-000
223833	OCCOQUAN 1	DRUG SALE	00-15-000	04-00-000
223849	YOUTH CENTER 2	DRUG SALE	00-00-000	03-00-000
223938	YOUTH CENTER 2	DRUG SALE	00-00-000	03-00-000
223949	MEDIUM SECURITY	ASSAULT	02-00-000	06-00-000
223994	MODULAR	TRAFFIC	00-00-000	00-00-030
223996	YOUTH CENTER 2	DRUG SALE	00-00-000	05-00-000
224004	MEDIUM SECURITY	ROBBERY	01-00-000	03-00-000
224005	OCCOQUAN 2	SEX	06-08-000	20-00-000
224013	YOUTH CENTER 1	ROBBERY	00-00-000	12-00-000

NOTE: ALL SENTENCING DATA IS BASED ON THE MOST SERIOUS OFFENSE.

SENTENCING DEFINITIONS: 55-55-555 - SPLIT SENTENCING
66-66-666 - SPECIAL SENTENCING (E.G. WEEKENDERS)
88-88-888 - LIFE SENTENCE

FIRST TIME OFFENDERS
(NO SENTENCED COMMITTMENT WITHIN LAST 6 YEARS)

DCDC	INSTITUTION	MOST SERIOUS OFFENSE	MINIMUM SENTENCE YR-MO-DAY	MAXIMUM SENTENCE YR-MO-DAY
224018	MODULAR	DRUG SALE	02-00-000	06-00-000
224038	YOUTH CENTER 1	DRUG SALE	00-00-000	02-00-000
224056	MINIMUM SECURITY	DRUG SALE	00-20-000	05-00-000
224076	MODULAR	LARCENY	00-06-000	00-18-000
224092	MINIMUM SECURITY	DRUG SALE	00-20-000	00-60-000
224129	MODULAR	DRUG POSS.	00-00-000	00-00-090
224152	OCCOQUAN 1	ASSAULT	00-15-000	00-45-000
224207	MEDIUM SECURITY	DRUG SALE	00-20-000	00-60-000
224236	YOUTH CENTER 1	DRUG SALE	00-00-000	10-00-000
224277	YOUTH CENTER 2	UUV	00-00-000	05-00-000
224296	DETENTION FACILITY	UUV	00-00-000	01-00-000
224299	MINIMUM SECURITY	DRUG SALE	00-20-000	05-00-000
224312	MEDIUM SECURITY	BURGLARY	03-00-000	09-00-000
224354	OCCOQUAN 1	SEX	02-00-000	10-00-000
224416	OCCOQUAN 2	DRUG SALE	00-00-000	00-00-240
224424	OCCOQUAN 3	DRUG SALE	00-18-000	00-54-000
224425	YOUTH CENTER 2	DRUG SALE	00-00-000	05-00-000
224427	MODULAR	ASSAULT	00-30-000	00-90-000
224437	OCCOQUAN 2	DRUG POSS.	00-00-000	00-06-000
224465	YOUTH CENTER 2	DRUG SALE	00-00-000	05-00-000
224487	YOUTH CENTER 1	DRUG SALE	00-00-000	08-00-000
224496	MINIMUM SECURITY	DRUG SALE	00-20-000	07-00-000
224510	DETENTION FACILITY	ROBBERY	00-18-000	00-54-000
224520	MEDIUM SECURITY	HOMICIDE	05-00-000	15-00-000
224537	YOUTH CENTER 1	DRUG SALE	00-00-000	06-00-000
224543	DETENTION FACILITY	DRUG POSS.	00-00-000	00-00-120
224611	YOUTH CENTER 2	DRUG SALE	00-00-000	03-00-000
224613	YOUTH CENTER 2	UUV	00-00-000	02-00-000
224675	MINIMUM SECURITY	DRUG SALE	00-20-000	05-00-000
224685	YOUTH CENTER 2	HOMICIDE	00-00-000	08-00-000
224690	OCCOQUAN 1	DRUG SALE	04-00-000	12-00-000
224707	YOUTH CENTER 2	DRUG SALE	00-00-000	04-00-000
224708	MINIMUM SECURITY	DRUG SALE	00-20-000	00-60-000
224710	MODULAR	DRUG SALE	00-20-000	00-60-000
224715	YOUTH CENTER 1	ROBBERY	00-00-000	06-00-000
224719	DETENTION FACILITY	OTHER	02-00-000	06 00-000
224736	MODULAR	DRUG POSS.	00-00-000	00-00 060
224772	OCCOQUAN 2	UUV	00-00-000	00-00-090
224784	DETENTION FACILITY	DRUG POSS.	00-00-000	01-00-000
224793	DETENTION FACILITY	BAIL V./CONTEMPT	00-00-000	01-00-000
224803	OCCOQUAN 1	DRUG SALE	00-00-000	00-00 180
224822	OCCOQUAN 3	HOMICIDE	08-00-000	24-00-000
224830	YOUTH CENTER 2	DRUG SALE	00-00-000	08 00-000
224833	YOUTH CENTER 1	DRUG SALE	00-00-000	03-00-000
224840	MEDIUM SECURITY	OTHER	04-00-000	12 00-000
224897	YOUTH CENTER 1	DRUG SALE	00-00-000	05 00-000

NOTE: ALL SENTENCING DATA IS BASED ON THE MOST SERIOUS OFFENSE.

SENTENCING DEFINITIONS: 55-55-555 - SPLIT SENTENCING
66-66-666 - SPECIAL SENTENCING (E.G. WEEKENDERS)
88-88-888 - LIFE SENTENCE

FIRST TIME OFFENDERS
(NO SENTENCED COMMITTMENT WITHIN LAST 6 YEARS)

DCDC	INSTITUTION	MOST SERIOUS OFFENSE	MINIMUM SENTENCE YR-MO-DAY	MAXIMUM SENTENCE YR-MO-DAY
224898	DETENTION FACILITY	ASSAULT	02-00-000	06-00-000
224932	DETENTION FACILITY	ROBBERY	00-06-000	00-18-000
224960	MODULAR	ASSAULT	03-00-000	09-00-000
224970	MINIMUM SECURITY	DRUG SALE	00-20-000	05-00-000
224987	OCCOQUAN 1	DRUG SALE	01-00-000	03-00-000
225035	DETENTION FACILITY	DRUG POSS.	00-00-000	01-00-000
225086	DETENTION FACILITY	DRUG POSS.	00-15-000	00-45-000
225096	MEDIUM SECURITY	UUV	01-00-000	03-00-000
225175	DETENTION FACILITY	TRAFFIC	00-00-000	00-00-030
225190	DETENTION FACILITY	ROBBERY	00-00-000	06-00-000
225215	MODULAR	ROBBERY	01-00-000	03-00-000
225222	YOUTH CENTER 2	DRUG SALE	00-00-000	06-00-000
225224	MODULAR	DRUG SALE	00-06-000	00-18-000
225230	MINIMUM SECURITY	DRUG SALE	00-20-000	05-00-000
225234	YOUTH CENTER 2	DRUG SALE	00-00-000	03-00-000
225278	MAXIMUM SECURITY	ROBBERY	00-24-000	04-00-000
225307	MODULAR	DRUG SALE	00-20-000	05-00-000
225311	YOUTH CENTER 2	DRUG SALE	00-00-000	05-00-000
225350	MODULAR	ASSAULT	16-00-000	88-88-888
225374	MODULAR	DRUG POSS.	00-20-000	05-00-000
225377	MEDIUM SECURITY	DRUG SALE	00-15-000	00-45-000
225388	OCCOQUAN 1	DRUG SALE	01-00-000	03-00-000
225401	OCCOQUAN 1	DRUG SALE	00-00-000	00-00-180
225417	OCCOQUAN 2	DRUG POSS.	00-06-000	00-18-000
225433	YOUTH CENTER 2	DRUG SALE	00-00-000	02-00-000
225446	MODULAR	DRUG SALE	03-00-000	09-00-000
225470	MINIMUM SECURITY	HOMICIDE	55-55-555	01-00-000
225495	OCCOQUAN 2	DRUG POSS.	00-00-000	01-00-000
225535	DETENTION FACILITY	ASSAULT	00-00-000	01-00-000
225547	MODULAR	DRUG SALE	00-20-000	00-60-000
225573	OCCOQUAN 2	DRUG SALE	00-12-000	00-36-000
225599	OCCOQUAN 2	DRUG SALE	01-00-000	03-00-000
225602	YOUTH CENTER 2	DRUG SALE	00-00-000	05-00-000
225629	DETENTION FACILITY	DRUG SALE	00-06-000	00-24-000
225640	MINIMUM SECURITY	ROBBERY	00-06-000	03-00-000
225651	OCCOQUAN 1	DRUG SALE	00-18-000	00-54-000
225691	OCCOQUAN 1	UUV	00-08-000	00-24-000
225692	YOUTH CENTER 1	DRUG SALE	00-00-000	03-00-000
225704	YOUTH CENTER 2	DRUG SALE	00-00-000	08-00-000
225737	YOUTH CENTER 2	DRUG SALE	00-00-000	02-00-000
225785	MODULAR	ASSAULT	00-40-000	12-00-000
225792	YOUTH CENTER 2	DRUG SALE	00-00-000	01-00-000
225802	YOUTH CENTER 1	DRUG SALE	00-00-000	03-00-000
225805	DETENTION FACILITY	DRUG SALE	00-00-000	00-15-000
225820	DETENTION FACILITY	DRUG POSS.	00-00-000	00-00-180
225821	YOUTH CENTER 1	DRUG SALE	00-00-000	01-00-000

NOTE: ALL SENTENCING DATA IS BASED ON THE MOST SERIOUS OFFENSE.

SENTENCING DEFINITIONS: 55-55-555 - SPLIT SENTENCING
66-66-666 - SPECIAL SENTENCING (E.G. WEEKENDERS)
88-88-888 - LIFE SENTENCE

FIRST TIME OFFENDERS
(NO SENTENCED COMMITTMENT WITHIN LAST 6 YEARS)

INDN	INSTITUTION	HOST SERIOUS OFFENSE	MINIMUM SENTENCE YR-MO-DAY	MAXIMUM SENTENCE YR-MO-DAY
225835	DETENTION FACILITY	WEAPONS	00-00-000	00-00-045
225840	MODULAR	DRUG SALE	00-15-000	00-45-000
225847	DETENTION FACILITY	DRUG POSS.	01-00-000	03-00-000
225860	OCCOQUAN 1	DRUG SALE	00-20-000	05-00-000
225861	OCCOQUAN 2	WEAPONS	00-00-000	00-06-000
225867	YOUTH CENTER 1	ROBBERY	00-00-000	06-00-000
225878	YOUTH CENTER 2	ROBBERY	00-00-000	10-00-000
225945	DETENTION FACILITY	ASSAULT	00-09-000	00-27-000
225967	MEDIUM SECURITY	SEX	00-18-000	10-00-000
225969	DETENTION FACILITY	DRUG POSS.	01-00-000	03-00-000
225978	MEDIUM SECURITY	RAPE	07-00-000	21-00-000
225980	OCCOQUAN 2	DRUG POSS.	00-00-000	01-00-000
226014	OCCOQUAN 2	BAIL V./CONTEMPT	00-00-000	00-00-090
226058	OCCOQUAN 2	DRUG POSS.	00-00-000	00-00-270
226113	MODULAR	RAPE	02-00-000	10-00-000
226140	MODULAR	DRUG SALE	01-00-000	05-00-000
226164	YOUTH CENTER 1	OTHER	00-00-000	01-00-000
226198	YOUTH CENTER 2	ROBBERY	00-00-000	10-00-000
226226	OCCOQUAN 2	BURGLARY	00-06-000	02-00-000
226310	DETENTION FACILITY	LARCENY	03-06-000	10-00-000
226324	OCCOQUAN 2	WEAPONS	00-00-000	01-00-000
226369	MEDIUM SECURITY	ROBBERY	08-00-000	24-00-000
226373	MODULAR	DRUG SALE	02-00-000	07-00-000
226400	MODULAR	DRUG POSS.	00-06-000	03-00-000
226413	OCCOQUAN 3	ROBBERY	20-00-000	60-00-000
226444	MINIMUM SECURITY	DRUG SALE	00-20-000	05-00-000
226454	OCCOQUAN 2	ROBBERY	55-55-555	00-18-000
226514	YOUTH CENTER 1	ROBBERY	00-00-000	05-00-000
226540	OCCOQUAN 1	UUV	00-18-000	00-54-000
226585	DETENTION FACILITY	DRUG SALE	00-06-000	02-00-000
226601	OCCOQUAN 1	DRUG SALE	00-20-000	05-00-000
226635	OCCOQUAN 2	DRUG SALE	00-20-000	05-00-000
226697	OCCOQUAN 2	DRUG SALE	01-00-000	03-00-000
226705	OCCOQUAN 2	DRUG SALE	00-07-000	00-21-000
226709	YOUTH CENTER 2	DRUG SALE	00-00-000	02-00-000
226725	MINIMUM SECURITY	DRUG SALE	00-20-000	00-60-000
226744	DETENTION FACILITY	WEAPONS	00-00-000	00-00-180
226763	OCCOQUAN 2	DRUG SALE	00-00-000	03-00-000
226768	DETENTION FACILITY	DRUG POSS.	00-14-000	00-54-000
226780	OCCOQUAN 2	DRUG POSS.	02-00-000	08-00-000
226791	OCCOQUAN 1	DRUG SALE	00-20-000	00-60-000
226809	MODULAR	DRUG SALE	00-12-000	00-36-000
226825	DETENTION FACILITY	DRUG POSS.	00-00-000	00-00-120
226837	DETENTION FACILITY	ASSAULT	55-55-555	01-00-000
226848	DETENTION FACILITY	OTHER	01-00-000	05-00-000
226890	MODULAR	DRUG SALE	02-00-000	06-00-000

NOTE: ALL SENTENCING DATA IS BASED ON THE HOST SERIOUS OFFENSE.

SENTENCING DEFINITIONS: 55-55-555 - SPLIT SENTENCING
66-66-666 - SPECIAL SENTENCING (E.G. WEEKENDERS)
88-88-888 - LIFE SENTENCE

FIRST TIME OFFENDERS
(NO SENTENCED COMMITTMENT WITHIN LAST 6 YEARS)

DCDC	INSTITUTION	MOST SERIOUS OFFENSE	MINIMUM SENTENCE YR-MO-DAY	MAXIMUM SENTENCE YR-MO-DAY
226092	DETENTION FACILITY	DRUG SALE	00-12-000	00-36-000
226922	OCCOQUAN 3	RAPE	04-00-000	12-00-000
226932	YOUTH CENTER 1	ROBBERY	00-00-000	02-00-000
226987	OCCOQUAN 2	ASSAULT	00-00-000	06-00-000
227014	OCCOQUAN 1	DRUG SALE	00-20-000	05-00-000
227059	MINIMUM SECURITY	DRUG SALE	00-20-000	00-60-000
227060	OCCOQUAN 2	DRUG SALE	00-18-000	00-54-000
227064	OCCOQUAN 2	DRUG POSS.	00-00-000	00-00-180
227073	MODULAR	LARCENY	01-00-000	03-00-000
227104	MODULAR	RAPE	75-04-000	11-11-111
227126	MEDIUM SECURITY	HOMICIDE	04-00-000	12-00-000
227141	OCCOQUAN 2	DRUG POSS.	00-00-000	00-00-090
227147	YOUTH CENTER 2	DRUG SALE	00-00-000	03-00-000
227159	OCCOQUAN 2	DRUG POSS.	00-00-000	00-00-180
227237	MINIMUM SECURITY	ASSAULT	00-18-000	00-54-000
227239	OCCOQUAN 1	DRUG SALE	00-06-000	00-18-000
227254	OCCOQUAN 1	DRUG SALE	00-06-000	00-18-000
227255	OCCOQUAN 2	DRUG POSS.	00-00-000	00-06-000
227256	OCCOQUAN 1	DRUG SALE	01-00-000	03-00-000
227263	YOUTH CENTER 2	ROBBERY	00-00-000	08-00-000
227283	OCCOQUAN 1	DRUG SALE	00-18-000	03-54-000
227284	OCCOQUAN 2	ASSAULT	12-00-000	36-00-000
227322	MODULAR	RAPE	55-55-555	01-00-000
227325	DETENTION FACILITY	DRUG POSS.	00-00-000	00-00-180
227373	YOUTH CENTER 1	DRUG POSS.	00-00-000	00-04-000
227438	YOUTH CENTER 1	DRUG POSS.	00-00-000	01-00-000
227454	OCCOQUAN 2	WEAPONS	00-00-000	00-00-180
227460	DETENTION FACILITY	FORG/EMB	01-00-000	03-00-000
227462	OCCOQUAN 1	LARCENY	00-07-000	00-21-000
227501	MODULAR	HOMICIDE	12-00-000	11-11-111
227518	OCCOQUAN 1	DRUG SALE	04-00-000	12-00-000
227546	DETENTION FACILITY	WEAPONS	00-00-000	00-00-000
227556	DETENTION FACILITY	DRUG POSS.	00-00-000	00-00-180
227559	OCCOQUAN 1	ROBBERY	00-30-000	10-00-000
227592	OCCOQUAN 2	SEX	03-00-000	10-00-000
227619	DETENTION FACILITY	LARCENY	00-00-000	00-00-150
227641	DETENTION FACILITY	ASSAULT	00-00-000	01-00-000
227647	DETENTION FACILITY	DRUG POSS.	00-00-000	00-02-000
227648	MODULAR	ASSAULT	02-00-000	06-00-000
227650	MODULAR	DRUG SALE	00-09-000	00-27-000
227668	OCCOQUAN 2	DRUG SALE	01-00-000	03-00-000
227806	OCCOQUAN 2	ROBBERY	02-00-000	07-00-000
227835	OCCOQUAN 2	DRUG POSS.	00-00-000	01-00-000
227882	OCCOQUAN 2	UUV	00-00-000	00-00-120
227885	YOUTH CENTER 1	DRUG SALE	00-00-000	00-18-000
227909	MAXIMUM SECURITY	ROBBERY	15-00-000	45-00-000

NOTE: ALL SENTENCING DATA IS BASED ON THE MOST SERIOUS OFFENSE.

SENTENCING DEFINITIONS: 55-55-555 - SPLIT SENTENCING
66-66-666 - SPECIAL SENTENCING (E.G. WEEKENDERS)
88-88-888 - LIFE SENTENCE

FIRST TIME OFFENDERS
(NO SENTENCED COMMITMENT WITHIN LAST 6 YEARS)

DCDC	INSTITUTION	MOST SERIOUS OFFENSE	MINIMUM SENTENCE YR-MO-DAY	MAXIMUM SENTENCE YR-MO-DAY
227931	DETENTION FACILITY	DRUG SALE	00-00-000	00-09-000
227948	OCCOQUAN 2	OTHER	00-00-000	00-00-150
227951	OCCOQUAN 2	DRUG POSS.	00-00-000	00-00-180
227966	YOUTH CENTER 1	DRUG SALE	00-00-000	01-00-000
227995	DETENTION FACILITY	DRUG POSS.	00-00-000	00-00-120
228001	MODULAR	DRUG SALE	00-00-000	00-00-240
228012	MODULAR	DRUG SALE	00-20-000	05-00-000
228085	MINIMUM SECURITY	ASSAULT	00-18-000	00-54-000
228096	OCCOQUAN 2	DRUG POSS.	00-00-000	00-00-270
228138	DETENTION FACILITY	DRUG POSS.	00-00-000	01-00-000
228140	OCCOQUAN 1	DRUG SALE	00-20-000	05-00-000
228199	DETENTION FACILITY	ROBBERY	00-00-000	06-00-000
228235	MODULAR	DRUG POSS.	00-00-000	00-00-180
228264	YOUTH CENTER 1	DRUG POSS.	00-00-000	03-00-000
228265	OCCOQUAN 2	UUV	00-00-000	00-00-120
228272	MODULAR	ROBBERY	00-06-000	00-30-000
228335	OCCOQUAN 1	DRUG POSS.	00-00-180	02-00-000
228338	OCCOQUAN 2	DRUG POSS.	00-00-000	00-00-240
228341	OCCOQUAN 2	ROBBERY	00-06-000	00-18-000
228365	DETENTION FACILITY	DRUG POSS.	00-00-000	00-00-090
228448	DETENTION FACILITY	ASSAULT	01-00-000	03-00-000
228457	DETENTION FACILITY	DRUG SALE	00-00-000	00-00-150
228477	DETENTION FACILITY	TRAFFIC	66-66-666	00-00-021
228549	OCCOQUAN 2	DRUG POSS.	00-00-000	00-00-120
228600	DETENTION FACILITY	DRUG POSS.	00-00-000	00-00-180
228680	OCCOQUAN 2	DRUG POSS.	00-00-000	00-00-090
228707	DETENTION FACILITY	DRUG POSS.	00-00-000	00-00-180
228719	DETENTION FACILITY	OTHER	00-00-000	00-00-005
228750	DETENTION FACILITY	ROBBERY	00-00-180	00-18-000
228774	OCCOQUAN 2	DRUG SALE	00-00-000	00-06-000
228777	OCCOQUAN 1	DRUG SALE	00-08-000	00-24-000
228782	DETENTION FACILITY	DRUG POSS.	00-00-000	00-00-[illegible]
228819	DETENTION FACILITY	DRUG POSS.	00-00-000	[illegible]
228839	DETENTION FACILITY	DRUG POSS.	00-00-[illegible]	[illegible]
228846	DETENTION FACILITY	DRUG SALE	[illegible]	[illegible]
228883	OCCOQUAN 2	UUV	[illegible]	[illegible]
228898	DETENTION FACILITY	DRUG POSS.	[illegible]	[illegible]
228916	OCCOQUAN 2	TRAFFIC	[illegible]	[illegible]
228962	YOUTH CENTER 1	DRUG POSS.	[illegible]	[illegible]
228963	DETENTION FACILITY	DRUG POSS.	[illegible]	[illegible]
228984	DETENTION FACILITY	TRAFFIC	[illegible]	[illegible]
229046	DETENTION FACILITY	ROBBERY	[illegible]	[illegible]
229081	MODULAR	[illegible]	[illegible]	[illegible]
229082	OCCOQUAN 2	[illegible]	[illegible]	[illegible]
229096	OCCOQUAN 2	[illegible]	[illegible]	[illegible]
229135	DETENTION FACILITY	[illegible]	[illegible]	[illegible]

NOTE: ALL SENTENCING DATA IS BASED ON [illegible]

SENTENCING DEFINITIONS:
66-66-666 - SPECIAL SENTENCING (E.G. WEEKENDERS)
88-88-888 - LIFE SENTENCE

FIRST TIME OFFENDERS
(NO SENTENCED COMMITMENT WITHIN LAST 6 YEARS)

DLOC	INSTITUTION	MOST SERIOUS OFFENSE	MINIMUM SENTENCE YR-MO-DAY	MAXIMUM SENTENCE YR-MO-DAY
229158	DETENTION FACILITY	DRUG SALE	00-00-000	01-00-000
229195	OCCOQUAN 2	DRUG SALE	00-00-000	00-00-030
229197	OCCOQUAN 1	DRUG SALE	55-55-555	00-06-000
229208	OCCOQUAN 2	ASSAULT	00-00-000	00-00-180
229210	OCCOQUAN 2	DRUG SALE	00-00-000	00-00-030
229225	DETENTION FACILITY	DRUG SALE	00-00-000	00-00-009
229258	DETENTION FACILITY	DRUG POSS.	00-00-000	00-00-120
229264	OCCOQUAN 2	LARCENY	00-00-000	00-00-060
229267	DETENTION FACILITY	HOMICIDE	02-00-000	10-00-000
229275	OCCOQUAN 2	DRUG POSS.	00-00-000	00-00-030
229277	OCCOQUAN 2	DRUG POSS.	00-00-000	00-00-090
229278	OCCOQUAN 2	ASSAULT	00-00-000	00-00-180
229280	DETENTION FACILITY	DRUG POSS.	00-00-000	00-00-060
229281	DETENTION FACILITY	DRUG POSS.	00-00-000	00-00-045
229282	DETENTION FACILITY	ASSAULT	00-00-000	00-00-120
229287	OCCOQUAN 2	DRUG POSS.	00-00-000	00-00-180
229291	DETENTION FACILITY	SEX	00-00-000	00-00-020
229299	DETENTION FACILITY	WEAPONS	00-00-000	01-00-000
229306	OCCOQUAN 2	DRUG POSS.	00-00-000	00-00-180
229312	DETENTION FACILITY	BAIL V./CONTEMPT	00-00-000	00-00-010
229329	DETENTION FACILITY	TRAFFIC	66-66-666	00-00-030
229331	DETENTION FACILITY	TRAFFIC	66-66-666	00-00-009
229341	DETENTION FACILITY	DRUG SALE	66-66-666	00-00-016
229351	OCCOQUAN 2	WEAPONS	00-00-000	00-00-180
229352	OCCOQUAN 1	FORG/EMB	00-10-000	00-30-000
229353	OCCOQUAN 2	TRAFFIC	00-00-000	00-00-090
229354	OCCOQUAN 2	DRUG POSS.	00-00-000	00-00-060
229357	OCCOQUAN 2	DRUG POSS.	00-00-000	00-00-100
229379	DETENTION FACILITY	DRUG POSS.	00-00-000	00-00-010
229380	DETENTION FACILITY	BAIL V./CONTEMPT	00-00-000	00-00-030
229397	DETENTION FACILITY	DRUG POSS.	00-00-000	00-00-120
229398	DETENTION FACILITY	DRUG POSS.	00-00-000	00-00-120
229402	DETENTION FACILITY	SEX	00-00-000	00-00-010
229403	DETENTION FACILITY	DRUG POSS.	00-00-000	00-00-090
229405	DETENTION FACILITY	SEX	00-00-000	00-06-000
229409	DETENTION FACILITY	DRUG POSS.	00-00-000	00-00-060
229410	DETENTION FACILITY	TRAFFIC	00-00-000	00-00-030
229412	DETENTION FACILITY	TRAFFIC	00-00-000	00-00-010
229413	DETENTION FACILITY	TRAFFIC	00-00-000	00-00-015
229414	DETENTION FACILITY	TRAFFIC	00-00-000	00-00-012
229415	DETENTION FACILITY	TRAFFIC	00-00-000	00-00-003
229420	DETENTION FACILITY	TRAFFIC	00-00-000	00-00-003
229421	DETENTION FACILITY	DRUG POSS.	00-00-000	00-00-015
229430	DETENTION FACILITY	DRUG POSS.	00-00-000	00-00-180
229439	DETENTION FACILITY	SEX	00-00-000	00-06-000
229440	DETENTION FACILITY	DRUG POSS.	00-00-000	00-00-180

NOTE: ALL SENTENCING DATA IS BASED ON THE MOST SERIOUS OFFENSE.

SENTENCING DEFINITIONS: 55-55-555 - SPLIT SENTENCING
66-66-666 - SPECIAL SENTENCING (E.G. WEEKENDERS)
88-88-888 - LIFE SENTENCE

FIRST TIME OFFENDERS
(NO SENTENCED COMMITTMENT WITHIN LAST 6 YEARS)

DCDC	INSTITUTION	MOST SERIOUS OFFENSE	MINIMUM SENTENCE YR-MO-DAY	MAXIMUM SENTENCE YR-MO-DAY
229441	DETENTION FACILITY	BAIL V./CONTEMPT	00-00-000	00-00-030
229444	DETENTION FACILITY	DRUG SALE	00-00-000	00-00-120
229453	DETENTION FACILITY	OTHER	00-00-000	00-00-030

NOTE: ALL SENTENCING DATA IS BASED ON THE MOST SERIOUS OFFENSE.

SENTENCING DEFINITIONS: 55-55-555 - SPLIT SENTENCING
66-66-666 - SPECIAL SENTENCING (E.G. WEEKENDERS)
88-88-888 - LIFE SENTENCE

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14:09:20 PUBLIC SAFETY / PUBLIC WORKS ANOAHL 5840 HVS/SP 1.3

D3 SERIOUS OFFENSE

VALUE LABEL	VALUE	FREQUENCY	PERCENT	VALID PERCENT	CUM PERCENT
HOMICIDE	1.00	119	15.2	15.2	15.2
RAPE	2.00	32	4.1	4.1	19.2
ROBBERY	3.00	130	16.6	16.6	35.8
ASSAULT	4.00	50	6.4	6.4	42.2
BURGLARY	5.00	15	1.9	1.9	44.1
LARCENY	6.00	9	1.1	1.1	45.2
UUV	7.00	22	2.8	2.8	48.0
FORG/EMB	8.00	8	1.0	1.0	49.0
WEAPONS	9.00	15	1.9	1.9	51.0
DRUG SALE	10.00	240	30.6	30.6	81.5
DRUG POSS.	11.00	88	11.2	11.2	92.7
SEX	12.00	14	1.8	1.8	94.5
BAIL V./CONTEMPT	13.00	7	.9	.9	95.4
TRAFFIC	14.00	18	2.3	2.3	97.7
OTHER	15.00	18	2.3	2.3	100.0
		TOTAL 785	100.0	100.0	

VALID CASES 785 MISSING CASES 0

INS INSTITUTION

VALUE LABEL	VALUE	FREQUENCY	PERCENT	VALID PERCENT	CUM PERCENT
OCCOQUAN 1	1	70	8.9	8.9	8.9
MEDIUM SECURITY	2	125	15.9	15.9	24.8
YOUTH CENTER 1	3	67	8.5	8.5	33.4
OCCOQUAN 2	4	91	11.6	11.6	45.0
YOUTH CENTER 2	5	57	7.3	7.3	52.2
MINIMUM SECURITY	8	74	9.4	9.4	61.7
OCCOQUAN 3	9	32	4.1	4.1	65.7
MODULAR	10	80	10.2	10.2	75.9
DETENTION FACILITY	12	145	18.5	18.5	94.4
MAXIMUM SECURITY	88	44	5.6	5.6	100.0
		TOTAL 785	100.0	100.0	

VALID CASES 785 MISSING CASES 0

18 SEP 87 RESEARCH FILE CREATOR
14:09:28 PUBLIC SAFETY / PUBLIC WORKS AMDAHL 5840 MVS/SP 1.3

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VALUE LABEL	VALUE	FREQUENCY	PERCENT	VALID PERCENT	CUM PERCENT
VIOLENT	1.00	331	42.2	42.2	42.2
PROPERTY	2.00	54	6.9	6.9	49.0
DRUGS	3.00	328	41.8	41.8	90.8
OTHER	4.00	72	9.2	9.2	100.0
	TOTAL	785	100.0	100.0	

VALID CASES 785 MISSING CASES 0

CUMULATIVE STATISTICS

	INTAKE	TOTAL TERMINATED	(A) POSITIVE TERMINATIONS	(B) NEGATIVE TERMINATIONS	(C) CLINICAL PROGRAM GRADUATES	(D) EDUCATIONAL SEMINAR GRADUATES
JAN 1986	215	173	82	43	48	29
FEB	118	112	27	15	70	214
MARCH	103	187	93	33	61	347
APRIL	101	135	10	45	80	165
MAY	266	181	71	19	91	206
JUNE	51	84	12	38	34	218
JULY	79	282	83	50	149	68
AUGUST	133	77	47	15	15	82
SEPTEMBER	153	122	7	45	70	18
OCTOBER	140	133	51	29	53	68
NOVEMBER	111	107	40	15	52	64
DECEMBER	116	125	45	20	42	16
TOTAL	1586	1713	568	375	755	1595

A) Favorable terminations (successful completions or in-program transfers to another facility).
B) Unfavorable terminations (involuntary removal from DAAP.
C) Successfully completed clinical phase of DAAP.
D) Completed 2-day orientation seminar.

DAAP
Cumulative Statistics (Jan.-May, 1987)

	Intake	Total Terminated	(A) Positive Terminations	(B) Negative Terminations	(C) Clinical Program Graduates	(D) Educational Seminar Graduates	(E) Total DAAP Participants
Jan. 87	164	91	17	20	54	0	297
Feb.	179	193	28	21	144	106	380
Mar.	163	164	36	24	104	86	378
Apr.	49	100	24	35	41	66	306
May	266	181	71	19	91	206	565
June							
July							
Aug.							
Sept.							
Oct.							
Nov.							
Dec.							
Total	821	729	176	119	434	464	1926

A) Favorable Terminations (successful completions or in-program transfers to another facility).

B) Unfavorable Terminations (involuntary removal from DAAP).

C) Successfully completed clinical phase of DAAP.

D) Completed 2-day orientation seminar.

E) Total DAAP participants including Counseling and Seminars.

Drug Offenders in DCDC Population: 1980-1987

Year	Incarcerated Drug Offenders	Adult Prison Population	Percent
1980	432	3,625	12.0
1981	480	3,955	12.1
1982	740	4,680	15.8
1983	914	5,180	17.6
1984	1,008	5,440	18.5
1985	1,672	6,450	25.9
1986	1,958	6,250	31.3
1987	2,543	7,216	35.2

This table reveals that this segment of the Department's population has increased steadily since 1980, with the greatest increase occurring between 1984 and 1985. By the end of 1986, adult drug offenders comprised over 30% of the total incarcerated population, and reached 35% by mid-1987.

CURRENT POLICIES PROGRAMS PENDING ACTIONS:

The Department has developed a substance abuse treatment program at Lorton with the assistance of the Department of Human Services. A 20-bed in-patient PCP treatment facility is in place at the D.C. General Hospital and planning is underway for a 700-800 bed treatment facility on the grounds adjacent to D.C. General Hospital Complex in S.E. Washington. This facility will provide intensive treatment and transitional services directed at substance abusers and special needs offenders.

Estimated Change in Adult Drug Arrests, Convictions, Admissions and Drug Offenses: 1987-1990

Year	Adult Drug Arrests	Convictions	Admissions	Drug Offenders
1987	12,800	5,600	3,700	2,750
1988	13,200	6,400	4,250	3,200
1989	14,600	7,300	4,806	3,500
1990	16,700	8,350	5,560	3,900
Percent Change 1990-1987	30.5	49.1	50.2	41.8

The total incarcerated drug offenders population is expected to increase from 1570 in 1986 to 3900 in 1990. This will be caused mainly by the increase in felony drug arrests. The total increase over the base year (1986) would be 148 percent or a 37 percent annual growth rate.

Drug Testing Results for Adult Arrestees

- Attached is a copy of the Pre-trial Services Lock-up test results for the period of June 1986-June 1987.

During this period, the percentage of positive test specimens ranged from 65% in June 1986 to 73% in June 1987, with a mean positive rate of 70% for specimens tested during the 13-month period.

Among the five drugs tested, cocaine and PCP appear to be the drugs of choice for adult arrestees. Cocaine positives ranged from 38.4% (June 1986) to 49.4% (June 1987), while PCP positives ranged from 36.1% to 49.1 for the same period.

DRUG TESTING - ADULT ARRESTEES
JUNE 1986 - JUNE 1987

LOCK-UP TEST RESULTS

	JUN `86	JUL `86	AUG `86	SEP `86	OCT `86	NOV `86	DEC `86	JAN `87	FEB `87	MAR `87	APR `87	MAY `86	JUN `87
Positive Tests	798	847	844	1227	1110	814	868	726	935	1144	890	930	964
Negative Tests	435	386	362	467	518	368	411	314	390	434	426	390	355
TOTAL	1233	1233	1206	1694	1628	1182	1279	1040	1325	1578	1316	1320	1319
Percent Positive	65%	69%	70%	72%	68%	69%	68%	70%	71%	72%	68%	70%	73%

LOCK-UP CASES ONLY - RESULTS FOR EACH TEST

	JUN `86	JUL `86	AUG `86	SEP `86	OCT `86	NOV `86	DEC `86	JAN `87	FEB `87	MAR `87	APR `87	MAY `87	JUN `87
AMPHETAMINE	58	46	33	64	63	53	48	19	35	44	44	57	22
% Positive	4.7%	3.7%	2.7%	3.8%	3.9%	4.5%	3.8%	1.8%	2.6%	2.8%	3.3%	4.3%	1.7%
COCAINE	474	481	474	813	700	539	549	444	606	725	603	611	651
% Positive	38.4%	39%	39.3%	48%	43%	45.6%	42.9%	42.7%	45.7%	45.9%	45.8%	46.3%	49.4%
METHADONE	`39	36	31	41	35	31	20	19	32	30	24	27	21
% Positive	3.2%	2.9%	2.6%	2.4%	2%	2.6%	1.6%	1.8%	2.4%	1.9%	1.8%	2%	1.6%
OPIATES	255	277	316	380	297	227	212	173	264	298	221	187	222
% Positive	20.7%	22.5%	26.2%	22.4%	18.2%	19.2%	16.6%	16.6%	19.9%	18.9%	16.8%	14.2%	16.8%
PCP	445	479	451	727	668	467	499	433	522	658	469	536	648
% Positive	36.1%	38.8%	37.4%	42.9%	41%	39.5%	39%	41.6%	39.4%	41.7%	35.6%	40.6%	49.1%

Mr. FAUNTROY. I want to thank the gentleman for that thorough answer to my question.

I know that my time has expired, Mr. Chairman, but I certainly look forward to the return of the delegation from the conference to which you made reference. May I now tender a request of you and the parties who would be involved in the decision as to which alternatives ought now to be implemented; that we meet together just to discuss which of the things that you have in mind ought to be done as quickly as possible and get them done. I know how complex this question is; how very difficult it is to handle both the insistence that we not expand our capacity outside the District of Columbia at the same time that we have court orders mandating that we reduce population numbers in our jails and prisons. So that it is a serious matter and I am grateful, as I indicated, to the chairman and to Mr. Parris for calling attention to it and scheduling these hearings so soon. I hope that as a result of these hearings at least we will be able to get greater understanding of the complexity of the problems with which you are dealing. Thank you.

Mr. DYMALLY. Mr. Bliley.

Mr. BLILEY. Thank you, Mr. Chairman.

Mr. Downs, how long has the District been under the court order to relieve overcrowding in the prison system?

Mr. DOWNS. I think we have been under court order for decades. I think the court order particularly on the institutions that *Campbell* v. *Magruder* was entered in 1985; but the case itself is 1971–72. On the Central and Occoquan case, Central dates to the early 1970's as well I am sure, both before home rule.

Mr. BLILEY. What is the status of the construction of a new facility?

Mr. DOWNS. The new facility has, as I said, a strict time frame. We have a design-build contract with a contractor. A time frame that would allow us to occupy the facility in 1990.

Mr. BLILEY. It has taken 18 years to get to this point?

Mr. DOWNS. Mr. Bliley, I said earlier that we have built a prison a year for 6 years. We have added 3,087 beds to our prison facilities and have doubled in the last 6 years the capacity of our prison system. We have done more than any State in the United States about doubling the size of our prison system and it has still not been enough.

Mr. BLILEY. Thank you. Thank you, Mr. Chairman.

Mr. DYMALLY. Mr. Parris.

Mr. PARRIS. Thank you, Mr. Chairman. Let me say I regret that my friend, Mr. Fauntroy, was required to leave. I just want to make the observation, several observations. Then I have just two or three brief questions.

The observation about his comments and his remark that this is not a question of a welfare mother who stole chickens. I agree with that. Because if those mothers were engaged in criminal drug activity, 46 percent of them would be the persons we are talking about in this bill; 46 percent of the offenders are engaged in drug-related offenses.

Let me just say, Mr. Downs, I found your provisions in your testimony in regard to the portions of the District of Columbia owned by the Federal Government and controlled by the Federal Govern-

ment, and so forth, interesting, but I would remind you, and consistent with the questioning of my friend from Virginia, Mr. Bliley, the site for the new jail facility provided by the Federal Government for which groundbreaking was supposed to take place in June, has not occurred yet because of, I am told, community opposition. Well, that is not exactly the problem. We will make Federal property available for you for the purpose of creating penal institutions if you desire to do so. I respectfully suggest that you should.

Let me just deal very quickly with several observations in regard to some of the testimony and I read, in part, from the 1986 Crime and Justice Report for the District of Columbia, Office of Criminal Justice Plans and Analysis, which is very sobering. It has to do with your comments, Mr. Downs, about the longest term of incarceration of any other place in the free world, and I quote from page 3 of the introduction of this report of 1986 where it says:

> Analysis of the District's inmate population reveals that 90 percent have two or more felony convictions. The higher recidivism rate in the District and the fact that 60 percent of District inmates examined tested positive for illicit drugs have provided the impetus for a renewed emphasis on rehabilitating criminal offenders.

This system does not incarcerate first offenders. It does not incarcerate second or third or fourth offenders. This criminal system incarcerates only career criminals and those are the only ones that we are releasing.

Now let me refer you to the first quarter report from the D.C. Metropolitan Police Department, criminal investigations division, which is the Recidivists Report, First Quarter of 1987. In part 2 on the comparison chart of persons rearrested who are involved in release programs. Aggravated assault, 58 persons involved, 43 rearrested in the first 3 months of this year alone. Auto theft, 77 involved in early release, 60 rearrested. Burglary, 62 involved, 44 rearrested. Homicide, 4 involved, 3 rearrested. Larceny 49, 35 rearrested. Robbery 85, 58 rearrested. Narcotics—and if you don't think this is important, I would remind you what the major problem of these releasees is—754 persons released in early programs, 591 of them rearrested. Weapons violations, 32 out of 37. And this is the important findings on the bottom, and I quote: "The most significant aspect of this chart is the verified fact that these 866 individuals as of March 1987, had been arrested for committing 1,992 criminal offenses." Two and a half offenses per person and these are the persons that have been released in the first quarter of this year.

Mr. DYMALLY. Would the gentleman yield?

Mr. PARRIS. I would be glad to yield, Mr. Chairman.

Mr. DYMALLY. Is it not true that these prisoners belong to a separate program not covered by the Emergency Act?

Mr. PARRIS. Yes. These are all of the prisoners that are dealt with in any kind of release program. My point, Mr. Chairman, and your point is well taken but my point remains I think pertinent and appropriate, that 90 percent—90 percent of these people who are in the system, this is the definition of the average person that is incarcerated, 90 percent has two or more felony convictions and 60 percent test active for drugs. We cannot escape that fact. You have to deal with the facts. These are not persons, Mr. Williams, with all due respect, who have failed to have gainful employment,

who have not reported. That is not the people we are talking about. I think this committee in this investigation has an obligation to deal with the facts.

Now let me just ask several brief questions, and I will try to be judicious about it, Mr. Chairman. My first question is to Ms. Mack.

It has been said that the Emergency Powers Act was necessary because all other options had been eliminated, exhausted, et cetera. Would you explain for us, Ms. Mack, why the parole board has been so reluctant to use D.C. Code, section 24–201(c), which does make provision for court reduction of prison sentences? Why don't we do it through the normal parole system if we are going to reduce the prison population with some discretionary release on a case-by-case basis?

Ms. MACK. We certainly have been interviewing quite a number of inmates under that statute this year. As a matter of fact, so far this year we have interviewed about 25 candidates that have been referred to us by the corrections department. That statute allows the board of parole to recommend to the court or to petition the court for reduction of the minimum sentence. I would note that of the people that we have recommended to the court this year, we have had about 50 percent of those people who have not been granted release by the court and another 60 percent have.

The rate at which we have been interviewing people this year is far greater than we have done in previous years.

Mr. DOWNS. Mr. Chairman, I am sorry. For just a second, if I could, I want to emphasize that Mr. Parris raised a very important point. I don't want to let it go by. I thought there was going to be a followup question, my apology, but he raises an issue that I think needs to be properly addressed. The issue of first and second offense.

The Federal prosecutor appointed by the President of the United States and confirmed by the United States Senate prosecutes those cases. Those cases are heard and decided by judges appointed by the President of the United States and confirmed by the U.S. Senate. Those sentencing decisions on first offense, second offense, third offense are made, in effect, by the Federal Government, and if there are questions about that process they ought to be properly addressed to the Government that is making those decisions.

Second, the problem with pretrial release, bond release, are made by the courts and the prosecutor. The same prosecutor appointed by the same President and the same judges appointed by the same President and confirmed by the same body. Those decisions are——

Mr. PARRIS. Mr. Downs? Would you get to your point, please, Mr. Downs? This is my time.

Mr. DOWNS [continuing]. Made by the National Government, not the District of Columbia. We cannot be held accountable for them. Of the 1,600 people talked about in that report, 16 belong to the department of corrections. The remainder of the pretrial release, bond release, are individuals who are the custody and the property of the courts and the prosecutor of the District of Columbia, the National Government.

Mr. PARRIS. Mr. Chairman, I would hope that—we are not talking about pretrial releases. We are not talking about those kinds of programs here at all, and I would, Mr. Chairman, that——

Mr. DOWNS. That was just the statistic you used.

Mr. PARRIS. I would hope, Mr. Chairman, that the time consumed by the gentleman would not be taken out of my time.

Mr. DYMALLY. Not at all.

Mr. PARRIS. Let me go back to where I was, Ms. Mack. On page 12 of his testimony, Mr. Downs says that a special parole process for misdemeanants, and so forth, referred to the parole board before their scheduled short-term release dates. This process has reduced population by 40. Now the Emergency Release Acts by themselves have released, or will by the end of this month, released almost 900. My point is why not discretionary parole jurisdiction? That is what that is all about, isn't it?

Ms. MACK. Mr. Parris, let me explain the activity of the parole board under the Emergency Powers Act. We had about 643 inmates identified to us by the corrections department as persons who would be eligible for release under Emergency Powers Act. The amount of time involved in the reductions of those sentences was from 1 day to 90 days. In those instances, in nearly all of those instances the board of parole had a face-to-face interview with each person in order to help us to make the decision about release.

We have made a decision in approximately 500 of the cases that have been referred to us. We approved for release, we approved 334 cases for release, we denied 132 cases, and 62 are still pending. I would point out that the approval rate for these cases is about 70 percent, the denial rate about 30 percent. It is somewhat higher than the normal parole rate but that is because of the nature of the offenses involved.

Mr. PARRIS. The numbers you have just given us now is this strictly on the early release program?

Ms. MACK. These are people who have been referred to us under the early release program.

Mr. PARRIS. Well, you heard Mr. Downs' testimony, what is this program that he referred to on page 12 in which you have released 40 persons? Is that a different program?

Ms. MACK. Those 40 people are included in the more than 500 people that I talked about. But let me indicate that those people were sentenced for misdemeanors and they are people that we indicated could be released after a paper review. We did not require a face-to-face interview with those people. The reason Mr. Downs mentioned that is that this is a new program that helps us expedite the process of parole release.

Mr. PARRIS. Do you anticipate in future that you might deal in that way with additional numbers of inmates? I mean, 40 is not very many out of 900.

Ms. MACK. Well, we will deal with those that come before the board who look as if they might be potential, good potential candidates for that. I would point out that this program is limited to misdemeanants, but also the board of parole only can see people once they reach their statutory eligibility date. So we review everyone who becomes eligible who comes before us.

Mr. PARRIS. And these are, in part, the ones that you refer to the court for consideration?

Ms. MACK. No. Now that is a different category altogether. Let me mention again, these people that we refer to the court, since the creation of the parole board we have had this authority to petition to the court for a reduction in minimum sentence those prisoners that we believe have been rehabilitated. The board of parole has to explain to the court the manner in which they believe these people have been rehabilitated and we have to witness that we believe these people are not a danger to the community.

Anyone who is petitioned under that statute is considered to be an extraordinary prisoner. This is not someone who would normally serve their minimum time, reach their eligibility date and just come before the parole board. So one of the reasons this statute has not been used for hundreds of cases is simply that in the judgment of the corrections department and the parole board we have not identified overwhelming numbers that we can testify have been rehabilitated and would not be a danger to the community.

Mr. PARRIS. I thank you, Ms. Mack.

My time has expired, Mr. Chairman. I wonder if you would indulge me with just one other short question.

I would like to ask, Mr. Downs, is it your interpretation of section 5 of the act that the city would be able to house additional inmates above the current population caps and still remain in technical of the various court-ordered caps based on rated design capacity if you redefine the rated design capacity as provided in section 5(b) taking out these modular units and things of that kind? Is that the purpose of that section? Why was it included in the act?

Mr. DYMALLY. Does the counsel wish to respond to that question?

Mr. DOWNS. Well, the counsel was reminding me that there were two issues. One is that the council had clearly indicated that they were not interested in prisoners being permanently housed in those types of units and that it was an issue of how you computed the 95 square feet and whether those types of facilities were included in the 95-square-foot figure in terms of capacity.

Mr. COOKE. The point I was making, Mr. Parris, is that the legislation refers this way because the council wanted to make it clear that it was not their intent that inmates be housed in those type of facilities on any kind of permanent basis. But in point of fact, in the court orders when the court computes what they believe to be the proper population cap at any facility, they include wherever prisoners are, whether or not that facility may have been originally designed to house prisoners or not. So in terms of complying with the court order it is a function of where they actually are. In terms of complying with the statute, the council is expressing its intention that we not house prisoners in facilities that were not built for housing people.

In other words, it is not a way of escaping the cap. It is a prohibition. The intent from the council was clearly the prohibition of using trailers, modular units or bed space not designed for prison housing to compute capacity under the 95-square-foot-per-prisoner formula.

I am sure Mrs. Rolark, though, who was the drafter of that piece of legislation, will be glad to——

Mr. PARRIS. Well, the section states, Mr. Downs, that rated design capacity may not include trailers or modular units or bed space not designed for prison housing, and that is a self-serving statement and nobody can really quarrel with it. The fact is that modular units and bed space not designed for prison housing is in fact being used and it does in fact impact on rated design capacity. And for some reason, or there has got to be, presumably, some reason to include it in the legislation, and apparently we will have to find that in a different way.

Mr. Chairman, I thank you very much for your indulgence.

Mr. DYMALLY. Mr. Downs, I just have one final question before we leave.

In your opinion, does the Prison Emergency Powers Act affect the Federal Government, and does it in any way obstruct the Federal interest?

Mr. DOWNS. No. To the contrary, Mr. Chairman, as I said earlier, I think it enhances the Federal interest by assuring over time potentially a lower recidivist rate. If there was a Federal interest, it could have been addressed more easily through the responsibilities of the Attorney General of the United States rather than in denying this type of relief or, alternatively, in terms of denial, having this kind of relief imposed by a Federal court.

Mr. DYMALLY. Well, thank you very much. Have you ever thought about just giving the prison system back to the Federal Government?

Mr. DOWNS. We suggested that at one point and everybody said, "Not on your life."

Mr. DYMALLY. Why don't you make a swap? They give you the judicial system and you give them the——

Mr. DOWNS. We don't even need anything in return.

Mr. DYMALLY. Thank you very much.

Mr. DOWNS. Thank you, Mr. Chairman.

Mr. DYMALLY. Mrs. Rolark. Welcome again.

Mrs. Rolark, would your colleagues be good enough to identify themselves for the record?

Mrs. ROLARK. Yes, I will. If you want I can identify them.

Mr. DYMALLY. Thank you very much. Yes.

Mrs. ROLARK. Thank you, Mr. Chairman and members of the subcommittee. Accompanying me, on my right, is Councilmember John Ray, a member of the committee on the judiciary and the author of the Prison Overcrowding Emergency Act, and who will be sitting with me and helping me in responding to some of these questions. And of course, to my immediate left are staff members Mike Battle, who is the staff attorney and budget analyst for the committee on the judiciary, and Kimi Morton, who is staff director of the committee on the judiciary.

Mr. DYMALLY. Proceed, Mrs. Rolark.

STATEMENT OF HON. WILHELMINA ROLARK, CHAIRPERSON, JUDICIARY COMMITTEE, COUNCIL OF THE DISTRICT OF COLUMBIA

Mrs. ROLARK. First of all, I want to thank you for the opportunity to speak to you on this most important subject. I come here

today to voice strong opposition to H.R. 2850, which would repeal D.C. Act 7-40, the Prison Overcrowding Emergency Powers Emergency Act of 1987, and House Joint Resolution 341, which would disapprove D.C. Act 7-56, the Prison Overcrowding Emergency Powers Act of 1987.

Let me state at the outset that the council, in enacting both the emergency and the permanent prison overcrowding emergency legislation, did not expect to solve the District's prison overcrowding crisis. It was clear from the beginning that this legislation could not begin to solve that crisis. The D.C. acts, that is, 7-40 and 7-56, were passed in anticipation of a population cap being imposed on the three Occoquan facilities, a cap which would have required the release of large numbers of prisoners regardless of council action on this legislation. The Emergency Powers Act provides an orderly mechanism for the release of those prisoners.

The District, like many States, is currently faced with a prison overcrowding crisis. Between 1980 and 1986, the Nation's prison population increased by 217,000 inmates, which represents an increase of 66 percent. In that same period of time, the number of prisoners in District facilities increased by 2,800, an increase of 73 percent. The number of District prisoners being held in Federal prisons increased by 1,400, or more than 150 percent. In 1987, more than 1,100 additional prisoners have been incarcerated in District institutions. In total, the District incarcerates in excess of 10,000 persons in District and Federal facilities, an overall incarceration rate greater than 1,600 inmates per 100,000 residents. The national incarceration rate, including Federal and State prisoners, is 216 inmates per 100,000 residents.

Indeed, the District has the third highest rate of incarceration in the world. Only the Soviet Union and South Africa, both of whom incarcerate large numbers of persons for political reasons, have higher rates of incarceration. As an additional example, if New York City were to incarcerate persons at the same rate as we do in the District, New York City would have over 120,000 inmates. In 1986, the entire State of New York reported 38,449 inmates.

Recently, the District has received increased pressure from the Federal courts to limit the numbers of persons held at individual facilities. Between 1983 and 1986, the Federal courts imposed population caps on four of the District's correctional institutions.

Overcrowding is inhumane and constitutionally impermissible. The House Joint Resolution 341, if enacted, would put the District in the position of either contemptuously disobeying Federal court orders or releasing wholesale onto our city streets large numbers of prisoners. Neither option is sound, in my opinion.

The District has acted responsibly in the face of this emergency by adding over 2,200 new beds to our system during the eighties at a significant cost to our taxpayers. This has been done through increasing capacity at existing institutions and through the opening of four new facilities—Occoquan I in 1982, Occoquan II in 1983, new minimum security facility in 1985, and the modular facility in 1986. We will soon begin construction of a fifth new facility, the new 800-bed correctional treatment facility on the grounds of D.C. General Hospital.

In addition to increasing its capacity to hold inmates, the District has increased halfway house capacity, work release programs, and instituted intensive probation and intensive parole programs.

In response to a recommendation of Kathryn Monaco, compliance consultant for the D.C. Department of Corrections and Judge John D. Fauntleroy, Sr., then the special assistant to the Mayor for corrections, the council revised the District's good time credit laws with passage of D.C. Law 6-218, introduced by me, the District of Columbia Good Times Credit Act of 1986. This bill amended prior law by requiring the application of good time credits to an inmate's minimum prison term to advance his or her parole eligibility date. This provided a substantial incentive for inmates to enroll in rehabilitative programs, refrain from disruptive conduct while incarcerated, and brought District law into conformity with the majority of the States that apply good time credits to advance parole eligibility as an incentive for good behavior.

Despite all of these actions, the District's prison population has remained at a crisis level. The D.C. Department of Corrections has been innovative in using all available means to humanely house all persons sentenced to incarceration, while at the same time meeting the requirements of several court-imposed caps which limit the population of four of our correctional facilities. However, in June of this year the department faced a prospect it simply was unable to meet, the imposition of a population cap on the three Occoquan facilities.

In December 1986, Judge June Green of the U.S. District Court indicated that she would place a cap on the Occoquan facilities and ordered the District to reduce the population to 1,281. While implementation of that order was stayed until July of this year, the population of the Occoquan facilities steadily increased. On June 16, 1987, there were 1,957 persons incarcerated at the three Occoquan facilities, which amounted to 676 over the cap. It was clear that if the Occoquan cap were imposed, it could necessitate the uncontrolled release of large numbers of inmates with or without action by the council.

The population of the Occoquan facilities runs the full gauntlet of persons convicted in the District of Columbia, from murderers to misdemeanants. To ensure the safety of our community it was necessary that the District have in place a procedure for determining which persons were to be released and the manner in which they would be released.

Thus, on June 16, 1987, the council passed on an emergency basis Emergency D.C. Act 7-40, the Prison Overcrowding Emergency Powers Emergency Act of 1987, and on July 14 the council gave final approval to D.C. Act 7-56, permanent legislation identical to the emergency legislation which we had passed.

Under certain clearly defined circumstances and upon the declaration by the Mayor of a prison overcrowding emergency, the Prison Overcrowding Emergency Powers Act of 1987 will allow the Mayor to reduce the minimum and maximum sentences of certain offenders. This action, in most cases, will increase the number of persons eligible for early parole in order to reduce the population of the District's correctional facilities to 95 percent of the rated design capacity.

In passing this legislation, the council sought to ensure that only the least dangerous persons would be released under the Emergency Powers Act. Thus, this act specifically excludes persons sentenced under the mandatory minimum sentences initiative, persons serving a life sentence, and persons serving a sentence for committing a violent felony including homicide, rape, sex offenses other than rape, assault with intent to commit robbery, extortion, kidnapping, assault with a dangerous weapon or armed robbery.

As you can see, persons convicted of violent crimes are excluded from the act. Additionally, as most drug distribution offenses are sentenced under the mandatory minimum sentences initiative, these persons are also excluded from coverage by the act. What remains are basically nonviolent offenders.

D.C. Act 7-56 also excludes any inmate whose remaining minimum or maximum sentence is greater than 180 days. Thus, only persons who are within 6 months of parole eligibility or mandatory release could receive early release under this act. If an inmate's remaining sentence is greater than 180 days, he receives no reduction in his sentence.

Under the act, two different procedures are used to reduce the prison population. The first procedure involves reduction in the maximum sentences of 90 days or 10 percent, whichever is less. This procedure would accelerate the mandatory release date by which, under D.C. law, a prisoner must be released. It should be remembered that these persons have already served the majority of their maximum sentences. They are nonviolent offenders who would be released within 90 days in any event.

Under the second procedure minimum sentences would be reduced by 90 days, thereby accelerating parole eligibility by 3 months of a different group of prisoners—those who are eligible for review by the District of Columbia Board of Parole. In the case of minimum sentence reduction, two steps are required. First, a procedure to determine who is eligible for release; and second, a hearing to determine who shall be released. The board of parole would examine each case on an individual basis and then determine whether a prisoner should be released.

The District is not unique in using emergency release as a method of managing its population crisis. The act, D.C. Act 7-56, was patterned after the much publicized and touted Michigan statute. In addition, at least six other States have emergency release statues, which include Arizona, Arkansas, Connecticut, Florida, Georgia, and South Carolina.

It is my view that this legislation represents a responsible approach to our continuing efforts to address and manage the prison overcrowding crisis.

A second and more important reason to oppose the House Joint Resolution 341 is that it is an unnecessary intrusion into the home rule rights delegated to the District under the District of Columbia Self-Government and Governmental Reorganization Act, which is our Home Rule Act.

The House Committee on the District of Columbia has traditionally used three criteria to determine whether a basis exists to veto legislation passed by the District of Columbia City Council. These are one, whether the legislation exceeds the authority delegated to

the District under the Home Rule Act, two, whether the legislation violates the United States Constitution, and three, whether the legislation interferes in a Federal issue or obstructs a Federal interest. Clearly, this act, D.C. Act 7-56, violates none of these criteria.

Additionally, I believe that nowhere in our entire system of government is the adverse effect of our limited home rule authority more dramatically demonstrated than in the area of criminal justice. The present prison overcrowding problem is a clear example. I advocate that the real solution to many of the District's criminal justice problems will be the complete delegation of authority for these matters to the District of Columbia. It is Congress that continues to deny the District full home role authority and it is Congress that seeks to hold us accountable for all of the shortcomings created by this bifurcated criminal justice system. We must consolidate the criminal justice authority if we are to resolve the current crisis which faces us.

In closing, the Prison Overcrowding Emergency Powers Act has so far proven successful. The Mayor declared a prison overcrowding emergency on July 3, 1987. As of September 1, 1987, the D.C. Department of Corrections has shown a net decrease of 137 inmates in its total population. This is a significant change from the net increase of 150 to 200 inmates per month the department was showing during the first 6 months of this year.

On a final note, as expected, Judge June Green imposed a cap on the Occoquan facilities, July 30, 1987. In doing so, she elected not to order the immediate release of prisoners into the community. She also prohibited the Department of Justice from sending new prisoners to the Lorton facilities. I believe that passage of the Prison Overcrowding Emergency Powers Act was a major influence on her decision and reflects her recognition of the gravity of the problem facing the District and the Federal Government's statutory duty to work cooperatively with us as we work out viable solutions. Comity and home rule considerations aside, I urge this subcommittee to disapprove H.R. 2850 and House Joint Resolution 341 in the interest of overall fairness to the District.

I will now defer to my fellow colleague, Mr. Ray, and ask if he wishes to add to this statement.

Mr. DYMALLY. Mr. Ray?

Mr. RAY. No, thank you, Mr. Chairman. I join Mrs. Rolark in her statement.

Mr. DYMALLY. Thank you very much.

Mrs. ROLARK. We both stand ready to respond to questions.

[The prepared statement of Mrs. Rolark follows:]

THE PREPARED STATEMENT OF COUNCIL MEMBER WILHELMINA J. ROLARK

Good morning, Mr. Chairman and members of the subcommittee, I am Councilmember Wilhelmina J. Rolark, chairperson, of the Council's Committee on the Judiciary. Thank you for the opportunity to speak to you on this most important subject. I come here today to voice strong opposition to H.R. 2850 which would repeal D.C. Act 7-40, the "Prison Overcrowding Emergency Powers Emergency Act of 1987" and House Joint Resolution 341, which would disapprove D.C. Act 7-56, the "Prison Overcrowding Emergency Powers Act of 1987".

Let me state clearly at the outset that the council, in enacting both the emergency and the permanent prison overcrowding emergency legislation did not expect to solve the District's prison overcrowding crisis. It was clear from the beginning that

this legislation could not begin to solve that crisis. D.C. Acts 7-40 and 7-56 were passed in anticipation of a population cap being imposed on the three Occoquan Facilities, a cap which would have required the release of large numbers of prisoners, regardless of council action on this legislation. The Emergency Powers Act provides an orderly mechanism for the release of those prisoners.

The District, like many States, is currently faced with a prison overcrowding crisis. Between 1980 and 1986, the Nation's prison population increased by 217,000 inmates, an increase of 66 percent. In that same period of time, the number of prisoners in District facilities increased by 2,800, an increase of 73 percent. The number of District prisoners being held in Federal Prisons increased by 1,400 or more than 150 percent. In 1987, more than 1,100 additional prisoners have been incarcerated in District institutions. In total, the District incarcerates in excess of 10,000 persons in District and Federal facilities, an overall incarceration rate greater than 1,600 inmates per 100,000 residents. The national incarceration rate, including Federal and State prisoners, is 216 inmates per 100,000 residents.

Indeed, the District has the third highest rate of incarceration in the world. Only the Soviet Union and South Africa, both of whom incarcerate large numbers of persons for political reasons, have higher rates of incarceration. As an additional example, if New York City were to incarcerate persons at the same rate as the District, New York City would have over 120,000 inmates. In 1986, the entire State of New York reported 38,449 inmates.

Recently, the District has received increased pressure from the Federal courts to limit the numbers of persons held at individual facilities. Between 1983 and 1986, the Federal courts imposed population caps on four of the District's correctional institutions.

Overcrowding is inhumane and constitutionally impermissible. House Joint Resolution 341, if enacted, would put the District in the position of either contemptuously disobeying Federal court orders or releasing wholesale onto city streets large numbers of prisoners. Neither option is sound.

The District has acted responsibly in the face of this emergency by adding over 2,200 new beds to our system during the 80's at a significant cost to our taxpayers. This has been done through increasing capacity at existing institutions and through the opening of 4 new facilities: Occoquan I (1982), Occoquan II (1983), new minimum security facility (1985), and the modular facility (1986). We will soon begin construction of a fifth new facility, the new 800-bed correctional treatment facility on the grounds of D.C. General Hospital.

In addition to increasing its capacity to hold inmates, the District has increased halfway house capacity, work release programs and instituted intensive probation and intensive parole programs.

In response to a recommendation of Kathryn Monaco, compliance consultant for the Department of Corrections, and Judge John D. Fauntleroy, Sr., then the special assistant to the Mayor for corrections, the Council revised the District's good time credit laws with passage of D.C. Law 6-218, the "District of Columbia Good Times Credit Act of 1986". This bill amended prior law by requiring the application of good time credits to an inmate's minimum prison term to advance his or her parole eligibility date. This provided a substantial incentive for inmates to enroll in rehabilitative programs, refrain from disruptive conduct while incarcerated, and brought District law into conformity with the majority of the States that apply good time credits to advance parole eligibility as an incentive for good behavior.

Despite all these actions, the District's prison population has remained at a crisis level. The Department of Corrections has been innovative in using all available means to humanely house all persons sentenced to incarceration while at the same time meeting the requirements of several court-imposed caps limiting the population of 4 of our correctional facilities. However, in June of this year the department faced a prospect it simply was unable to meet, the imposition of a population cap on the 3 Occoquan facilities.

In December, 1986, Judge June Green of the U.S. District Court indicated that she would place a cap on the Occoquan facilities and ordered the District to reduce the population to 1,281. While implementation of that order was stayed until July 1, 1987, the population of the Occoquan facilities steadily increased. On June 16, 1987, there were 1,957 persons incarcerated at the 3 Occoquan facilities, 676 over the cap. It was clear that if the Occoquan cap was imposed, it could necessitate the uncontrolled release of large numbers of inmates, with or without Council action.

The population of the Occoquan facilities runs the full gauntlet of persons convicted in the District of Columbia, from murderers to misdemeanants. To ensure the safety of our community it was necessary that the District have in place a proce-

dure for determining which persons were to be released and the manner in which they would be released.

Thus, on June 16, 1987, the Council passed as an emergency D.C. Act 7-40, the "Prison Overcrowding Emergency Powers Emergency Act of 1987". On July 14, 1987, the Council gave final approval to D.C. Act 7-56, permanent legislation identical to the emergency legislation.

Under certain clearly defined circumstances, and upon the declaration by the Mayor of a prison overcrowding emergency, the "Prison Overcrowding Emergency Powers Act of 1987" will allow the Mayor to reduce the minimum and maximum sentences of certain offenders. This action, in most cases, will increase the number of persons eligible for early parole in order to reduce the population of the District's correctional facilities to 95 percent of the rated design capacity.

In passing this legislation, the Council sought to ensure that only the least dangerous persons would be released under the Emergency Powers Act. Thus, this act specifically excludes persons sentenced under the mandatory minimum sentences initiative, persons serving a life sentence and persons serving a sentence for committing a violent felony including homicide, rape, sex offenses other than rape, assault with intent to commit robbery, extortion, kidnapping, assault with a dangerous weapon or armed robbery.

As you can see, persons convicted of violent crimes are excluded from the act. Additionally, as most drug distribution offenses are sentenced under the mandatory minimum sentences initiative, these persons are also excluded from coverage by the act. What remains are basically non-violent offenders.

D.C. Act 7-56 also excludes any inmate whose remaining minimum or maximum sentence is greater than 180 days. Thus, only persons who are within 6 months of parole eligibility or mandatory release could receive early release under the act. If an inmate's remaining sentence is greater than 180 days, he receives no reduction in sentence.

Under the act, two different procedures are used to reduce prison population. The first, procedure involves reduction in the maximum sentences of 90 days or 10 percent, whichever is less. This procedure would accelerate the mandatory release date by which under D.C. law, a prisoner must be released. It should be remembered that these persons have already served the majority of their maximum sentences. They are non-violent offenders who would be released within 90 days in any event.

Under the second procedure minimum sentences would be reduced by 90 days, thereby accelerating parole eligibility by 3 months of a different group of prisoners—those who are eligible for review by the District of Columbia Board of Parole. In the case of minimum sentence reduction two steps are required. First, a procedure to determine who is eligible for release and second, a hearing to determine who shall be released. The Board of Parole would examine each case on an individual basis and then determine whether a prisoner should be released.

The District is not unique in using emergency release as a method of managing its population crisis. D.C. Act 7-56 was patterned after the much publicized Michigan statute. In addition, at least 6 other States have emergency release statutes including Arizona, Arkansas, Connecticut, Flordia, Georgia, and South Carolina.

It is my view that this legislation represents a responsible approach to our continuing efforts to address the prison overcrowding crisis.

A second and more important reason to oppose House Joint Resolution 341 is that it is an unnecessary intrusion into the home rule rights delegated to the District under the District of Columbia Self-Government and Governmental Reorganization Act (Home Rule Act).

The House Committee on the District of Columbia has traditionally used three criteria to determine whether a basis exists to veto legislation passed by the District of Columbia Council. They are (1) whether the legislation exceeds the authority delegated to the District under the Home Rule Act; (2) whether the legislation violates the United States Constitution; and (3) whether the legislation interferes in a Federal issue or obstructs a Federal interest. Clearly DC Act 7-56 violates none of these criteria.

Additionally, I believe that nowhere in our entire system of government is the adverse effect of our limited Home Rule Authority more dramatically demonstrated than in the area of criminal justice. The present prison overcrowding problem is a clear example. I advocate that the solution to many of the District's criminal justice problems would be the complete delegation of authority for these matters to the District of Columbia. It is Congress that continues to deny the District full home rule authority and it is Congress that seeks to hold us accountable for all the shortcomings created by this bifurcated criminal justice system. We must consolidate criminal justice authority if we are to resolve the current crisis facing us.

In closing, the Prison Overcrowding Emergency Powers Act has so far proven successful. The mayor declared a prison overcrowding emergency on July 3, 1987. As of September 1, 1987, the Department of Corrections has shown a net decrease of 137 inmates in its total population. This is a significant change from the net increase of 150-200 inmates per month the department was showing during the first 6 months of the year.

On a final note, as expected, Judge Green imposed the cap on the Occoquan facilities on July 30, 1987. In doing so, she elected not to order the immediate release of prisoners into the community. She also prohibited the Department of Justice from sending new prisoners to the Lorton facilities. I believe that passage of the Prison Overcrowding Emergency Powers Act was a major influence on her decision and reflects her recognition of the gravity of the problem facing the District and the Federal Government's statutory duty to work cooperatively with us as we work out viable solutions. Comity and home rule considerations aside, I urge this subcommittee to disapprove H.R. 2850 and House Joint Resolution 341 in the interest of overall fairness to the District.

Mr. DYMALLY. Mrs. Martin.

Mrs. MARTIN. I will defer to the expertise of the other panel members.

Mr. DYMALLY. Very well, indeed.

Mr. Fauntroy.

Mr. FAUNTROY. Thank you, Mr. Chairman. I simply want to express my sincere appreciation to Councilmember Rolark and Councilman Ray for their testimony here today. Again you like Mr. Downs have done the committee the great service of presenting us with a number of detailed facts which tend to comfort us—comfort at least this citizen who had for some reason had the feeling that the Emergency Powers Emergency Act was releasing dangerous people back into the community.

I am particularly comforted by your stating for the record that persons who have been engaged in the distribution of drugs obviously do not qualify for this emergency program for the reason that we have a mandatory minimum sentence with respect to that offense. Therefore the citizens whom I represent, the members of my church and my family need not worry that persons who are selling drugs to our young people will be facilitated in getting back on the streets by this, because all of us are concerned about our children. It is a very sensitive and emotional issue, and if you have done nothing else, for me at least you have disabused me of that awful image that was projected on the screen of my mind earlier this morning.

Thank you.

Mrs. ROLARK. Thank you.

Mr. DYMALLY. Mr. Bliley.

Mr. BLILEY. No questions.

Mr. DYMALLY. Mr. Parris.

Mr. PARRIS. Thank you, Mr. Chairman. Let me just for the record, Mr. Chairman, call your attention to title VI, "Reservation of Congressional Authority," section 601 of the Home Rule Charter Act, adopted on December 25, 1973, Public Law 93-198. It is the charter of the District of Columbia under the Home Rule Act.

Mrs. ROLARK. Yes, sir.

Mr. PARRIS. I was a Member of the Congress at that time. This provision was in the original act, it is not an amendment. It was debated at length. It was voted to include it within the legislation

which is now the subject of the charter of the District of Columbia, and what it says is the following:

"Notwithstanding any other provision of this act, the Congress of the United States reserves the right at any time to exercise its constitutional authority as legislature for the District by enacting legislation for the District on any subject, whether within or without the scope of legislative power granted to the council by this act, including legislation to amend or repeal any law in force in the District prior to or after enactment of this act and any act passed by the council."

Now that is an absolute, unequivocal reservation of oversight authority in the Constitution of the United States. What this Congress agreed to do in 1973 was to delegate the authority, not to abdicate its responsibility, and there is a giant difference between those two positions.

That is why, Mr. Chairman, as I have indicated earlier in this discussion this morning, I totally reject the concept of the criteria that have traditionally been applied by this committee in terms of its oversight function, and I continue to do so.

Now let me just very quickly--Mrs. Rolark, would you help us with section 5 on the definition of the design rated capacity, or the rated design capacity, and the elimination of the trailers and modular units and facilities not designed for prison housing, and so forth? Is that a kind of a euphemistic statement that we don't want to use these facilities in calculating rated design, or was it designed to change the formula so that rated design capacity would be in some way enhanced as a result of the court order?

Mrs. ROLARK. You see—I almost called you Judge Parris at that point. Congressman Parris——

Mr. PARRIS. Thank you.

Mrs. ROLARK [continuing]. That is part of our problem. We think and try to do one thing, but because of the bifurcation of our system, over which we have no control because of the limited home rule that we are under, we say and think and pass one thing but the judge, over whom we have no control——

Mr. PARRIS. Well, wait a minute. Wait a minute, Mrs. Rolark. We all operate under that bifurcated system.

Mrs. ROLARK. Yes.

Mr. PARRIS. This is not the executive branch. This is the legislative branch. That is the judiciary branch.

Mrs. ROLARK. Yes. Oh, I understand that, sir.

Mr. PARRIS. We all have to deal with judges. OK?

Mrs. ROLARK. Yes.

Mr. PARRIS. That is not the Congress' fault. Maybe 200 years ago we should have talked with Washington or Madison or George Mason or somebody about that, but that has been the way it is. Now that is not bifurcated. It is called "our system."

Now Judge Green is not a part of this Congress. Judge Green is appointed by the President, as Mr. Downs so generously pointed out to us.

Mrs. ROLARK. With the confirmation of the Senate.

Mr. PARRIS. The point I am trying to make is that is not our problem. It is all of our problem.

Mrs. ROLARK. Well, in an attempt to answer——

Mr. PARRIS. And while we are on that point, let me ask you one other question. I apologize for interrupting your answer.

Mrs. ROLARK. To answer your question, we meant exactly as it is stated in the legislation, as you, yourself, have indicated. But the interpretation of it is a judicial thing. Whether or not the rated design capacity can include the inclusion of these facilities would be a matter of judicial interpretation.

Mr. PARRIS. And was it your intent or—if you would favor me with your interpretation of the consensus, and perhaps Mr. Ray——

Mrs. ROLARK. That they would not.

Mr. PARRIS. Would not include——

Mrs. ROLARK. That is right.

Mr. PARRIS [continuing]. These kinds of facilities——

Mrs. ROLARK. Types of facilities.

Mr. PARRIS [continuing]. In meeting the court-imposed rated design capacity criteria. Is that correct?

Mrs. ROLARK. Now that I can't—you see, there is where we get to the border. There is where the difference is.

Mr. PARRIS. Well, that is why I am asking the question.

Mrs. ROLARK. When we do the legislation, we do the legislation as we see the construct of these facilities and as we look at the humane aspects of it, and so on, and that is why we place this in there. What the court does is as the court sees in order, I guess, to facilitate whatever it wants to do with relationship to the prison overcrowding.

Mr. Ray may have a different point of view.

Mr. PARRIS. Mr. Ray.

Mr. RAY. Mr. Parris, when we are looking at facilities, the council does not want trailers and other types of facilities to be permanent institutions for housing inmates.

Mr. PARRIS. Because of humanitarian considerations and all—OK.

Mr. RAY. We want inmates to be treated in a humane way.

Mr. PARRIS. Nobody quarrels with that.

Mr. RAY. The court has decided that so long as a person is incarcerated, they are incarcerated, and these facilities will be used for the cap. So what we have on one hand is the court stating its method, you know, for formulating the cap versus the council's policy for how we ought to house people who are incarcerated.

Mr. PARRIS. Well, that brings me to the bottom line, Mr. Ray, which is that in my opinion section 5, at least, of this act was designed—calculated to avoid the court-imposed cap by eliminating modular home facilities not designed for prison housing.

Mrs. ROLARK. No.

Mr. PARRIS. Because there are in fact prisoners now being housed in those kinds of facilities.

Mr. RAY. Well, Congressman, let me——

Mr. PARRIS. Is that not true? Why is that not true?

Mr. RAY. Well, let me beg to differ with you. It wasn't calculated to do that. I certainly would hope at sometime as we move forward that we will have facilities and we will not have to house inmates in trailers. As you well know, we are building a new facility. I suspect, Congressman, that facility will be filled the day that it opens.

Mr. PARRIS. It is over capacity right now.

Mr. RAY. But hopefully, as we move forward and come up with ideas to deal with crime and provide people with jobs and opportunities in this country, that we will reach a point in time where we can house people in a humane way, and notwithstanding the fact that Judge Green—perhaps other judges will decide that they are going to use trailers and toilets and wherever they can put a prisoner to calculate caps. I will continue to disagree and to say that as an elected body of this city and this country we ought to take the position that inmates ought to be housed in a humane way, and that is what the council tried to say.

Mr. PARRIS. Well, I don't think anybody would quarrel with that observation, Mr. Ray.

Yes, Mrs. Rolark.

Mrs. ROLARK. Congressman, of course, I agree with him. We were on target with that.

At an appropriate time, may I respond to your response to what I said about the three criteria?

Mr. PARRIS. Of course. Please do.

Mrs. ROLARK. Are you ready for that now?

Mr. PARRIS. Yes, please.

Mrs. ROLARK. I gained my information, and used it in our statement, from a letter and I want to quote to you from that letter. It was written by Ron Dellums, chairman of the House District Committee, to Mr. Bolton, Assistant Attorney General, who had asked him some questions regarding the Good Times Credit Act. In the contents of the letter he said, and I quote from his last paragraph. The date of the letter is April 7, 1987, and I will get you a copy of this, unless you already have one. I think he sent a copy—no, these were all to us. Stewart McKinney has a copy of this. He has since passed. He is not here anymore.

Since passage of the Home Rule Act the House Committee on the District of Columbia has historically applied three criteria.

Mr. PARRIS. Let me, Mrs. Rolark, if I might.

Mrs. ROLARK. Yes. That is all right.

Mr. PARRIS. I appreciate that.

Mrs. ROLARK. You do?

Mr. PARRIS. I know the statement. I know the chairman makes that statement.

Mrs. ROLARK. You are familiar with this. OK.

Mr. PARRIS. He has made it several times, a number of times before this committee.

Mrs. ROLARK. All right.

Mr. PARRIS. We are all familiar with his position. I just wanted to make the point in the record for this morning's hearing I, as an equal colleague and member of this Congress and of this committee, totally reject that position as being the appropriate one and, in my opinion, is in fact contrary to the traditions and the proper position that this committee should take in interpretation of the Home Rule Act provisions as adopted by the Congress. In short, although I have the highest possible regard for the chairman of the full committee, I think he is wrong in those positions.

Mrs. ROLARK. Well, as a person who advocates democracy, I, you know, cannot disagree with you taking the position. But it to me

appears that you do occupy the minority position on the manner in which you all have looked at our legislation.

Mr. PARRIS. I have been in the minority all my life, Mrs. Rolark, and I have said to some of my minority friends from time to time, "Tell me about it. I've been there."

Let me just, Mr. Chairman, if I might, ask one very brief question.

Mrs. Rolark, I wonder if you would explain for me what you mean by the sentence in your testimony——

Mrs. ROLARK. What page, sir?

Mr. PARRIS. Page 7. "We must consolidate criminal justice authority if we are to resolve the current crisis facing us." Consolidate it in what way? I mean, I'm not sure I know what you could do.

Mrs. ROLARK. Well, of course, in that respect I guess I am a minority when we look at the whole thing, because it hasn't been passed. We haven't been delegated the full control over our criminal justice system. You know, we have the District Attorney who is appointed by the President.

Mr. PARRIS. Of course.

Mrs. ROLARK. And we, of course, have the judges who are appointed by the President. I am saying that these all occupy such a very key role in the implementation and administration of criminal justice which leads, I believe, to a lot of the problems that we are presently enduring. Because our problem is extremely severe and very different from the problems other—you know, across the country, simply because we are not in complete control of the criminal justice system. We appoint the corporation counsel, who was here this morning. We appoint the chairman of the board of parole, who can do nothing. We appoint the director of the D.C. Department of Corrections; and that is it. We have nothing to say about Mr. DiGenova's appointment or his hiring of his staff.

That is what I mean when I say "until we can consolidate," and you know, of course, that consolidation rests on a number of things, some of which are pending right here before you all for action, and others.

Mr. PARRIS. Well, on that point, Mrs. Rolark——

Mrs. ROLARK. And the Attorney General—Mr. Ray, thank you very much—of course, has jurisdiction over all of the prisoners.

When you look at this fact, that we are just sort of out of it—you know, to use the street expression—when it comes to the criminal justice system, I think we do exceptionally well, with what control we do have.

Mr. PARRIS. What would the city council do, Mrs. Rolark, if tomorrow morning it was returned the 2,500 or thereabouts prisoners that are now housed in the Federal prison system? If those prisoners were returned to you or the authority and the responsibility for dealing with those persons were given the city council tomorrow morning, how would you deal with it?

Mrs. ROLARK. Now, you are just saying the authority over the prisons. You are not going over the whole thing now. I would like for you to say, what would we do tomorrow morning if we appointed the Attorney General, if we appointed the——

Mr. PARRIS. Let me see if I can walk us through it very quickly. There are 2,500 or thereabouts—2,400 or 2,500 prisoners now housed in the Federal penitentiary system; D.C. prisoners. If tomorrow the D.C. penitentiary facilities were impacted by 2,500 more D.C. prisoners overnight, what would you do about it?

Mrs. ROLARK. Well, I think we have a lot of land over there in Lorton that can more than accommodate; the rolling lands of Lorton, Virginia. That is what I would do if I had that authority.

Mr. PARRIS. You are going to give them loincloths and let them lay on the ground? Mrs. Rolark, you don't really mean that.

Mrs. ROLARK. Well, I tell you we have plenty of build and design capacity over there that we are prohibited right now from using. You very well know that.

Mr. PARRIS. Well, by the time we finish building the new Redskin's stadium at Lorton, that property will all be taken up.

[Laughter.]

Mrs. ROLARK. Well, I like "hailing to the Redskins" right where it is now. OK.

Mr. PARRIS. Thank you, Mr. Chairman.

Mrs. ROLARK. All right, sir. And thank you very much.

Mr. DYMALLY. Mrs. Rolark, I am intrigued by the notion of equality of minorities on this committee. It is a very intriguing notion. [Laughter.]

Thank you very much.

Mrs. ROLARK. Thank you, Mr. Dymally.

Mr. DYMALLY. Our final panel will include Mr. Hankins, Mr. Atkinson, and Ms. McGarry. The final witnesses may be working at a disadvantage because we may be called on the floor, so we will appreciate it if you would summarize your testimony.

Will the witnesses identify themselves for the record, please?

Mr. ATKINSON. My name is Richard R. Atkinson, Jr., sir.

Ms. MCGARRY. I am Peggy McGarry.

Mr. HANKINS. I am Officer Gary Hankins, chairman of the Fraternal Order of Police/Labor Committee for the District of Columbia.

Mr. DYMALLY. Mr. Atkinson, you are the leadoff batter.

STATEMENTS OF RICHARD R. ATKINSON, JR., M.S.W., FORMER COMMISSIONER, D.C. PRISON FACILITIES STUDY COMMISSION; PEGGY MCGARRY, STATE COORDINATOR, CENTER FOR EFFECTIVE PUBLIC POLICY; AND GARY HANKINS, CHAIRMAN, METROPOLITAN POLICE/LABOR COMMITTEE, FRATERNAL ORDER OF POLICE

STATEMENT OF RICHARD R. ATKINSON, JR., M.S.W.

Mr. ATKINSON. Thank you, sir. As the chairman has requested, I would hope that my testimony, which is quite brief, nevertheless could be submitted for the record.

Mr. DYMALLY. Without objection, it is so ordered.

Mr. ATKINSON. At the request of the Chair to summarize the position, I think my position can be summarized fairly succinctly. Where I depart from the witnesses who have testified before you previously is really on two I think rather crucial words. First of all, how we define "nonviolent"; and, second, the word "convicted."

What we are talking about, sir, are violent people who have been nevertheless convicted of misdemeanors; and, hence, they fall under the criteria. So legally and technically they meet this nonviolent criteria, but they are nevertheless violent people.

Now, sir, something I neglected to say in my introduction. Although I am here as a concerned citizen, I do have over 20 years' experience in the criminal justice system. I have been a social worker at Lorton, Mr. Parris. I at one time headed up the city's drug effort. I have also headed up the city's juvenile detention facilities. I have also been a probation officer with the courts. So I have a long professional experience in the criminal justice system in the city of Washington, DC.

Mr. DYMALLY. You neglected one, Mr. Atkinson; the Facilities Study Commission.

Mr. ATKINSON. Oh, yes, sir. Well, since that commission is defunct, I wasn't thinking about that. But, yes.

Mr. Parris, I am a minority also. I was on the Correctional Facilities Study Commission which, as you probably know, the majority of that commission voted not to have a prison at all. But no, I was one of the—I was an outspoken member of the minority who strongly believe that yes, we do need a prison. And to show you how much of a minority I was in, I even suggested that we put it on that vacant lot at 19th and Independence Avenue where they tore down the old jail, which, if it was up there, maybe we wouldn't have this crisis today. But we tore down a jail at 19th and Independence. If you go by that corner, sir, there is an Anchor fence around it which still says "D.C. Jail," but all you will find there are weeds.

Now getting back to the thesis that I have been trying to present to you, sir, that what we really have are violent people who, through the process of plea bargaining, are convicted of misdemeanors. But really we are dealing with violent people.

Mr. Fauntroy, how do you do, sir? Mr. Fauntroy and I go way back. In fact, we were school colleagues, sir.

I hardly think that the people that I am concerned about are the kind of people who were characterized in your earlier remarks as nonviolent people. I testified at the sentencing hearing of an individual who came to my attention—and another one of my hats, sir. I was the chairman of the Citizens Advisory Council to the D.C. Police Department in the first district. This individual—meeting after meeting the citizens would complain to the police that this citizen was selling narcotics to grade school children—Scott Montgomery Elementary, to be specific, sir.

The police indicated that they wanted to make an arrest but they had no evidence. The citizens of that community—at least a family in that community made their home available where observations could be made. The police now had evidence, or were gathering evidence. Somehow or another the dope dealers found out the citizens were cooperating with the police and the whole family, including a 12-year-old child, were threatened. Their lives were threatened. They swore out warrants for that offender. Now armed with warrants, the police were able to make an arrest.

The arresting officer must have had somebody upstairs looking out for him because the dope dealer tried to disarm the arresting

officer. The hammer of the revolver—the assailant snatched the policeman's revolver away from him. The revolver that had been snatched from the officer snagged in the officer's shirt and that is all that prevented the hammer from falling with sufficient force to discharge that cartridge. Otherwise, we would have had another dead officer on our hands.

So, nevertheless, despite all of this it gets down to the courthouse and they plea bargain it down to three misdemeanors. I testified at the sentencing of this nonviolent person, and the judge, I think—I am pleased to say I think he was impressed. But since he was only charged with three misdemeanors, all the judge could give him was three consecutive 1-year sentences, which was the maximum that he could in terms of what was before him.

Unfortunately, our corrections and parole system has this man on the street—well, placed this man on the street. But again, he was such a bad character till he, I am glad to say, has been rearrested because he wouldn't even play ball by the very liberal rules that they provided for him.

I could go on and on with anecdotes like this, sir, but I know time would not permit. Fundamentally, what they are saying about nonviolent people, I don't have any problem with that. But we are not talking about nonviolent people. We are talking about very violent people who are being called all sorts of things to put them under some kind of disguise.

The citizens—one more point, sir, at the point of seeming like I am jumping around. I was also vice chairman of an ad hoc group known as Citizens for Safe Streets, which was the group that pushed the initiative for mandatory sentencing. That group was chaired by our former police chief, Burtell Jefferson, so it wasn't some subversive group. The citizens of this city voted by nearly 75 percent that we want certain types of people off the street. But if you permit a dope dealer to plead to a misdemeanor to evade the mandatory sentencing provision, I suggest that you still have that same dangerous person on the street albeit you may be calling him something different. And that in a nutshell, sir, is really what my concern is.

I would be willing—by the way, in my written testimony I enclose some interesting statistics that I saw from the police department.

Mr. DYMALLY. It will be entered into the record without objection, sir.

Mr. ATKINSON. Thank you, sir. If I could make this one very, very brief point. I note, and Mr. Parris stole some of my thunder by mentioning about the 800-and-some people who were already in release programs who had committed 900-and-some offenses. The thrust that this tells me is that we are dealing with a relatively small number of people who are committing the most crimes in the city. If we were to put our career criminals away, and I have no problem with putting them away forever and there are provisions even already existing in the D.C. Code to do just that. I will quickly cite sections 22–104 and 22–104(a) in the D.C. Code, where we could put our career criminals away for a very long time. I think if we could have put that 800-and-some away, we would have solved 1,900 crimes right in that one fell swoop.

So, yes, there are nonviolent people in the system. But if we just find the violent people and lock them up forever, I think we will have done a tremendous service to this community.

[The prepared statement of Mr. Atkinson with attachments follows:]

The Honorable Mervyn M. Dymally
Chairman, Subcommittee on
Judiciary and Education
U.S. House of Representatives
Committee on the District of Columbia

Mr. Chairman, Members of the Subcommittee on Judiciary and Education thank you for inviting me. My name is Richard R. Atkinson, Jr. I am a Former Commissioner on the D.C. Prison Facilities Study Commission, a native of Washington, D.C. and a registered voter. In other words I am what is euphemistically described as a "Concerned Citizen". I am here to support H. J. Res. 341, a bill to disapprove the action of the District of Columbia Council in approving the "Prison Overcrowding Emergency Powers Act of 1987", District of Columbia Act 7-56 and in support of H. R. 2850, a bill to repeal the same local act.

Although I described myself as a "concerned citizen" I bring some insights to this hearing based on over twenty years of experience in the "so called" criminal justice system. I am a psychiatric social worker by training who has been a probation officer with the local courts, a social worker at Lorton Reformatory, a director of the city's drug effort and superintendent of our juvenile correctional facilities.

Proponents of D.C. Act 7-56 claim the act does not provide for the release of persons convicted of certain dangerous crimes. However, because of the practice of plea bargaining, many people arrested for serious and dangerous offenses plea bargain their serious offenses down to misdeameanors and thus will fit the criteria to be released early.

I was vice-chairman of an ad hoc group chaired by our former Police Chief, Burtell Jefferson known as "Citizens for Safe Streets". We promoted the mandatory sentencing initiative. Nearly 75% of the citizens of this city supported that initiative. The People want drug dealers and people who use guns in the commission of dangerous crimes in jail. However, the criminal justice system sends the wrong signals. Certain judges and prosecutors let the offender plead to a lessor offense thus evading mandatory sentencing or lengthier felony sentencing. The community is then further imperiled by releasing these offenders early.

In the second paragraph above, I used the expression "so called" criminal justice system. The consequences to the community are certainly "criminal" and hardly "justice". Most troublesome is the fact that the components do not properly interrelate, hence, it is not a "system". We must improve all of the components of that so called system and not concentrate only on corrections.

Plea bargaining thrives, indeed, is necessary, because there are not enough prosecutors to conduct all the trials that would be needed if everyone arrested asked for a trial. Likewise there are not enough judges and courts. Overcrowding in the court docket is thus moved along to the prisons through the process of plea bargaining. This process is a bonanza for the criminal and the defense bar which by pleading guilty to a lessor offense can result in a lessor sentence. The greatest loser in this process is the community.

Through my long association with the Citizens Advisory Council to the Metropolitan Police Department, I have obtained a copy of the Police Department "Recidivist Report for the First Quarter" (January, February and March 1987) I am enclosing a copy. I note that even prior to the District's early release plan, of the number of person's arrested 22% were rearrested. Furthermore, 866 individuals rearrested who were involved in variety of release programs accounted for 1992 criminal offenses.

The "alternative to prison" crowd asserts that we cannot "build" our way out of the dilemma of increasing prison populations. To the contrary, I believe that if we augment sentences considerably, to even life without parole for multiple repeat offenders, we will get the "hard core" criminal, that we don't know how to rehabilitate anyway, off the street. First offenders will be better motivated to avoid becoming repeat offenders. The early release of offenders as permitted under D. C. Act 7-56 is the wrong direction in which to move.

METROPOLITAN POLICE DEPARTMENT
Criminal Investigations Division

APR 2 0 1987

MEMORANDUM

TO: Chief of Police

THRU: Field Operations Officer
Field Operations Bureau

SUBJECT: Recidivist Report for the First Quarter
(January, February and March 1987)

This report covers the months January, February and March 1987. The information contained herein emphasizes the correlation between the crime rate and repeat adult offenders.

The individuals rearrested during the period of this report were within the cognizance of one or more of the five Supervising Agencies (District of Columbia Bail Agency, Superior Court Probation Office, District of Columbia Department of Corrections, United States District Court Probation and Parole Office and Surety Bonding Agencies) of the Criminal Justice System at the time of their arrest.

The report is comprised of the following sections:

I. Comparison Chart of Adults Rearrested While on Release for Selected Crime Categories

II. Comparison Chart of Persons Rearrested involved in Release Programs

III. Comparison Chart of Crime Categories to Pre and Post Trial Release Programs

IV. Comparison Chart of Rearrests and Prior Arrests

V. Composite of Typical Adult Recidivists

VI. Case Examples of Release Status Rearrests

Insp. John Collins Jr

Alfonso D. Gibson
Deputy Chief, Commander
Criminal Investigations Division

PART I

COMPARISON CHART OF ADULTS REARRESTED WHILE ON "RELEASE STATUS" FOR SELECTED CRIME CATEGORIES

	Number of Arrests Processed Thru Central Cell Block	Number of Individuals Rearrested While On Pre or Post Trial Release	Percent of Total Arrests
Aggravated Assault	384	85	22%
Auto Theft	402	77	19%
Burglary	207	62	30%
Homicide	37	4	11%
Theft 1	146	49	34%
Rape	17	0	0%
Robbery	274	85	31%
Sub-Totals	1467	362	25%
Narcotics	3343	754	23%
Weapons	331	37	11%
TOTALS	5141	1153	22%

Findings: The overall rate of Recidivism for the crime categories listed above averages 22% for the 1st Quarter of Calendar Year 1987

PART II

COMPARISON CHART OF PERSONS REARRESTED INVOLVED IN RELEASE PROGRAMS
January, February and March 1987

OFFENSE	PERSONS REARRESTED	RELEASE PROGRAMS INVOLVED
Aggravated Assault	43	58
Auto Theft	60	77
Burglary	44	62
Homicide	3	4
Larceny	35	49
Rape	0	0
Robbery	58	85
Sub-Totals	243	335
Narcotics	591	754
Weapons	32	37
TOTALS	866	1126

FINDINGS: The most significant aspect of this chart is the verified fact that these 866 individuals as of March 1987, have been arrested for committing 1992 criminal offenses.

PART III

COMPARIOSN CHART OF CRIME CATEGORY, RELEASE PROGRAM AND SUPERVISING AGENCY

(JANUARY, FEBRUARY AND MARCH 1987)

SUPERVISING AGENCY

	PRE-TRIAL			POST-TRIAL			
Offense Rearrest	Personal Recognizance	Third Party Custody	Surety Bond Bondsman	Superior Ct. Probation	D.C. Dept. Corrections	US Dist.Ct. Parole & Prob.	Tot.# o Program
Aggravated Assault	27	11	19		1		58
Auto Theft	30	18	28	1			77
Burglary	25	13	21	2		1	62
Homicide	1	2	1				4
Larceny	18	9	20		1	1	49
Narcotics	281	176	273	7	12	5	754
Rape	0	0	0	0	0	0	0
Robbery	25	14	43		2	1	85
Weapons	12	9	15	1			37
Sub-Totals	419	252	420	11	16	8	1126

Pre-Trial 1091 Post-Trial 1161

Findings: Of the 1091 Pre-trial Release Programs 671 or 61% were involved in release conditions other than Money Surety Bonds.

PART IV

COMPARISON CHART OF REARRESTS AND PRIOR ARRESTS

and

PRIOR ARRESTS -- RELEASE PROGRAMS

Rearrest Charge	Aggravated Assault	Auto Theft	Burglary	Homicide	Larceny	Narcotics	Rape	Robbery	Weapons	Felonies	Other Misd.	Totals
Aggravated Assault	9	3	0	1	0	25	0	4	5	2	9	58
Auto Theft	2	12	5	1	3	23	1	5	4	3	18	77
Burglary	0	2	13	0	2	19	0	4	2	3	17	62
Homicide	0	1	0	0	0	1	0	1	1	0	0	4
Larceny	1	2	4	0	4	11	0	2	2	1	22	49
Narcotics	11	19	13	1	8	566	0	16	11	18	91	754
Rape	0	0	0	0	0	0	0	0	0	0	0	0
Robbery	10	3	2	0	0	25	1	17	3	3	21	85
Weapons	1	1	2	0	1	17	0	2	6	0	7	37
Other Felonies	0	0	0	0	0	3	0	0	0	146	3	152
Other Misd.	4	10	8	0	2	57	0	7	5	6	124	223
TOTALS	38	53	47	3	20	747	2	58	39	209	312	1501

Findings: There is a high probability that a defendant on a Release Status for narcotics (76%), Robbery (29%) and Auto Theft (23%) will be rearrested for a crime in that same category than for any other offense.

PART V

COMPOSITE OF TYPICAL ADULT RECIDIVIST (SELECT CRIME CATEGORY)
IN THE DISTRICT OF COLUMBIA -- (FIRST QUARTER 1987)
(January, February and March 1987)

	COMPOSITE	AGGRAVATED ASSAULT	AUTO THEFT	BURGLARY	HOMICIDE	LARCENY	NARCOTICS	RAPE	ROBBERY	WEAPON
Total Arrests	866	43	60	44	3	35	591	0	58	32
Average Age At Time of Arrests	25	34	23	29	27	30	30	0	28	27
Sex -- Male	751	34	57	44	3	29	503	0	52	29
Female	115	9	3	0	0	6	88	0	6	3
Average Time Between Arrest Release and Rearrest	4	4mos.	3mos.	5mos.	7mos.	3mos.	4mos.	0	2mos.	4mos
Prior Offense for which Conditional Release was Granted Involving a Part One Offense	30	24	36	50	3	15	93	0	39	12
Having Two or More Conditional Releases at Time of Rearrest	15	7	11	7	1	9	90	0	8	2
Arrested Two or More Times During the Quarter	6	0	2	2	0	1	45	0	3	0

FINDINGS:

The average age for all persons rearrested with offender status for one or more of the above listed crime categories during the 1st Quarter of 1987 was 25 years. The average time between arrests and rearrests was 4 months. During this quarter, 751 or 83% were males, 53 or 6% were arrested two or more times.

PART VI

CASE EXAMPLES OF RELEASE STATUS REARRESTS
January, February and March 1987

The following "Case Examples" of Adult Recidivists are included to provide a brief overview of the type of criminal conduct that the Criminal Justice System has demonstrated a seemingly inability to cope with during this reporting period.

The specific examples included are not meant to be reflective of each person rearrested for a criminal offense during the First Quarter of this year, however, these examples should not be viewed as isolated or unusual cases.

I should also mention that while the information in these "Case Examples" is factual, the identity of the individual involved has been omitted for reason of confidentiality. Should it become necessary, each person involved, as well as the Court Docket pertaining to the particular case, can be identified by records on file in the Major Violators Section of the Special Investigations Branch.

The following cases are of individuals who have come in contact with the Criminal Justice System two or more times during the First Quarter of this year.

(1) This subject has come in contact with the Criminal Justice System four (4) times since November 1986.

On September 4, 1986 this subject was arrested for Soliciting Prositution and was released on Surety Bond. This case has been continued four times to February 2, 1987. On December 8, 1986, this subject was rearrested for Robbery and released on Surety Bond. This case has been continued three times. On January 7, 1987 this subject was rearrested for Assault with Intent Robbery and was released on Surety Bond. This case has been cntinued three times. On January 12,1987 this subject was rearrestd for Bail Reform Act and was released on Surety Bond. This case has been continued three times.

(2) This person has come in contact with the Criminal Justice System four (4) times since February 1987.

On February 9, 1987 this subject was arrested for Uniform Controlled Substance Act and was released on Surety Bond after a three day hold. On February 18, 1987 this subject was rearrested for Uniform Controlled Substance Act and was released on Third Party Custody. This case has been continued three times to April 4,, 1987. On February 24, 1987 this subject was rearrested for Shoplifting and was released on Third Party Custody. This case has been continued two times. On January 8, 1987 this subject wa rearrested for Uniform Controlled Sub stance Act and was released on Third Party Custody. This case has been continued four times to March 25, 1987.

(3) This person has come in contact with the Criminal Justice System four (4) times since August 1986.

On June 18,, 1986 this subject was arrested for Carrying Dangerous Weapon, Unregistered Gun and Uniform Controlled Substance Act and was released on Surety Bond This case has been continued eight times to April 9, 1987. On January 9, 1987 this subject was rearrested for Assault with a gun and was released on Third Party Custody. This case was continued two times. On March 13, 1986 this subject was rearrested for Armed Robbery Gun and was released on Surety Bond. This case has been continued two one times.

(4) This person has come in contact with the Criminal Justice System four (4) times since November 1986.

On November 1, 1986 this person was arrested for Burglary Second Degree and was released on Personal Recognizance. This case has been continued two times. On November 29, 1986 this person was rearrested for Uniform Controlled Substance Act and was released on Surety Bond after a three day hold. This case has been continued four times until April 7, 1987. On December 20, 1986 this person was rearrested for Robbery and was released on on Personal Recognizance. This case has been continued three times. On March 5, 1987 this subject was rearested for Burglary I and was relesed on Surety Bond. This case has been continued two times.

(5) This person has come in contact with the Criminal Justice System four (4) times since June 1986.

On June 13, 1986 this subject was arrested for Shoplifting and wa released on Third Party Custody. This case has been continued four times. On February 1, 1987 this subject was rearrested for Burglary Second Degree and was released on Personal Recognizance. This case has been continued two times. On October 27, 1987 this subject was rearrested for Burglary Second Degree and Bail Reform Act. These cases have been continued two times and bound over to the Grand Jury.

(6) This person has come in contact with the Criminal Justice System three (3) times since October 1986.

On October 28, 1986 this subject was arrested for Destruction of Property, Theft I and Receiving Stolen Property and was released on Personal Recognizance. This case has been continued three times to April 13, 1987. On December 13, 1986 this subject was rearrested for Shoplifting and was released on Third Party Custody. This case has been continued three times. On March 19, 1987 this person was rearrested for Robbery and was released on Surety Bond. This case has been continued two times and bound over to the Grand Jury on March 25, 1987.

Mr. DYMALLY. Ms. McGarry.

STATEMENT OF PEGGY McGARRY

Ms. MCGARRY. Thank you, Mr. Chairman. Thank you very much for your invitation to appear and give testimony before the subcommittee.

I have a very different task today. I have been asked to share with you the learnings of the national jail and prison overcrowding project, which is based and operated out of Philadelphia by the Center for Effective Public Policy. It is an ongoing national project that has been in operation since 1981, funded by the Federal Government's National Institute of Corrections and the Edna McConnell Clark Foundation out of New York.

I will have to say I will try to keep this brief. I am Irish by descent and probably reading something would be shorter than letting me talk unimpeded by written——

Mr. DYMALLY. Sir Winston Churchill said, "If it's important enough, you ought to read it."

Ms. MCGARRY. Well, I would be more comfortable reading it, if that is all right with you. It is very short.

Mr. DYMALLY. Yes. Thank you.

Ms. MCGARRY. As I said, the national jail and prison overcrowding project is an innovative, multi-State effort to cultivate political solutions to the troubling and ongoing crisis of crowding in American corrections. Although corrections traditionally has been a public policy area that policymakers would prefer to avoid, the legal and financial realities of the 1980's have moved it near the top of the public agenda in most States and counties alike. The national jail and prison overcrowding project was founded to help State and local officials deal effectively with these new realities.

Since 1981 we have worked with key decisionmakers, organized in "policy groups," in seven States: Colorado, Michigan, Louisiana, Ohio, Oregon, South Carolina, and Tennessee. These policy groups have had two goals: To develop and advocate measures to control corrections overcrowding; and to promote long-range systemic changes in the way that criminal justice policy is made.

The project's experience in the participating seven States and in numerous other jurisdictions where we have provided technical assistance has taught us that, while each State's problems and solutions are unique, there are some universal learnings that we can share, and that is what I would like to share with you today.

First, overcrowding is caused by an imbalance between the demands placed on the criminal sanctioning system and the resources available to that system. By sanctioning system, we mean the range of sentencing options, from fines through incarceration and parole, as well as the laws, policies, and practices which direct the flow of offenders through that system. Given the relatively small proportion of known crime that results in the sentencing of offenders to some form of correctional supervision, the potential magnitude of offender flow through the system is immense. The actual amount of that demand, that is, the actual number of offenders that go through that system, is, in fact, a function of public policy.

In the late 1970's, when the current burgeoning of the Nation's inmate population first became evident, it was thought to be the combined product of the soaring crime rate of the 1960's and 1970's, the coming of age of the "baby boom," and the rising unemployment rate among inner-city youth. By the early 1980's, however, it was clear that these explanations were inadequate. The national crime rate was in steady decline, and has been, and the "baby boomers" were certainly past their high-risk, crime-prone years. Yet it was at this time that the Nation's incarcerated population accelerated most rapidly, especially in those regions which had the most vigorous economies and the lowest unemployment rates—in the Sun Belt and in the Far West. Increasingly, knowledgeable observers of American corrections have linked the prisoner population boom, and the consequent overcrowding, to a different source—public policy decisions.

Whether mandatory minimum sentencing laws, the increased use of incarceration as a sentencing disposition, lengthened prison sentences or declining rates of parole release, the decisions of policymakers are now seen as accounting for our soaring prison and jail populations. I think the earlier witnesses from the District certainly testified to what some of those have been. It is this increased demand, which also affects the nonincarcerative correctional populations—that is, probation, parole, and similar populations—coupled with inadequate resources that has led to overcrowding.

This growing recognition of the role of policy versus population demographics in the creation of prison and jail crowding leads to our second learning: Prison and jail crowding is not a corrections problem, but must be acknowledged as the responsibility of decisionmakers at all levels of government. Legislators, judges, prosecutors, State and county executives, parole and probation officials, and law enforcement officers—all have played a role in the increasing demand on the sanctioning system and in the choices made about the allocation of corrections resources. Their individual decisions, accumulated over time, have placed jurisdictions in the very precarious position, legally and fiscally, that most find themselves.

For this reason, and this is really the heart of what I want to say, any sound, long-range approach to crowding requires the participation of all of these system actors in its development. In the seven States that have participated in the national project, the policy group composed of key leaders in each of these areas was the basis of work in the State. Only when the decisionmakers responsible for the discrete parts of the total system sit down together, acknowledge their individual and collective ownership of the crowding problem and begin to ask questions about it, can real solutions emerge.

Once these policymakers sit down together, they will confront what we have found to be a third-project learning: There are no simple, quick-fix solutions to prison and jail crowding. This is not to deny that jurisdictions like the District may be forced to adopt short-term crisis management options, which certainly the Emergency Release Act is one. Such options can relieve the pressure of severe overcrowding while other measures are developed and implemented. Controlling overcrowding, however, requires long-term commitment by policymakers to systemic changes in the adminis-

tration of criminal justice. For too long, we have asked our sanctioning system to meet a hodgepodge of conflicting and incompatible goals—punishment, deterrence, rehabilitation, and incapacitation. All of those words have been thrown around here this morning. We have not made clear what we expect different parts of that system to accomplish with which types of offenders. When the system reaches a crisis because decisionmakers have been individually pursuing the goal or goals of their own choosing, using their own definitions and whatever resources are at their disposal, we have no overall plan that can guide us to correct it. Well-intentioned but piecemeal and hastily drawn solutions prove ineffective—and we wonder why.

Until policymakers construct a rational system of sanctioning with a clearly defined purpose, with the options in place to meet that purpose and the resources allocated to support them, we will continue to flounder from crisis to crisis. What is it we think that prisons can and ought to accomplish? What about probation, the alternatives to incarceration that Mr. Fauntroy talked about earlier? What do we think that they should do? What is their purpose? How many offenders do we anticipate will fall into these categories? How much will that cost?

It is not a given, of course, that any policy group, no matter how representative, will have the authority to construct such a plan for its jurisdiction. What a policy group can do, however, is to undertake a process of system analysis that can demonstrate the areas of overlap and conflict within the current structure, take the steps within its authority that may address some of those, and press for the means by which a more complete system overhaul can be accomplished. In my written testimony I go on to describe some of what such a group would have to do, including data analysis and so on.

But, finally, I want to say that in the national project's experience, "business as usual" will not solve the jail and prison overcrowding crisis. Decisionmaking methods emphasizing rational problem-solving, consensus and cooperative action by key policymakers offer the best hope for lasting change. This does not mean setting aside political realities, but rather utilizing political leadership to build support for both the approach and the outcomes of a rational, problem-solving process. Corrections overcrowding is the creation of the political process, and the political will must be found to propose and implement its solutions.

Thank you, Mr. Chairman. Are there any questions?

[The prepared statement of Ms. McGarry follows:]

Testimony of Peggy McGarry, State Coordinator
Center for Effective Public Policy, Inc.
Philadelphia, Pennsylvania

U.S. House of Representatives
Committee on the District of Columbia
September 10, 1987

I have been asked to share with you the learnings of the National Jail and Prison Overcrowding Project regarding the approach a jurisdiction might usefully take to its own crowding problem.

The National Jail and Prison Overcrowding project is an innovative, multi-state effort to cultivate political solutions to the troubling and on-going crisis of crowding in American corrections. Although corrections traditionally has been a public policy area that policy makers would prefer to avoid, the legal and financial realities of the 1980's have moved it near the top of the public agenda in many states and counties alike. The National Project was founded to help state and local officials deal effectively with these new realities.

Since 1981, Project staff have worked with key decision makers, organized in "policy groups", in seven states: Colorado, Michigan, Louisiana, Ohio, Oregon, South Carolina, and Tennessee. These policy groups have had two goals: to develop and advocate

measures to control corrections overcrowding; and to promote long-range systemic changes in the way that criminal justice policy is made. The Project has been organized and operated by the Center for Effective Public Policy, a Philadelphia-based, non-profit consulting group. The federal government's National Institute of Corrections, and the Edna McConnell Clark Foundation have jointly funded the Project.

The Project's experience in the participating seven states, and in numerous other jurisdictions where we have provided technical assistance, has taught us that, while each state's problems and solutions are unique, there are some universal learnings that we can share.

First, overcrowding is caused by an imbalance between the demands placed on the criminal sanctioning system and the resources available to that system. By sanctioning system we mean the range of sentencing options, from fines through incarceration and parole, as well as the laws, policies, and practices which direct the flow of offenders through that system. Given the relatively small proportion of known crime that results in the sentencing of offenders to some form of correctional supervision, the potential magnitude of offender flow through the system is immense. The actual amount of that demand is a function of public policy.

In the late 1970's, when the current burgeoning of the nation's inmate population first became evident, it was thought to

be the combined product of the soaring crime rate of the 1960's and 70's, the coming of age of the "baby boom", and the rising unemployment rate among inner-city youth. By the early 1980's, however, these explanations were no longer adequate. The national crime rate was in steady decline, and the baby boomers were past their high-risk, crime prone years. Yet it was at this time that the nation's incarcerated population accelerated most rapidly, especially in those regions with the most vigorous economies and the lowest unemployment-the Sunbelt and the Far West. Increasingly, knowledgeable observers of American corrections have linked the prisoner population boom, and the consequent overcrowding, to a different source: public policy decisions.

Whether mandatory-minimum sentencing laws, the increased use of incarceration as a sentencing disposition, lengthened prison sentences, or declining rates of parole release, the decisons of policy-makers are now seen as accounting for our soaring prison and jail populations. It is this increased demand, which also affects non-incarcerative correctional populations, coupled with inadequate resources that has led to overcrowding.

This growing recognition of the role of policy versus population demographics in the creation of prison and jail crowding leads to our second learning: Prison and jail crowding is not a corrections problem, but must be acknowledged as the responsibility of decision makers at all levels of government. Law makers, judges, prosecutors, state and county executives, parole and

probation officials, and law enforcement officers all have played a role in the increasing demand on the sanctioning system, and in the choices made about the allocation of corrections resources. Their individual decisions, accumulated over time, have placed jurisdictions in the very precarious position, legally and fiscally, that most find themselves.

For this reason, any sound, long-range approach to crowding requires the participation of all of these system actors in its development. In the seven states that participated in the National Project, the policy group, composed of key leaders in each of these areas, was the basis of work in the state. Only when the decision makers responsible for the discrete parts of the total system sit down together, acknowledge their individual and collective ownership of the crowding problem, and begin to ask questions about it, can real solutions begin to emerge.

Once policymakers sit down together, they will confront what we found to be a third Project learning: There are no simple, "quick-fix" solutions to prison and jail overcrowding. This is not to deny that jurisdictions may be forced to adopt short-term, crisis-management options. Such options can relieve the pressure of severe overcrowding while other masures are developed and implemented. Controlling overcrowding, however, requires long term commitment by policymakers to systemic changes in the administration of criminal justice. For too long, we have asked our sanctioning system to meet a hodge-podge of conflicting and

incompatible goals: punishment, deterrence, rehabilitation and incapacitation. We have not made clear what we expect different parts of that system to accomplish with which types of offenders. When the system reaches a crisis, because decision makers have been individually pursuing the goal or goals of their own choosing, using their own definitions and whatever resources are at their disposal, we have no overall plan that can guide us to correct it. Well-intentioned, but piecemeal and hasily-drawn solutions prove ineffective - and we wonder why.

Until policymakers construct a rational system of sanctioning with a clearly defined purpose, with the options in place to meet that purpose, and the resources allocated to support them, we will continue to flounder from crisis to crisis. What is it we think that prisons can and ought to accomplish? What about probation, fines, community service, and restitution? For what kinds of offenders can each sanction best meet its purpose? How many offenders do we anticipate will fall into those categories, and how much will that cost?

It is not a given, of course, that any policy group, no matter how representative, will have the authority to construct such a plan for its jurisdiction. What a policy group can do, however, is to undertake a process of system analysis that can demonstrate the areas of overlap and conflict within the current structure, take the steps within its authority that may address some of those, and press for the means by which a more complete system overhaul can be

accomplished.

That systems analysis must begin with a definition of the extent and nature of the overcrowding problem, as well as a data-based examination of its sources. Such an examination may require extensive data collection, and subsequent data analysis, to uncover the forces driving the overpopulation. These may include more offenders entering the system, an increased length of stay pre-trial, or between trial and sentencing, more offenders receiving prison or jail sentences for the same crimes that might have drawn a lesser penalty in earlier years, longer sentences, higher revocation rates from probation and/or parole, or lower parole release rates. These must be looked at, of course, in relation to the amount and type of correctional capacity available to the system over time.

In addition to a data-based examination, system administrators will have to look to their own deparments for changes in practice over time that may be contributing to the problem. These may include bail setting policies, changes in plea bargaining practices, the introduction of mandatory-minimum sentences, probation and parole revocation procedures, and the like.

Such problem definition, and identification of population forces, are but the preliminary steps to devision, adopting, and implementing the system changes they suggest. These latter tasks truly draw upon the expertise, authority, and persuasive abilities

of the policy group members.

Finally, in the National Project's experience, "business as usual" will not solve the jail and prison overcrowding crisis. Decision making methods emphasizing rational problem-solving, consensus and cooperative action by key policymakers offer the best hope for lasting change. This does not mean setting aside political realities, but rather utilizing political leadership to build support for both the approach and the outcomes of a rational, problem-solving process. Corrections overcrowding is the creation of the political process, and the political will must be found to propose and implement its solutions.

Mr. DYMALLY. Mr. Hankins.

STATEMENT OF GARY HANKINS

Mr. HANKINS. Thank you, sir. I will just submit the testimony. It has already been submitted and I will let that stand. I would just make some remarks.

Mr. DYMALLY. Without objection, it will be entered into the record.

Mr. HANKINS. Essentially, I come to address a part of this problem in a more simplistic fashion and from the front lines of what is going on here, as a police officer. We see the criminal on the street in the community, and deal with them as such. I think, while we have heard a great deal of statistics, and there are a large number of experts and professionals who make a living at making this very complicated, I think that what we are ignoring is that the criminal element we are dealing with doesn't operate in those terms. In fact, they operate in the simplest of terms.

What is occurring in the District of Columbia with the court system putting caps on the prison system, with all of the esoteric arguments, and all respect to the experts, it is translated very simply to the people we deal with on the street; and that is, the message that is being sent to them from the courts is that they are winning this battle. That they have managed to overcrowd the system to the point where unrepentant, unreformed felons are being released back into the community. They are a virus that goes back out into the street where we work and many of the people here live and infect other people, and they don't look at the complicated mess that we call the criminal justice system. They just look at the impact, and the impact is we are losing.

The D.C. Metropolitan Police Department arrest people at a faster rate than the courts incarcerate them, and everything that we have heard about, from plea bargaining to prison caps to what is a legitimate amount of space for humane treatment of a felon, means nothing to these people that we are arresting. Until we send the message out quite clearly that we are not interested in rehabilitation, and I know that is a departure from the accepted philosophy of the last 75 years—the message we have to send out to the community is that we are not interested in rehabilitation, that we will incarcerate you, and I don't believe that it is necessary for our prisons to be so comfortable as to exceed some of the living conditions of the people on the streets.

We have to send that message out, and tell them that we are going to recoup some of the resources. If you look at this criminal justice system, we do nothing for the victims out there. It is a fraud to say that we are doing anything for the community, for the honest law-abiding citizens we are supposed to be protecting. All of our tax dollars are funneled into identifying and apprehending and arresting the offender, trying him, providing him with an attorney, providing him room and board, and spending millions of dollars on bankrupt rehabilitation policies that don't work.

I read about programs that are called successful because they have a 10-percent rehabilitation rate. That is a 90-percent failure rate, and we turn these people back into the community. Their tax

dollars supported these people and now they are coming at the system in such numbers that we are turning them out before they even finish the sentences that were imposed on them.

I think it is time that we begin to demand from the people we arrest some restitution. There are acres—in fact, every day we read about the hundreds of housing projects in the city that can't be completed because we don't have the money. We can't rehabilitate them. I think it is time we put these criminal offenders to work. Put them back into the community, with no wages, as part of their incarceration. They will not be allowed to sit idle in facilities that are pleasant by many standards, and that they are going to rebuild these streets, and serve their sentences, and provide some restitution to the taxpayers.

I would like to see Washington become a leader in that philosophy—to return to a simple approach that tells simple criminals you simply will go to jail, you simply will be put to work, and we will not allow a court system to make incarceration so expensive that even the most committed among us can't afford to continue the way we are going. We are behind the curve on this, and Washington is not alone. As we have heard here, it is becoming a nationwide problem. The criminals are overwhelming our criminal justice system; and because they are being successful in doing it, they are just more rapidly increasing their ranks. Until we get ahead of the curve and convince these people once again that their commonsense is going to be "you are going to go to jail and it is not worth it to do the crime," we are not going to win. We are going to continue to lose, and we are going to lose more quickly.

[The prepared statement of Mr. Hankins follows:]

FRATERNAL ORDER OF POLICE
METROPOLITAN POLICE - LABOR COMMITTEE
512 - 5TH STREET, N.W., WASHINGTON, D.C. 20001 (202) 628-0600

Testimony of
Gary Hankins, Chairman
before the
Subcommittee on Judiciary and Education
September 10, 1987

Thank you for this opportunity to comment on the impact of the District's "Prison Overcrowding Emergency Powers Act of 1987".

I believe the District has been placed in a dilemma by the Courts which has forced it into a position that betrays government's first responsibility, to keep its citizens safe from harm. The early release of convicted offenders because there is not enough room for them in our prisons sends precisely the wrong message to the criminal element in our community.

It is astounding to me that judges sit on their benches and become outraged at the "inhumane" treatment of prisoners while turning the fabled blind eye of justice to the brutality these people inflict on the law abiding citizens who depend on the government for safe streets. It becomes increasingly difficult for police officers and civilians alike to respect a criminal justice system which strains to protect the comfort of the felon while ignoring the pain and fear he inflicts on the innocent members of our community.

While the personal feelings of frustration and rage felt by the law abiding citizens and my fellow police officers at the courts position are important, they pale beside the impact of the message they send to the felons among us.

The judges who tell our mayor that he must reduce the prison population or face contempt charges, are speaking in an even louder and clearer voice to the criminals of Washington. They are saying to them, "You are winning the war against crime here. You have overloaded the system to the point where we will order the executive branch to release your fellow felons before they have paid the price for their crimes because we are not satisfied with the level of comfort provided for them in our jails."

This view of the "rights of the convicted" is an example of justice turned on its head. It is born of a discredited philosophy of rehabilitation and treatment for criminals which is based on the Quakers misguided attempts to reform felons into productive citizens by reshaping the criminal's personal philosophy while in prison. The clearest lesson for all of us over the last 75 years of these attempts is that the decision to abandon a criminal lifestyle is made within the philosophy of the criminal's own choosing. The overwhelming majority of them do

not respond to even the most intensive rehabilitation efforts until they decide its in their own best interest to do so.

Today our courts have forced our city to release hundreds of criminals who are unrepentant and unreformed. These men and women are a lethal virus which is being released into an already crime ridden community. They will carry the message of crime without punishment to our youngest members. They will spread their criminality and increase their numbers.

The increase in offenders will of course put an even greater strain on our prisons. This cycle will feed on itself and gather momentum. If the courts continue to impose inmate population limits and demand more comforts for felons they will accelerate our defeat and make our streets ever more dangerous.

We are opposed to the District's Emergency Early Release program but we are convinced that the city's elected officials were left little choice in the matter.

We must convince the criminals of today and tomorrow that no crime will go unpunished because our society lacks the will or resources to protect itself. We can not allow our courts to make the job of self defense too expensive for even the most committed.

It is impossible for any of us to promise safer streets and less crime until the certainty of swift punishment is once again a part of the common sense of this city.

It is also time for our city to begin to recoup some of its citizens' losses to the criminal element in the form of public service from the offender. Washington, as any other city, is full of jobs left undone because of cost and lack of unskilled labor. We should couple the idle hours of the imprisoned with the public tasks that need to be done. Society owes no criminal a free meal ticket. We have the right to require the convicted to make restitution not only to his or her victims but to the community at large which is taxed to pay for the food and shelter of the imprisoned.

I hope that Washington will become a leader in the drive to restore law and order without the bankrupting philosophy which holds that our community owes the felon room, board, comfort and rehabilitation. We should recognize that the offender must make the decision to obey our laws on his own. We should extract a price for his transgressions and restrict his freedom to commit further criminal acts until he decides to change his behavior.

Mr. DYMALLY. Well, Mr. Hankins, if we continue to put them in jail—and I don't disagree with you necessarily—then you have an overcrowding situation.

Mr. HANKINS. I believe that a large portion of this problem is that we have judges who have priorities in the wrong area. Instead of having a priority to protect the citizens who are abiding the law, they are protecting the criminal element by providing them with their own definition of humane treatment and how much space is available.

I don't believe that the emphasis should be on, or continue to be on the outrageous expenditure of the public funds that we have to take care of criminals who have violated our citizens and desecrated their property and their persons. So, if we said we're only going to give you the minimum space—and we are not talking about torturing someone like a South American country and a political state—a minimum amount of space, we are not going to worry about rehabilitating you, you will have the minimum space necessary to incarcerate you, we could probably double our jail population in the areas we already have. And it is a fundamental philosophical change that is not popular with the current criminal justice professionals because we have an industry built up around finding ways to service our inmates.

Mr. DYMALLY. Mr. Fauntroy.

Mr. FAUNTROY. I want to thank the panel for again helping me to understand the impact of the emergency acts that have been passed and the permanent legislation that has been put into place. I am particularly happy to see Mr. Atkinson again, who is a longtime friend and associate from childhood. I can remember well Mr. Atkinson as the colonel of the high school cadets of the city of the District of Columbia, divisions 10 to 13, for those who understand what I am talking about. It is a real pleasure to hear you.

Mr. Atkinson, I hope you understand that the reference to nonviolent criminals was one which flowed from my understanding of that bill. Is it not true that the person whom you described in your one anecdote, who, obviously, was a potential killer if he attempted to take a gun from an officer, even under the circumstances of having plea bargained and succeeded in being charged with just misdemeanors, that he would not have been released under this act?

Mr. ATKINSON. He was, in fact, released, sir. Not under this act, but the correctional—I don't know whether it was the corrections department or the parole board, whichever, since he was only sentenced as a misdemeanant they thought it was appropriate to house him in a halfway house, and the next thing I know my advisory council was getting reports that he was standing on the corner intimidating people who had testified against him.

Mr. FAUNTROY. While in the halfway house?

Mr. ATKINSON. While in the halfway house. So technically they were saying he was still incarcerated, but in fact what he was doing was living in a halfway house and intimidating people on the corner.

Mr. FAUNTROY. Yes. But the fact is, of course, that under this law, the emergency act and the one pending before the Congress, he would not have qualified for two reasons: One that his sentence

was in excess of 6 months, and the other is that he—oh, no. You said the misdemeanants.

Mr. ATKINSON. Apparently not, the way they computed it. I thought that, too, because I couldn't see how he would be eligible to get on the street in such a short time. But apparently they somehow or another computed it as though it were concurrent, when I was in the courtroom and I heard the judge say consecutive.

Mr. FAUNTROY. Yes. Well, I hope that——

Mr. ATKINSON. I could give you other anecdotes, sir.

Mr. FAUNTROY. Well, no. You gave a very pungent example of a nonviolent character—I mean, a violent character, whom I had thought the community was protected from being released under, or getting early release under this Emergency Act. I am not sure the explanation you have given me has disabused me of that notion. That type of person cannot get to the streets under this act.

Mr. ATKINSON. If I could say one further point, Congressman; it is routine for persons arrested for the sale of drugs. I know of numerous persons arrested in the Hanover Place sweep which has had so much publicity. Arrested for the sale of narcotics, they routinely plead to misdemeanors. They are on the street before these officers finish their paperwork.

You know, we have done quite a PR job on the community. In all these arrests, we are making the city safe. These people are all on the streets.

You see, I don't argue with you or anyone about the need to help people and how it is not such a danger if we are dealing with nonviolent people. My question to you and other legislators is where are the nonviolent people? I am very concerned. We are really—we? Certain of us in the city are playing a con game on legislatures and other persons who ought to know, and we are conning you. I am suggesting that there is another side of it. I hope you realize, and that is what I am trying to convince you of, sir, is that I have no argument with their argument. My argument is the fact that they are not really nonviolent.

Mr. FAUNTROY. I see. Well, again, I am very impressed with your testimony on this point. I could not help but have a flashback as you made the point about persons being arrested for the sale of narcotics and being out on the streets within hours as a result of pleading guilty to misdemeanors and not to that more serious offense. I could not help but remember the U.S. attorney for the District of Columbia, Mr. DiGenova, sitting where you sit now and telling us of his determination to see to it that his office does all in its power to act upon those who sell drugs in spite of the fact that it is illegal to produce them, sell them, and consume them. That kind of finding certainly suggests I need to talk to the U.S. attorney about how what you suggest happens on a routine basis and continues to happen.

Mr. HANKINS. Mr. Congressman, if I might amplify Mr. Atkinson's remarks. In Operation Clean Sweep we are running into a situation—and again it gets back to the simple and realistic perception of what they see on the street as opposed to the principles and complicated theories we discuss there. On clean sweep as we arrest thousands of people, many of them don't even bother to run anymore because they see that because of the overcrowding situation

they are released. We take them to the district to be processed. They are questioned for pretrial release, and they are, by and large, unless there is some other outstanding warrant against them, released. The community, the law-abiding citizens as well as the drug dealers, the rapists, and other manner of felon out there know or are convinced in their hearts, and I think accurately so, that, while we bandy about grand theories and wonderful words in settings like this, the fact of the matter is the criminals are winning the war on the streets. We do have an elaborate system. That through plea bargaining and new definitions of character and new programs, what the system is doing today in the District of Columbia, and I am told in many places all over this country, is finding ways to release felons onto the streets more quickly. We are not fooling the victims or the criminals.

Mr. FAUNTROY. Of course, Mr. Hankins, as you know, the purpose of this legislation was to make more room for persons like the ones you have described, and that is a part of the dilemma, obviously.

Finally, let me just say with respect to Ms. McGarry's testimony that I am anxious to get the text of it.

Ms. MCGARRY. It has been distributed, I believe.

Mr. FAUNTROY. I don't have my text. But I would like to have it for the reason that I agree with you that there has to be a meeting of the minds of the persons who can, in fact, make decisions to implement some of these more creative alternative sentencing problems as at least one of many steps that have to be taken to deal with this really complex problem of how to handle the growing number of people who find themselves in our criminal justice system.

Thank you, Mr. Chairman.

Mr. DYMALLY. Mr. Parris.

Mr. PARRIS. Thank you, Mr. Chairman.

Let me just initially state that I think Mr. Atkinson stated the issue very well. I think all of us could agree that if the net effect in the real world of these acts was to release Mr. Fauntroy's hypothetical welfare mother in drastic straits who has to steal a chicken from a grocery store, if that in fact was true, then certainly my position in regard to these acts would be substantially different and the concerns expressed by this panel and others would be measurably different.

The point is that is not who we are talking about. We are talking about the release of dangerous criminals into the public streets in huge numbers every day, and these are repeat felony offenders who do not steal chickens. They ruin our kids, they mess up our lives, and they destroy our communities. Those are the problems that this panel, in my view, has to address.

The person that you have mentioned in your anecdote, Mr. Atkinson, staff tells me that if he was sentenced to three 1-year sentences concurrently—even if he was—he would become eligible under the act after serving 6 months.

Mr. ATKINSON. Yes.

Mr. PARRIS. That is a prominent misconception of people. They say, "Well, this guy is going to go away for life." Wrong. Life sentences imposed by the court means at most 20 years, with time off

for good behavior and educational parole, good time and all of that kind of nonsense, and for the most heinous of crimes. The incarceration period, in my view, in the real world is frequently inadequate.

So we are not talking about—if the sentences were, in fact, consecutive, so that the purpose of the court was to make this person serve 3 years in jail, he would still—under this act they would apply the minimum, which a misdemeanor is 6 months, and they would then reduce that minimum sentence and he would be eligible for parole literally the day he is sentenced.

Mr. ATKINSON. Yes.

Mr. PARRIS. Now there is the problem.

Let me resist the temptation to go on with that and simply, Mr. Chairman, if I might for the purposes of the record, ask unanimous consent to include in the record two letters from Mr. DiGenova, the U.S. attorney for the District of Columbia, one dated January 21, 1987, and the other dated December 9, 1985.

Mr. DYMALLY. Without objection, it is included in the record.

Mr. PARRIS. Thank you, sir.

[The letters of Mr. DiGenova with attachment follow:]

U.S. Department of Justice

United States Attorney
District of Columbia

United States Courthouse, Room 2800
Constitution Avenue and 3rd Street N.W.
Washington, D.C. 20001

December 9, 1985

The Honorable Wilhelmina J. Rolark
Chairperson
Committee on the Judiciary
Council of the
District of Columbia
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Dear Ms. Rolark:

I wish to thank you for extending to me an opportunity to file written comments and to participate in a public hearing on three pieces of legislation currently under consideration by the City Council; Bill 6-63, the "Prison Overcrowding Emergency Powers Act of 1985," Bill 6-322, the "Sentencing Facilitation Act of 1985," and Bill 6-81, the "Prisoners Educational Credit Act of 1985."

We must oppose the passage of each of these bills because, their passage would, effectively, legislate the premature release of repeat and dangerous offenders into the law-abiding community without proper regard for the public safety. In our view, a vote for these bills would demonstrate apparent disdain for the overwhelming number of citizens of this city who have made it clear by their approval of the Mandatory Minimum Sentencing Initiative that they want serious offenders to remain incarcerated. Such a vote would counter citizen efforts to improve the safety of their neighborhoods through participation in crime-watch programs. It would be inconsistent with the laudable actions taken by this Council in reforming the bail laws to expand the situations in which repeat

offenders and other dangerous defendants can be detained without bond pending trial. 1/ Finally, these bills do not adequately address the fundamental crisis of prison undercapacity which appears to have, in varying degrees, stimulated their introduction. 2/

Over two years ago, on October 3, 1983, my predecessor, now United States District Court Judge Stanley S. Harris, appeared before this body and strongly opposed the adoption of the "Prison Overcrowding Emergency Powers Act of 1983." This bill was the predecessor to Bill 6-63, the "Prison Overcrowding Emergency Powers Act of 1985," and both bills are identical. In his testimony, Judge Harris defined the crisis as one of "prison undercapacity" and stated that prison expansion rather than the premature release of repeat and dangerous offenders was the only responsible solution. He then predicted, on the basis of data provided by the District of Columbia's own Department of Corrections, that the District of Columbia prison population would rise steadily and inexorably in the future. Judge Harris was prescient.

Indeed, since Judge Harris testified, the situation has, unfortunately, grown worse. In the daily management of the crisis that the D.C. correctional system itself has become, the history of prison undercapacity may be overlooked. That history shows that the District has known for more than a decade of its pressing need to build a prison, yet has done little to relieve the chronic overcrowding in its prisons.

1/ Defendants charged with first degree murder can be detained without bond pending trial. 23 D.C. Code § 1325(a). Defendants charged with violent or dangerous crimes who are on release in other cases at the time of the offenses can be detained at least temporarily to ensure that the Court has an opportunity to consider, inter alia, a revocation of bond and detention without bond pending trial. 23 D.C. Code § 1322(f).

2/ While we do not believe Councilmember Winter's proposed legislation, Bill 6-81, was drafted in direct response to the prison crisis, we are nonetheless constrained to oppose its passage because its adoption would inevitably result in the premature release of dangerous and unrehabilitated offenders.

For years, the city has used the District of Columbia Jail as a prison for those convicted of crimes rather than as a facility for pretrial detainees. In fact, as of July 1985, pre-trial detainees accounted for only 37% of the jail population. Notwithstanding this improper use of the jail, the Federal Bureau of Prisons has continually aided the city in housing District of Columbia prisoners. On July 15, 1985, 1,500 prisoners -- over 20% of all those convicted of D.C. Code violations and incarcerated within the District of Columbia Department of Corrections -- were in federal prisons. This has significantly contributed to the federal system operating over 40% above its own rated capacity.

On July 15, 1985, after years of litigation between the D.C. Department of Corrections and jail inmates, United States District Judge William B. Bryant issued an order that would have become effective on August 24, closing the jail to any new residents because of what the Court found to be unconstitutional conditions of confinement. Because the jail was being used as a prison, approximately 2,500 persons, on average, were housed in a facility designed for 1,355. The United States is not a party to these suits, but has long urged the city to build a new prison which would have prevented the intolerable overcrowding crisis at the jail.

Judge Bryant has presided over that case (Campbell v. McGruder, (C.A. No. 75-1668 and No. 1462-71), for fifteen years. He has made several unannounced visits to the jail. In his most recent decision, he graphically described the filthy, degrading, and violent conditions in which the District has long confined inmates in the D.C. Jail.

What is equally telling is Judge Bryant's description in another decision, issued remarkably, nearly ten years ago, of the attitude the District has taken whenever directed by the Court to cure overcrowding at the D.C. Jail:

> Notwithstanding the present crisis and the appalling prospects of a worsening situation, there has been no planning for dealing with this problem by the City or the Department. Rather, the tedious history of this litigation reflects only occasional and sporadic efforts, usually when a court proceeding has been scheduled, followed by almost total inactivity once the matter is no longer

> before the court as a crisis situation . . . more energy is devoted to pointing up excuses than to creative efforts to deal effectively with a problem which obviously is here and is not going away on its own accord -- the new jail notwithstanding.
>
> This Court's skepticism concerning the Department's protestations and the impossibility of compliance urged on this Court and the Court of Appeals almost from the moment the original order of March 21, 1975 was entered, has been confirmed and heightened by the events of the intervening year. Throughout these proceedings, when pressure was brought to bear, the impossible has become possible and compliance has been obtained, at least for a time. What has been missing, unfortunately, is a commitment to a long-range, continuing effort to maximize the resources presently available to the Department and the City, and to make plans to increase those resources to meet the need.

Campbell v. McGruder, 416 F. Supp. 111, 114-115 (D.D.C. 1976).

Events of the past decade have justified Judge Bryant's criticism. In ten years no adequate detention facility has been built, even though the District's jail population has escalated at an alarming rate. Thus, in his most recent order, Judge Bryant found the attitude of the D.C. Department of Corrections essentially unchanged despite his admonition of an imminent court-imposed population limit on the D.C. Jail:

> The development of intolerable overcrowding and its negative effects on persons housed in the jail were obvious and predictable early on -- at least to this court and the Court of Appeals. In light of these predictions both this court and the Court of Appeals have oftentimes identified specific avenues by which the population pressures could be reduced, emphasized the necessity for defendants (i.e., officials of the Department of Corrections) to develop a long-range,

> comprehensive approach to overcrowding, and warned of the legal consequences if defendants did not use their presumed expertise to rectify ongoing constitutional violations . . . Nevertheless, instead of a sustained drive against the effects of a population crisis, defendants' efforts have been sporadic, and largely unproductive; and conditions have steadily worsened.
>
> Time and again, defendants have requested court to defer to their accumulated wisdom to stay its hand and to give them more time. Time and again, these requests have been honored in the hope and expectation that defendants would solve these problems expeditiously and effectively. However, instead of matters improving, they have deteriorated... [F]or the most part, there is no indication of anything except complacency. Order of July 15, 1985, at 49-50.

In the other cases, involving the Central and Maximum security facilities at Lorton, (Twelve John Does v. District of Columbia, No. 80-2136; John Doe v. District of Columbia, No. 79-1726.), the District recently had to admit to Judge June L. Green that it was violating the population limits it had agreed should be imposed on those facilities.

On August 21, 1985, the District found itself in an intolerable position. First, it had no defense to the overcrowding at these facilities. It consequently had to agree to whatever its opponents wanted. Thus, in order to keep Judge Bryant from ordering an immediate population limit on the D.C. Jail, the Mayor, himself, agreed that he would "personally lobby" the members of this Council to enact one of the three (3) bills now up for discussion, the "Prison Overcrowding Emergency Powers Act" in "an all-out effort to get it passed as soon as possible." He also had to agree that once the bill was enacted he would sign it. The District's position in litigation involving its jail is thus so weak that its Chief Executive has been forced to surrender his power to veto legislation to the inmates at the D.C. Jail. Since the District has had to agree to the population limits that have been imposed, it can hardly appeal their propriety to a higher court. Moreover, since the District consented to orders imposing those limits, it

will be in contempt if it tries to "solve" its population crisis at one institution by moving prisoners from one institution to another. If the population limits are exceeded, the courts involved will hold the District in contempt and may order it to accomplish compliance with the population limits by releasing prisoners before their terms of imprisonment are over. If this occurs, dangerous offenders will be released into the community.

Under such circumstances, the District has avoided judicial contempt and judicial decree not to accept any more prisoners into any of its correctional institutions only because the federal government has made substantial expenditures of manpower, time, money, and prison capacity. On August 21, 1985, the Attorney General, informed by the District that it would not accept any more sentenced prisoners into the District's custody, and that the District was about to construct modular units to house some of its prisoners, made an interim, temporary commitment to take into federal prisons all D.C. Code violators sentenced in Superior Court. Although it appeared evident within the next few days that the District had no intention of building the modular units, despite its representations to the contrary, the Attorney General has persevered in his commitment.

From August 21, 1985 to November 27, 1985, the federal government has accepted into federal prisons 1,320 sentenced District of Columbia violators. 820 of those prisoners are still confined. Moreover, even prior to August 21, 1985, the federal government had been taking on average 25 D.C. prisoners into its custody every month during 1985. When the number of D.C. code violators taken into federal prisons before August 21, 1985 are added to the number taken since August 21, 1985, and still confined, the total number [redacted] prisoners in federal prisons is 2,465 (excluding those convicted in U.S. District Court). Federal correctional institutions ordinarily house 500 to 700 inmates. Thus, the federal government is devoting, in effect, four of its prisons to housing the District's prisoners who have been convicted in the Superior Court of the District of Columbia.

In addition, our bailout has visited an intolerable burden, both dangerous and financial upon the U.S. Marshals Service, since they must daily process and transport the huge number of Department of Corrections prisoners from the city to the federal prisons. The Marshals Service has spent over $300,000 for overtime, meals for prisoners in transit, and other administrative expenses. More importantly, the long hours of extra duty imposed on Deputy U.S. Marshals have created conditions which unduly and adversely affect the margin of safety essential to such operations.

For its part, the District of Columbia, having procured the federal government as its jailer, appears more recalcitrant than ever regarding its obligations to construct detention facilities. I must report, however, that the federal government's patience and willingness to remain the District's jailer is not endless. The District of Columbia should house its own prisoners. Congress has appropriated $30,000,000 for the building of a prison in the District of Columbia. Unless the District uses that money to build that prison as soon as possible, it may well imperil its control over site selection.

When the full nature of the District's situation is considered, it becomes evident that the legislation this Council is contemplating does not address the District's fundamental problem in this area. As Judge Harris made clear when he had the opportunity to appear before you, the District's problem is not that too many of those who have violated its laws are in its jails but that it lacks sufficient space to house them. The recent experience with the jail crisis belies any contention that the jail population in the District is "soft," that if reasonable alternatives to incarceration were used, the crisis in the District's jails would evaporate. To the contrary, even though every effort has been made to reduce the District's jail population by using alternatives to incarceration or by accelerating the eligibility of parole, there remains a core of offenders who received substantial prison terms and who must serve those terms in a secure institutution. It is that reality and its consequence, that a prison must be built immediately, that we respectfully submit should be the focus of this Council's attention. I urge it to commence that process today and I remain ready to do anything I can to assist the Council in that regard. Having described the context in which we believe these bills should be reviewed, I will now specifically review the three pending legislative proposals.

Prison Overcrowding Emergency Powers Act of 1985, Bill 6-63

As Judge Harris aptly noted in October 1983, the Prison Overcrowding Bill would allow the Mayor, as a means of budget control, to release dangerous prisoners into the community. He went on to point out that reduced to its essence, this Bill would sacrifice the safety of the community on the altar of fiscal irresponsibility. 3/

3/ We have included with our comments the written statement Judge Harris filed with the Council on October 3, 1983.

Judge Harris also spoke correctly about the other problems inherent in the Bill. The Bill provides for repeated acts of reducing sentences by 90 days, even of persons who have no chance of being released immediately as a result. For those prisoners who are not within 90 days of parole eligibility, the existence of an undefined "emergency" would result in reducing their ultimate sentences for no good reason, and would not assist in solving responsibly the short-term problem of reducing prison congestion.

Releasing dangerous offenders prematurely into our community as a quick fix to the prison crisis is not a satisfactory response to prison undercapacity. We would be constrained, therefore, to strenuously oppose any legislation which could tolerate such a danger to the public safety. Such release was not the answer in 1983 when the "Prison Overcrowding Emergency Powers Act" was first introduced. Our experience since then makes it even more clear that it cannot be the answer today.

Sentencing Facilitation Act of 1985, Bill 6-322

The Sentencing Facilitation Act of 1985, introduced by Chairman Clarke, is unwise because it not only detracts from the time-honored concept of certainty in sentencing but also tends to undermine deterrence itself as an element in the sentencing process. In permitting a lawfully sentenced defendant to file repeated motions to reduce the minimum term of the sentence imposed, this Bill would use scarce judicial resources in criminal proceedings extended beyond all reason. Such a system flies in the face of enlightened thought on the desirability of predictability in sentencing. Under this Bill, the courts would assume the responsibilities of the Board of Parole. Requiring the court to find by clear and convincing evidence that a defendant's institutional adjustment has been sufficiently successful to justify his return to the community is a task which courts should not undertake. Reposing such discretion in the trial judge to assess an inmate's adjustment while in prison would inevitably impair the ability of the Parole Board to achieve uniformity in release decisions.

Moreover, present law, D.C. Code § 24-201(c), already permits the sentencing court to reduce the minimum term of incarceration after the expiration of the time periods set forth in Super. Ct. Crim. R. 35(b) -- but only upon application of the Parole Board. Thus, D.C. Code § 24-201(c) presently and wisely provides that sentencing judges should not assume jurisdiction to assess a

convicted defendant's post-sentencing behavior, unless requested to do so by the Parole Board. We see no reason to obliterate this carefully drawn line of demarcation between the authority of the courts and that of the Parole Board. 4/

Finally, our sensitivity to the victims of some of those whom this bill would aid also dictates our opposition. Finality and predictability are concepts relevant not only to crime deterrence but also to victims who should be spared undue anxiety over the premature release of their assailants.

Prisoners Educational Credit Act of 1985, Bill 6-81

This third piece of legislation under consideration would enable a convicted defendant to have his parole eligibility date advanced if he or she successfully completes an academic or vocational program approved by the Mayor and the District of Columbia Board of Parole. We would hope, of course, that the completion of such a program could be a step towards rehabilitation. However, we do not believe that such an achievement should automatically advance an inmate's parole eligibility date without a careful evaluation by appropriate parole authorities of that inmate's institutional behavior in other areas which may be equally important to assess his amenability to parole. If, for example, a convicted felon has been disruptive and abusive to others while confined but nevertheless successfully completes a vocational program, no mechanical formula should automatically advance his parole eligibility date. The Parole Board already has sufficient latitude to consider an inmate's academic achievements when it makes an individualized determination of whether that inmate should be paroled. We see no sufficient reason to disturb this individualized assessment with a rigid criterion which could effect the premature release of a dangerous and unrehabilitated defendant who would not otherwise be an appropriate candidate for early parole.

4/ It is worthy to note that during the three month period in which the population of the District of Columbia jail has been capped by court order, not a single request has been made by the District of Columbia Parole Board to reduce the minimum term of a sentence imposed by a Superior Court judge.

We respectfully submit to you that all three of these Bills represent, in effect, inadequate responses to the fundamental necessity of a new prison. They will, if enacted, result in the premature release of convicted serious offenders on the grounds of budgetary exigency.

We believe that those offenders, who having preyed on the citizens of this city have finally been apprehended and convicted, all at great cost, should be treated and detained in a secure facility if and for as long as the sentencing judge finds appropriate and necessary under existing law. Hard statistics prove that premature release results in new victims. To occasion this result, we believe, as these proposals would, would be to ignore our citizens' mandate to make their streets, homes, and businesses as safe as possible. In recognition of the realities of crime in this city and the demonstrated will of the constituents of this Council, we exhort you to provide more detention facilities to solve the fundamental problem of prison undercapacity.

Finally, let me emphasize that we do not challenge the intentions of those who have with all good faith proposed these bills. Our criticism proceeds solely and directly from our responsibility to public safety in the Nation's Capital and in consideration of the practical effects passage of these bills would have.

Sincerely,

JOSEPH E. DIGENOVA
United States Attorney

JED:dmc
Enclosures

PREPARED STATEMENT OF
STANLEY S. HARRIS,
UNITED STATES ATTORNEY FOR
THE DISTRICT OF COLUMBIA,
ON BILLS 5-16, 5-244, and 5-245
OCTOBER 3, 1983

This written statement is submitted to explain in some detail my reasons for testifying in opposition to the passage of Bill 5-16, the Parole Act of 1983; Bill 5-244, the Prison Overcrowding Emergency Powers Act of 1983; and Bill 5-245, the District of Columbia Sentencing Improvements Act of 1983.

Let me begin by stressing what I consider to be one of the key roles of the United States Attorney as the prosecutor of adult crimes in the District of Columbia. There is in our city an organization, financed by the taxpayers, called the Public Defender Service. It is a fine organization, performing a needed service. However, its name is somewhat misleading, for it does not represent the public. Rather, it represents a relatively small percentage of the criminal defendants in our city -- typically, as a matter of fact, recidivists. The public -- that is, the law-abiding citizens who must be protected against the criminal element in our midst and who all too often become victims of crime -- must be and is represented by the prosecutors of the United States Attorney's Office.

Perhaps the best way to make my initial point is to quote from an article on the editorial page of the Wall Street Journal which was written nearly a year ago about criminal trials. The author of that article, Vermont Royster, stated in relevant part as follows:

> What has happened to the law, I think, is a forgetfulness that there are two parties in every criminal trial. One is the accused, a real person easily visible. The other is "the state," a seemingly impersonal and institutional entity. An injustice to the individual is readily understood. Injustice to "the state" is not so readily recognized. To many, including lawyers, a "fair trial" has come to mean only fair to the accused; fairness to the other party is forgotten.
>
> Yet that entity "the state" is not only all of us but each of us. The person called the prosecutor is in fact a public defender. His task is to try to make our homes and streets safer by

> removing from society those who 12 ordinary citizens decide have been guilty of injury to one or more members of society.

My 182 Assistant United States Attorneys and I fully endorse those observations. So that, as my sons would say, is where I am coming from today. I am here with pre-eminent concern for the victims of crime -- past, present, and future.

I do not like saying what I feel obliged to say today. I would like to speak glowingly of law enforcement successes. I would like to say that our so-called correctional institutions have a meaningful number of people in them who are there needlessly and who are ready to become productive members of society. I cannot do so. The unfortunate but inescapable truth is that we have not too many in our prison facilities but too few.

In giving this testimony, it is our purpose to recite considerable statistical information which, while imperfect, does present a striking overview of what is happening in our criminal justice process. In doing so, I express appreciation to the Department of Corrections for making considerable information available to us for analysis.

I must advise you of my personal, and my Office's institutional, conviction that the problem that the District of Columbia currently is facing is not one of "prison overcrowding," but one of "prison undercapacity." The facts are that those who are incarcerated should be incarcerated, the citizens of this community justifiably desire that they remain incarcerated, and prison expansion is the only proper solution to the problem. This Council would not be acting responsibly if it legislated to achieve the premature release of repeat and dangerous offenders into the law-abiding community by passing the three Bills that are the subject of this hearing.

The appropriateness of characterizing the problem as one of "prison undercapacity" becomes clear when one takes a close look at those who are incarcerated and the reasons for their confinement. Dangerous and repeat offenders permeate our prison population. Statistics generated by the Department of Corrections confirm that fact. The average sentence being served by inmates committed to Lorton Reformatory in 1982 was substantial: that average was 2-3/4 years to 11-1/2

years. During the first quarter of 1983, the average sentence of those committed to Lorton jumped to from 4-1/2 years to just over 14 years. Further, in 1982, approximately 32% of the inmates were sentenced to consecutive terms of imprisonment, an additional 21% of the inmates were serving concurrent time on multiple counts, and approximately 16% of the inmates had detainers pending against them for other crimes charged in this or other jurisdictions. Data on the past criminal history of inmates unfortunately is not kept by the Department of Corrections, but experience dictates, and the above figures confirm, that virtually all of those incarcerated at Lorton are recidivists.

That the inmates at Lorton are dangerous is clear from the types of crimes for which they are incarcerated. In 1982, 45.6% of the newly-committed inmates were incarcerated for crimes against persons, and during the first quarter of 1983 that figure jumped to 52%. Armed robbers comprised 56.9% of those incarcerated for personal crimes in 1982; during the first three months of 1983 they comprised 67% of the same population. Persons convicted of drug abuse, burglars, thieves, and weapons offenders, in that order, accounted for an additional 46% of the total prison population. The remaining prisoners were incarcerated for other offenses, which include bail jumping and escape. When the intimate connection between drug and weapons offenses and other crimes is factored into these figures, the serious and violent nature of virtually all of the inmates cannot be disputed.

The above statistics represent defendants committed to Lorton for the first time for a particular offense. Convicts who were recommitted to Lorton for parole violations, halfway house and work release violations, and other escapes, represented approximately 40% of inmate admissions. This fact serves to verify that those incarcerated should remain there as ordered by conscientious judges for the good of the community and for the safety of potential innocent victims.

I recognize that a number of offenders affected by the Bills before this Council currently are incarcerated at Occoquan, a small step admirably taken to help relieve overcrowding at Lorton. Although intended to house only misdemeanor convicts, Occoquan also holds convicted felons. In 1982, 83.3% of the Occoquan residents had been convicted of assault, grand theft, weapons, drug, and other serious offenses. Bail violators, parole violators, and fugitives counted for an additional 2.5% of the population. Of those inmates at Occoquan, 75.4% previously had been committed to the Department of Corrections, and 35% were there on drug convictions. Thus, it is only

sensible to conclude that most of those at Occoquan are serious offenders. Moreover, experience reveals that all of the committed offenders are recidivists, for the alternatives of pretrial diversion, the Federal Youth Corrections Act, and probation literally without exception have been exhausted before a Court has determined that incarceration is the appropriate remedy to achieve the inescapable goals of deterrence and punishment.

The D.C. Jail also houses many sentenced offenders who would be affected by passage of the Bills before the Council. Sentenced felons comprise over 25%, and sentenced misdemeanants comprise only 11%, of the current population of the jail. Most of these are awaiting transfer to Occoquan or Lorton, and the available information reveals that many are serious -- and virtually all are repeat -- offenders. Further, the vast majority are drug abusers. A recent Washington Post article indicated that as many as 76% of the inmates at the D.C. Jail were drug abusers (during a time in which the City was not cracking down in any concentrated way on drug offenders).

One point cannot be overemphasized. When prison needs were projected two or three decades ago, not even the wildest pessimist could have predicted the extraordinary extent to which narcotics and narcotics-related offenses would swell both our incidence of criminal offenses and our prison populations. Today, the intimate connection between drug abuse and other serious criminal activity is well established. Recent studies have shown that large numbers of incarcerated offenders were under the influence of drugs when they committed their crimes, and that heroin addicts -- of which the District of Columbia has far more than its share -- commit six times as many crimes during periods of addiction as during periods of abstinence. Thus it is deplorable but not surprising that 80% of the offenders committed to the Lorton Youth Center admit to having abused drugs. This very serious problem should be addressed by the Council, but prematurely turning convicted abusers out on the street is not a tolerable solution.

The extent to which incarcerated persons already are being returned to society at an early date should be recognized. In 1982, the Board of Parole released 61% of all prisoners at their first hearing dates, and 73% of the remainder were released at their second hearing dates. As might be expected, in a recent study by the Board of Parole which was designed to evaluate the success or failure of prisoners released to parole supervision, the authors found

that 52% of parolees incurred new arrests during the two-year period following their release.*/ Eighty percent of those rearrested subsequently were convicted. Of additional interest is the further finding that of those who sustained convictions while on parole, more than one-half never had their parole revoked, and remained on the streets of this community pending their new convictions. Thus, an unacceptably high number of offenders who are on parole are continuing to victimize law-abiding citizens, and to add to their number by prematurely releasing others would only exacerbate the situation.

In light of all of the above, it is evident that our jail and prisons house dangerous and repeat offenders, many of whom maintain dangerous drug habits, and almost all of whom must remain incarcerated with their normal release dates if anything more than lip service is to be paid to ensuring community safety.

Next, it is important to emphasize that the citizens of this City, who comprise the Council's and my own constituency, want serious offenders to remain incarcerated. Their concerns were made clear by their overwhelming approval of the Mandatory Minimum Sentences Initiative which became law last June. They also have supported recent police efforts to apprehend repeat and serious offenders, and are participating in growing numbers in neighborhood crime watch programs. The Council would be showing disdain for these efforts if it enacted the proposed Bills.

Further, much public and private effort and money have been expended in order to identify, apprehend, and convict serious offenders. This investment of time and money should not be wasted by releasing those offenders prematurely. Such a result would be inconsistent with the popular view that violent and dangerous offenders should be incarcerated, as evidenced also by the strong support shown for the bail law amendments which were passed unanimously by this Council 15 months ago.

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*/ Of those, 25% were rearrested between 1 to 4 months of parole, 56% were rearrested within 8 months of their parole, 79% were rearrested within a year, and only 21% lasted at least 13 months without being rearrested.

U.S. Department of Justice

United States Attorney

District of Columbia

Judiciary Center
555 Fourth St. N.W.
Washington, DC 20001

January 21, 1987

The Honorable John R. Bolton
Assistant Attorney General
Office of Legislative Affairs
Department of Justice
10th & Constitution Ave., N.W.
Washington, D.C. 20530

Dear Mr. Bolton:

On January 8, 1987 Mayor Barry signed into law the "District of Columbia Good Time Credits Act of 1986", D.C. Act 6-253 (hereinafter "The Act"). The Act will allow sentenced D.C. Code offenders to enjoy excessive reductions in the minimum terms of sentences imposed by Superior Court judges. This legislation, will jeopardize public safety in the Nations's Capital by allowing the premature release of repeat and dangerous offenders. Accordingly, we recommend that the Department of Justice call upon the Congress to veto this legislation under the procedures established by the District of Columbia Self-Government and Government Reorganization Act, D.C. Code § 1-201 et seq.

The Act provides for two methods of sentence reduction. First, it provides that "good time" which, under D.C. Code § 24-405 may be credited against an inmate's maximum sentence, would also be applied to the minimum sentence imposed by the sentencing judge. As a result, the Act will allow an offender sentenced to a mandatory minimum, pursuant to several of the provisions of the District of Columbia Code, to be released before serving the required minimum simply by adhering to the rules of the institution.

Second, the Act provides that an offender may earn "educational good time" for successfully completing academic or vocational educational programs. As with "good time", this reduction in sentence would apply to an offender's minimum sentence. The Act does not provide any standards for what a proper academic or vocational program should be.

These provisions have some extremely serious flaws. Allowing such reductions in an offender's minimum term of imprisonment would mock sentencing courts reducing their grave responsibility to an academic exercise. As a practical matter, responsibility for sentencing criminal offenders would be shifted from judges to corrections system officials who have an institutional interest in reducing the prison population. Early release of prisoners would, of course, lessen the obligation of the District of Columbia to provide adequate capacity for its sentenced offenders. The Act thus appears to be an inappropriate, if indirect, attempt to assuage understandable city anxiety over its prison undercapacity.

In addition, the Act ignores an already existing process through which truly exemplary conduct by prisoners might be recognized and rewarded. The provisions of D.C. Code § 24-201(c) presently authorize the District of Columbia Board of Parole to seek a reduced minimum sentence from the sentencing judge when it perceives an offender truly has been rehabilitated during incarceration. This statute provides the same incentive for rehabilitation sought by the Act but ensures the public safety by requiring that the request be made by parole, rather than corrections officials and that the sentencing judge review the request to determine its validity. Under this procedure, notice to the United States Attorney must also be given. As a result of the notification process, we intervene in cases where we believe the District of Columbia Board of Parole has made an inappropriate recommendation.

Finally, the Congress should be informed of just who will benefit from the dramatically shortened sentences that the Act provides. Contrary to what some might like to believe, the prison population is not "soft", but is instead largely a hardened group of repeat offenders. Citing a study done by the District of Columbia Office of Criminal Justice Plans and Analysis, the District of Columbia Department of Corrections has told the United States District Court:

> On March 19, 1986 there were 5791 inmates serving sentences at Lorton, the District of Columbia Detention Facility (D.C. Jail), and halfway houses. 93% of this inmate population was 35 years of age or younger. 50% of the inmate population was serving felony sentences for violent offenses; 18% were serving felony drug offense sentences; 16% were serving felony property offense sentence [sic] and about 10% were serving misdemeanor sentences. 82% of the prison population had three or more convictions, and 40% had five or more convictions, and less than 10% had suffered only one conviction. About 55% of the District's prison population had suffered three or more felony convictions. Finally, urinalysis tests conducted since March 1984 for the Superior Court indicates that a majority of the District's prison population (60%) tested positive for illicit drug abuse. 1/

This information is emphatic and clear: the prison population is diamond-hard. Reducing the minimum terms of such offenders, merely because of their institutional adjustment, overlooks the fact that their early release will endanger the community.

We enclose for your reference a copy of the Act as signed by the Mayor, and a copy of our December 9, 1986 letter to City Council Chairman David A. Clarke which sets forth in more detail our objections to this legislation. We also enclose relevant memoranda and supporting materials provided to us by the Bureau of Prisons.

Thank you for your attention to this matter.

Sincerely,

JOSEPH E. DIGENOVA
United States Attorney

1/ Defendant's Memorandum of Points and Authorities in Opposition to the Motion for a Preliminary Injunction, Inmates of Occoquan v. Barry, C.A. No. 86-2128, August 12, 1986, at 6.

Mr. PARRIS. Let me just read a couple of sentences from each of those two letters. One has to do with the Good Time Act, which simply remove the courts from the process of sentencing. That was the purpose of all that. It was an administrative determination that eliminated the jurisdiction of the courts by virtue of providing "good" time. The second is the Emergency Release Act, of course, which we are addressing here among others this morning, which eliminated the courts and the parole system from the process. It is not a discretionary reduction. It does not go before any discretionary panel. The majority of inmates do not face any discretionary consideration whether or not they are worthy of reduction of their sentences. It is a mandatory reduction of the minimum sentence. It is a double whammy, in other words.

The point I am trying to make is, and Mr. DiGenova says, in part, in his letters: "The act will allow sentenced D.C. Code offenders to enjoy excessive reductions in the minimum terms of sentences imposed by D.C. Superior Court judges." It goes on to say, "* * * an offender may earn educational good time. * * * The act does not provide any standards for what a proper academic or vocational program should be." In my opinion, that is a fatal flaw in any piece of legislation.

He says, "* * * responsibility for sentencing criminal offenders would be shifted from judges to corrections system officials who have an institutional interest in reducing the prison population." Amen. And he makes the point that "* * * the [D.C.] prison population is not 'soft,' but is instead largely a hardened group of repeat offenders."

Among other statistics in this letter he points out that 82 percent of the prison population of the District of Columbia had three or more felony convictions—82 percent.

In his other letter he says, "We must oppose the passage of each of these bills [including the ones we are addressing this morning] because their passage would, effectively, legislate the premature release of repeat and dangerous offenders into the law-abiding community without proper regard for the public safety."

Now, with those observations, Mr. Chairman, and the inclusion of these letters into the record, I think it should be abundantly clear to all of us that there is a serious consideration of public safety to this community and the residents within it as a result of these acts.

Let me just say to Ms. McGarry in regard to her testimony, which I am grateful for, if, in fact, the adoption of these acts were as you have stated some emergency, temporary adoption of an emergency provision that would be corrected or impacted in some beneficial way by some long-range approach to the problem, perhaps my judgment would be substantially different again. That is not the case here. We have had 16 years in this community to address the problem of the correctional system, and it has been largely ignored until these acts were adopted as a result of court-imposed caps.

That brings me to my final point, and my question is to Officer Hankins, for whom I have the highest possible regard; I have dealt with him over a number of years on administrative matters such as pension reforms and things of that kind in terms of the police

department of this community. But my question is, Gary, as a blue-suit guy on the street in the frontline, does the system in this city incarcerate first offenders?

Mr. HANKINS. No, sir; it doesn't.

Mr. PARRIS. Does it incarcerate second, third, fourth, whatever? I mean, somewhere there comes a number. Who gets put in jail in this town?

Mr. HANKINS. Well, it is difficult to describe and in a term that an outsider would understand, but I would say that it is easily—you could easily say that a person could commit a dozen offenses before he spent his first day in jail. He could plea bargain felonies to misdemeanors, accumulate a record of misdemeanors as a juvenile without going to jail; then become an adult, and finally get convicted of a felony or plead to a felony and that would not lead to jail. He could be on a first-offender status as an adult. And, while this sounds like some horror story concocted by the exception, that is actually the rule in the District of Columbia.

This is what is destroying our ability to keep the streets safe here. The commonsense of this community, criminal and law-abiding citizen alike, is that you are not going to go to jail or, if you do finally go to jail, you are not going to stay there very long.

To give you an example, when I was working in far southeast over the summer in a drug detail, we went to a housing project, to a corner of a parking lot, and the local officers wanted to show this to me. Parked there was a BMW, an Audi 5000, I think it was, and a Mercedes Benz. Those three cars technically belonged to one woman who lived in this project; they were actually operated by her sons, all drug dealers, who had been arrested and rearrested in Operation Clean Sweep. These three young men had made a decision to sell drugs in order to get money, and everyone around them, honest law-abiding citizen and fellow drug pusher alike, had to look at it and wonder if they hadn't made the right decision, because they were driving the big cars, they had the jewelry and all of the money, and nothing—no real consequence for it except the accumulation of the wealth they wanted.

I can't tell you the number of parents who bemoan that to police officers, who say, "How can I keep my kids straight when this is what they see on the streets around here all the time?" And that is not the exception; that is the rule out there. This system in the District of Columbia is making crime pay and pay well without a significant possibility of being held accountable for it.

Mr. PARRIS. So the role model in your community is the drug pusher who has all of the things that we all aspire to have in terms of possessions and wealth and opportunity for enjoyment of the quality of life, not the poor guy that drives a taxicab in this town, trying to buy groceries and pay his rent; is that what you are telling us?

Mr. HANKINS. He is the victim.

Mr. PARRIS. Let me draw your attention, just for a moment, Officer Hankins, to the repeat offender program. Could you explain that to us very briefly?

Mr. HANKINS. Yes, sir. About 6 years ago the D.C. Metropolitan Police Department decided to create a repeat offender unit that was designed to look at people who fit a profile of career criminals

and then to monitor them while they were on the street and rearrest them if they continued to commit crimes. We had a gut feeling as police officers that these were career criminals who would commit several crimes a month, but we never had proof. We never had an opportunity to put manpower together and watch it. As soon as we did, even we were astounded.

What we discovered was that these criminals usually commit a crime a day. If they are car thieves, they will steal at least one car a day. If they are burglars, they will commit at least one burglary a day. If they are drug pushers, they will be pushing drugs many times a day, and the sale. They are responsible for an amazing amount of crime, and these people are released from our prisons and put back into the community unreformed and unrepentant. They never will be reformed by our system and they will continue to victimize our citizens. They do it as a career. They are not stealing chickens to feed their families; they are selling drugs and breaking into homes to buy luxury items to keep them to a level of a quality of life that they have chosen.

What they have done, frankly, and you see it on the street all the time, they have decided I am going to forego going to school and all of the study and hard work and discipline that it takes to acquire a high school diploma, and maybe join the police department or go on to college and get a degree and become a lawyer. That takes a lot of sacrifice and work. These people say: I am not going to do that. Instead, I am going to steal. I am going to rob. I will do whatever it takes to get whatever I want. They are being rewarded for it because the young man who does all of the things I just described doesn't see a reward until he is well into his adulthood, and then there is a strong possibility, ironically, that he is going to become a victim of one of these people who have accumulated a great deal of wealth with very little self-discipline or effort—at his expense.

Mr. PARRIS. Well, if you take the profile of the average inmate, as set forth in the reports of the D.C. corrections system itself, of 82 percent, three felony three-time losers, and if you take the impact, as testified by Mr. Downs this morning, of the impact of the early release programs which is the subject of this hearing, we have released 900—860, to be precise—of those individuals into this community since June, I believe.

Now, if you take your statistics which have been historically proven by the repeat offender program, that if each one of those 860 people commit a new one of their category of crime, whether it is drug pushing, the 46 percent we know already are in that category, or homicide or burglary or assault or robbery, whatever it is, each one of those 860 people will most probably by historical standards accomplish a crime each day they are released under the early release program. So we have the potential, obviously, of having 860 new criminal offenses every day in this community because of these acts. Is that a fair summary?

Mr. HANKINS. That is an accurate portrayal of the statistical base as we know it.

Mr. PARRIS. I thank you. One last question, Gary, and I might add that is the reason, very frankly, that I have filed these resolutions of disapproval. I think those kinds of frightening statistics

and the realization of the real categorization of the persons we are dealing here with lead you to the inescapable conclusion that this is a matter of critical public safety. That is exactly the reason that motivated me and why we are here today.

One last question. You alluded to this earlier, but is it your position as an average police officer, if I might use that, that the subsequent release of the inmates is having an adverse impact on the dedication, if you will, of the devotion to duty of the membership of the police department? And let me give you a double-barrel one here. Isn't it not true that you and your officers have noticed, and it has been suggested to me by several of you, that as a result of the impact of these good time and early release and all of these other programs to reduce the capacity to meet the court-imposed caps, that the net effect of that in terms of the criminal activity of the persons who conduct crime, who do the crime in this community, is a total lack of deterrence, of the possibility of criminal justice, because they can, in fact, engage in criminal activity with impunity? Is that the result of where we are, or at least the trend that we are approaching?

Mr. HANKINS. That is exactly the direction we are headed in, and it contributes to the frustration of police officers. Police officers, and it is a self-serving statement since I am one of them, but they tend to be very idealistic people when they join the police department, and they are looking to have a career where they can do some good. We find that they become burnt out and they become frustrated because of what they see occurring—and I see this and I share it to some extent—is that what they have actually become a part of is an industry that is perpetuating itself and just creating more work, and there doesn't seem to be any will left anymore to impact crime and to increase safety. All we are doing is processing bodies, and we know that. When you make your first arrest of a drug dealer and you feel like you are going to do some good and get him off the street and make the street safer, and you see him back out there that evening, and you arrest him or another one like him, and the same thing occurs and occurs and occurs, it is frustrating and it does destroy our morale. The trend is they are growing in numbers. We are being overwhelmed out there. We need more police just to keep up with this trend.

It is going to get worse. This is the closest thing to perpetual motion that mankind has ever found.

Mr. PARRIS. I thank the chairman. I understand he has this pressing engagement, and I appreciate his time.

Mr. DYMALLY. Thank you very much.

To the witnesses, I think the gentleman from Virginia would agree with me that both the majority and minority staff do a very good job in bringing some quality witnesses to the committee.

I note with interest Mr. Parris referred to you as a blue-suiter fighting crime. As you sat there, I thought you were a Philadelphia lawyer.

The meeting is adjourned.

[Whereupon, at 12 noon, the subcommittee was adjourned, to reconvene subject to the call of the Chair.]

MARKUP OF HOUSE JOINT RESOLUTION 341

WEDNESDAY, OCTOBER 7, 1987

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

The subcommittee met, pursuant to notice, at 9:20 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: Edward C. Sylvester, staff director; Donald M. Temple, senior staff counsel; Donn G. Davis, senior legislative associate; Jeffrey Schlagenhauf, minority staff assistant.

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

I want to note for the record that notices for this meeting were sent to every member of the subcommittee and, as chairman of the subcommittee, I am prepared to proceed with the hearing, and so are the majority members, Mr. Mazzoli and Mr. Wheat. However, in the absence of the minority members, specifically the author of the legislation, Mr. Parris, we are going to recess the meeting—let me emphasize we will recess. We will not adjourn. We will so recess, subject to the call of the Chair.

In other words, whenever Mr. Parris is available to meet with the subcommittee, it is possible to convene a meeting either here or in the Rayburn Room, wherever it is necessary and possible for Mr. Parris' convenience. Therefore, in the absence of the author of the legislation, it is my intention to recess the hearing, subject to the call of the Chair.

The Chair recognizes Mr. Bliley.

Mr. BLILEY. I have no statement.

Mr. DYMALLY. Mr. Bliley has no statement. Therefore, the meeting is in recess.

[Whereupon, at 9:22 a.m., the subcommittee was in recess, subject to the call of the Chair.]

AFTERNOON SESSION

Mr. DYMALLY. The Subcommittee on Judiciary and Education is called to order after our recess.

Again, as in the morning meeting, I note that a quorum is not present. I think the record should reflect the subcommittee chairman's efforts to proceed with Mr. Parris' disapproval resolution in a timely fashion.

On July 22, Mr. Parris introduced House Joint Resolution 341. On September 10, immediately after our August recess, I scheduled and held a hearing on both House Joint Resolution 341 and H.R. 2850, which had been introduced on June 30.

At that hearing I scheduled a subcommittee meeting on October 8 to consider House Joint Resolution 341. To accelerate its consideration, however, I rescheduled the subcommittee meeting to October 7, with timely notice to members. Further, I requested the full committee chairman to schedule a full committee meeting on October 8, the next day, in order to complete the committee's consideration of this matter.

Due to the absence of a subcommittee quorum, and in order to proceed expeditiously in the committee's consideration of this matter—in accordance with committee rules and my discussion with the committee chairman, Mr. Dellums—the committee will consider this resolution tomorrow at 9 o'clock as scheduled.

At this time I would like to enter my opening statement prepared for the subcommittee markup into the record.

[The prepared statement of Hon. Mervyn M. Dymally follows:]

OPENING STATEMENT

OF

THE HONORABLE MERVYN M. DYMALLY

CHAIRMAN OF THE SUBCOMMITTEE ON JUDICIARY AND EDUCATION

COMMITTEE ON THE DISTRICT OF COLUMBIA

MARK-UP OF H.J. RES. 341

Wednesday, October 7, 1987 9:00 a.m. 1310 Longworth HOB

GOOD MORNING.

THE SUBCOMMITTEE ON JUDICIARY AND EDUCATION IS HEREBY CALLED TO ORDER TO CONSIDER H.J. RES. 341, A RESOLUTION WHICH SEEKS TO DISAPPROVE DISTRICT OF COLUMBIA ACT 7-56, THE PRISON OVERCROWDING EMERGENCY POWERS ACT OF 1987.

WHEN A STATE OF EMERGENCY HAS BEEN DECLARED, THE ACT AUTHORIZES THE MAYOR TO REDUCE BY 90 DAYS THE MINIMUM AND MAXIMUM SENTENCES OF ELIGIBLE PRISONERS. THE ACT WILL NOT BECOME EFFECTIVE UNTIL THE EXPIRATION OF A 60 LEGISLATIVE DAY LAYOVER — WHICH IS NOVEMBER 15TH.

IN THE DISTRICT OF COLUMBIA THE CONTINUED INFLUX OF PRISONERS HAS RESULTED IN A SEVERE INSTITUTIONAL OVERCROWDING PROBLEM. MORE INMATES HAVE ENTERED CORRECTIONS FACILITIES THAN HAVE BEEN RELEASED. ACCORDING TO JUDGE JOHN D. FAUNTLEROY, SPECIAL OFFICER FOR THE PRISON, APPROXIMATELY 200 MORE INMATES PER MONTH HAVE COME INTO THE SYSTEM THAN HAVE LEFT. BETWEEN JANUARY 1ST AND JUNE 1ST, 1987, THE DISTRICT GAINED 981 ADDITIONAL INMATES.

IN SPITE OF THE INCREASED PRISON POPULATION, THERE IS LIMITED SPACE TO HOUSE PRISONERS. MOREOVER, THE COURTS HAVE REQUIRED THE DISTRICT TO LIMIT ITS PRISON POPULATION AT THE D.C. JAIL, LORTON AND OCCOQUAN FACILITIES. TO FURTHER COMPLICATE THE PROBLEM, THE DISTRICT HAS NO CONTROL OVER LENGTH OF SENTENCES, NOR THE PLACE OF CONFINEMENT OF CONVICTED OFFENDERS. NONETHELESS, THE CITY HAS ATTEMPTED TO DEVELOP MEANINGFUL ALTERNATIVES TO ADDRESS THIS PROBLEM. ACT 7-56 IS ONE OF THEM.

TODAY THE SUBCOMMITTEE IS CONVENED TO CONSIDER WHETHER THIS LEGISLATION SHOULD BE OVERTURNED. AS I NOTED AT OUR HEARING ON THIS BILL, IN REVIEWING RESOLUTIONS OF DISAPPROVAL, THIS COMMITTEE HAS TRADITIONALLY RELIED UPON THREE CRITERIA:

(1) DID THE COUNCIL EXCEED ITS LEGISLATIVE AUTHORITY?

(2) WAS THE COUNCIL'S ACTION CONSTITUTIONAL?

(3) DID THE COUNCIL ACT VIOLATE THE FEDERAL INTEREST?

CONSISTENT WITH THIS LEVEL OF SCRUTINY, I ASK WHETHER THE CITY COUNCIL ACTED WITHIN ITS AUTHORITY IN PASSING THIS LEGISLATION.

DID THE COUNCIL'S ACTIONS VIOLATE THE UNITED STATES CONSTITUTION?

AND LASTLY, DID THE COUNCIL'S ACTION VIOLATES THE "FEDERAL INTEREST." I THINK NOT.

ACT 7-56 IS SIMILAR TO LEGISLATION PASSED BY APPROXIMATELY 17 STATES. ARE THESE OTHER STATE ACTS VIOLATIVE OF THE FEDERAL INTEREST? INDEED NOT. THEN HOW CAN WE DETERMINE THAT ACT 7-56 VIOLATED THE FEDERAL INTEREST AND SHOULD THUS, BE OVERTURNED.

ARE WE MERELY PRETENDING THAT HOME RULE EXISTS, EXCEPT WHEN IT IS POLITICALLY INCONVENIENT? ARE WE TO VETO LOCAL LEGISLATIVE ACTS MERELY BECAUSE THEY INVOLVE POPULAR POLITICAL ISSUES?

WHAT ABOUT THE FUNDAMENTAL RIGHTS OF AMERICAN CITIZENS TO GOVERN THEMSELVES? WHAT ABOUT FUNDAMENTAL PRINCIPLES OF AMERICAN DEMOCRACY?

DID NOT THIS VERY CONGRESS AGREE ON THESE RIGHTS FOR DISTRICT CITIZENS WHEN IT PASSED H.R. 9682 AND S. 1435, THE D.C. SELF GOVERNMENT AND GOVERNMENTAL REORGANIZATION ACT. INDEED THE QUESTION IS WHETHER HOME RULE OR SELF GOVERNMENT EXISTS OR DOES NOT EXIST FOR THE CITIZENS OF THE DISTRICT OF COLUMBIA. BASED ON MY INTERPRETATION OF THE LAW, THE ANSWER MUST BE A CLEAR AND UNEQUIVOCAL YES.

I SUBMIT THAT IF THERE IS A PROBLEM HERE, IT IS NOT WITH THE LAW ITSELF — BUT ITS EXECUTION. IF THIS IS THE CASE, I BELIEVE THERE ARE MEANINGFUL CHECKS AND BALANCES TO REMEDY THESE PROBLEMS WITHIN THE FRAMEWORK OF THE LOCAL GOVERNMENT'S LEGISLATIVE, JUDICIAL AND EXECUTIVE BRANCHES — AS IN OTHER GOVERNMENTS? WHY MUST CONGRESS GET INVOLVED? TO WHAT END DO OUR ACTIONS TAKE THIS BODY, THE DISTRICT, AND THIS NATION?

IT IS ESSENTIAL THAT THIS CONGRESS RECOGNIZE DISTRICT OF COLUMBIA CITIZENS LIMITED RIGHT TO SELF-DETERMINATION — CONSISTENT WITH THE HOME RULE ACT. ON THIS BASIS, THIS MEMBER INTENDS TO VOTE AGAINST THIS RESOLUTION.

Mr. DYMALLY. The meeting is adjourned.
[Whereupon, at 3:05 p.m., the subcommittee was adjourned.]

MARKUP OF HOUSE JOINT RESOLUTION 341

THURSDAY, OCTOBER 8, 1987

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, DC.

The full committee met, pursuant to call, at 9 a.m., in room 1310, Longworth House Office Building, Hon. Ronald V. Dellums (chairman of the subcommittee) presiding.

Present: Representatives Dellums, Fauntroy, Stark, Gray, Dymally, and Morrison.

Also present: Edward C. Sylvester, staff director; Corliss Clemonts, staff assistant; Donald Temple, senior staff counsel; Johnny Barnes, senior staff counsel; Donn Davis, senior legislative associate; and Robert Brauer, senior staff assistant.

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

Prior to going into the substantive matter before the full committee this morning, the Chair, on behalf of myself and members of the committee and staff, would like to welcome our distinguished colleague, the gentleman from Connecticut, Mr. Morrison. We deeply appreciate your desire to serve on this committee, and we welcome you.

As my colleague well knows, the gentleman from Connecticut, Mr. McKinney, served on this committee for a number of years with great distinction, and we look forward to my colleague from Connecticut, Mr. Morrison, serving with the same level of distinction, and we appreciate and we thank you very much and welcome you.

I will yield to the gentleman from Connecticut.

Mr. MORRISON. Mr. Chairman, I thank you very much. It is a pleasure to be here, and I am sorry to delay the committee by being late. I will try to improve my punctuality in the future.

But I thank the gentleman for his kind words, and certainly I join him in his reference to our late colleague, Mr. McKinney, who did serve here with distinction and certainly has large shoes to be filled.

Thank you.

The CHAIRMAN. Thank you, my colleague.

We meet this morning to consider House Joint Resolution 341, by which Congress and the President would veto the prison overcrowding bill, specifically, that is, D.C. Act 7–56, passed by the D.C. Council on July 14 of this year.

Hearings have been held by our Subcommittee on Judiciary and Education, and a markup session was, indeed, scheduled.

With the agreement of the subcommittee Chair, the gentleman from California, Mr. Dymally, and to expedite full committee consideration, at this time the Chair, exercising its prerogatives, would call up House Joint Resolution 341 and request at this time that the gentleman from California explain to the full committee the joint resolution of disapproval.

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

Mr. Chairman, on July 14, the D.C. City Council approved Act 7-56, the D.C. Prison Overcrowded Emergency Powers Act. On July 21, it was transmitted to the Speaker, and on July 22, Mr. Parris of Virginia introduced House Joint Resolution 341 in a bill to disapprove Act 7-56.

Act 7-56 authorizes the Mayor to reduce by 90 days the minimum and maximum sentences of certain prisoners who are within 180 days of their release dates. The act will not become effective until the expiration of a 60-legislative day layover, which is November 15, 1987.

Mr. Chairman, in the District of Columbia, the continued influx of prisoners has resulted in a severe institutional overcrowding problem. More inmates have entered corrections facilities than have been released. According to Judge John D. Fauntleroy, special officer for the prisoners, approximately 200 more inmates per month have come into the system than have left.

Between January 1 and June 1, 1987, the District gained 981 additional inmates. Moreover, between 1979 and 1986, the District's total correction population increased by 100 percent.

In spite of the increased prison population, there is limited space to house prisoners. Moreover, we should give careful scrutiny to the District's dilemma, and it is this. It is literally between a rock and a hard place. The courts have ordered the District to limit its prison population at the D.C. Jail, Lorton and Occoquan.

To further complicate the problem, the U.S. attorney's office determines the place of confinement of convicted offenders, and recently the Senate has delayed construction of a planned, new prison in the District of Columbia.

Nonetheless, the city has attempted to develop meaningful alternatives to address the overcrowding problem, and Act 7-56 is one of them.

Mr. Chairman, as subcommittee chairman, I have attempted to influence consideration of this legislation as expeditiously as possible and within reasonable scheduling constraints. Hence, in the first week after our August recess, I scheduled and held a hearing on both House Joint Resolution 341 and H.R. 2850, which had been introduced earlier by Mr. Parris.

For the record, H.R. 2850, an emergency bill which provided for early release of certain inmates, expired September 30. At our hearing, I scheduled a subcommittee meeting for October 8, to consider House Joint Resolution 341. To accelerate its consideration, I rescheduled the subcommittee meeting to October 7, and sent timely notice to subcommittee members.

Further, I requested you, Mr. Chairman, to schedule and hold a full committee meeting on today in order to complete the committee's consideration of this matter, and you did so.

Unfortunately, there was no subcommittee quorum yesterday, even though we attempted to convene in the morning and in the afternoon at 3 o'clock. Hence, Mr. Chairman, I appreciate your decision to proceed expeditiously with consideration of House Joint Resolution 341.

I think it is consistent with this member's intentions, and I think it is extremely helpful for the District's management of its overcrowding problem to have a sense of whether Act 7–56 will become law.

In our scrutiny on that issue, the committee should rely, as it has in the past, on three criteria. One, did the council exceed its legislative authority? Two, was the council's action constitutional? Three, did the council's act violate or obstruct the Federal interest?

I asked my colleagues whether the council acted within its statutory authority, and the answer is yes. Did its actions violate the United States Constitution? The answer is no. And, last, did the council's action violate or obstruct the Federal interest? Obviously not.

Mr. Chairman, Act 7–56 is the same or similar to legislation passed by 17 States: Arkansas, Arizona, Connecticut, Florida, Georgia, Idaho, Iowa, Michigan, Montana, New Jersey, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas and the State of Washington.

Do these acts violate the Federal interest? Indeed not. Should these respective State governments not execute these laws to the letter? I submit that the Federal interest would not be violated. Thus, I ask: On what ground should we overturn Act 7–56? Are we merely pretending that home rule exists, except when it is politically inconvenient? Are we to veto local legislative acts merely because they involve a popular political issue?

What about the fundamental rights of American citizens to govern themselves and the fundamental principles of American democracy? Did not this very Congress agree on these rights for District citizens when it passed H.R. 9682 and S. 1435, the acts which the D.C. self-government organization legislation was based on?

Mr. Chairman, I submit that if there is a problem, it is not with the law itself, but with its execution, and if this is the case, I believe there are meaningful checks and balances to remedy these problems within the framework of the local government's legislative, judicial and executive branches, as in other governments which we have just cited.

Already decisions of the D.C. courts, the U.S. attorney's office, and the U.S. Senate are affecting local corrections management. Why should we further exacerbate the problem absent a meaningful solution?

In conclusion, Mr. Chairman, it is essential that this committee and this Congress recognize the District of Columbia citizens's rights to self-determination, consistent with the Home Rule Act. On this basis, Mr. Chairman, this member recommends that the committee members vote against Mr. Parris' resolution.

And, therefore, Mr. Chairman, I move that the committee reject House Joint Resolution 341, and so I move the question on the resolution.

The CHAIRMAN. I thank the gentleman for his presentation and explanation of where we are at this moment, and there is a motion before the committee to reject the resolution offered by the gentleman from Virginia, Mr. Parris.

In anticipating discussion, the Chair would recognize the gentleman from the District of Columbia for such time as he may consume.

Mr. FAUNTROY. Thank you, Mr. Chairman.

Let me say first that I want to commend the chairman of the subcommittee, Mr. Dymally, for the exhaustive effort that he has put in to examine this whole question very carefully, and I do intend to vote in support of his resolution of this question.

He has pointed out correctly that the problem here is not with the law. There may be some questions as to its execution, but I think that those can be handled.

I regret very much that Mr. Parris is not here at this time for the reason that I share a concern of Mr. Parris that if the government of the District of Columbia is violating the clear, express terms of its own law, that we have reached a point of intolerance. Both the emergency act of the D.C. Council, D.C. Act 7-40, and the permanent act, D.C. 7-56, by their express provisions, exclude those convicted of homicide, rape, other sex offenses, robbery, extortion, kidnapping, assault with a dangerous weapon and armed robbery.

During the hearing on the resolution of disapproval of those acts, we were assured by local government officials that no persons within those classes of prisoners would be released. Now we are told, according to a recent report in the "Washington Post," that those assurances have been proven false.

The "Post" reported that information obtained from the U.S. attorney's office indicates that some 140 inmates freed by the District were being held for crimes within the restricted categories. It concerns me very deeply if the "Post" report and comments by my colleague, Mr. Parris, are, indeed, accurate.

I directed the staff to obtain copies of the release documents from the U.S. attorney's office in an attempt to uncover the facts to my own satisfaction. I must say, Mr. Chairman, the release documents I have seen are, without further information, indefinite on the question of whether, in fact, the District has violated its own laws.

It may be that the only way to get answers to these questions is to bring those officials back before us to explain the documents.

For now, however, I would wish that Mr. Parris had been here. That way we might engage him in a colloquy on a few questions I have in an effort to get on the record the facts that we do have at our command.

First, let me say that the documents I have seen include, among the nearly 900 persons released, a list of some who were released prior to the effective date of the Emergency Act. Now, if that is true, those persons should not be on the list because they could not have been released pursuant to the act, and were he here, I would have asked him if he had any information on that.

Second, the documents I have seen include many persons who have the status of an expired release date or of parole. I am told that the status of "expired" means that these persons have served

their mandatory minimum sentences and were subject to release, and again, I would want to know if Mr. Parris has information to the contrary.

I am also told that the status of "parole" means that those persons had a hearing before the D.C. Parole Board and received from that board a recommendation for release. The question then is: Is that not true, and if Mr. Parris has information to the contrary with respect to those who have been paroled?

I saw none on the list who had been convicted of homicide, and I wonder if that is consistent with what Mr. Parris has reported to be the fact. I saw none who had been convicted of extortion or kidnapping, and the question is: Is that consistent with findings of Mr. Parris?

Consistent with the "Post" report, I found some on the list who had been convicted of assault and of weapons charges, but I found none who had been convicted of assault with a dangerous weapon on the list. Simple assault and weapons possession are not categories barred by the act, as I read it. Assault with a dangerous weapon is, and I would wonder whether or not there are instances where, in fact, persons convicted of assault with a dangerous weapon are, in fact, on the list. I did not see that.

I did not see the name of any person on the list who had been convicted of armed robbery, another of the restricted categories, and somebody needs to shed some light for me on that.

The sexual offenses referenced by the Post in its report primarily involve the names of women inmates. So I would assume that, as District officials indicated, the crime for which they were incarcerated was prostitution. Unhappy as I am with that oldest profession, I was not aware that it was a violent crime. Of course, being a minister, I would not know.

But there were, however, two rape listings, an explanation of which appeared in the Washington Post.

In short, Mr. Chairman, the release documents, in my view, without further information, are not definitive on the basic issue before us today, and I hope that we get further information before we make assumptions based solely on raw data. Raw data is always subject to a range of interpretation, and we need the facts because those facts are not available to us at this time. I see no reason to oppose the recommendation of the chairman of the committee.

The CHAIRMAN. I thank the gentleman for his statement.

Are there any other comments?

[No response.]

The CHAIRMAN. The Chair would like to make a few comments and particularly direct them at our most recent colleague. As the gentleman, I am sure, is aware at this point, the District of Columbia Self-Government and Governmental Reorganization Act does, indeed, provide for a mechanism by which a Member of Congress may introduce a resolution disapproving acts of the local government.

It has been the position of the Chair and the philosophy of this committee that we assiduously and diligently preserve and protect the concept of self-determination and home rule for the residents of the District of Columbia. Over the years we have developed, as a result of a number of resolutions of disapproval, a set of criteria

that the gentleman from California has alluded to earlier in his presentation.

One, did the council exceed its legislative authority in establishing a particular act? In this instance, the gentleman from California and the subcommittee came to the conclusion that the answer to that question was, no, the D.C. Council did not exceed its legislative authority. As a matter of fact, he alluded to the fact that there are 17 States in this country that have virtually identical laws.

Second, was the council's act constitutional? We understand that you bring a roomful of attorneys in, and they can fall on either side of that. But we have tried as diligently as we could to look at least at glaring examples of constitutionality, and in this instance we have an assessment that the council's act was, indeed, not unconstitutional. How could it be in the District of Columbia and not in 17 additional States? It seems to me that answer is quite obvious.

The third criteria that this committee established: Did the council's act violate or obstruct the Federal interest? Again, the gentleman from California and the work of his subcommittee has stated that in their assessment, the answer to that question is, no, the council's act does not violate the Federal interest.

Even though there is a resolution of disapproval which provides a mechanism by which this committee and the Congress can intervene into the business of the residents of the District of Columbia, it seems to this gentleman that we must be very diligent about the framework within which we act. That is why we came with these three criteria that we have tried to use to guide us through this murky area.

Having stated that, I would like to now state to my colleague from Connecticut and others what the situation is at this moment. The gentleman from California has acted in a timely fashion by holding hearings and an appropriate markup. As he indicated, on yesterday there was not an opportunity for a quorum, and the gentleman came to me in an effort to expedite this matter and asked would I use the prerogatives of the Chair to bring this matter before the full committee, and I agreed to do so.

The motion before the full committee at this moment is a motion to reject House Joint Resolution 341, offered by the gentleman from Virginia, Mr. Parris. It is the opinion of the Chair, in my interpretation of the rules, that we need four people in order to vote; seven people in order to report out a bill. We are not making an effort here to report out a bill, and so absent seven people, we still are not precluded from voting on this matter,and it would be the intention of the Chair at the appropriate time to call the roll.

If the motion of the gentleman from California, Mr. Dymally, prevails, and I would assume that it will as I look at the makeup of the members attending the meeting this morning, this committee will have acted. However, this is not necessarily the end of this matter because the Self-Government and Reorganization Act does provide a vehicle whereby in this instance a member may, on a privileged motion, go to the floor of Congress and offer a procedural privilege motion that would attempt to discharge the committee from further consideration, and that the House would then hear this matter on a substantive basis.

That first procedural motion is provided under the rules, a 1-hour debate on the floor of Congress. At that time, the Members of the House would then be called upon to vote.

If the members vote down the procedural privilege motion, that then is the end of the matter because it is a serious procedural question when you act to discharge a committee of its responsibilities, particularly in this instance where this committee has acted on a timely fashion and in good faith and, in this gentleman's humble opinion, with intellect and reason.

If the procedural motion is agreed to by the House, the Congress then under the rules would have up to 10 hours to debate the substantive matter. Members have the right by unanimous consent, obviously, to limit the time, but there certainly could be up to a 10-hour debate.

So that says where we are. The gentleman from Virginia, Mr. Parris, is clearly aware of his statutory prerogatives in this matter. I am not sure why my colleagues on the other side of the aisle are not here. I leave that to speculation, but certainly their rights are reserved under the law.

I at this time have no clear indication as to whether the gentleman from Virginia will bring this matter to the floor. That is something that hopefully we will learn by some time early next week.

My colleagues should be prepared in the event that this procedural prerogative is exercised to come to the floor to argue the procedural question. I would also suggest that my colleagues be fully prepared in the event that the procedural motion carries to be willing to debate and come fully prepared to fully participate in the discussion and in the debate.

I think that this matter has enormous implications, one, for the jurisdiction of this committee; two, for the rights and the prerogatives of the citizens of the District of Columbia.

I think that the gentleman from California and the gentleman from the District of Columbia have raised a very significant question when they say what is at issue here is not the law itself because the law is a reality in 17 States.

If it is not a question of the law, then what is it? If it is a question of procedure, I would suggest that the gentleman from California and all of us would not be elected by our respective constituencies to come here to administer the local government of the District of Columbia, but rather to carry out our political responsibilities at a higher order of magnitude.

If it is a question of the implementation, then the residents of the District of Columbia, as the gentleman from California and the gentleman from the District of Columbia amply point out, under the concept of checks and balances, have the right to correct this matter. I think that if we are going to the question of the administration of the law, with all due respect, this is a very convoluted way to get at the administration of the law, by attempting to challenge the law itself.

And, again, I think it flies in the face of a principle that we have maintained certainly over this gentleman's tenure and the tenure of the gentleman from the District of Columbia for nearly 17 years. We have tried to guide ourselves diligently in this matter, and as a result of home rule, we have tried very hard to look carefully at

these resolutions of disapproval within the framework of the three criteria.

Having stated that, the Chair would like to ask before we call the roll, are there any other comments that anyone would like to make?

The gentleman from Pennsylvania, Mr. Gray, is recognized for such time as he may consume.

Mr. GRAY. Mr. Chairman, you have very clearly defined what is the situation procedurally and under the rules at this particular juncture. I just have a few inquiries that I would like to make of the Chair.

Has the Chair been able to ascertain why members of the minority side are not present? Were they duly informed of a markup?

The CHAIRMAN. To answer the second part of the member's question, yes, all members were appropriately notified. The Chair was in personal communication with the ranking minority member on yesterday, and indicated very clearly that the gentleman from California, Mr. Dymally, was not able to obtain a quorum. The gentleman from Virginia, Mr. Parris, indicated that he was very pleased and appreciated very much the fact that Mr. Dymally had postponed or extended the meeting into the afternoon in order to accommodate the minority members.

But he pointed out that the one subcommittee upon which he, "he" being Mr. Parris, did not serve was Mr. Dymally's subcommittee, and we accept that.

However, the information that we had been operating upon is that the gentleman from Virginia, Mr. Parris, was a member of all of the subcommittees, although I accept without challenge or without question his sense that he was not a member of that particular subcommittee.

Absent a quorum, Mr. Dymally said, "I would appreciate it very much, Mr. Chairman, if you would bring this matter to the full committee." I agreed to do so and informed Mr. Parris that we would attempt to do so.

In the conversation I also informed Mr. Parris that I understood very clearly what his legislative prerogatives were in this matter, and that we planned to hold the meeting today to proceed.

With respect to the first part of your question, and that is why the members are not here, goes to the question of motive, and the Chair has no sense of the gentleman's motive and would not want to step into that area at all. I appreciate the directness of the gentleman's question, but I cannot answer.

Mr. GRAY. I understand. I wondered whether the distinguished chairman had any information from the minority side.

My concern, Mr. Chairman, is that, as you have explained, under the rules this is perfectly permissible for the full committee to come together. Seven members can report out a piece of legislation, as you have pointed out. Four members can vote.

My concern, Mr. Chairman, and that is why I asked the question, and I understand the chairman not being able to perceive motivation other than what has been said to him, is that those who do not know the rules of the District of Columbia on the floor might be put in a position by some who portray these proceedings as some-

thing other than they are, and I am just wanting to get that on the record, Mr. Chairman.

Clearly, the minority side has been properly notified. We are operating under the rules.

The CHAIRMAN. That is correct.

Mr. GRAY. Four people can vote on a subject. It does not report it, but I am concerned that tactically, if I might say, that someone could then under the privilege motion go to the floor and then try to claim that there was some kind of a railroad run here outside of the union station in Longworth, and that would be an incorrect statement by anyone on the floor; is that not correct, Mr. Chairman?

The CHAIRMAN. That is exactly correct. As I said, the Chair has tried diligently to establish comity between the Democrats and Republicans on this committee because in order to function here, you have to function in a bipartisan fashion, and Mr. Parris and I have an open, above board relationship where our communication is at a maximum level.

I would have wished that the minority side were here today because if you have a cogent case to bring to the floor, you have a cogent case to present to this committee, and particularly in view of the fact that you have statutory protection in order to bring the privilege motion to the floor, in this instance, there is no particular reason why the matter could not have been discussed fully and amply before the committee here.

But, again, I cannot go to the question of motive, but let me just add one other point. On this question of quorum for the subcommittee, in a memorandum dated May 15 of this year to Mr. Sylvester, who is the staff director of this committee, from the minority staff director, in laying out the Republican members of the committee for the remainder of the 100th Congress, and again, May 15 for emphasis, on the Subcommittee on Judiciary and Education, they listed three people: Ms. Martin, ranking; Mr. Bliley; and Mr. Parris.

Now, this is a memorandum that we have. So the gentleman from California, Mr. Dymally, was operating in good faith when he postponed the meeting until yesterday afternoon in order to accommodate the minority members for the purposes of establishing a quorum. But Mr. Parris said that this was a committee upon which he did not serve, and I accept that, except that we have information to the contrary, and the gentleman from California was operating in good faith.

So I think that we have been faithful. I think that we have been diligent. I think we have been open, and I think we have provided a forum for the matter to be discussed fully.

Unless there is any further discussion, we will proceed to the question.

The gentleman from Pennsylvania.

Mr. GRAY. I want to thank the chairman for his clarity on the subject and laying out those facts. I just want the record to show that this was a properly called meeting, that there was proper notification, and that, of course, I would certainly not want anyone from this committee, if someone should go to the floor with a privi-

lege motion, to say that this committee did not act properly and to use that.

Certainly if a person opposed what the committee does, if a person wants to go in another direction, as the Chair has pointed out, they do have a legislative avenue. They should use that, but I would hope that if someone does do that, they would not accuse the Chair or the members of this committee of acting in bad faith or acting beyond the scope of the rules.

The CHAIRMAN. I appreciate the gentleman for that.

Mr. GRAY. So with that I conclude any comments that I have, Mr. Chairman.

The CHAIRMAN. Thank you.

The gentleman from California.

Mr. DYMALLY. Mr. Chairman, I must confess to you that yesterday when you sent me the note stating that Mr. Parris was not on my committee, I was somewhat puzzled.

The CHAIRMAN. I stated that he said he was not on the committee.

Mr. DYMALLY. Yes, he said, and I charged it to my own ignorance, but as I reflected on the deliberations of the subcommittee's hearings, Mr. Parris actively participated and left with the impression he was a member of the subcommittee. Therefore, Mr. Chairman, I would like to get some official communication from the minority about Mr. Parris' status because we had been operating under the assumption, until I received the note from you yesterday, that he was a member of the committee.

The CHAIRMAN. I thank the gentleman.

The Chair just consulted briefly with minority counsel, and he stated that the memorandum that the Chair referred to in response to the gentleman from Pennsylvania is the official list of the members, and so the gentleman from Virginia, Mr. Parris is, indeed, a member of the gentleman's subcommittee.

Is there any further discussion?

Mr. FAUNTROY. Mr. Chairman.

The CHAIRMAN. The gentleman from the District.

Mr. FAUNTROY. I simply want to associate myself with the remarks of the chairman of the subcommittee in thanking you for convening this meeting and giving those of us who have studied this question exhaustively over the last 2 months an opportunity to vote.

I certainly would hope that our not being able to identify the motives notwithstanding, that the options available for consideration of this question by the full House are not taken. I think the fact is that the Speaker has already indicated that he wants by October 15 all actionable legislative proposals from our committees to be reported out. We have an enormous agenda ahead of us in the remaining portion of this first session of the 100th Congress, and I would hate to see 10 hours of the time of this body consumed in the discussion of a matter which we are addressing in a proper manner through this committee.

Were that unfortunate eventuality to become an actuality, I am confident that the patience and the wisdom of the full body would not abide an effort to discharge the committee from a responsibility which it is prepared right now to discharge.

The CHAIRMAN. I thank my colleague.

Mr. MORRISON. Mr. Chairman.

The CHAIRMAN. The gentleman from Connecticut.

Mr. MORRISON. I would just like to be brief.

I am very pleased to proceed to a vote, and I certainly concur with the chairman's view on what the appropriate disposition of this matter is.

I just want to say as a new member of this committee, while I am new to the workings of this committee, I am not new to the issue of home rule, and this issue having been presented a number of times on the floor during my service in the Congress, I think that the principle that underlies the vote that we take today is an important one.

The temptation for members to try to pursue their own particular political objectives with respect to legislation arising from the District of Columbia government is a matter that has been of concern before. I have been pleased to advocate and to vote on behalf of holding firm to the principles that are set forth in the statement of the gentleman from California about meaning what we say when we delegate and reassign, appropriately to the people of the District of Columbia, control over their own affairs.

So I will be pleased to oppose this resolution both here and on the floor.

The CHAIRMAN. I thank my colleague.

The gentleman from the District one last time.

Mr. FAUNTROY. Excuse me, Mr. Chairman.

I do want to welcome especially Mr. Morrison to the committee. It is my privilege to serve with him on the Banking, Finance and Urban Affairs Committee of the House, on which Mr. Parris likewise is a member, and the gentleman knows that we have three major pieces of legislation that our committee is preparing to report out and on which we want floor debate, and the gentleman from Connecticut has been particularly helpful in shaping a resolution to the Third World debt problem.

I know that he does not want at any time, the ranking Member of the House taking away from our time, to lay the case out for the first housing bill we passed in 5 years, the first serious effort to come to grips with the Third World debt problem, and the first serious effort to assure that our multilateral development banks of the world, particular IDA, are funded in a fashion that at least half of the concessional loans go to Africa, which most needs this kind of funding.

So I want to associate myself with the remarks of the gentleman from Connecticut, Mr. Morris.

The CHAIRMAN. The gentleman from California.

Mr. DYMALLY. I call the question.

The CHAIRMAN. The gentleman has called for the question. The motion before the committee is to reject H.J. Res. 341. So those members who seek to stand in opposition to the resolution of disapproval offered by the gentleman from Virginia, Mr. Parris, would vote aye; is that correct?

Then the clerk will call the roll.

The CLERK. Mr. Fauntroy.

Mr. FAUNTROY. Aye.

The CLERK. Mr. Mazzoli.
The CHAIRMAN. Aye, by proxy.
The CLERK. Mr. Stark.
The CHAIRMAN. Aye by proxy.
The CLERK. Mr. Gray.
Mr. GRAY. Aye.
The CLERK. Mr. Dymally.
Mr. DYMALLY. Aye.
The CLERK. Mr. Wheat.
The CHAIRMAN. Aye by proxy.
The CLERK. Mr. Morrison.
Mr. MORRISON. Aye.
The CLERK. Mr. Parris.
[No response.]
The CLERK. Mr. Bliley.
[No response.]
The CLERK. Mr. Combest.
[No response.]
The CLERK. Mrs. Martin.
[No response.]
The CLERK. Mr. Dellums.
The CHAIRMAN. The Chair votes aye.
The CLERK. Mr. Chairman, that is eight ayes and zero noes.

The CHAIRMAN. With a vote of eight persons having voted in the affirmative and no votes in the negative, the motion carries, and the committee's vote is to reject House Joint Resolution 341.

There being no further business to come before the committee, the full committee stands in adjournment, subject to call of the Chair.

[Whereupon, at 10:24 a.m., the full committee was adjourned, to reconvene subject to the call of the Chair.]

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