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PRETRIAL RELEASE AND DETENTION

HEARINGS

BEFORE THE

SUBCOMMITTEE ON
GOVERNMENTAL EFFICIENCY
AND THE DISTRICT OF COLUMBIA

OF THE

COMMITTEE ON
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

NINETY-FIFTH CONGRESS

SECOND SESSION

ON

H.R. 7747

AN ACT TO AMEND TITLE 23 OF THE DISTRICT OF COLUMBIA CODE WITH RESPECT TO THE RELEASE OR DETENTION PRIOR TO TRIAL OF PERSONS CHARGED WITH CERTAIN VIOLENT OR DANGEROUS CRIMES, AND FOR OTHER PURPOSES.

JANUARY 31 AND FEBRUARY 6, 1978

[...]the use of the Committee on Governmental Affairs

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PREPARED STATEMENT OF RALPH J. TEMPLE, AMERICAN CIVIL LIBERTIES UNION

February 6, 1978

Senator Eagleton:

My name is Ralph J. Temple, and I am the Legal Director of the American Civil Liberties Union Fund of the National Capital Area (ACLU-NCA).

The ACLU-NCA appreciates this opportunity to present its views on H.R. 7747, which amends the D.C. pre-trial detention law, and H.R. 9571, which proposes to require speedy trials in District of Columbia criminal cases. The ACLU has long been concerned with problems of bail, pre-trial detention, speedy trial, and related issues which involve the administration of criminal justice and the rights of individual citizens. Members of the ACLU-NCA live and work in the City. Crime -- its prevention, detection, and its punishment -- are matters which affect us just as they affect other members of the community.

INTRODUCTION

We are especially grateful for this Committee's decision to seek the views of the Washington community since it is the people of the City who have the most direct interest in the problem of crime, and in the proposals which have been advanced to combat it. We believe that the public is no longer inclined to accept uncritically the crime-fighting slogans of a few years ago, including such misleading ones as "revolving door justice".

After years of having the crime issue exploited by those who would further their own ends, and as a smokescreen to avoid real problems in the criminal justice system, the people of Washington have lost patience. Now, after untold dollars and broken promises, the citizens of this City want effective action from the Congress, the courts, the police, and the prosecutors.

Over the course of the two years since this legislation was first introduced in the House, almost a score of community organizations have come out publicly to oppose the extension of pre-trial detention as embodied in the bill before this Committee, or to favor the more effective approach embodied in legislatively-mandated speedy trials.

Among the groups which have spoken out against pre-trial detention or in favor of speedy trials are the Washington chapter of the NAACP, the Washington Urban League, the Office of Social Development of the Archdiocese of Washington, the Social Action Committee of the Washington Board of Rabbis, the Friends Committee on National Legislation, the Commission on Social Justice of the Council of Churches of Greater Washington, the Commission on Racial Justice of the United Church of Christ, the Committee for Creative Non-violence, the Interfaith Committee of Greater Washington, the Pre-trial Justice Program of the American Friends Service Committee, the Washington Dismas Project, the Bureau of Rehabilitation, the Capitol Hill Group Ministry, the Georgetown University Legal Intern Program, the Communities Reality Project, and the board of trustees of the Public Defender Service. In addition, the Citizens' Advisory Committee of the D.C. Bar, a group comprising some 40 community spokespersons, has also endorsed the speedy trial bill.

These groups recognize that pre-trial detention is a deceptive expedient which does little if anything to protect law-abiding citizens. What it does do is to detract from efforts to address the underlying problems in the criminal justice system. The resulting cost is not only a poorer quality of justice than the citizens of Washington deserve, but a considerable amount of injustice for those whose rights are

infringed by the imposition of pre-trial detention. Hopefully, the time is long passed when a crime "crisis" can be generated for narrow political purposes or to distract the public from deficiencies in the management of the criminal justice system.

And most significantly, the City's only elected representative in the Congress, Congressman Fauntroy, opposed H.R. 7747 (expanded pre-trial detention) and introduced as a more rational, economical, and effective alternative H.R. 9571 (speedy trials). It is also our understanding that a majority of the members of the City Council also favors speedy trials and opposes expanded pre-trial detention.

I. THE FAILURE OF PRE-TRIAL DETENTION

The history of pre-trial detention in the District of Columbia shows the failure of the search for a simplistic solution to a complex problem. Pre-trial detention was aimed at what has been described as the relatively few, hard-core repeat offenders who commit the bulk of crime. Representatives of the City's law enforcement agencies regularly point to the 300 to 400 persons who are responsible for the greatest proportion of crime. Why, after all these years of pre-trial detention, are the same small number of individuals still causing so much of the crime problem? Why has pre-trial detention been used only an average of perhaps ten times a year? Why did it take until last year for the establishment of Operation Doorstop, a coordinated system to deal with repeat offenders? The simple answer is that pre-trial detention is not an effective tool in combating crime, and the history of the non-use of existing law is tacit and telling proof of that.

The House report on H.R. 7747 acknowledges that it has been "a complete failure as a tool for dealing with the hard-core group of

repeat offenders." Pre-trial detention cannot be made to work by tinkering with the procedures such as H.R. 7747 proposes. We hope that this Committee, too, will conclude that pre-trial detention is a failure -- and worse than a failure. It is a device which deludes the public into believing that a denial of constitutional rights is all that is needed to fight crime effectively. It is noteworthy that in the years since the Nixon Administration first proposed pre-trial detention, no other jurisdiction in the United States has adopted it. We hope that Congress will eventually repeal this unfortunate and unique experiment with the liberties of the citizens of Washington.

Pre-trial detention was once advertised as a more effective and legally sound way of detaining persons who might otherwise be detained through the use of high money bond. Yet money bond still accounts for 29% of the bail imposed in Superior Court, and more than 22% of the accused are detained because they are unable to meet the money bond imposed. Judges and prosecutors candidly admit that high bond is still used to detain defendants prior to trial, even though this is improper. It is appalling that those empowered to pass judgment on others, and to imprison people for violating the law, themselves violate the law.

It is unfortunately true that pre-trial detention is more useful as a political technique than as an effective instrument of law enforcement. In 1976, the public and the Congress were aroused once again by publicity about pre-trial crime. The role of the United States Attorney and the Chief of Police in exploiting public concern about crime was most irresponsible. Having aroused the public, they then began urging amendments to further loosen the pre-trial detention law. Yet when the facts were discovered, it came as a great surprise to learn

that the device had been imposed only 60 times in the previous five years, or less than once a month. United States Attorney Earl Silbert was calling for changes in a law that had gone essentially unused since its enactment. Anticipating hearings on its proposals to expand pre-trial detention, the U.S. Attorney's office responded by increasing its use dramatically. In the months during which the House Committee was considering amendments to the pre-trial detention law, the U.S. Attorney's office made 24 requests and had 19 detention orders granted. The PROMIS report for the whole of calendar 1976 shows that 28 detention orders were granted, of which 4 were for misdemeanors.

However, we are convinced that the problems with pre-trial detention go far deeper. These problems cannot be solved by amendments which make its imposition easier, which further infringe on the rights of those who have been accused of crime but not yet tried, and which continue to distract from more effective approaches to the problems faced by the criminal justice system.

II. OPERATION DOORSTOP

The recent experience with Operation Doorstop is instructive for it has its roots in the decade-long debate about pre-trial detention. When pre-trial detention was first suggested years ago as part of the Nixon "law and order" campaign, a number of observers -- the ACLU included -- suggested a better approach. If the problem of crime is the repeat offender who is rearrested while on release, then the resources of the criminal justice system should be focused on him. To prevent crime on bail, those accused who would be identified as candidates for pre-trial detention should be tried speedily through coordinated efforts of the police, the U.S. Attorney, the courts, and the defenders.

Well, the Nixon Administration was more interested in a great political slogan, and they rejected the idea. But it was tried in

some districts around the country with the encouragement of LEAA. Ironically and tragically, in the one jurisdiction actually to get pre-trial detention, this idea was rejected by the U.S. Attorney.

Then in 1975 and 1976, after several particularly shocking crimes, the police and the U.S. Attorney's office began a campaign to show that it was the Bail Reform Act and the courts that were responsible for crime. The predecessor of H.R. 7747 was introduced in 1976. But the hearings in the House that year showed that there was an indefensible lack of coordination between the police, the prosecutors, and other elements of the criminal justice system. Studies disclosed that despite protestations to the contrary, the U.S. Attorney's office did not pay special attention to those very same 300 to 400 that their public statements accused of being responsible for most crimes. In fact, there was inadequate management of cases by prosecutors, it was a mass production system, and individual attorneys had divided responsibility for each case as it moved through the system. Witnesses were lost, or confused, and didn't know who to call or where to go. It is no wonder the prosecutors were not able to focus their attention on the repeaters. Most shocking, in light of the political campaign then being waged, is the fact that recidivism was not then a factor in the processing of the cases by the U.S. Attorney. At the same time that Mr. Silbert and Chief Cullinane were accusing the courts of so-called "revolving door justice", they had not taken the time to examine and improve their own operations.

In the face of the challenge put to the system by this campaign, Chief Judge Harold Greene did a most extraordinary thing: he called in Chief Cullinane and prosecutor Silbert for a unified approach to the problem. In August, 1976, out of this meeting and the criticism

of the U.S. Attorney's office during the House hearings, came Operation Doorstop, the kind of coordinated focus on career criminals that Boston and other cities had had the benefits of for several years.

Doorstop, despite some unfortunate aspects, shows how well the system can work when coordinated action takes the place of rhetoric and public posturing. Cases are processed promptly -- indictments come in 8 days, not 60-100 days; a single prosecutor and a team of police are each responsible for the case from beginning to end; witnesses and evidence are not lost; convictions are obtained in a very high portion of the cases, many by plea.

It is this kind of close cooperation, coordination, and effective implementation of a crime strategy which is effective -- not more politicking about pre-trial detention.

The kind of management and utilization that Doorstop represents is what the speedy trial bill aims at in a more orderly, regularized, and comprehensive manner. We submit that Operation Doorstop demonstrates that H.R. 7747 is unnecessary and unwise, and is strong proof of what speedy trials can accomplish.

III. H.R. 7747

The amendments incorporated in H.R. 7747 are designed to make it easier to use pre-trial detention. The ACLU considers each of these changes objectionable.

The proposal to allow persons charged with murder, forcible rape, and armed robbery to be detained indefinitely offends the Constitution and is an extremely dangerous precedent to set in a country which prides itself on requiring due process of law before a citizen is deprived of his or her liberty. Attached to this testimony as Appendix I, is a

memorandum setting forth the unconstitutionality of this provision, and we would like to ask that it be printed in the body of the hearings as part of our submission. This memo shows that judicial discretion to deny bail to persons accused of capital crimes has been traditionally tied to the existence of the death penalty which those particular accuseds faced. It was assumed that no deterrent to flight was effective in the face of the death penalty. Denial of bail was not based on the nature of the crime, but on the possible penalty. And even then, denial of bail was not automatic, but discretionary. The proposition that defendants charged with armed robbery may be denied bail is unique in American jurisprudence, and does not even have a vestige of historical argument to support its constitutionality. It is a clear violation of the 8th Amendment.

Section 2 of the bill would allow the judicial officer to commence pre-trial detention proceedings on his or her own motion, even in the absence of a request from the prosecutor. This change is a reflection of unhappiness with the reluctance of the prosecutors to request detention in more cases. That reluctance is a tacit acknowledgement on the prosecutor's part that pre-trial detention is not a crucial or effective tool. This reluctance will not be cured by shifting the prosecutor's role to the judge. This makes the judge a substitute prosecutor, responsible for doing what the prosecutor cannot be relied upon to do. The provision denigrates both the judge and the prosecutor. It mixes dangerously, and probably unconstitutionally, the functions of the impartial magistrate and the prosecutor. If the Committee is unhappy with the way the U.S. Attorney's office is fulfilling its responsibilities, the solution is not to give the judge the prosecutor's function, but to hold the U.S. Attorney accountable.

Section 3 of the bill extends the present five day hold period to ten days. We oppose any extension of the present holding period, because we believe that the time in which a person is detained without procedural due process should be kept to a minimum.

This provision, like the proposal of Section 4 to extend the detention period from 60 to 90 days, results from a belief that the criminal justice system needs more time to work because it lacks the resources, efficiency and mangement techniques to operate within existing statutory requirements. The need for this provision is belied by the dispatch with which the Career Crime Unit has worked, and by the improved coordination and operations of the Parole Office. Unfortunately, this provision is yet another instance in which the failure of the system to operate as it should results in the loosening up of statutory limits and individual rights, rather than in a concerted effort to improve the system so it works effectively. It is illustrative of an unfortunate tendency to impose upon those accused of crime the burden of inefficiency, rather than working to eliminate that inefficiency.

IV. SPEEDY TRIALS -- INTRODUCTION

The ACLU urges this Committee to put aside H.R. 7747 and address the underlying problems of the City's criminal justice system in a comprehensive manner. The best way to accomplish this, we believe, is to adopt for the District of Columbia, H.R. 9571, which is modeled after the Federal Speedy Trial Act of 1975. This Act was the product of many years' consideration by the Congress. It is proving effective in the federal courts and we believe it will be just as effective for Washington. Certainly the citizens of the District of Columbia deserve the same high quality and prompt justice which that act promises for the federal courts.

When the federal legislation was before the Congress, it was originally made applicable to the District of Columbia courts as well as the federal system. In the final days, the District of Columbia was dropped, primarily at the request of Chief Judge Greene. He argued, and quite rightly, that the court reorganization which had just been enacted, should be given a chance to work, and that the principle of home rule required that the District of Columbia's problems should be considered separately. It has now been some seven years since the courts were reorganized, and there have been tremendous improvements. But the length of time it takes to process cases through the criminal court is still far too long, and the goals of prompt justice seem to be getting further away, not closer.

In 1974, the U.S. Attorney's office had a backlog of 5688 felonies and serious misdemeanors. In the following year, the office filed 15,212 new cases, but disposed of only 10,142. Thus by the beginning of 1976, there was a backlog of 10,758.

The delay in processing cases is also excessive. According to reports for calendar 1976, the mean time between arrest and indictment was 68 days -- approximately half of all felonies took more than 60 days to indictment. Over 30% of the felony cases took more than 180 days from indictment to trial or other disposition, and over 11% took more than ten months. Inslaw reports that the average time of disposition of felonies from arrest to final adjudication is 222 days, or over 7 months, in the District of Columbia. In Los Angeles, which operates under a state speedy trial law and a legislature dedicated to giving the criminal justice system the resources it needs, the time is 125 days. If the speedy trial bill were enacted, even by the second year the limits of 60 days to indictment and 180 days from indictment to

trial would result in a marked improvement in current performance in this city.

The solution to the perceived problem of pre-trial crime is clearly to apply to the District the same policy which Congress believed necessary for the other courts under its legislative jurisdiction. If trials can be accomplished within the time limits set forth in the proposed bill, the problem of pre-trial crime will all but disappear. We will eliminate the calls for pre-trial detention.

It should not be necessary to outline the advantages of speedy trials. They are constitutionally mandated by the Sixth Amendment, and everyone is in favor of them -- at least in principle. Yet speedy trials are usually given only lip-service by members of the criminal justice system, who frequently allow technical, administrative, or other legitimate concerns to lead them to oppose speedy trial legislation instead of working to resolve those concerns. The approach to speedy trials encompassed by the legislation is far superior to other alternatives, such as waiting for the courts to establish speedy trial rules voluntarily, or creating some system which leaves to the accused the choice of whether to press for a speedy trial.

It should not surprise the Committee to find that the judges, prosecutors, and even some defense counsel, will oppose the bill. No institution, and certainly not those of the criminal justice system, likes to have rules imposed from the outside. The federal law was opposed by these same sources. It was passed because Congress decided that it had a responsibility to act to enforce the Sixth Amendment in the face of years of inertia. That is precisely the situation we face now.

V. ADVANTAGES OF SPEEDY TRIALS

If Congress would enact speedy trial legislation, and if the justice system worked to make it a reality, the advantages to justice and the community would be numerous:

1) It would serve to enhance the constitutional rights of accused under the Fifth, Sixth, and Eighth Amendments.

2) It would uphold the principle of the presumption of innocence, and reduce the possibility of punishment before trial and conviction.

3) The innocent would be more quickly relieved of the stigma of being accused of a crime, and more promptly regain their place in the law-abiding community.

4) It would reduce the amount of detention of innocent persons, and the resentment they feel at being unjustly imprisoned before trial.

5) It would reduce the enormous costs associated with the pre-trial incarceration of accused, many of whom are innocent.

6) It would ensure that those found guilty quickly receive the punishment, rehabilitation, and treatment that stem from conviction for a crime.

7) It would demonstrate to the community and to potential law-breakers that the system of justice in Washington is certain, quick and fair, and that those who are guilty are promptly brought to justice.

8) It would reduce the number of cases dropped because of staleness, loss of evidence, increased caseload, and forgetful witnesses.

The data provided by PROMIS and analyzed by Inslaw shows 40% of all cases -- and 25% of felonies -- are dropped by prosecutors because of lack of witness cooperation. Inslaw also found that 43% of all robbery cases, and 51% of other violent felonies were dropped

because of witness problems. Very often this is the result of fundamental ineffectiveness by the police. In a sample of cases examined by Inslaw, 25% of the witnesses gave incorrect or imaginative addresses. According to testimony by Inslaw's director, many witnesses give 1600 Pennsylvania Avenue as their address to unsuspecting police officers.

It is unfortunately true that all too often crime pays. Repeat offenders have learned from experience that the likelihood of their being tried and convicted promptly is very low. They know it takes months before the courts get around to their case, and the longer it takes, the lower the chance of conviction. Whatever deterrence comes from being arrested has disappeared, and by that time, they have forgotten that they eventually will have to answer for their offense. So the inclination to commit further offenses increases.

They also know that the courts and the prosecutors are greatly over-worked. If they are arrested for subsequent offenses, they know that, all too often, the prosecutor will be willing to drop the additional charges in return for a plea to one or two. In effect, that makes the other crimes free. Unfortunately, the long delays between arrest and trial actually work as an incentive to crime.

If the law breakers of this community come to realize that the commission of a crime will result in an arrest and a prompt trial, the criminal process will begin to deter crime, and not encourage it as is now the case.

9) Finally, speedy trials would reduce to almost nil the incidence of crime while on pre-trial release, and eliminate the unrealistic fears about this problem -- fears which have been irresponsibly exploited by Mr. Silbert and Chief Cullinane.

It is important to recognize in this connection that the facts show this problem has been greatly magnified out of proportion.

Inasmuch as almost 60% of those who are rearrested are not convicted of any charge for that second arrest, it is by no means clear that pre-trial crime is a significant problem at all. But if it is perceived as a problem, that problem stems not from pre-trial release but from the inordinate delays now involved in bringing people to trial. In the National Bureau of Standards study of the Washington courts commissioned by the Justice Department in 1970 in support of pre-trial detention, it was found that very few persons are rearrested within the first few months following their original arrest. The critical period for the second arrest is the fourth month following indictment, after about 120 days, and considerably longer, of course, from the date of the original arrest. Thus, it is evident that if trials could commence within two or three months of arrest, the incidence of rearrest would be greatly reduced. Thus, the solution is not expanded pre-trial detention, but speedy trials.

VI. PROPOSED SPEEDY TRIAL BILL

The legislation which we urge the Committee to enact is based on the Federal Speedy Trial Act of 1975. A number of minor changes have been made to conform to the peculiar needs of the District of Columbia, and to recognize the principle of home rule. The bill H.R. 9571, works as follows:

1. It establishes a series of time limits for the commencement of trial--limits which are more generous than those recommended by the ABA's Commission on Standards and Goals.

2. These limits go into effect gradually over the course of five years, so that the criminal justice system will have the time to adjust to the new requirements.

3. The legislation provides the necessary incentives to meet the goals it sets forth. These are in the form of potential sanctions for failure to meet the responsibilities which the act assigns to the different parties. Defense counsel will not be allowed to engage in dilatory actions; prosecutors and courts who are unable to administer their dockets effectively must face the disagreeable consequence of having cases dismissed.

4. The bill sets forth a planning mechanism so that the different elements of the criminal justice system can work in a coordinated manner to reform and improve the management of the system and thereby comply with the time limits. In the federal system, 19 districts have already imposed the final time requirements on themselves and another 25 have adopted plans which call for a quicker imposition of the final limits that the Act requires. All of the 94 federal districts were able to formulate plans to effectuate the bill.

5. The legislation requires that all elements with responsibilities in the criminal justice process work together. The planning group is composed of representatives of the court, the U.S. Attorney's and Corporation Counsel's offices, the Public Defender, Bail Agency, the chief administrative officer of the court, the probation department, and experienced defense counsel. Not the least important, the committee also has representatives of the community -- private individuals who are concerned with the administration of justice. Such a group, with direct responsibility for working together to implement the act, will assure that the coordination and cooperation so often lacking in criminal justice planning will actually take place.

6. The result of this process will be a coordinated report to the City Council and the Congress showing what changes have to be made in order to bring the judicial system within the goals set forth

in the bill. The plan must set forth the rules changes, administrative techniques, reporting systems, monitoring, and additional resources required to make the law work. This report will show to the legislature how the system will better utilize the resources it now has, and what further resources may be necessary. Unlike the present practice, the legislature will know what it has a right to expect from the resources which are granted, and will be able to hold the criminal justice system to account if those additional resources do not result in speedy trials.

7. The legislation gives the criminal justice system a much needed and hitherto lacking standard by which to measure its effectiveness. While the quality of justice cannot be quantified, the justice system, like other institutions, needs goals and objectives to help it measure its work, test its efficiency, and signal breakdowns and bottlenecks in its operations. The time standards put all the participants in the process -- judges, prosecutors, defense counsel -- on their mark to work as promptly and efficiently as possible.

8. The act does not ignore the problem which may be at the root of the difficulty in achieving effective and efficient criminal justice -- and that is adequate resources. The plan created under the act requires that any additional resources that may be necessary will be requested. But the public and the Congress can be assured that this will not be a blank-check request. The planning process requires that the existing resources be administered better, and that necessary administrative and procedural changes also be implemented. Then, when a request for more funds is forth-coming, the Congress will be in a position to examine how well the system is utilizing its present capacities, and what more -- if any -- will be required to meet the goals it has

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mandated. This will be a comprehensive request for resources. No more piecemeal requests which imbalance first one element of the system and then another, and which never seem to result in lowering backlogs or speedier justice.

9. The bill also has provision for the declaration of a judicial emergency if an unexpected crisis occurs which makes it impossible to conform to the time limits.

This judicial emergency is also available if, after the various elements of the criminal justice process fulfill their responsibilities, the legislature refuses to appropriate the additional resources required to ensure that the legislative policy it has enacted can indeed be carried out. The legislature -- be it the Congress or the City Council -- which fails to provide the necessary resources must acknowledge that it has failed to provide the means to achieve goals it has itself set, and must answer to a public which rightfully expects an effective and speedy criminal justice system.

VII. THE BEST USE OF TAXPAYERS' MONEY

Not the least important result is that the public for the first time will know how much it costs to get the kind of justice it wants and deserves. It may very well turn out that the added costs will be very low. Great savings will be made merely by improved administration of existing resources. Then, too, there will be savings in the form of reduced or eliminated pre-trial detention, which now costs the city $25 per day for each individual incarcerated. Part of the savings might also take the form of the $13 million now allocated for yet another new jail facility, or the additional millions that will have to be spent for more jail facilities in the future. We also have to add to the accounts the savings from reduced crime -- and from the fewer

families who are on welfare while their breadwinner is in jail for months awaiting a disposition which in 60% of the cases does not result in conviction.

But it may indeed be the case that speedy trial will cost more money. If the Congress is unwilling to provide the additional funds which are necessary, then the public will know that the effort against crime has been short-changed.

This is the final benefit of the legislation. It allocates responsibility for the effective operation of criminal justice, and provides the means by which the public can hold to account those who have fulfilled their responsibilities.

CONCLUSION

The present bill to expand pre-trial detention, more than any other factor, demonstrates the need for a thoughtful, dispassionate approach to the problems of the criminal justice system.

With year by year accummulating backlogs, and with cases now taking an average of seven months to bring to trial, the problem is clearly trial delays. Yet, instead of coming forward with a plan and a request for resources to bring cases to trial faster, the United States Attorney has called for longer periods and more expanded uses of pre-trial detention.

Only recently the District of Columbia acquired a new jail at enormous expense. Yet, no sooner was that jail completed, than plans began to add a new annex to the new jail, for the new jail has already outstripped its capacity. The new annex will cost over $13 million, to add capacity to hold only another 480 prisoners. Thus, the construction cost of pre-trial detention is over $27,000 a prisoner, without taking into account the more than $25 a day of taxpayers' money that it takes to support that prisoner in the 7 months he is awaiting trial.

It is clear that those same funds could not be put into adding whatever additional judges, prosecutors, defense services and other support resources are necessary so that the system can work properly. If we choose the course argued by the U.S. Attorney and the Chief of Police, the problems of the system will not vanish, and they will be back in five or ten years asking for expansion of the pre-trial detention period to 120, 150, or 180 days, while people of the District will be adding as yet uncalculated construction costs at $27,000 a person to cope with the ever expanding use of pre-trial detention.

In short, pre-trial detention is the new prosecutor's drug -- the quick hit that seems to relieve the problem. The public has had enough of this kind of undisciplined unthoughtful approach to crime. It is time for careful and calculated, long-term remedies.

END