

H.R. 461, CLOSING OF LORTON CORRECTIONAL COMPLEX

HEARINGS
BEFORE THE
SUBCOMMITTEE ON THE
DISTRICT OF COLUMBIA
OF THE
COMMITTEE ON GOVERNMENT
REFORM AND OVERSIGHT
HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

ON

H.R. 461

TO CLOSE THE LORTON CORRECTIONAL COMPLEX, TO PROHIBIT THE
INCARCERATION OF INDIVIDUALS CONVICTED OF FELONIES UNDER
THE LAWS OF THE DISTRICT OF COLUMBIA IN FACILITIES OF THE
DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS, AND FOR
OTHER PURPOSES

MARCH 17, AND JUNE 7, 1995

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H.R. 461, CLOSING OF LORTON CORRECTIONAL COMPLEX

FRIDAY, MARCH 17, 1995

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA,
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT,
Washington, DC.

The subcommittee met, pursuant to notice, at 1:10 p.m., in room 2154, Rayburn House Office Building, Hon. Thomas M. Davis (chairman of the subcommittee) presiding.

Members present: Representatives Davis, Norton, and Moran.

Staff present: Howard Denis, counsel; Al Felzenberg, professional staff; Anne Mack, press secretary; Ellen Brown, clerk; Cedric Hendricks and Myles Q. Romney, minority professional staff; and Elisabeth Campbell, minority staff assistant.

Mr. DAVIS. The meeting will come to order.

Let us proceed. In lieu of an opening statement, because I know we have a number of other lawmakers with busy schedules. Since there is no one here to object, I am going to ask unanimous consent my statement be put into the record and made a part of these proceedings. Let me start with my colleagues and I am going to defer to my colleagues commencing with Senator Warner.

[The prepared statement of Hon. Thomas M. Davis follows:]

PREPARED STATEMENT OF HON. THOMAS M. DAVIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Welcome to our first hearing on the Lorton Closure Act. As is well known, Lorton is a District of Columbia prison located on 3,000 acres of federal property in Virginia. This bill, which I am pleased and honored to co-sponsor, addresses the severe public safety and fiscal problems caused by this facility for all parties concerned.

It's been apparent for quite some time that fundamental change is necessary. D.C. Superior Court Judge Henry Greene perhaps summed it up best in 1984, when he said at a sentencing hearing on February 22, 1984, "I am going to . . . recommend a federal designation so that he won't be at Lorton. So that he won't have the drugs that are possibly available to people so freely down there and available to him." As long ago as 1974 the Washington Post reported that "inmates can get drugs more readily in Lorton than they can on the streets." And as recently as 1993 U.S. District Court Judge T.S. Ellis in Alexandria refused to send a drug offender back to Lorton, saying that "the ease with which inmates can obtain drugs at Lorton is a public scandal."

In addition to public safety concerns, it is clear that Lorton has failed to provide either rehabilitation or safety for the inmates themselves. In 1991, at a hearing on legislation introduced by Congressman Wolf, a former inmate testified as to the grim reality at Lorton: "at night, you cannot sleep. You never sleep soundly. Anything wakes you because you don't know what any sound is. You're always afraid someone is going to kill you because you may have a problem with them. But you're even more afraid that someone is going to kill you because they have a problem with somebody else and, there are so many people in those dormitories, they may

mistake you for the person they are having a problem with." Such a climate of fear and violence can no longer be enabled by congressional inaction.

As Chairman of the Fairfax County Board of Supervisors I opposed then D.C. Mayor Kelly's efforts to build another maximum-security facility at Lorton. Recent events have amply justified that opposition and this bill. In February of this year a federal grand jury in Alexandria returned an indictment charging 3 persons with conspiracy to distribute heroin at the existing Lorton complex. And just this month 300 Lorton inmates have begun transferring to federal prisons so that the modular Lorton facility can at long last be closed. Lorton, with over 7,300 inmates, is about 44 percent overcapacity. Since 1984 Lorton has grown by 3,000 felons without any increase in its budget. Such overcrowding and underfunding have transformed Lorton into a training ground for career criminals. It is abundantly clear that what this bill seeks to accomplish is as much in the District's fiscal interest as it is for the residents of Virginia, and indeed for all those in the region who care about public safety and rehabilitation.

Clearly, the Lorton complex is outdated and outmoded. It is hard to believe that its original purpose was to serve as a work farm for minimum security prisoners. It more nearly resembles what a court in 1975 declared it to be, a public nuisance.

There is overwhelming evidence to support the closure of Lorton. It is not a well run facility, and it is not serving the best interests of either the community or the inmates. In fact, if Congress does not act it seems clear that the Executive Branch will be compelled to do so.

This bill establishes an orderly three-step process for closing Lorton. First, we halt the flow of new prisoners; then we create a local commission to recommend future use of the land; and then we transfer all Lorton prisoners into the federal system. It is vital that the Lorton property be ultimately subject to all applicable Fairfax County zoning regulations as soon as the Federal Government's ownership interest terminates.

[The bill H.R. 461 follows:]

H.R. 461

IN THE HOUSE OF REPRESENTATIVES

JANUARY 9, 1995

Mr. WOLF (for himself, Mr. MORAN, and Mr. DAVIS) introduced the following bill; which was referred to the Committee on Government Reform and Oversight and, in addition, to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To close the Lorton Correctional Complex, to prohibit the incarceration of individuals convicted of felonies under the laws of the District of Columbia in facilities of the District of Columbia Department of Corrections, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lorton Correctional Complex Closure Act".

SEC. 2. CLOSURE OF THE LORTON CORRECTIONAL COMPLEX.

(a) IN GENERAL.—Notwithstanding any other provision of law, not later than 6 years after the date of the enactment of this Act, all real property and improvements thereon comprising the Lorton Correctional Complex as of the date of the enactment of this Act (other than any such property retained by the District of Columbia under the Implementation Plan described in section 4) shall be transferred to the Administrator of General Services for disposal in accordance with the Implementation Plan described in section 4.

(b) PROHIBITING PLACEMENT OF FUTURE DISTRICT OF COLUMBIA PRISON FACILITIES IN VIRGINIA.—No prison, penitentiary, jail, correctional institution, or related facility of the District of Columbia may be established in the Commonwealth of Virginia after the date of the enactment of this Act without the approval of the Governor of Virginia.

SEC. 3. INCARCERATION OF DISTRICT OF COLUMBIA FELONS.

(a) TRANSFER TO FEDERAL CUSTODY.—

(1) **IN GENERAL.**—Notwithstanding any other provision of law, any District of Columbia felon who is committed to the custody of the Attorney General for a term of imprisonment on or after the date of the enactment of this Act shall be incarcerated in a facility designated by the Director of the Bureau of Prisons, in accordance with such rules as the Attorney General may establish to assure that the treatment of District of Columbia felons is similar to the treatment of other individuals under the control of the Director of the Bureau of Prisons.

(2) **TRANSITION RULE.**—In the case of an individual convicted of a felony in the Superior Court of the District of Columbia who is under the custody and control of the Director of the District of Columbia Department of Corrections as of the date of the enactment of this Act, the individual shall be transferred to the control of the Director of the Bureau of Prisons not later than 5 years after the date of the enactment of this Act.

(3) **CONFORMING AMENDMENT.**—Section 4042 of title 18, United States Code, is amended—

(A) by striking “and” at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting “; and”; and

(C) by adding at the end the following new paragraph:

“(6) provide suitable quarters and provide for the safekeeping, care and subsistence and for the protection, instruction and discipline of all District of Columbia felons (as defined in section 3(b) of the Lorton Correctional Complex Closure Act) who are sentenced to death or committed to the custody of the Attorney General for a term of imprisonment.”.

(b) **DISTRICT OF COLUMBIA FELON DEFINED.**—The term “District of Columbia felon” means an individual convicted in the Superior Court of the District of Columbia of an offense punishable by death or imprisonment for a term exceeding one year (without regard to the sentence actually imposed), but does not include any individual convicted in the Superior Court of the District of Columbia of a misdemeanor offense, as a juvenile offender, or any person detained pending trial in the Superior Court of the District of Columbia.

SEC. 4. IMPLEMENTATION PLAN.

(a) **DESCRIPTION OF PLAN.**—In accordance with the process described in subsection (b), not later than 18 months after the date of the enactment of this Act, the Administrator of General Services shall submit to Congress an Implementation Plan for the closure of the Lorton Correctional Complex which shall identify actions with respect to each of the following:

(1) The future use of the land on which the Complex is located, including (if appropriate) plans for a regional park at the site.

(2) The need to address the impact of such future uses on local and regional transportation resources.

(3) If appropriate, the transfer of real property and improvements thereon to Federal agencies (including the Bureau of Prisons) for Federal use, the Government of the District of Columbia, or any other governmental entity.

(4) If appropriate, the disposal of real property or improvements thereon.

(5) Changes in law or regulation necessary to effect the purposes of this Act and the closure of the Lorton Correctional Complex.

(6) Such other actions as considered appropriate by the Administrator to effectively implement this Act.

(b) **PROCESS FOR SUBMISSION OF FINAL IMPLEMENTATION PLAN.**—

(1) **DEVELOPMENT AND SUBMISSION OF INITIAL PROPOSAL BY COMMISSION.**—Not later than 13 months after the date of the enactment of this Act, the Commission shall develop and submit to the Administrator a proposal for the Implementation Plan.

(2) **REVIEW OF COMMISSION PROPOSAL.**—Not later than 4 months after receiving the proposal for the Implementation Plan from the Commission under paragraph (1), the Administrator shall submit a proposal for the Plan to the Commission for comment and review.

(3) **COMMENTS OF COMMISSION.**—During the 1 month period beginning on the date the Administrator submits the proposed final Implementation Plan to the Commission under paragraph (2), the Commission and each of its members may submit comments on the Plan to the Administrator. Any comments made by the Commission or any individual commissioner shall be transmitted by the Administrator with the final Implementation Plan under paragraph (4).

(4) **SUBMISSION OF FINAL PLAN.**—Not later than 18 months after the date of the enactment of this Act, the Administrator shall submit to Congress the final Implementation Plan for the closure of the Lorton Correctional Complex.

(c) **AUTOMATIC IMPLEMENTATION OF PLAN.**—The Implementation Plan submitted by the Administrator under subsection (b)(4) shall take effect at the end of the 60-day period beginning on the day such plan is transmitted to the Speaker of the House of Representatives and the President of the Senate.

SEC. 5. COMMISSION ON CLOSURE OF LORTON CORRECTIONAL COMPLEX.

(a) **ESTABLISHMENT.**—There is hereby established a commission to be known as the Commission on Closure of the Lorton Correctional Complex.

(b) **MEMBERSHIP.**—

(1) **NUMBER AND APPOINTMENT.**—The Commission shall be composed of 11 members appointed not later than 1 month after the date of the enactment of this Act as follows:

(A) The Fairfax County Board of Supervisors shall appoint 5 members, one of which shall be specially qualified by training and experience in matters relating to regional transportation problems and issues.

(B) The Prince William County Board of Supervisors shall appoint 3 members.

(C) The Mayor of the District of Columbia, with the advice and consent of the District of Columbia City Council, shall appoint 2 members.

(D) The Administrator shall serve as an ex officio member.

(2) **CONTINUATION OF MEMBERSHIP.**—

(A) **GENERAL RULE.**—Except as provided in subparagraph (B), if a member was appointed to the Commission because the member was an officer or employee of any government or if a member is appointed to the Commission and later becomes an officer or employee of a government, the member may continue service on the Commission for not longer than the 30-day period beginning on the date the member ceases to be such an officer or employee or becomes such an officer or employee, as the case may be.

(B) **EXCEPTION.**—Service as a member of the Commission shall not be discontinued pursuant to subparagraph (A) in the case of a member who has served on the Commission for not less than 3 months.

(3) **TERMS.**—Each member of the Commission shall be appointed for the life of the Commission.

(4) **VACANCIES.**—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term, except that a member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) **COMPENSATION.**—No member of the Commission may receive additional pay, allowances, or benefits by reason of service on the Commission.

(6) **QUORUM.**—6 members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(7) **CHAIRPERSON; VICE CHAIRPERSON.**—The Chairperson and Vice Chairperson of the Commission shall be elected by a majority of the members of the Commission.

(c) **DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.**—

(1) **DIRECTOR.**—The Commission shall, without regard to section 5311(b) of title 5, United States Code, have a Director who shall be appointed by the Commission and paid at the rate of basic pay payable for Level III of the Executive Schedule.

(2) **APPOINTMENT AND PAY OF STAFF.**—The Commission may appoint such personnel as it considers appropriate without regard to the provisions of title 5, United States Code, governing appointment to the competitive service. Such personnel shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates.

(3) **EXPERTS AND CONSULTANTS.**—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(4) **STAFF OF FEDERAL AGENCIES.**—Upon request of the Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties.

(d) **POWERS.**—

(1) **HEARINGS AND SESSIONS.**—

(A) **IN GENERAL.**—The Commission may hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission

considers appropriate to carry out its duties under this Act. The Commission may administer oaths or affirmations to witnesses appearing before it.

(B) **MAXIMIZATION OF LOCAL INVOLVEMENT.**—The Commission shall hold its hearings in a place and manner which maximizes local community involvement, input, and participation.

(2) **POWERS OF MEMBERS AND AGENTS.**—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(3) **INFORMATION.**—The Commission may secure directly from any department or agency of the United States any information necessary to enable it to carry out its duties under this Act. Upon request of the Chairperson or Vice Chairperson of the Commission, the head of that department or agency shall furnish that information to the Commission to the extent otherwise permitted by law.

(4) **GIFTS AND DONATIONS.**—The Commission may accept, use, and dispose of gifts or donations of services or property.

(5) **MAILS.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(6) **ADMINISTRATIVE SUPPORT SERVICES.**—The Administrator shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(e) **TERMINATION.**—The Commission shall terminate 30 days after submitting its final comments pursuant to section 4(b)(3).

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Commission for carrying out its duties under this Act an amount not to exceed \$200,000.

SEC. 4. DEFINITIONS.

In this Act, the following definitions apply:

(1) The term "Administrator" means the Administrator of General Services or the Administrator's designated representative.

(2) The term "Commission" means the Commission on Closure of the Lorton Correctional Complex established under section 5(a).

(3) The term "Lorton Correctional Complex" means any District of Columbia correctional, reformatory, or related facility which is located in the Commonwealth of Virginia and which is operated under the authority, control, supervision or management of the District of Columbia Department of Corrections, the Mayor of the District of Columbia, or any other agency or official of the District of Columbia.

(4) The term "Implementation Plan" means the Implementation Plan described in section 4.

STATEMENT OF HON. JOHN WARNER, A U.S. SENATOR FROM THE STATE OF VIRGINIA

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

First, may we as a delegation express our gratitude to you professionally as well as personally for taking a leadership role on a problem which those of us who have been here in the Congress many years have labored to come up with a solution. I am confident now that we are on the brink of a solution, and your leadership has contributed greatly to getting us as a delegation to that point. And so I express appreciation to you personally as well as professionally.

Mr. DAVIS. Thank you.

Mr. WARNER. Now, I am going to follow the rule of the Chair, introduce my statement, and simply say a few thoughts along these lines, Mr. Chairman.

First, I have introduced a companion bill, which my colleagues have introduced in the House, in the Senate, together with Senator Robb. And the basic provisions in that bill call for an orderly transfer of the prisoners over a period of time to Federal facilities elsewhere in the United States.

But an equally important provision of the legislation is the establishment of a commission to be known as the Commission on Closure of the Lorton Correctional Complex. The commission will be composed of locally appointed representatives to help devise a plan for closure. So those are the two essential elements.

Now, Lorton itself. Each of us has our own series of experiences. Mine began many, many years ago, when I was assistant U.S. attorney in this region. And in that capacity as a criminal prosecutor, I had many occasions to go to Lorton. Since coming to the Congress, I have found other opportunities to go to Lorton. At one point, several years ago, I introduced legislation to authorize a new prison in the District of Columbia, and the Congress went along with that proposal. And, indeed, I think, subject to our appropriator here, my recollection, there was every reason to believe that funds would have been available to build that new facility.

What happened is that politically the District of Columbia authorities simply could not reconcile their differences and find a site. Now mind you, here we are, 10 square miles and they could not find a site. And as a consequence, this legislation failed.

So we are back here again today, faced with a continuing series of stories which are very frightening to the local residents in the Lorton area. We are by inaction, the Congress and the District and such other authorities that have responsibility, by this inaction we are thrusting upon these local residents a condition affecting their lifestyle which is unacceptable. And we are at fault for doing that.

Also, Mr. Chairman, by our inaction we are thrusting upon the inmates themselves an environment that does not lend itself to reconstituting the individual, such that he or she may return at some point in time, to society to be a constructive member.

I have also learned a great deal about Lorton in my conversations with the Federal judiciary in Virginia. As you know, the Alexandria Federal Division has general jurisdiction over criminal cases. It is appalling, the number of criminal cases that come out of this prison over the period of years, of all types, serious crimes, and go before that court. And in the course of the prosecution of those cases and the adjudication of those cases, the record is replete with information that establishes this prison in a position that is unlike any prison in the United States of America. I mean, you have allegations ranging from the prisoners running the institution, all the way to the fact that there is collusion between the guard staff and persons outside. And it is a continuum of these stories.

Now, my bottom line here today is to join my colleagues and we are on the brink of a resolution of this problem. And we must face up to it: the Federal Government has to be the lead partner in the solution of this problem. I believe that the legislation introduced in both the House and the Senate is that course of action that can best resolve this problem. And I have outlined that as being an orderly transfer of these prisoners to Federal facilities and the establishment of the commission, Mr. Chairman, and members of the subcommittee, the obligation of Congress and the Federal Government is to provide the funds to let the Bureau of Prisons to begin to build new prisons and to establish new infrastructure to accept the transfer of these individuals.

I thank the Chair.

Mr. DAVIS. Senator, thank you very much.

[The prepared statement of Hon. John Warner follows:]

PREPARED STATEMENT OF HON. JOHN W. WARNER, A U.S. SENATOR FROM THE STATE OF VIRGINIA

Mr. Chairman, I thank you and the members of the Committee for inviting me to give testimony today on the legislation to close the Lorton Correctional Complex.

As you are aware, on March 6, 1995 another prisoner serving time for attempted murder, armed robbery and assault escaped from Lorton's Occoquan high-security unit. The inmate still remains at large. I have been informed that the District of Columbia has begun to transfer 300 prisoners from the Lorton Correctional Complex to the federal prison system to deal with a critical staff shortage that has put the city's prisons in violation of numerous court orders.

Lorton Correctional Complex is an outdated, deteriorating, overpopulated, and undermanaged facility.

For years, I and others have worked to provide funds to build a prison within the District of Columbia so it could house its own prisoners. Our efforts have been blocked in the District of Columbia and our efforts to enhance safety and curb illegal drugs and guns at Lorton have been to no avail.

Every day, the local newspapers are filled with appalling reports of violence and drug use among the inmates and the place has been called a "graduate school for drug merchants". Lorton's problems may not be unique among federal prisons, but surely they are among the worst.

There is no option but to close Lorton.

Mr. Chairman, I introduced a companion bill in the Senate which would relocate 7,300 prisoners presently incarcerated at Lorton to other federal facilities over a five year period. Once the legislation is passed, all new District of Columbia felons will be immediately incarcerated in Bureau of Prisons facilities. The District of Columbia Department of Corrections will still have responsibility for juveniles, misdemeanants, and pre-trial detainees.

A second important provision of the legislation is the establishment of a commission to be known as the Commission on Closure of the Lorton Correctional Complex. The commission will be comprised of locally appointed representatives to help devise a plan for the closure of Lorton. The involvement of the local community is essential in establishing a transition that ensures that local residents will have all their concerns heard.

I have been informed by a representative of the Federal Bureau of Prisons that at this time the Bureau is not taking a position on the legislation. I can appreciate their concern that the 7300 prisoners at Lorton will be a stress on the federal prison system. Sixty percent of the prisoners at Lorton will require being transferred to a maximum security prison. Also, several new prisons will need to be constructed to house the prisoners along with the additional personnel needed to operate and maintain the prisons.

It is in the interest of Fairfax County, the Commonwealth of Virginia, the District of Columbia, and the federal government to cooperate in resolving the problems at Lorton Prison. As partners, contributing to the reform of this system, these goals can be accomplished.

[The prepared statement of Hon. Charles S. Robb follows:]

PREPARED STATEMENT OF HON. CHARLES S. ROBB, A U.S. SENATOR FROM THE STATE OF VIRGINIA

Mr. Chairman, I'm pleased to come before this Committee to discuss the Lorton Correctional Complex Closure Act. This legislation provides a practical solution to the problems associated with the Lorton Correctional Complex, located in Virginia. Senator Warner and I have cosponsored identical legislation in the Senate.

We have before us an honest and open attempt to provide a remedy for the long-standing problems at Lorton. Closing this facility will not be easy—but I look forward to working with the Virginia delegation and the District to develop a reasonable and sound solution to the problems posed by the Lorton facility in its present condition.

I'm here today to say that I know there are outstanding issues and that this legislation is a framework for a permanent solution. I'm hopeful that this hearing will bring forth thoughtful debate and answers to remaining questions on the bill. I look

forward to improving our bill with the revisions that develop as a result of the testimony given today and I'm committed to working with Senator Warner to move this bill successfully through the Senate.

Thank you.

Mr. DAVIS. We now turn to Congressman Frank Wolf from the 10th District of Virginia, who originally sponsored this legislation in previous Congresses, and has been a leader on this issue.

Representative Wolf, we are happy to have you here today.

STATEMENT OF HON. FRANK WOLF, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr. WOLF. Thank you, Mr. Chairman, and I want to also echo what Senator Warner said. I appreciate you holding these hearings early, because we just had a tough time in previous Congresses. It just didn't move. And so I do thank you for holding an early hearing.

I would urge this to be swiftly considered. This ought to be a noncontroversial bill, and should be swiftly moved by this committee, and hopefully pass on suspension so we can get this thing done.

I believe based on conversations with DC police, correctional officers, FBI agents, and U.S. attorneys that the crime problem in Washington and the region is linked to the conditions at Lorton prison. That is why this legislation is urgently needed. Numerous reports have cited serious problems at Lorton, including chronic overcrowding, and all you have to do is go down there and walk around, you can see the overcrowding. It is so obvious. If you go down there on an August day when it is very hot, you will discover that the situation is terrible. Inmate idleness, widespread drug use among inmates, corruption, sexual harassment, poor inmate living conditions, aging facilities, housing inappropriate for dangerous inmates, inadequate education and training programs, insufficient work programs, violence aimed at Federal inmates and guards are rampant.

Without focusing on this situation, the crime problem in Washington can't really be solved. Quite frankly, for anyone who is interested in crime in the District of Columbia and this region, you can't solve crime in the region and the District until you deal with the Lorton issue.

H.R. 461 deals with these problems by immediately incarcerating new District of Columbia felons in U.S. Bureau of Prison facilities, rather than Lorton. Then within 5 years, all remaining felons in Lorton will be turned over to the control of the Director of the Federal Bureau of Prisons in a time-phased manner. This will immediately alleviate problems at Lorton and put it on track for closure within 5 years. The DC Department of Corrections would then retain responsibility for juveniles, misdemeanants, and pretrial detainees, like other cities do in other parts of the country.

The bill also sets up a commission of locally appointed representatives from Prince William and Fairfax Counties and the District of Columbia to help devise a plan for the closure of the correctional complex. The involvement of the local community is essential in establishing a smooth transition, and assures that local residents will have all their concerns heard.

This legislation is not punitive. It is an effort to extend a hand to the new mayor and a city council in an effort to work in a bipartisan manner on ways to resolve a long festering problem. This is an effort to give the citizens of Washington, DC, hope that their neighborhoods can again become safe, that people will not be returned without rehabilitation. It is an effort to remove a dangerously malfunctioning facility from Virginia, which poses current concern to residents of Fairfax and Prince William Counties.

Last, it is an effort to place the inmates in institutions which increase their opportunity for rehabilitation. You can't put a man in Lorton for 10 to 12 years with no rehabilitation, with no training, and then on the day of release give him a few dollars and a change of clothing and send him north on a bus whereby they come down to downtown Washington and expect him to come back into society.

The men down at Lorton are not given the rehabilitation that, frankly, they deserve. And I think many of them want it. I think it is very important. I have made many trips to Lorton. Years ago I participated in a prisoner counseling program at Lorton called Man-to-Man. It was originally started by Charlie Harroway, who was a running back for the Washington Redskins.

From that experience, I learned that one cannot put a man in prison for years and years without giving him the skills and training and rehabilitation and expect him to reemerge as a changed person. Studies support my belief that work is necessary for rehabilitation.

I also will be introducing legislation that would authorize pilot projects within the Bureau of Prisons to test the feasibility of allowing inmates to manufacture goods like televisions and VCR's and items that are currently not made in the United States now. Also, my bill will allow pilot projects on Federal and State levels to allow inmates to participate in recycling work and programs for items such as automobiles and tires, mattresses, washing machines, and other items.

If you walk around Lorton, and I urge the committee and I know both you and Ms. Norton have been to Lorton, but the other Members ought to go down and walk around Lorton. The men there want to have the opportunity to work. Very few of the men at Lorton work because there is no work. They don't have the opportunity.

The news is littered with stories of those who served time at Lorton who commit further acts of violence upon release. While there are many instances of Lorton inmates wreaking havoc when they are released, there are also many untold stories of dangerous crimes which occur outside the prison. There are seven FBI agents and three assistant U.S. attorneys who work on criminal investigations inside the prison.

Originally, Lorton was designed as a work camp for minor criminals in which men lived and worked side by side in dormitories in an effort to rehabilitate themselves. Any prison expert will tell you that the dormitory concept is outmoded. It was designed and put together under Teddy Roosevelt's administration. It just doesn't work.

Today, Lorton facilities are outmoded. They are outdated. Its present use is contrary to the purpose for which it was originally

intended and the time is now to close Lorton. So working together in a bipartisan way, because it is not a partisan issue, I think this can be done.

I just thank the good Lord that you have been picked to be chairman at this time. Perhaps you are like Ester in the Book of Ester—you have been sent for just a time like this. Because when you hear from the men at Lorton, and they tell you the conditions, and when you hear from the citizens that live around it and they tell you the conditions, everyone knows there is a problem. And if you look at the funding level, it has remained unchanged over the last 11 years, and yet they put more men down there. So this is an opportunity, Mr. Chairman, to do something I think will be very good for everyone. And I would urge you to quickly and swiftly move this bill.

I thank you for having the hearing today.

Mr. DAVIS. Congressman Wolf, thank you very much.

[The prepared statement of Hon. Frank Wolf follows:]

PREPARED STATEMENT OF HON. FRANK R. WOLF, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF VIRGINIA

Mr. Chairman and members of the subcommittee, I appreciate the opportunity to testify on H.R. 461, the "Lorton Complex Closure Act." I want to stress from the outset that this is not a partisan issue and this is not a parochial issue. Closure of the Lorton Correctional Complex is an issue of good government, it is about rehabilitating and giving dignity to the prisoners who live there, it is about crime control, and it is about making the neighborhood surrounding the complex safe.

Mr. Chairman, how long do residents of the District of Columbia have to endure the sound of gunfire ringing throughout their neighborhoods? How long will the people of Washington, D.C., the nation's capital and capital of the free world, fear for their and their children's lives? How long will we tolerate drug sales in broad daylight on street corners in the shadows of the White House and U.S. Capital dome? Law abiding citizens are prisoners in their own homes for fear of being murdered, raped, assaulted, or robbed. It is a disgrace that the nation's capital is a battleground in which law abiding citizens are losing the fight on crime.

It is time to take back the streets of the nation's capital. That cannot happen, though, unless we take back control of the Lorton Correctional Complex. How can we expect the dedicated law enforcement personnel who patrol the streets of Washington to combat crime when we can't control substance abuse, murder, assaults, sexual harassment, bribery and corruption in the D.C. prison system? Without focusing on the violence, drug abuse, corruption, overcrowding and dilapidated facilities at Lorton, the crime problem in Washington can never be adequately addressed.

I believe, based on conversations with D.C. police and correctional officers, FBI agents, and U.S. attorneys, that the crime problem in our great federal city is inextricably linked to the reprehensible conditions at Lorton prison. This is why I have introduced this legislation which Reps. Jim Moran and Tom Davis have cosponsored.

H.R. 461 addresses these problems of overcrowding and funding by immediately incarcerating new District of Columbia felons in Bureau of Prisons facilities. Then, within five years, all remaining felons in Lorton will have to be turned over to the control of the Director of the Federal Bureau of Prisons. This will immediately alleviate problems at Lorton and put it on track for closure within five years. The D.C. Department of Corrections would still have responsibility for juveniles, misdemeanants, and pre-trial detainees.

We also set up a commission of locally appointed representatives to help devise a plan for the closure of the Lorton Correctional Complex. The involvement of the local community is essential in establishing a smooth transition and ensures that local residents will have all their concerns heard. The plan is to identify actions with respect to each of the following:

- (1) The future use of the land on which the complex is located including (if appropriate) plans for a regional park at the site;
- (2) The need to address the impact on local and regional transportation resources;

(3) If appropriate, the transfer of real property and improvements thereon to Federal agencies (including the Bureau of Prisons) for Federal use;

(4) If appropriate, the disposal of real property or improvements thereon;

(5) Changes in law or regulation to effect the purposes of this Act and the closure of the Lorton Correctional Complex.

This legislation is not punitive. It is an effort to make the District a jewel of the nation. It is an effort by us to extend a hand to the new mayor and City Council in an effort to work on a truly bipartisan basis to resolve a long festering problem. This is an effort to give the prisoners at Lorton hope and an opportunity to rehabilitate themselves so that they can become productive members of society. Lastly, it is an effort to remove a dangerously malfunctioning facility from Virginia which poses concerns for residents of Fairfax and Prince William counties.

I believe, however, that nothing short of radical reform is required. This is not a new issue. I introduced legislation in the 102nd and 103rd Congresses to address this problem. Unfortunately, that legislation received little attention. The new Congress, however, presents us with a new opportunity to move this bill. I am now prepared to work with the mayor and City Council on embarking on an ambitious plan to stop the revolving crime door at Lorton. It is in the interest of the District of Columbia, Fairfax County, the Commonwealth of Virginia, and the federal government to cooperate in resolving the problems at Lorton. As partners, contributing to the reform of this system, these goals can be accomplished.

Lorton prison is a finishing school for criminals. Recidivism rates among Lorton inmates have been reported as high as 90 percent. A 1987 U.S. General Accounting Office (GAO) study found that nearly 7 of 10 adult inmates living at Lorton at the time of the study had previously been convicted of a felony offense in the District of Columbia and incarcerated at Lorton. About one-third of the adult inmates had been previously convicted and incarcerated at Lorton more than once. The sample used by the GAO was necessarily restrictive which means figures of recidivism are most likely higher.

Inmates should not leave the confines of Lorton prepared with master's degrees in drug trafficking, assault, and murder. Unfortunately, rehabilitation programs such as industry work programs, vocational training programs, GED education programs, and drug rehabilitation programs are woefully inadequate. Instead of participating in rehabilitation programs, many inmates only lift weights or play basketball all day, wander the grounds of the Central facility aimlessly and unsupervised, watch mindnumbing hour after mindnumbing hour of television, and perfect their deviant criminal skills.

I have made a number of trips to the prison. Years ago I participated in a prisoner counseling program called Man-to-Man. From that experience I learned that one can't put a man behind bars for years, fail to give him work, fail to give him skills, fail to offer the opportunity for him to educate himself, fail to lend structure to his life and expect him to reemerge a changed person.

In 1908, President Theodore Roosevelt established a commission to study overcrowding at the District of Columbia's jail and to make recommendations to correct overcrowding. In providing Congress with the results of that Commission's work in 1909, President Roosevelt wrote:

The report sets forth vividly the really outrageous conditions in the workhouse and jail. The overcrowding is great in the workhouse, and greater still in the jail where, of the six hundred inmates, five hundred are serving sentences in absolute idleness, with no employment and no exercise . . . It is no longer a question as to what shall be done, but only a question whether something shall be done, for it is quite impossible that the existing condition should continue. The present antiquated and unsatisfactory plan ought not to be considered for a moment.

The parallels between the present situation and those described by President Roosevelt in 1908 are remarkable. Today, more than 85 years later, District of Columbia prisoners still serve their sentences in "absolute idleness" and many of the concerns that led to the establishment of Lorton 85 years ago still exist.

Idleness results in unmanageable prisoners. Prison guards fear personal injury; thus they ease the tense situation by allowing prisoners free reign to conduct their daily business. Inmates make unsupervised phone calls to the outside and conduct illegal activity from behind the walls. Inmates control the use of the phones and sell phone time to one another. Inmates are not even required to wear similar prison uniforms.

Many youthful offenders view matriculation to Lorton as a right-of-passage. Many of their friends and relatives have passed through the institution and made useful contacts for future criminal activity, thereby perfecting their criminal skills so that,

upon release, they are more proficient at exploiting the innocent and vulnerable. In simple terms these individuals are committing serious crimes, serving time at Lorton, leaving Lorton and returning to the District of Columbia to commit more crimes.

The news is littered with stories of former residents of Lorton who commit further acts of violence upon release. The Washington, D.C., community was horrified by the story of the shooting of veteran D.C. police officer Hank Daley and FBI special agents Martha Dixon Martinez and John Michael Miller at the D.C. police headquarters. The suspect in that senseless shooting served time at Lorton. We were also stunned by the report of the senseless murder of young Meredith Miller in a carjacking outside her Arlington apartment house. One suspect in the murder, who had a record of attempted burglary, unlawful entry, theft, destruction of public property, possession of drugs, and parole violations, had been at Lorton. A number of other serious crimes have been perpetrated by former Lorton residents.

While there are many instances of former Lorton inmates wreaking havoc when they are released, there are also many untold stories of dangerous crimes which occur inside the prison. According to court documents, an inmate was playing basketball while wearing a gold chain around his neck worth \$1,200, two diamond rings worth \$300 a piece, and a watch worth \$100. When the inmate left the gymnasium, he was accosted by two masked inmates, was stabbed and robbed. It is unthinkable, unbelievable, irresponsible, and totally inappropriate that this inmate had jewelry in the first place, and secondly that this violent attack even occurred.

Originally, Lorton was designed as a workcamp for misdemeanants and drunkards, in which men lived and worked side by side in dormitories in an effort to rehabilitate themselves. Today, Lorton's facilities are outmoded, outdated, and its present use is contrary to the purposes for which it was originally intended. The same dormitories which were designed to hold non-violent, minimum security prisoners currently house up to 150 notoriously dangerous convicts. Making matters worse, these dangerous men are guarded by one unarmed guard. In some circumstances they go unguarded. I have heard story after story of inmates attacking inmates and guards.

These are not isolated incidents. Every year, there are many murders, assaults, and malicious woundings in the prison. Drugs are as easy to obtain as procuring them on the street. Guards deal in narcotics or they look the other way—partly because some are corrupt, partly because some don't care, and partly because some know there is little control and they are fearful of a riot. The problems are so bad that there are seven FBI agents and three assistant U.S. attorneys who work on criminal investigations and prosecutions at Lorton.

Because the prison budget is so strained, there has been public discussion that District officials may consider closing one facility, thereby exacerbating overcrowding and its related dangers. They may close several guard towers, they may return hundreds of felons now in federal facilities on a reimbursable basis and other states' facilities to Lorton, or may cut back further on staff. I believe the time is right and the time is now for Congress to address these important issues in partnership with the mayor and City Council, and solve these daunting problems.

Mr. Chairman, clearly this reform agenda is ambitious. This situation is such that it requires a bold new direction. President William Howard Taft, who succeeded Theodore Roosevelt as President, commented on the D.C. jail in 1909: "It is a reproach to the National Government that almost under the shadow of the Capitol Dome prisoners should be confined in a building destitute of the ordinary decent appliances requisite to cleanliness and sanitary conditions."

That condition, and worse still exists today at Lorton. This bill is the first step in the process to reform D.C. prisoners, combat crime in the district, and renew Washington, D.C.

In closing I would like to reiterate my intention to reach out to all the interested parties to forge a win-win proposal for the District, Virginia, and the inmates who live in Lorton.

Mr. DAVIS. We now call on our colleague from the Eighth Congressional District, Representative Jim Moran, where the Lorton complex actually resides, and you have been an outspoken leader on this issue as well.

**STATEMENT OF HON. JAMES MORAN, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF VIRGINIA**

Mr. MORAN. Well, thank you, Mr. Chairman. I was going to thank you for having the hearings, too. I wasn't going to necessarily cast you as a biblical redemption character, but I do think it is nice that you—

Mr. DAVIS. You are welcome to do that.

Mr. MORAN. I understand. I think enough is enough. But I hope you do take down that for future campaigns.

But what we have done is to take two bills. Frank had a bill, as you know, for several years, that was designed to close down Lorton, and to look into where and how you would locate it within the District of Columbia. I had a bill to turn it over to the Bureau of Prisons, figuring that nothing was moving and that it was unlikely we were going to be able to locate a new prison in Lorton or even to completely close it down. Of course, what a difference an election makes now. And in addition to the election and new interest, we also have a fiscal situation in the District that I think makes something like this imperative.

What we have done is to merge the two bills, as you know, because you are an original sponsor of it as well, and to turn it over initially to the Bureau of Prisons and to close it down over a reasonable period of time. And we would rebuild the kind of prison facilities that Frank was talking about. And with Senator Warner pushing so hard for this on the Senate side, and I think Senator Robb is a cosponsor as well, and having the interest we do on the House side, I think it is a real opportunity that we have to seize and we have to seize it now.

As Congressman Wolf suggested in the closure of his remarks, I will just pick up on that, the original intent of Lorton, you know—it was originally designed to house 60 nonviolent offenders and to teach them farming skills in a bucolic setting. Of course over time there isn't all that much need for farming skills in the District of Columbia. I don't think that is one of the principal employment opportunities, although we continue to teach that kind of a skill. Unfortunately, it is one of the very few things that we can actually teach at Lorton because of the lack of resources.

We have over 7,000 inmates on a 3,000 acre site. And obviously Fairfax County is not the sleepy little rural bucolic county that it once was. We have got 850,000 residents. I am glad we are going to hear from our supervisor for that area, as well as the new chairman of the board. It is an entirely different situation, and housing developments have encircled the Lorton complex, so that it is no longer safe to house such a large prison facility in the midst of a very dense residential area. It is obvious to anyone that Fairfax County is not the ideal site for a prison.

We also have to acknowledge that Lorton prison is not a model prison. We are all too familiar with the stories that we read about every single day of what is happening at that corrections facility. But in fairness to the District of Columbia, it is not a State, it doesn't have the resources or the tax base to manage State functions like operating prisons.

Since the mid-1980's, the Department of Corrections has been jamming prisoners into cells and dormitories that were never

equipped to house them. We have terribly unsafe situations, particularly with regard to high security prisoners being kept in facilities where they should not be, and they jeopardize, obviously, the safety of fellow prisoners as well as the people living around the complex. There are simply not enough guards to correctly and safely monitor the prison, nor will there ever be enough guards when the District of Columbia is responsible for coming up with the kind of financial resources that would be necessary to provide them.

We all made a point of the fact that Lorton is a virtual powder keg, ready to ignite. There are too many prisoners and too little room, with too little supervision. Jack Anderson in the mid-1980's called Lorton a finishing school for criminals. Actually, he may have stolen that quote from Frank, because I have heard Frank use the same thing, and I think Senator Warner has as well.

But since that time in the mid-1980's, the situation has become much, much worse. We can't even provide the most basic rehabilitation services. And that was the intent, to offer rehabilitation. So that even though you know prisoners are getting back out into the street, you hope that they are not coming back to the prison. And yet we find that about 80 percent recidivism rate applies to Lorton, is one of the highest rates, it is a revolving door. And one of the reasons is that they don't have the resources to provide any real job preparation or employment skills.

And inmates that enter in that system for the most part, not only are they no better prepared when they get out, but they are probably more inclined for lives of crime and less prepared to be productive members of the work force and of society.

It is no coincidence that the last month we had articles in the paper the same day reporting a cancellation of the drug treatment program, where even though they didn't have adequate resources, people were working very hard and they had some pretty positive results. They canceled the program and on the same day they arrested guards that were trying to bring crack cocaine into the system.

So we can't continue the situation. We have to put this on a fast track. Our communities in Fairfax County have a right to be free of crime, and certainly not subject to criminals who continue to move in and out of the system within their neighborhood.

The inmates themselves ought to be given a decent chance to get back into society and into the work force, to cure their addiction, to begin their lives anew. And yet we are promoting recidivism with the situation that we have now. And so I think that this bill is going to go far in reducing recidivism, putting more professionalism into the system, and giving the prisoners a decent chance at rehabilitation.

I want to emphasize, in concluding, another important aspect of this legislation, and that is that it establishes a mechanism for the local community to determine the future use of the property. It establishes a commission made up primarily of residents. I know that Jerry Hyland has already been involved in recruiting people that would play a constructive role in this advisory commission.

It would ensure that the land be used in an appropriate way and that the traffic impact be minimized and any increase could be ac-

commodated with the road network that we have. That is the objective of this commission.

I am sure there are ways that we could improve the legislation, but I think that you would agree that a lot of thought has gone into it and it solves a crisis or at least it addresses a crisis in a constructive fashion and one that I think will have enduring, positive results.

So I thank you again for having the hearing and I am very glad to see my friends and colleagues who have cosponsored this legislation with me. Thank you, Mr. Davis.

[The prepared statement of Hon. James P. Moran follows:]

PREPARED STATEMENT OF HON. JAMES P. MORAN, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF VIRGINIA

Mr. Chairman:

Thank you for giving me the opportunity to appear here today. I do not want to repeat anything said previously, so I will focus more on the history of this problem and this legislation.

This legislation is being driven by a number of factors. One of the most important is the fact that the prison and the surrounding communities have grown and changed significantly since the prison was first constructed. When the Lorton Correctional Facility was first established, it was designed to house 60 non-violent inmates in rural Fairfax County. Today, the Lorton Correctional Facility houses more than 7,000 inmates on a 3,000 acre site. Fairfax County is no longer the sleepy rural county it once was. It is no longer safe to house such a large prison facility in the midst of a large residential community.

In addition to acknowledging that Fairfax County is not the ideal site for a prison, we must also acknowledge that the Lorton Correctional Facility is no longer a model prison. The District is not a state. It does not have the resources or the tax base to manage state functions such as operating prisons. Since the mid-1980s, the D.C. Department of Corrections has been jamming prisoners into cells and dormitories that cannot correctly house them. We have heard reports of unsafe housing practices at the Lorton facility, where high security prisoners are being kept in dormitory style facilities. We have also heard reports of improper safety procedures, where there are not enough guards to correctly and safely monitor the prison.

As I said when we introduced this legislation in January, the Lorton prison has literally become a powder keg with too many prisoners in too little room with too little supervision. Well, just last month, that keg ignited when there was a power failure in one of the units. This incident was relatively small compared to what could have happened. We must not again try our luck and wait for another incident to occur before we act. We should not put our constituents who live near the prison or who work at the prison at such risk.

In the mid 1980s, Jack Anderson wrote a column calling the Lorton prison a "finishing school" for criminals. Since that time, the problem has become worse. The D.C. Department of Corrections cannot afford to offer even the most basic rehabilitation services. Inmates who leave the system are no better than when they entered. In many cases, they are worse off. It is no coincidence that on the same day last month, articles ran in the newspapers reporting the cancellation of the drug treatment program in Lorton and the arrest of a guard trying to bring crack cocaine into the complex.

It is simply unacceptable for us to allow this situation to continue. Our communities deserve to be free of crime, not subject to criminals who continue to move in and out of the system. The inmates themselves should be given the tools to cure their addictions and begin their lives anew, free of crime. The current situation does little to deter or prevent crime or recidivism. With this legislation, we have the opportunity to move the District's prisoners into a prison system which rehabilitates inmates, treats drug abuse, and breaks the cycle of crime and recidivism. We must seize that opportunity.

This has been and will continue to be a true bipartisan effort. The legislation we are introducing combines the best pieces of previous efforts and improves upon them. It offers a rational and realistic method for closing the facility that does not penalize the District of Columbia. It establishes the mechanism for the local community to determine the future of the property. Through the Commission that this legislation establishes, the local community can ensure that the area's open spaces are

kept and the impact on local traffic is minimized. The legislation is not perfect but I am confident that we can correct it through the series of hearings and deliberations planned on this important issue. I look forward to working with you on this legislation in the coming months.

Mr. WARNER. Mr. Chairman, could we also recognize the participation of the distinguished Congressperson Norton.

Mr. DAVIS. She just came in. I was going to allow her to make her opening statement in just a minute.

Mr. WARNER. In my judgment, you are key to the leadership team which can move this forward, together with the many individuals behind us here who represent the communities at all levels of State and local governments. So it is a sharing process.

Mr. DAVIS. Thank you. Yes, I am proud to present our ranking minority member on this subcommittee who has functioned—

Mr. WARNER. Would the Chair desire us to remain here?

Mr. DAVIS. Well, I was going to just ask a couple questions, if you would answer.

Let me ask you, whomever would like to take this, when home rule began we have found through our hearings that they took on a work load that very few cities in this country have. One of them is the Medicaid liability.

Another responsibility they have had is to house felony prisoners. And as you take a look across the country at the role of cities, I don't know of another city that has the responsibility for housing their own felony prisoners. And it was, I think, Representative Wolf who talked about it in his testimony, that is a tremendous burden for any city, even with a huge tax base. And in this particular case, it has really helped to strap the city.

And as the prison population has grown, there is a potentially greater need for funding in that area than they have been able to provide. This is an area I think that has concerned the mayor and the council as they take a look at reconstructing their relationship with the Federal Government. Really what drives this issue in my mind as much as anything else, is which level of government is best equipped to properly house and train these prisoners so that they can go out and live meaningful lives when they leave. Any reaction?

Mr. WARNER. Well, I think the Chair's observation is quite accurate, that—I am not here to fault home rule, but I am here to observe that home rule did retain the primary responsibility within the District of Columbia government for not only the supervision, but the financing of this institution, that is Lorton, which has grown beyond all expectations. And that is why my opening statement was this is a Federal problem and the sooner we all come to grips with that, the better we will be.

Mr. WOLF. Well, I agree, it is a Federal problem. When the men are prosecuted, they are prosecuted by the U.S. attorney for the District of Columbia and they are remanded over to the custody of the U.S. Attorney General when convicted. So I think it is appropriate for the Federal Government to be involved in doing this.

And as you say, no other large city has this responsibility. And since the District does not have the financial wherewithal, there is absolutely no real rehabilitation taking place. And that, I think, is the greatest glaring problem. So I think to change it, which this

bill does, would really be helpful to everyone. And it is, as Senator Warner said, a Federal responsibility.

Mr. DAVIS. One other question. There is a huge Federal presence there now. Aren't there FBI agents that are there now?

Mr. WOLF. Seven.

Mr. DAVIS. We are putting more and more Federal resources into this to assist the city. At this point, it probably makes sense to put those under one jurisdiction.

Mr. WOLF. There are several full-time FBI agents stationed, if you will, down at Lorton, working on crimes that have not taken place outside of Lorton, but working on crimes basically inside of Lorton.

Mr. DAVIS. OK.

Mr. MORAN. I should say one thing with regard to this Federal role and relationship with the Federal Bureau of Prisons. When I introduced my legislation 2 years ago, just to have the Bureau of Prisons take it over rather than necessarily close it down or move it into the District, the Bureau of Prisons was very resistant. The Bureau of Prisons does not want to take over Lorton. And it is more than just the headache that will go with it. It is—they feel that they don't have the money in their budget. And they tried to make the argument that it is not appropriate for the Bureau of Prisons.

I think you have heard in response to your question that we feel it is, and I think when we have the staff go into the legality of it, they will find a real contradiction in what other major cities do vis-a-vis the District. I suspect that some folks in the District may have put principle above pragmatism with home rule. They didn't want to give up anything, because that might be an implication they couldn't handle it.

It would have been wiser, it would seem, at that point, to have decided what functions they could really handle and would have the tax base to handle and were appropriate. This is probably the function that is least appropriate for the District to have to assume full responsibility for, given the court system and given the fact that these, as you say, are felony prisoners prosecuted under Federal jurisdiction. So it is wholly inconsistent with what other jurisdictions do.

I don't think—I know that one of the newspapers, I think it was the Journal newspaper, criticized my legislation as saying that Uncle Sam shouldn't be picking up the financial burden. But Uncle Sam does for these types of prisoners in other jurisdictions. And while we need to prove that point, it is going to—the result of any legal investigation is going to buttress our arguments and support for this bill.

It will be somewhat difficult for the Bureau of Prisons to absorb all the prisoners at Lorton, to put all of the guards through the kind of screening process that is necessary, and to upgrade the facilities before they can find a place to move them in other parts of the system.

And I know that there is going to be some controversy in moving them away from a place that is particularly convenient for their families to visit them. That, I think, is imperative for a great many of the prisoners in the short run. In the long run, this legislation

would require all of them to be absorbed into the system throughout the country. I do think that it probably means building a substantial regional prison facility, constructed and run by the Federal Bureau of Prisons, someplace else, whether it be in West Virginia or wherever, and there are places I am sure that would like the jobs and would have the capacity to be able to provide the kind of rehabilitation that we all want to see within a prison facility of this size.

Mr. DAVIS. Thank you. I will make my final comment now, then I will turn it over to Ms. Norton for her opening statement. The growth in these programs, over the years, has been far beyond what anybody could have foreseen at the time when the District of Columbia took on these responsibilities, both for felony prisoners and Medicaid. If the trend levels had been the same as might have been thought of 20 years ago, I think it might have been a different situation. But the growth in both of these areas has been far greater than any reasonable jurisdiction could absorb, given the tax base.

Ms. Norton, I would like to now recognize you for purposes of an opening statement. I think if there is any reaction, I know she would be happy to hear it. Thank you.

Ms. NORTON. First, I want to apologize to my colleagues that I was somewhat detained. And I want to say to them that I very much appreciate their concern. Whenever there is a facility in the District of Columbia that is in the least bit troublesome and far less troublesome than a prison, you will find neighborhood residents don't want that in their district, so I can certainly understand that you would not want a prison in Virginia, particularly in light of my very good friend Representative Wolf's notion that this bill ought to move quickly because it is noncontroversial.

I think that the best use of my time would not be to ask you questions, but to put on the record what my view is, and to document why that is my view.

Representative Frank Wolf has introduced one or another version of the Lorton Correctional Complex Act since 1991. Although he does not represent the Lorton area, Frank Wolf has had a long and sincere concern about the men and women confined in Lorton. Unlike most of us who often are appalled at conditions at Lorton, Frank has been a frequent visitor and counselor to inmates.

However, H.R. 461 offers little detail concerning prisoners, DC residents, or the DC government. The bill reads like Title II of a bill that needs two titles, not one. H.R. 461 is the functional equivalent of Title II because it is largely about Fairfax County and the disposition of Lorton property. It would relieve Virginia of Lorton, but the bill has nothing to say about relieving the District of even part of the enormous expense of supporting and housing felons. The District is the only city in the United States that carries this particular burden, which is universally reserved for States. Thus, I believe that H.R. 461 either needs a companion bill or needs to be revised, adding a Title I that addresses the cost, logistics, and other problems associated with transferring 7,300 inmates to Federal facilities.

Because confining prisoners with lengthy sentences is a State function, and because the District is in dire financial straits, Fed-

eral funding for Lorton functions in Federal facilities is worthy of some consideration. Yet, H.R. 461 does not even mention, much less offer Federal funds. A large part of the reason for conditions at Lorton is that despite an almost 50 percent increase in population in the last 10 years, the District has been unable to increase funding for the prison during that entire period. To their credit, both Congressman Wolf and Chairman Davis, a cosponsor, have indicated that their intent has never been a bill that does not address the indispensable issue of funding.

However, the Lorton facility has equally compelling non-financial hurdles to jump. In a March 16, 1995 letter to Chairman Davis expressing the Justice Department's position on H.R. 461, Attorney General Janet Reno raised a series of formidable objections and concluded that the bill is "seriously flawed." She went further, and I am quoting her, "We do not believe," she wrote, "that the enactment of H.R. 461 is the best way for the United States to carry out our responsibilities in running a correctional system for the entire Nation, or in solving the very serious problems at Lorton."

General Reno cites figures showing that the Federal system to which H.R. 461 would transfer Lorton inmates is now 160 percent of capacity, and would be 172 percent if Lorton offenders were added. Lorton, however, is only 44 percent overcapacity. She says that because 70 percent of Lorton population is medium and high security, as many as eight new Federal facilities would have to be built, similar to a figure cited by Senator Warner.

Her letter is replete with references to other unsolved problems raised by the bill. Among them is the risk of violent confrontations due to mixing inmates with greatly different sentences, parole, and good time requirements. She writes of "additional punishment," at odds with general correctional principles of separating inmates at great distances from their families and lawyers. Not surprisingly, the Attorney General also mentions the Omnibus Crime Control Act of 1994 as adding to the costs and time to be served by most District felony offenders. She concludes that H.R. 461 in any case would require, and I am quoting her, "a massive infusion of Federal dollars."

While stating her opposition to H.R. 461, the Attorney General offers to discuss a number of alternatives. Although I have not spoken with her or anyone at the Justice Department concerning the bill, I want to join her in offering to work with the sponsors of H.R. 461 to find a solution that is agreeable to all concerned.

Please remember that it was the U.S. Congress, not District officials, who located the prison on Federal land in Virginia. Even in the early 1900's, when Congress established Lorton, it was recognized that a large maximum security facility could not be located in any city, much less the Nation's capital.

However, we who live in the District understand and appreciate the desire of many Virginia officials and residents to close Lorton. I want to assure them that we stand ready to work with Virginia officials, Members of Congress, and local residents to reach a mutually agreeable solution. I sincerely believe that such a solution can be found.

Ever since being elected to Congress in 1990, I have been impressed with the pragmatic, problem solving bipartisanship of the

regional delegation. We have been willing to give up partisan advantage for the good of the region. Lorton raises unusually difficult issues of funding, competing land uses, logistics, and Federal and State jurisdictional puzzles. However, it is the difficulty of the challenge that is the best hope for energizing a solution.

I ask unanimous consent that the Attorney General's letter of March 16 be included in the record.

Mr. DAVIS. Without objection.

[The information referred to follows:]

OFFICE OF THE ATTORNEY GENERAL
WASHINGTON, DC 20590
March 16, 1995

Hon. Thomas N. Davis,
Chairman,
Subcommittee on the District of Columbia,
Committee on Government Reform and Oversight,
U.S. House of Representatives,
Washington, DC 20515.

DEAR MR. CHAIRMAN: I am writing to express the Department of Justice's position on H.R. 461, which provides for the transfer of the felony inmate population of the District of Columbia Department of Corrections to the Federal Bureau of Prisons. The Department fully understands the concerns that led to the introduction of this bill, and we concur with its sponsors that the present situation at the Lorton complex must be dramatically improved. We are also very much aware that the thrust of the bill—namely that the federal government should assume responsibility for the Lorton complex—is shared in many quarters. Indeed, it has been publicly reported that the Mayor of the District of Columbia supports a federal take-over.

First, let me acknowledge that the federal government will be much more involved with the District of Columbia Department of Corrections and particularly with the Lorton complex than has been the case up to now, and we in the Department of justice expect to shoulder a heavy part of this responsibility. But we do not believe that the enactment of H.R. 461 is the best way either for us to carry out our responsibilities in running a correctional system for the entire nation, or in solving the very serious problems at Lorton.

The Bureau of Prisons' (BOP's) present mission in running a nation-wide prison system is a mammoth task, and saddling it with the D.C. felony population would have a dramatic negative impact on its operations. Federal inmate population levels are at an all-time high and crowding (if adjusted to standards used by the States) is already at 160 percent of capacity. The BOP already is managing the largest sustained expansion program in its history. The agency is straining its resources—both in terms of facilities and experienced staff—in order to cope with its current and projected population levels.

Absorbing the D.C. felony population would increase BOP crowding in its medium and high-security level facilities, the prisons where the greatest threats exist to public safety and the safety of staff and other inmates. Current estimates are that an additional 7,000 medium- and high-security D.C. cases would be added to the Bureau if this legislation were enacted. Crowding in Bureau facilities housing those offenders could reach as high as 172 percent of capacity using State capacity standards.

To be sure, some of the problems could be alleviated with massive appropriations of money. The scale of the funding that would be needed under H.R. 461 is described below, but even if Congress did appropriate such massive sums, the bill would create a number of other significant operational difficulties. The bill contemplates sending Lorton inmates to BOP facilities around the country where they would be incarcerated alongside federal felons. But mixing inmate populations with greatly disparate sentences, good time, and parole structures is not a good way to run a correctional system. It increases the risk of violent confrontations between inmates and between inmates and staff, and it would greatly hamper virtually every program run by BOP. Housing large numbers of inmates great distances from their families and attorneys is also contrary to sound correctional principles and the value, if any, of the additional "punishment" thereby imposed on inmates so separated is greatly outweighed by the increased security and other measures necessitated when inmates contact with their families on the outside is minimized. Moreover, the dispersal of the Lorton inmates in scores of federal facilities will result in a significantly increased burden for the U.S. Marshals Service in moving D.C. in-

mates to and from federal prisons, and on the U.S. Parole Commission which, under H.R. 461 and by virtue of 24 District of Columbia Code §209, would have to hold parole hearings for the District of Columbia inmates housed in federal prisons.

In addition to the above problems, there would be considerable operating and construction costs involved in the type of BOP takeover mandated by H.R. 461. The current population at the Lorton complex includes approximately 7,300 inmates and is expected to grow to approximately 9,000, by the year 2000. These projected population figures do not take into account the impact of the D.C. Omnibus Crime Control Act of 1994 which is expected to significantly increase the average time served by most D.C. felony offenders. Consequently, beginning in the year 2000, BOP operating costs for housing the additional 9,000 offenders would be approximately \$200 million per year based on BOP's annual inmate per capita cost. In the interim, under the proposed legislation, the BOP would receive newly convicted felony offenders, and we estimate that the cumulative operating costs between enactment and the year 2000 to be \$611 million.

One-time costs of this legislation also would be massive. If the Bureau of Prisons were to gain access to the Lorton property for prison use, a minimum of \$150 million would be required to upgrade that property. On the other hand, if Lorton were not available for federal prison use, the Bureau would require \$629 million for construction of new facilities to house D.C. inmates.

Summarizing the cost to the Bureau of Prisons and the taxpayers, H.R. 461 would require the Congress to identify between \$761 million and \$1.2 billion to complete just the 5-year transitional period, which, in any case, we believe to be unrealistically brief for a project of this magnitude. After the transition was complete, an additional \$200 million per year (a figure that would rise each year thereafter) would be needed to sustain this level of assistance to the District.

Beyond these dollar amounts, the transfer of about 9,000 D.C. inmates to the federal prison system would require a massive infusion of personnel resources. To maintain current BOP staff-to-inmate ratios, the Bureau of Prisons would need about 3,000 additional full-time positions. At a time when the Congress and the Administration are seeking every possible way to reduce federal work force levels, this would be an unprecedented step in the opposite direction—one that would place the Department of Justice in an untenable position in its attempt to meet future position ceilings.¹

Additionally, the proposed legislation simply fails to account for a number of realities in the District's present situation. Transferring DOC felony cases to the BOP would not necessarily improve the functioning of the D.C. criminal justice system. The causes of crime in the District are many and complex—and they are not a direct reflection of the operation of its correctional system. The legislation does not take into account other operational and criminal justice issues, such as the impact on the court, probation, or parole functions, nor does it consider the large number of non-Lorton felony cases, such as those confined in other areas of D.C. corrections (Community Treatment Centers and drug treatment programs) or in contract facilities. Furthermore, it does not include provisions for making necessary changes in sentence structure, parole eligibility and hearings, good time, or responsibility for community corrections programs, nor does it provide a mechanism for resolving problematic disparities between the D.C. and United States codes.

In sum, the approach of H.R. 461 is seriously flawed. We have a number of alternatives that we would like to discuss. Under any approach, the BOP and the National Institute of Corrections stand ready to provide substantial technical assistance and management advice, including the loan of some of its key executives, to allow the District of Columbia Department of Corrections to function adequately. We think this is a preferred solution to the massive infusion of federal dollars and positions that would be required under H.R. 461.

¹ Privatization or contract confinement of some of the Lorton inmates might eliminate some of the direct capital costs of new prison construction and allow improvements in the DOC without the federal government having to engage in massive hiring of new personnel. But unfortunately, for the medium and high security inmates who make up no less than 70% of Lorton's population, it is unlikely that contract bed space can be obtained. While contracting for the minority of Lorton's population who require minimum and low security confinement conditions is a possibility, this does not address the problem of housing the higher security inmates. If these offenders remained at Lorton, the facilities there would need to be upgraded to meet BOP security and safety standards. Although removing lower security cases to contract facilities would leave proportionately greater resources for the remaining medium and high security inmates, the Lorton plant would still need considerable upgrading. Moreover, our information indicates that contracting results in at best marginally reduced costs, as compared to confinement in BOP facilities.

If I can be of any further assistance in your consideration of this important issue, please contact me.
Sincerely,

JANET RENO,
Attorney General.

Mr. DAVIS. Any other additional comments from you?

Again, I don't think it is anyone's intent here to try to charge the District for this. If anything, we are trying to help relieve the District of some severe financial burdens. I think that is really the tie that binds; the good of the prisoners and the ability to fund these adequately at the appropriate level of government.

Mr. MORAN. Mr. Chairman, I do think that Ms. Norton brings up an important point, that really the District of Columbia Committee is going to have to resolve. And that is what method of reimbursement would go with the prisoners.

You know, one option is to contract with the Bureau of Prisons, based upon the average national charge or by region. I think it varies around the country. Another is to completely forgive the District of any cost for housing prisoners in the Bureau of Prisons' facilities or whatever. Our legislation doesn't resolve that. But it would seem to be up to the authorizing committee to determine the method of reimbursement.

Mr. DAVIS. I think that is an issue we have agreed we are going to work on together. Mr. Wolf.

Mr. WOLF. There would be a cost, but this needs to be done. And I would urge the committee to take this subcommittee and full committee down to Lorton and spend a day at Lorton and go through the drug rehab and talk to the men watching cartoons in the middle of the day with no rehabilitation and no hope. Then track all the major crimes.

The two FBI agents and the policeman that were killed several months ago were killed by a man that was involved in Lorton. Just look at all the major crimes.

This committee, this Congress, Attorney General Reno, President Clinton, they don't have any choice. Because other administrations and other Congresses have done nothing.

This is the Nation's capital. This is the city on a hill. This is the place that people want to come. You cannot continue to let this sore fester and fester and fester.

But to do nothing is to do something major. It is to allow crime to continue. It is to allow sexual harassment. It is to allow drugs to be brought in. It is to allow no rehabilitation. It is to allow men that come out to commit major crimes. It is to allow this region to just be torn apart because of this. So it just can't continue.

And everybody else has looked the other way. This committee shouldn't have a markup until everyone walks through Lorton, pull the men aside in the dormitories and talk with them. Some will tell you they have a hard time sleeping at night because they are afraid to sleep at night.

Ask them how much rehabilitation or education they receive. You will find a few men working on furniture, and a few men making license plates, and a few men doing some printing, and the rest are just milling around. They are just kind of hanging around. So the Congress doesn't have any other choice.

Attorney General Reno can write all the letters she wants. She doesn't have any choice. She ought to go down to Lorton and walk around. I have been in Federal prisons and I have been in Lorton, and I will tell you, it is like night and day. And the conditions just have to change.

So like I said, this committee has to deal with it, and, frankly, this administration doesn't have any problem. Because if they talk big hat, no cattle, that they are for a tough crime bill and they want to do this but they don't want to do anything for the District of Columbia. Frankly, the President and the Attorney General will have to answer that their rhetoric is false, hollow, and empty. This is the opportunity to put up or shut up. And you have the opportunity, Mr. Chairman, to get this bill out, to change this, or else I think this Congress will really be embarrassed but particularly this administration who talks very tough on the issue of crime.

Mr. WARNER. Mr. Chairman, when I opened up remarks, I said it was a Federal problem. And I clearly meant, Ms. Norton, that part of that problem was financing. And I would suggest we simply have a line item in the annual appropriation account for the Nation's capital, and there it is, that has the dollar figure associated with the responsibilities of the District in caring for its prisoner population. Put it right out there for everybody to know about.

Mr. DAVIS. Thank you. Thank you, gentlemen. Thank you very much.

Mr. Moran, you are welcome, you are a member of the full committee, to join us for the rest of the hearing.

Mr. DAVIS. And our second panelist today is the Honorable James Gilmore, the Attorney General of the Commonwealth of Virginia.

Jim, welcome. It is the policy of the full committee to swear in every witness before they testify. So if you could remain standing.

Mr. GILMORE. Mr. Chairman, in the event that my deputies might wish to assist me in the answering of questions, may I have them sworn also? This is Chief Deputy Attorney General David Anderson, and Deputy Attorney General Catherine Hammond.

Mr. DAVIS. Welcome. We are happy to have you here today.

[Witnesses sworn.]

Mr. DAVIS. Thank you. I would also ask unanimous consent to put a statement of Virginia Governor George Allen on the Lorton Correctional Center into the record.

[The prepared statement of Governor Allen follows:]

PREPARED STATEMENT OF GEORGE ALLEN, GOVERNOR, COMMONWEALTH OF VIRGINIA

The District of Columbia's Lorton Prison Complex has been a long-standing concern for people in Northern Virginia who live in the Lorton area. The problems associated with Lorton are well documented. The facilities are outdated, overcrowding is rampant, escapes are too frequent, and drug abuse is widespread.

During my campaign for Governor in 1993, I pledged to support closing this facility. I remain steadfast in my commitment to seeing this troubled institution closed and in my support for the members of our Congressional delegation from Northern Virginia. Congressman Wolf and I discussed the most reasonable methods to achieve this goal for Virginians.

The legislation that has been introduced by Congressman Davis, Wolf, and Moran addresses the need for community involvement. It is imperative that the local community has had to endure the problem for too long and it is proper that local citizens be involved in planning for the closing of this facility.

The high escape rate, failure to modernize facilities, and inadequate work opportunities for inmates are aspects not tolerated in facilities operated by the Virginia Department of Corrections. Failure to close Lorton will continue to put Virginians at risk from this unsafe facility.

Mr. DAVIS. Mr. Gilmore, thank you for taking the time to be with us today.

STATEMENT OF JAMES GILMORE, ATTORNEY GENERAL OF VIRGINIA, ACCOMPANIED BY CHIEF DEPUTY ATTORNEY GENERAL DAVID ANDERSON AND DEPUTY ATTORNEY GENERAL CATHERINE HAMMOND

Mr. GILMORE. Thank you, Mr. Chairman.

Mr. Chairman, I am pleased to be with you here today, and I appreciate the opportunity to address the committee on the proposed changes to the Lorton Correctional Complex in Fairfax, VA. The bill before you, H.R. 461, is an important step in solving a problem facing the District of Columbia and the U.S. Government, and the Commonwealth of Virginia.

It is no secret that Lorton presents a problem. I understand that there will be other witnesses here today who are going to discuss how the Lorton facility has become a financial albatross for the District of Columbia. I intend to describe to you today the problems that Lorton presents from Virginia's point of view.

Lorton is situated in Fairfax County, a thriving community where Virginia's future is unfolding. Fairfax is home to some of Virginia's most innovative businesses, including many high-technology companies. These corporate citizens will help lead Virginia and the metropolitan area to a dynamic place in the national and global economy. Fairfax County is also a densely populated suburban landscape, filled with families who demand safety in their homes and schools and safety that government has to provide.

In the midst of this energetic community of Fairfax in Northern Virginia, sits Lorton, a sprawling prison complex that is routinely in the news because of lockdowns, failed security measures, and drugs and weapons on the inside. A few recent examples are telling. A Federal judge in Alexandria referred publicly to Lorton as a graduate school for criminals. Last month, the U.S. attorney, Helen Fahey—a former colleague of mine when we were both Commonwealth's attorneys—announced indictments of prison employees on drug charges. Last year, in April 1994, three prisoners escaped, including one who had been convicted of manslaughter. Although these problems of prison crime and violence may not be unique to the District of Columbia, they do pose a unique problem for the residents of Northern Virginia. Unlike the Federal and State prisons within the Commonwealth, the District facility is run by a government which is not accountable to the voters of Virginia.

In sum, the combined threat to the security of the residents of Virginia and the lack of accountability has on more than one occasion prompted other administrations, previous administrations to address the Lorton problem, usually with limited success.

In 1973, the Commonwealth filed a nuisance action against the District of Columbia: that case resulted in the entry of a consent order prescribing specific security measures which Lorton must undertake.

In 1976, Fairfax County filed a nuisance action against the United States and the District of Columbia over operation of Lorton; that case was dismissed on jurisdictional grounds.

When I came into office last year, cognizant of this history, we began to take a close, long, hard look at what Virginia could do about the Lorton situation. Our analysis turned back the clock to 1909, to ask whether the operation of Lorton by the District of Columbia violates Article I, Section 8, Clause 17 of the U.S. Constitution.

My concern about the constitutionality of the District's operating of a prison in Virginia was shared by a U.S. Attorney General early this century when land for a prison facility was sought. In a letter to the President on June 30, 1909, U.S. Attorney General George Wickersham noted that if such a purchase of such land were made by the Commissioners of the District of Columbia, they would be without exclusive jurisdiction over the land, as any cession of jurisdiction and authority to purchase the property does apply to the Commissioners of the District.

Attorney General Wickersham warned that:

It may be seriously questioned whether, without special legislation in the State of Maryland or Virginia, the Commissioners of the District could lawfully hold prisoners on the land so purchased within either of these States.

Mr. Chairman, no such special legislation was ever passed by the Virginia General Assembly. Nevertheless, the United States purchased the land and turned it over for its use by the District of Columbia.

Article I, Section 8, Clause 17 provides that the exclusive jurisdiction of the District of Columbia is limited to that area not exceeding 10 square miles, designated for the seat of the Federal Government. Lorton, of course, lies outside of the District's territorial limits. Thus, the first question is whether the District of Columbia, like any other municipal corporation, can have sovereign authority outside of its territory. And I think the answer is no.

The second question is whether the United States has exceeded its limited ability under Clause 17, to use the land of a State for "needful buildings." The power of the United States to acquire and to use land as a Federal enclave, free of State intrusion or regulation, is limited by the Constitution to land acquired to serve Federal purposes. In the context of penal institutions, such a use would be met by prisons that primarily house and care for persons convicted of offenses against the United States and proscribed by Title 18 of the U.S. Code. But Federal uses do not include maintaining a facility for the primary purpose of housing and caring for people convicted in the District's municipal courts for violations of the District's Penal Code.

The constitutional problem arose through a method that was devised long ago by the United States and the District of Columbia: following the suggestion made by Attorney General Wickersham in his opinion, a legal charade was fostered. The United States essentially served as a "straw man" by purchasing land in its own name and holding legal title. Beginning in 1910, and extending up to at least 1954, the United States acquired from private owners approximately 3,000 acres of land in Fairfax County. The United States then turned over use of the land to the District. The United

States thus attempted to invest the District with all the benefits and privileges associated with Federal ownership, benefits to which the District was not otherwise entitled. In recent years, as crime in the District of Columbia has increased, this problem has become not just a legal problem but a practical problem, threatening the welfare of Virginia.

Before learning that Congress might take the initiative to resolve the Lorton situation, I directed my staff to prepare a complaint for a lawsuit to challenge the constitutionality of the District's operation of Lorton. In consultation with Governor George Allen, we will consider whether litigation is necessary. But litigation should be a last resort, particularly where the remedy is complex and affects several interested parties.

Should Lorton be closed down entirely? That is a monumental undertaking, but one which may be necessary if the facility has outlived its usefulness, as our experience with the State Penitentiary in Richmond demonstrates. Should the facility be turned over to the Bureau of Prisons for use as a Federal correction facility? Should the site be returned to the Commonwealth of Virginia? These and other questions are best resolved with the cooperation and input of all affected parties rather than left to resolution by the courts. I applaud the subcommittee, your efforts to undertake this task, and I assure that Virginia is willing to cooperate with you fully.

In closing, let me again urge this subcommittee's continued efforts to relieve the District of the financial burden of Lorton and restore accountability to the people of Virginia.

Thank you for giving me the opportunity to address you today. And the resources of my office are available to assist this committee in making H.R. 461 a successful vehicle for all the parties involved.

[The prepared statement of Mr. Gilmore follows:]

PREPARED STATEMENT OF JAMES GILMORE, ATTORNEY GENERAL OF VIRGINIA

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Attorney General Wickersham warned that "it may be seriously questioned whether, without special legislation in the State of Maryland or Virginia, the Commissioners of the District could lawfully hold prisoners on the lands so purchased within either of those States." No such special legislation was ever passed by the Virginia General Assembly. Nevertheless, the United States purchased the land and then turned its use over to the District.

Article I, Section 8, Clause 17 provides that the exclusive jurisdiction of the District of Columbia is limited to that area not exceeding ten miles square, designated for the seat of federal government. Lorton, of course, lies outside of the District's territorial limits. Thus, the first question is whether the District of Columbia, like any other municipal corporation, can have sovereign authority outside its territory. I think the answer is no.

The second question is whether the United States has exceeded its limited ability, under Clause 17, to use land of a state for "needful buildings." The power of the United States to acquire and use land as a federal enclave, free of state intrusion or regulation, is cited by the Constitution to land acquired to serve federal purposes. In the context of penal institutions, such a use would be met by prisons that primarily house and care for persons convicted of offenses against the United States and proscribed by Title 18 of the United States Code. But federal uses do not include maintaining a facility for the primary purpose of housing and caring for people convicted in the District's municipal courts for violations of the District's penal code.

The Constitutional problem arose with a solution devised long ago by the United States and the District of Columbia: following the suggestion made by Attorney General Wickersham in his opinion, a legal charade was fostered. The United States essentially served as a "straw man" by purchasing land in its own name and holding legal title. Beginning in 1910, and extending up to at least 1954, the United States acquired from private owners approximately 3,000 acres of land in Fairfax County. The United States then turned over use of the land to the District. The United States thus attempted to invest the District with all of the benefits and privileges associated with federal ownership, benefits to which the District was not otherwise entitled. In recent years, as crime in the District of Columbia has increased, this problem has become not just a legal problem, but a practical problem threatening the welfare of Virginia.¹

¹ Let me give you a very different example of how far we have gotten from the Constitution's mandate with respect to Lorton. In 1987, the District of Columbia entered into a lease with a private mining company to quarry granite located on the Lorton site. The District is listed as the owner of the property on the permit application filed by the mining company, Vulcan Materials Company, with the Virginia Department of Mines. The lease speaks of the District's "jurisdiction" over the real property, and provides for a rental payment to the District of more than \$27,000 a year as an advance against a percentage of the gross sales price of the quarried stone.

Were the District a private landowner or even another state operating a business in Virginia, it would certainly be liable for tax on this income. But with the aid of a legal fiction created

Before learning that Congress might take the initiative to resolve the Lorton situation, I directed my staff to prepare a complaint for a lawsuit to challenge the constitutionality of the District's operation of Lorton. In consultation with Governor George Allen, we are prepared to initiate litigation if necessary. Litigation should be, however, a last resort, particularly where the remedy is complex and affects several interested parties.

Should Lorton be closed down entirely? That is a monumental undertaking, but one which may be necessary if the facility has outlived its usefulness, as our experience with the State Penitentiary in Richmond demonstrates. Should the facility be turned over to the Bureau of Prisons for use as a federal correctional facility? Should the site be returned to the Commonwealth? These and other questions are best resolved with the cooperation and input of all affected parties, rather than left to resolution by a court. I applaud the Subcommittee's efforts to undertake this task and assure you that Virginia is willing to cooperate fully.

In closing, let me again urge this Subcommittee's continued efforts to relieve the District of the financial burden of Lorton and restore accountability for the people of Virginia.

Thank you for giving me this opportunity to address you. The resources of my Office are available to assist the Committee in making H.R. 461 a successful vehicle for all concerned.

Mr. DAVIS. Thank you very much, Mr. Gilmore.

Ms. Norton, do you have any questions?

Ms. NORTON. Thank you, Mr. Chairman.

I have no questions except to say to Attorney General Gilmore that I can appreciate that he is speaking as a lawyer, therefore, he has testimony that resonates in legal terms. I need to tell you, however, that I am undeterred by the threat of a lawsuit. But that if you decide to bring one, please make sure that you name the correct defendant, the United States of America. I will advise the District of Columbia not to defend the suit, to let it default and then let you collect on that suit.

Mr. GILMORE. Thank you, Ms. Norton.

Mr. DAVIS. Thank you, Ms. Norton.

Mr. Gilmore, let me just ask a question about the complexities right now. The Commonwealth of Virginia, of course, runs its felony prisoner system; there are no jurisdictions in the Commonwealth, any counties or cities that run their own felony prisoner systems are there?

Mr. GILMORE. No, sir.

Mr. DAVIS. The State does that in a comprehensive manner for the Commonwealth as a whole?

Mr. GILMORE. That is correct. While misdemeanants could be housed in local jails, felons are housed in the State Penitentiary System.

Mr. DAVIS. There would be some felony prisoners that would be housed temporarily in jails awaiting trial and that kind of thing?

Mr. GILMORE. There is authority that they could be housed there even for a short term, pending an early release, although that will be less, and less now that we have abolished parole in Virginia.

Mr. DAVIS. Do you know how many felony prisoners we have incarcerated in Commonwealth institutions, at this point?

Mr. GILMORE. No, but I can make that available.

[The information referred to follows:]

Currently the Commonwealth has three (3) federal death row prisoners housed in a state facility because the United States does not have a facility for that specific category of prisoners.

many years ago, the District apparently enjoys tax free income from its sale of Virginia's natural resources.

Mr. DAVIS. I would want to know what the magnitude is in the State of Virginia, recognizing that sentencing laws are different in jurisdictions; sometimes offenses are different and it is not apples to apples, but it would be a good idea to understand what that is.

You remember the old Spring Street Prison. You were Commonwealth attorney in Henrico County. That is no longer operable?

Mr. GILMORE. No longer operable and no longer exists. It was leveled to the ground. The fact is that there was a feeling that that was a facility that had outlived its usefulness, I believe it was considered to be a financial drag. It was a real problem in its handling. It was very old.

Mr. DAVIS. With institutions, sometimes there comes a level of cost avoidance, where when trying to bring them up to standard, there is a huge reinvestment called for and sometimes it is cheaper to tear them down and build a facility somewhere else than trying to rehabilitate a current facility.

Mr. GILMORE. That is the penitentiary facility I referred to in my statement, and it does provide you a precedent.

Mr. DAVIS. We may ask for more information on that, because although Lorton was built at different times and the facilities are in different states of repair, we are talking about a massive infusion of money to try to correct that, and it may be easier to start somewhere else. We will be looking at that.

Mr. Moran.

Mr. MORAN. General Gilmore, you did say that there might be some room on a short term basis for Lorton prisoners within the State system?

Mr. GILMORE. That is not included within the remarks at all.

Mr. MORAN. I know, but in response to the Chair's comment, I thought that was the implication that you made.

Mr. GILMORE. No, not at all. He simply asked how we did things within the Commonwealth of Virginia. It is very clear by U.S. Statute that prisoners from the District are surrendered to jurisdiction of the Attorney General of the United States for incarceration, and I presume the Bureau of Prisons is the correct approach.

Mr. MORAN. I understand. But let me—at one point you said so there would be some room, but there would not likely be much room because of the 85 percent requirement.

Mr. GILMORE. No, sir, I did not say that.

Mr. MORAN. 85 percent—well, OK. I must have—

Mr. GILMORE. I am sorry, it is plain that I was not clear. I was inquired of as to how we house prisoners, and I indicated that felons were in the State facilities, there was some provision for them to be in local jails, either pending jail or for very short terms but that does not mean there would be additional room then for Federal prisoners, nor do I think the law would allow it.

Mr. MORAN. But you were saying that at times you have had some Federal prisoners in the State prison system; has that ever been the case?

Mr. GILMORE. No, I don't believe so.

Mr. MORAN. There has never been a Federal prisoner housed within the prison system because of inadequate space at the Federal level?

Mr. GILMORE. Not that I am aware of. I don't know whether there would be any provision for that. We will look into whether there are any type of exceptions.

When you say never, one always wonders, but I don't believe there is any provision for the housing of Federal prisoners in State facilities.

[The information referred to follows:]

As previously stated in answer to Mr. Davis' question, currently we have three (3) federal death row prisoners housed in a state facility because the United States does not have a facility for that specific category of prisoners. Virginia Code Section 53.1-79, a copy of which is attached, allows Sheriffs or jail superintendents to enter into an agreement with the United States to house these individuals for the United States.

§53.1-79. Jails for United States prisoners; payment by United States.—The sheriff of any county or city or jail superintendent of any regional jail may receive into his jail any person committed thereto under the authority of the United States, and keep him safely according to the warrant or precept of commitment, until he shall be discharged under the laws of the United States. But no person arrested on civil process shall, under this section be committed to any jail other than that of the county or city within which such person resides or is found.

The county or city or regional jail authority or, if none, the body responsible for the fiscal management of the regional jail shall be paid by the United States for the support of any such prisoner. (Code 1950, §53-145; 1970, c. 648; 1982, c. 636; 1991, c. 383.)

Mr. MORAN. I know we put some Federal prisoners on short-term basis into the Alexandria Jail.

Mr. GILMORE. Perhaps, on a contract basis.

Mr. MORAN. Sure. Of course, it is on a contract basis.

In fact all of the jails that are built, initially they sort of look for prisoners to fill up their space, and generally the Bureau of Prisons pays a little higher than the running cost, they make a little money on it. We went scouting for prisoners initially.

Of course, we have no space left now. But this would not be any option whatsoever under any circumstances, that Lorton prisoners could be housed within the State prison facilities?

Mr. GILMORE. While I would doubt it, that would be a matter that I would direct to the Secretary of Public Safety for the Commonwealth of Virginia to inquire as to what his expectations are. But in light of the dramatic progressive improvements we have made in the criminal justice system this year, we would be surprised if there would be excess space.

Mr. MORAN. There are plans to build some new prison space?

Mr. GILMORE. There are. And the Governor has requested additional funds which were not appropriated, but we are still confident that the program can be successfully carried out.

Mr. MORAN. I am not necessarily recommending that. I am just trying to explore all the options. What is the average cost per prisoner in a State prison penal facility on an annual basis?

Mr. GILMORE. I will get back to you on that. I would venture a guess, but might be wrong, so I would rather give it to you precisely.

[The information referred to follows:]

According to the information provided by the Virginia Department of Corrections for the fiscal year 1993-94, that amount was \$17,011.

Mr. MORAN. You do plan to go forward with this lawsuit against the U.S. Government on the basis of the legality of locating Lorton within Fairfax County?

Mr. GILMORE. No, sir. I am advising the committee that we believe that a sound legal ground exists, but we are appreciative of the efforts of the subcommittee and of the committee to explore the situation. We believe, as I have said in my statement, that a solution is so complicated that it would be better handled I think by the commission proposed in your legislation rather than by a court. But I have indicated that we have previously done the research, and I wanted to report that to you today in some detail, to advise that that certainly is an option which we would have.

Mr. MORAN. I heard your interview on Channel 8 this morning. I got the impression that you are planning to go ahead and challenge the legal basis for the District of Columbia having a prison facility in the Commonwealth of Virginia.

Mr. GILMORE. I think they suggested that answer, but I think I declined to adopt it.

Mr. MORAN. Thank you.

Mr. DAVIS. Thank you and I appreciate you and your staff being here to share your views with us. We will work our way through this. We appreciate your being here today.

Mr. GILMORE. Thank you, sir. We are anxious to cooperate with the committee.

Mr. DAVIS. Thank you very much.

The next panel we have is Michael Rogers, who is the city administrator.

Thank you for being here.

It is the policy of the committee to swear in all witnesses.

[Witnesses sworn.]

**STATEMENT OF MICHAEL C. ROGERS, CITY ADMINISTRATOR,
GOVERNMENT OF THE DISTRICT OF COLUMBIA, ACCOMPANIED BY: MARGARET MOORE, DIRECTOR, LORTON CORRECTIONAL FACILITY**

Mr. ROGERS. I have with me Margaret Moore, who is the director of the Lorton Correctional Facility.

Mr. DAVIS. Thank you both for being here with us today.

Mr. ROGERS. Thank you, Mr. Chairman.

Good afternoon Chairman Davis, ranking member Congresswoman Norton and members of the subcommittee on the District of Columbia. I am Michael C. Rogers, city administrator for the District of Columbia. I am here today to present the views of Mayor Barry, who was unable to join us today, on the concept embodied in H.R. 461, the Lorton Correctional Complex Closure Act.

The DC Department of Corrections currently operates and maintains seven institutional facilities at the District of Columbia Correctional Complex in Lorton, VA. On the premises it operates a profit-generating industries operation, a training academy, transportation garage and maintenance facility. As of this morning, the 7 institutions at Lorton currently house 7,113 inmates, 6,939 males and 174 females, under three custody levels: Minimum, medium and maximum. Roughly, 70 percent are classified as medium custody. The Correctional Complex at Lorton provides housing, health care, vocational and educational programs, as well as substance abuse treatment programs.

H.R. 461 would require that within a period of 5 years after enactment, all persons serving sentences at that time in the District's Lorton Correctional Complex in Lorton, VA, shall be transferred into the physical custody of the Federal Bureau of Prisons, the purpose being to terminate the use by the District of Columbia Government of Lorton Correctional Complex as a prison for DC Code offenders.

In recent testimony before this body on the financial stability of the District of Columbia, Mayor Barry noted that the Congress has obligated the District to perform State functions, such as AFDC and Medicaid, without the same conferring upon the District the authority possessed by States. One of the most costly State functions is the long-term incarceration of persons convicted of felonies. The annual cost of housing a convicted felon in secure confinement is \$23,491. As of March 16, 1995, the District of Columbia Department of Corrections was housing 8,275 convicted felons system-wide, excluding the halfway house population of 697 felons, at an approximate cost of \$194,388,000 of the mayor's proposed Department of Corrections fiscal year 1995 of \$251,837,000. This represents almost 80 percent of the Department of Corrections total budget. Therefore, the mayor supports the basic thrust of H.R. 461, which would, in effect, have the Federal Bureau of Prisons serve as the State agency for the District of Columbia for the purpose of the long-term incarceration of DC Code offenders.

But like a State agency, the Federal Bureau of Prisons must assume the costs associated with the performance of this State function, and we request that H.R. 461 so provide. In this regard, it is relevant to point out that the U.S. Government, through the U.S. attorney for the District of Columbia, decides what offenses to prosecute and what sentences to recommend to the court. Moreover, under DC Code, Section 24-425, all persons convicted of any offense in the Superior Court of District of Columbia and sentenced to serve a term of imprisonment are committed to the legal custody of the Attorney General of the United States. Under this statutory provision, the Attorney General has the authority to determine where such persons shall serve the sentences, whether at Lorton or at a facility managed by the Federal Bureau of Prisons and may transfer DC Code offenders into and out of the Lorton Correctional Complex as the Attorney General sees fit. But it is the District that must manage and pay for a complex over which Federal authorities have substantial control. Thus, it is appropriate that the custodial and financial responsibilities for long-term incarceration of DC Code offenders be assumed by the Federal Bureau of Prisons. Such a transfer of responsibility would be consistent with the Attorney General's existing authority over convicted felons.

H.R. 461, however, is silent on the parole issues that affect DC Code offenders who would be confined in the Federal Bureau of Prisons' facilities. In November 1987, changes in Federal laws took effect which abolished parolable sentences for persons convicted under U.S. Code, and provided for the elimination of the U.S. Parole Commission within the next several years. With very few exceptions, DC Code felons who are sentenced to incarceration receive sentences which entitle them to consideration for release on parole. Currently, there are an estimated 9,000 inmates who are serving

parolable sentences imposed under the DC Code, and over 5,000 currently under the Board of Parole's authority. Because the U.S. Parole Commission is slated to be abolished, several issues regarding conflicts between the Federal and DC laws, policies and procedures for both sentencing and parole must be addressed.

H.R. 461 is also silent on the effects of transferring inmates to Federal—the Bureau of Federal Prison facilities across the country. In order to preserve the family unit, the Federal Bureau of Prisons should provide appropriate facilities within 2 hours travel time from the District to reasonably ensure that each family has an opportunity to visit with incarcerated family members.

In sum, this bill raises a number of issues that have to be resolved if enacted, such as parole, good-time credits, and issues relating to disposition of lands on which the Lorton facility is situated. Nevertheless, the mayor agrees with the concept that if the District is not given the authority as a State, including, as the mayor would say, “the ability to tax income at its source,” it should be relieved of certain State functions, and one of those functions is the long-term incarceration of DC offenders.

Thank you, Mr. Chairman.

Mr. DAVIS. Thank you very much.

Let me ask a question. Ms. Moore is here. She has been doing a very good job on behalf of the city since she has come on the scene, so any remarks that may reflect upon the institution, certainly are not reflected toward her. We appreciate you being proactive and doing some things that we think have helped the situation.

Given the level of funding that has been available, with all of the other services that the District has to provide, and taking a look at what the Federal Government has been able to provide through the Federal Bureau of Prisons, all things being equal, do you feel that prisoners in the Federal Bureau of Prisons get more rehabilitation and a better shake than they are currently getting in the Lorton facility?

We heard testimony previously that, frankly, given Lorton's current situation, the prisoners aren't getting everything that the city might like to provide.

Mr. ROGERS. Ms. Moore lives with it every day. That is why I addressed it to her.

Mr. DAVIS. She has done a very good job with the resources she has been given.

Ms. MOORE. Thank you, sir.

Without a doubt, the Federal Bureau of Prisons, in spite of the level of crowding under which they operate, are far more resource rich, if you will, than the DC Department of Corrections. Given that reality, I would have to say that there are more opportunities for treatment, education and vocational development in the Bureau than is the case in the DC Department of Corrections.

Mr. DAVIS. It is not that the board is giving no treatment; people are getting GED's there, for example; aren't they?

Ms. MOORE. We do have limited educational, vocational and substance abuse treatments programs. One of the things that must be made clear is that when you have limited resources, when it becomes necessary to cut back on expenditures because of limited re-

sources, any responsible corrections administrator will take every precaution to ensure that the security infrastructure, if you will, of a system is intact. So the first place you cut are programs and support services.

Mr. DAVIS. I think that answers the question, and I appreciate your candor and the job you are doing with the resources. I know I speak for many citizens.

I was at one meeting Mr. Hyland hosted in Lorton, with a number of citizens, and that seemed to be a somewhat universal opinion. I appreciate your being here and answering that forthrightly.

Ms. Norton.

Ms. NORTON. Thank you, Mr. Chairman.

I appreciate the testimony that both of you have offered and prepared.

Ms. Moore, the Lorton facility is under a court order; is it not?

Ms. MOORE. The seven institutions in Lorton, yes, are under court order.

Ms. NORTON. Is it not true that at this time most State prisons in the United States have been put under one form or another of court order?

Ms. MOORE. Yes.

Ms. NORTON. That is State prisons, and the District of Columbia prison is comparable to a State prison; is it not?

Ms. MOORE. Yes.

Ms. NORTON. And that these prisons for several decades in virtually every State in the Union have been sued and put under court order because of similar conditions to conditions we now find at Lorton?

Ms. MOORE. I would venture that most prisons in the country have been under court order at one point or another during their existence.

Ms. NORTON. And this, despite the fact that States have access to far greater resources than the District of Columbia. States as large as New York and Pennsylvania, States throughout the South have all come under court orders for constitutional violations?

Ms. MOORE. Yes.

Ms. NORTON. Could I ask you, in light of severe financial crisis under which the District is laboring, what the effect of that crisis has been on conditions at Lorton?

Ms. MOORE. I don't know that I can measure the effect in exact terms, at this point. We have developed a spending reduction plan that will result in the reduction of some services.

The extent to which our inmate population will be impacted just in terms of "rehabilitation" I am not certain at this point, in that these spending reduction strategies have just been implemented recently. But we have been required to cut back on some substance abuse treatment programs and fewer inmates will be provided services as a consequence.

Ms. NORTON. Perhaps to both of you, if the District is able to stretch out its debt—the only way I know to do so, of course, is through some sort of recovery or stabilization board—would that have an effect of keeping the—keeping facilities like Lorton from being subject to continuous cutting?

Mr. ROGERS. Well, I think the mayor's position is pretty clear; that this financial situation notwithstanding, we see the corrections facility as a State function, and we would rather not do it. We would rather not pay for it; that if we are relieved of that responsibility and the Federal Government through the Bureau of Prisons becomes the State agent for DC Code offenders, then we certainly could use those resources to provide needed services to residents of the District of Columbia.

Ms. NORTON. That was not my question, but I will move on. Since this bill is not going to move anywhere unless the Congress comes forward with substantial dollars, I am concerned with what is happening at Lorton now. Part of the reason there is the push on this bill is, of course, that conditions at Lorton have worsened, and one of our obligations is to make sure that during the period when we are trying to work with our colleagues to find a larger solution to the Lorton crisis, that we try to relieve what is the crisis at Lorton now. And my question was directed essentially at whether or not if we stabilize the situation, instead of having to cut Lorton every other week, if we stretched out the debt, we could at least stabilize it until we could do, here in the Congress, get the money from a Congress that yesterday cut \$17 billion from every domestic program before it.

I don't want anybody to think that there is some money here that somebody is going to throw down to Lorton any time soon. Meanwhile, my office continues to get calls about Lorton. Members call.

I must say to you, Ms. Moore, I appreciate the way in which you have been open to Members who have called to come, but the point of my question was to ask whether or not the financial crisis exacerbates the situation that Mr. Wolf says has been a long-standing crisis, in any case?

Mr. ROGERS. I think the answer is yes.

Ms. NORTON. You might want to clarify—I remember when Mayor Barry was mayor—and it has been brought up to us since—before, in the 1980's, that he had had discussions about building a new prison in West Virginia, and I wonder whether you have any information about—apparently, he had favored that at one point.

I am not sure it was to relieve all of Lorton, and I believe it involved Federal funds. I wonder if you have any information about that or about his present feeling about that?

Mr. ROGERS. No specific information that I can share at this time. But I think it is clear that we are open to, I guess, several options that would resolve this problem for us, and we are aware of the discussions about building a prison in West Virginia, or some other location. But there is nothing specific on the table under consideration at this time.

Ms. NORTON. Without—although the Members have not specifically indicated this to me or publicly, I have reason to believe that the fact that there is prison money or money, Federal money available to construct prisons, may be one of the reasons why Representative Wolf apparently feels this is a noncontroversial bill.

I indicated that there were other problems besides the money. But I wonder if DC qualifies for money under the Omnibus Control bill, whether you believe that money would be available to DC in

any case, and whether DC has any intention of using that money to build prisons?

Ms. MOORE. The District of Columbia does qualify for money under the Crime Bill for prison construction, Ms. Norton. The problem with the Crime Bill money, however, is that a 25 percent match is required in order for systems to become eligible for that funding. There may be some difficulty with the city at this point committing to that 25 percent match.

The other part of the problem, and I believe that perhaps it is the greater part of the problem, I suspect that we could probably work to get an exemption, if you will, to the 25 percent match; but the other part of the problem is that there is a statutory prohibition at this point against our building any facilities on the Lorton complex right now. So the issue becomes where do we build?

Ms. NORTON. Well, you would find that the Members who have spoken would—if there weren't a prohibition, they would try to make a prohibition. That is why I asked about West Virginia. It certainly couldn't be built in the District of Columbia. You ought to start there.

If it is not built there, and you would want it to be built close to DC, apparently, there were investigations of West Virginia. So the question becomes if, indeed, the amount was waived, would DC qualify for money to build a prison at some place outside the District of Columbia?

Ms. MOORE. We would certainly qualify for Crime Bill money. We would have to devise a process, if you will, that would enable us to build in some other jurisdiction.

Ms. NORTON. One thing I do want to mention, that I was intrigued and it got my attention, that the Attorney General indicated that proximity to relatives and lawyers is an important ingredient of rehabilitation, and I would hope that if we do decide to build a prison at any time, we would build it as close as possible to the District of Columbia. We are having a hard enough time with rehabilitation as it is.

Thank you, Mr. Chairman.

Mr. DAVIS. Thank you very much.

Mr. Moran.

Mr. MORAN. Ms. Moore, maybe this is more appropriate for the city administrator, but are all of the vendors that provide supplies and services to Lorton paid up to date?

Ms. MOORE. I cannot answer that question with certainty. I know that there have been some delays with vendor payments, but I don't know the exact status of all of our vendor payments at this point. I could get that information and get back to you.

[The information referred to follows:]

District of Columbia Department of Corrections Schedule of Outstanding Invoices

[At of June 6, 1995]

Vendor	Amount Outstanding Over 60 Days
Westwood Squibb	3,182.04
Webb Ambulance	625.00
Executive Personnel	42,993.93
Grantsmanship Training (grants)	5,500.00
Abstract, Inc.	12,893.30

District of Columbia Department of Corrections Schedule of Outstanding Invoices—Continued

(As of June 6, 1995)

Vendor	Amount Outstanding Over 60 Days
Steelcase, Inc.	5,830.00
Capital Service	4,326.00
Supplies Unlimited	9,712.96
Xerox	11,382.46
Double S Sales	3,670.96
Landis & Gyr	240.00
Polaroid	6,881.80
Computech	195.00
W.S. Darley	637.95
Gabriel	276.00
Ecolab, Inc.,	8,438.94
Choice American Ambulance	9,361.00
Community Dialysis	41,831.80
Dewitt Army Hospital	911.00
Foxland Corporation	206.25
Toby Feldman	346.75
Fairfax Anesthesiology	5,837.00
Fairfax Pathology Assoc.	237.00
Fairfax Radiological Consultants	3,433.00
Howard University	302,774.05
United Wholesale	2,983.50
James Muscatello	43,322.00
NCS Assessments	31,920.00
Pratt Medical Center	215.00
Surgery Assoc.	5,500.00
Traumatology	9,528.00
Daniel Vasquez	5,618.00
Washington Hospital Center	185,249.84
Washington Hospital Physicians	31,118.00
Healthcare Corp.	13,200.00
Dr. John Maymiham	2,800.00
Dr. Ngozika Nwaneri	14,700.00
George Washington	20,881.47
Urology Assoc.	4,912.00
GSA	203,424.85
Providence Laboratory	62,822.74
Extended House	1,789.65
Answer Temps	3,395.13
Answer Temps	4,321.95
Syva Company	9,875.00
Motorola	2,763.80
Walbert Electric	2,741.41
TRAYCO	5,688.06
M. S. Ginns	2,353.00
Miles Laboratory	9,068.40
PARKE-DAVIS	4,417.52
M.T.W.	9,660.00
Sterling Surgical	4,590.82
Potomac Industrial Trucks	2,880.92
Hydro Lift Industrial Truck	2,932.16
Delta Chemical MFG.	3,622.28
Allied Medical	1,160.00
Blue Ribbon	3,796.25
Grover, Christie & Merrit	1,468.00
Va. Medical Association, Ins.,	2,006.00
Fairfax Anesthesiology Association	3,867.00
George Washington University	2,400.00
Urology Association—GUMC	4,912.00
Georgetown University Hospital	8,980.51
Choice American Ambulance	7,947.00
Fairfax Hospital	37,132.69
Howard University Radiology	687.00

District of Columbia Department of Corrections Schedule of Outstanding Invoices—Continued
(As of June 6, 1995)

Vendor	Amount Outstand- ing Over 60 Days
Howard University Hospital	24,221.00
H. L. Moore	13,736.91
Michael N. Tsun, MD	440.00
H & S Bakery	7,776.82
GTSI	8,988.00
Computer Clinic	2,528.00
Zerax Corp	25,199.13
Total	\$1,347,265.58

Mr. MORAN. Are any of them more than 30 days overdue in being paid?

Mr. ROGERS. I suspect there are probably some in that group that are, but we are working on these issues every day.

Mr. MORAN. Are any more than 60 days overdue?

Mr. ROGERS. I can't say specifically until I see the list. But if there is a specific matter, I would be pleased to address it. Things come to me on exception very often and we have—

Mr. DAVIS. If you could get us a list of anything due over 60 days to this committee. To the extent we could get that list, that would be helpful.

Mr. MORAN. Thank you.

There are specifics, but I don't think it is appropriate really to work on individual contracts because those are really symptomatic of a larger problem. I understand that there are vendors that have gone even longer than 90 days not being paid and thus have either canceled or are considering canceling supplies and services they provide. I would like to know what the status of that is.

If we were to go ahead with this legislation, it seems to me that it would result in substantial savings and personnel reductions at the DC Department of Corrections; would you not agree?

Mr. ROGERS. It certainly appears to be an opportunity for that. It depends on how we resolve some of the issues.

I mean, we believe if this bill goes forward and prisoners become, inmates go to the Federal Bureau of Prisons, that the Federal Government ought to assume the cost and that would be a savings to us, yes.

Mr. MORAN. But you would clear out some of the personnel in the DC Department of Corrections, would you not, if that was to go through?

Mr. ROGERS. That would be the result of it, but we would certainly hope that if there, for instance, are new Federal prisons, that some of these employees could transfer or become employed at those new facilities, if that is the case.

Mr. MORAN. I agree with that, but that is rehiring. I am talking about the DC Department of Corrections. I am particularly mindful of some of the information that has come out through the sexual harassment case, that I trust you share my reaction, which is one of being sickened at the lack of professionalism and morality even of the personnel that have been describing the actions that they have participated in and apparently in a pervasive and ongoing

of the personnel that have been describing the actions that they have participated in and apparently in a pervasive and ongoing manner. And one of the positive results of this legislation would be to get rid of some of that scum, I would think, and I am trying to determine whether there are any plans in doing that.

Ms. Moore, do you want to respond?

Ms. MOORE. I would respond, sir, in this manner, and that is that sexual harassment is offensive to me both personally and professionally. I would respond by saying that sexual harassment to any extent is a problem in the DC Department of Corrections and all American workplaces. It is not endemic to the DC Department of Corrections.

I would suggest, sir, that if this bill were to pass and we were to turn the operation of our felony prison population over to the Federal Bureau of Prisons that, yes, it would be an opportunity for us to very carefully screen our personnel rolls and present to the Federal Bureau of Prisons only the best of our work force for consideration for employment in that system.

Mr. MORAN. Well, that would be comforting to know that that was the intent. The thing about the actions that have been consistently described by many witnesses and have occurred time and time again apparently, is that people don't engage in that kind of activity and then act professionally in every other function for which they are responsible. It indicates a gross lack of professionalism certainly on the part of the people cited, but also the other people that have been complicit in letting it occur, who must also be held responsible even if they are not specifically engaged in that kind of activity.

To look the other way, to allow it to persist for so long, makes them culpable, as far as I am concerned, as well. So it indicates that there is a real need to clear out some of the management. And I do think that some of that management, and I do exclude you, and I said that at the town meeting, although you were quick to defend the management within the DC Department of Corrections, but this is the kind of thing I was referring to.

It seems to me that may be part of the problem for why Lorton is so consistently deficient in being able to reduce their high rates of recidivism that we see there. I know comments like this are consistently seen as District bashing, or whatever.

They are not meant to be, because the people who suffer from that kind of personnel practices are not suburban residents; they are DC residents, and they are particularly people who are trying to do a good job and are committed to the purposes for which the DC Department of Corrections exists.

I don't know how good professional people can exist in that kind of environment, personally, so it would not bother me if one of the casualties of this was most of the DC Department of Corrections.

Have you considered contracting the DC Jail or other prison facilities, such as substance abuse activities? I know there have been proposals made where you would contract with private organizations who would build a facility, you would contract with them, and their proposal indicates that it would save money from what is being spent now on some of those facilities. We are not talking

about Lorton, but some of the other activities within the DC Department of Corrections.

Mr. ROGERS. We are discussing all sorts of options with respect to not only the Department of Corrections, but other city activities as well. In fact, the city council has a law creating a Task Force on Privatization. We are going to address those issues and we fully expect some of the corrections institutions to be included among those that are examined by this task force.

Mr. MORAN. Thank you.

Thank you, Mr. Chairman.

Mr. DAVIS. Mr. Rogers, thank you very much for being here. We appreciate it.

We will move to the next panel.

We have Council Chairman Clarke here and Councilman Lightfoot, chairman of the Judiciary Committee.

We appreciate your being with us today.

It is the policy of the committee to swear in all witnesses.

[Witnesses sworn.]

Mr. DAVIS. We are delighted to have you both here. We will start with Council Chairman Clarke.

STATEMENT OF DAVID E. CLARKE, DISTRICT OF COLUMBIA COUNCIL CHAIRMAN AND WILLIAM LIGHTFOOT, DISTRICT OF COLUMBIA COUNCIL MEMBER AT LARGE

Mr. CLARKE. Good afternoon, Chairman Davis, Congresswoman Norton, Congressman Moran. Thank you for inviting me to testify today on H.R. 461, the Lorton Correctional Complex Closure Act.

I view this legislation as an opportunity—an opportunity for Virginia and District officials to come together and fashion a proposal to benefit our respective jurisdictions and constituencies, and an opportunity for the Federal Government to step up to the plate and work in concert with Virginia and District officials to address each of our respective concerns.

The transfer of the District's felony inmate population from District-operated and District-funded facilities to the Federal Prison System would be a logical extension of the Federal Government's long-standing active role in the District's criminal justice system.

As you know, under laws written by the U.S. Congress, the U.S. attorney for the District of Columbia is responsible for prosecuting all felony cases in the District, the Presidentially appointed judges of the DC Superior Court are responsible for trying and sentencing persons charged and convicted of crimes in the District, and, upon conviction, District prisoners are turned over to the custody of the U.S. Attorney General.

However, as Congresswoman Eleanor Holmes Norton indicated upon the introduction of this legislation by the Virginia Congressional delegation in January, the transfer of the District's inmate population to the Federal Prison System makes sense from the District's perspective only if such transfer substantially relieves the District of the financial burden of operating the State function of incarcerating felons. Such financial relief must be provided in conjunction with this legislative proposal, and the relief can come in one of several forms:

(1) The Federal Government could assume the District of Columbia's State-like financial responsibilities, such as incarcerating felons, just as other cities rely upon their State governments to assume these responsibilities; or (2) If the city remains financially responsible for such State-like functions, then the Federal Government should facilitate the city's ability to adequately fund such operations by: (a) Reducing or eliminating the Federal income tax burden upon District residents and businesses—as proposed in legislation sponsored by Congresswoman Norton which is pending in the House DC Subcommittee—to an extent which would have the effect of broadening our local income tax revenue bases to fund such operations; and/or (b) allowing the city to raise revenues for such functions which the Federal Government, unlike State governments with financially troubled cities, has barred the District from raising.

I am, of course, referring to the nonresident reciprocal income tax, which, as the House DC Subcommittee knows from testimony last week from the mayors of New York, Philadelphia and Cleveland, was an indispensable component of their respective financial recoveries.

In addition, any proposal to transfer Lorton inmates to the Federal Prison System must include specific guidance or standards in the legislation for the location of prison facilities that would house District felons. One such standard should be that the new location or locations should be at sites which are both: (1) as close to the city as possible, so that inmates and their families are not totally isolated from each other, which would negatively impact rehabilitation efforts; and (2) not near densely populated residential neighborhoods, which might be adversely impacted by such location.

Perhaps these concerns can be addressed by a standard requiring any prison that houses DC felons to be located within a certain radius of the District for example, 200 miles, but not within close proximity, for example, one-half mile, of a specified level of residential population.

Regarding this issue of location, I would note that section 4(a)(3) of the legislation commendably would permit the location of a Federal prison that might end up housing District felons to be the very site of the existing Lorton facility, if provided for in the implementation plan to be developed by the proposed Lorton Closure Commission. However, no other guidance exists in the legislation for other sites of such Federal prisons.

There also should be some provision in the legislation to prevent a new prison location from being foisted upon residential neighborhoods of the District of Columbia, particularly at a site located in a traditionally underserved area of the city that is designated or planned for commercial revitalization and mixed use development, for example, Camp Simms. This concern must be addressed, perhaps by a provision that requires prior mayoral approval of the location of any District location for a Federal prison.

Turning to section 5 of the legislation, consideration should be given to expanding the membership of the proposed Lorton Correctional Complex Closure Commission to include the following ex officio members: The Director of the Federal Bureau of Prisons; the

U.S. attorney for the District of Columbia; and the director of the DC Department of Corrections.

In summary, H.R. 461 provides a significant opportunity to reduce unfair financial burdens placed upon the District Government, to achieve increased rehabilitation and habilitation of District inmates, and to ensure the safety and peace of residents of neighborhoods located near correctional facilities housing District inmates. Ideally, from the District's perspective, these improvements would occur at the Lorton site where a substantial investment has already been made.

However, such benefits could also be achieved at new locations where there exists an abundance of land and a relatively low residential population in a jurisdiction, such as parts of West Virginia, which might want and need the thousands of jobs that such a facility can bring to an economically depressed area of its jurisdiction.

Thank you very much.

Mr. LIGHTFOOT. Thank you for the opportunity to speak on the subject of Lorton. I am the council's chairperson of the Judiciary Committee, and as such, I have oversight responsibility for Lorton. For my formal remarks I will incorporate the remarks of Mr. Clarke, and would add that based upon the testimony of Congressman Wolf, and I will say that I was greatly impressed by his sincerity, I am very much concerned not just about the public safety issue but particularly about the rehabilitation of the people that we incarcerate at Lorton and throughout our entire correctional system; that without the resources and the program in place to provide an opportunity for those men and women to return to our society in a meaningful and productive way, I think that anything we do will lead to additional harm.

I would ask that as you go forward with this legislation, to please keep that in front of you at all times. Likewise, an element of our sense of cooperation, I, following up on what Congressman Wolf said, would urge you and invite you to tour the Lorton facility.

In fact, myself and other Council members are going to Lorton this Thursday. We invite you to join us at that time or at any other time that you so desire, because I think like so many other things in life, it is much more meaningful to see what we are talking about and they are no longer empty words on a piece of paper, but we begin to appreciate the significance of peoples lives.

Thank you.

[The prepared statement of Mr. Lightfoot follows:]

PREPARED STATEMENT OF WILLIAM LIGHTFOOT, DISTRICT OF COLUMBIA COUNCIL
MEMBER AT LARGE

Good afternoon. I am William Lightfoot, councilmember at large for the District of Columbia. I am pleased to have this opportunity to testify today before the Subcommittee on the District of Columbia on H.R. 461 the "Lorton Correctional Complex Closure Act."

As the chairman of committee on the judiciary for the council of the District of Columbia, I chair the committee that has oversight for the DC Department of Corrections.

We are all aware of the reform measures, such as improvements in facility maintenance, proposed for the correctional facilities located in Lorton, Virginia. Many of these correctional facilities were built in the 1930s. The crimes and needs of the 1930's prisoner differ significantly from the modern prisoner.

H.R. 461 would close the correctional facilities at Lorton, primarily due to concerns about safety at these antiquated facilities. It is the Department of Corrections'

responsibility to not only maintain safety at the prisons, but to rehabilitate the prisoners housed there.

I urge the D.C. Department of Corrections to place a special emphasis on rehabilitating prisoners. Many of these prisoners, who took a wrong turn in life; who lacked a strong, supportive and loving home environment, should not be locked away and forgotten. They should be reformed through education, counseling, substance abuse treatment, vocational training and other resources necessary to prepare them to take on meaningful roles when they return to the free society.

At this point, I take no position either in favor of or against H.R. 461. My position will be determined by which proposal best returns our inmates to productive and meaningful lives in society. I am concerned about the fiscal impact on the District of Columbia if the correctional facilities at Lorton become the responsibility of the Federal Bureau of Prisons; would the District of Columbia be responsible for paying a per diem for housing our inmates at Lorton as we currently do at other Federal facilities? If the correctional facilities at Lorton are closed, what becomes of our inmates? Are they transferred to be Federal prisons throughout the country? If so, what about family members to these inmates. How would they keep in contact with their loved one who is housed in a prison across the country? These are a few questions I have concerning what really happens if any of the correctional facilities located in Lorton, Virginia close.

Let me further add that Councilmember John Ray and I have just reintroduced at the Council of the District of Columbia Bill 11-151, the "Model Correctional System Standards and Industries Act of 1995", that would restructure the DC correctional facilities within a ten year period. A major component of this legislation is to expand the prison industries program by allowing the sale of prison made goods into the private sector. I ask that the Congress consider the Council's model correctional act in your deliberations about the best approach to improve the DC correctional system.

I will keep an open mind about the congressional proposal, and stay ever mindful of the fiscal concerns of the proposed closing as well as the need to provide rehabilitative tools, such as educational opportunities for receiving a G.E.D. and vocational training to provide job skills.

Thank you very much for allowing me to testify. I will be happy to answer any questions you may have at this time.

THE "MODEL CORRECTIONAL SYSTEM STANDARDS AND INDUSTRIES ACT OF 1995"—
SECTION-BY-SECTION ANALYSIS AND BACKGROUND INFORMATION

TITLE I. DEFINITIONS

Section 101. Definitions.

This section defines terms used in the act, as follows:

"Correctional facility" means any Department of Corrections building or group of buildings used for the incarceration of prisoners, together with the services provided in these buildings.

"Correctional Industries Fund" means the revolving fund established in current law as the financing foundation, in perpetuity, for the receipts and expenditures of correctional industries operations.

"Correctional industry" means any organized commercial production-and-sales operation authorized by this act to be established and implemented within a District correctional facility involving the employment of eligible prisoners in the production of commercially-salable goods and services.

"Department" means the Department of Corrections. Whenever other departments are mentioned, the full name of the referenced department is used.

"Director" means the Director of the Department of Corrections.

"District" means the District of Columbia.

"Existing correctional facility" means any adult or juvenile facility in use on the effective date of this act. The definition is included for the purpose of the limited-grandfather clause of section 302(g).

"Ex-offender" means anyone who has served a prison sentence or has been placed on probation in any jurisdiction. The term applies to the prohibition of employment discrimination, set forth in title 6.

"Joint venture" means a correctional industries production and sales unit that is jointly owned, operated, or managed in accordance with a written agreement between the Department of Corrections and a private-sector industry and that is qualified to sell, on the open market, the goods and services produced by the joint venture enterprise.

"Juvenile correctional facility" means any building or group of buildings, together with the services provided in these buildings, operated by the Department of Human Services for the confinement of juvenile offenders.

"Juvenile resident" refers to any juvenile confined in a juvenile correctional facility.

"Prisoner" means any person confined to an adult correctional facility.

"Private-sector employer" means any individual or business entity that uses the services of another individual for pay.

"Substance abuse" is defined as it is in the Drug Abuse, Alcohol Abuse, and Mental Illness Insurance Coverage Act of 1986, effective February 28, 1987 (D.C. Law 6-195; D.C. Code, sec. 35-2301 et seq.).

"Unencumbered floor space" means that portion of a cell, room, or dormitory space that is not taken up by the bed, toilet, desk, closet, and any other furnishings and fixtures and is free for personal use and movement.

"Washington, D.C., region" means the geographic area that encompasses the District of Columbia and suburban Virginia and Maryland. This applies to the employment training requirements and the selection of prison industries. The intent is to recognize and reflect the regional nature of the employment market.

TITLE II. ESTABLISHMENT OF A MODEL PRISON SYSTEM

Section 201. Establishment of a model correctional system; 10-year plan.

This section requires the Mayor, within 9 months of the effective date of this act, to develop and submit for Council review a 10-year plan to make the District's correctional system a model of excellence. The plan must include specific actions and timetables to comply with each of the requirements set forth in this act. The 10-year period begins to run on the date of approval by the Council, and the Mayor is to make progress reports to the Council every two years.

The intent is to establish by law a logical, long-range plan to achieve essential goals for a humane, effective, and efficient corrections system and one that has a reasonable chance of succeeding in reducing recidivism and equipping prisoners with the skills to obtain employment and become productive, law-abiding citizens upon their release.

Section 202. Accreditation.

This section requires the Mayor to seek accreditation from the American Correctional Association or any other relevant national accrediting body for all of the corrections and criminal justice agencies and services for which national accreditation procedures and standards have been established.

The American Correctional Association has accredited approximately 1,300 federal, state, and local facilities and agencies nationwide—about one-third of the total. All federal prisons are accredited. Among District facilities, the Washington Halfway Home for Women Inc. was accredited in January 1989, the Maximum-Security Facility at Lorton was accredited in late 1994, and the Canteen Corp.'s Occoquan food service operation was certified in August 1990. (Certification is a process by which food service and health service operations can be declared in compliance with ACA standards even though the entire facility may not qualify for accreditation.)

The ACA process begins with a technical assistance contract between the corrections agency and the ACA, generally for a two-year period with the possibility of extensions. During this period, the agency is to conduct a "self-audit" to measure its compliance with the accreditation standards and correct shortcomings. This is followed by the ACA audit to determine whether compliance is sufficient to qualify for accreditation. To qualify, a facility must comply with 100 percent of the ACA's mandatory standards—which go to life, health, and safety matters—and 90 percent of its non-mandatory standards. For adult correctional facilities, 38 standards are mandatory, 325 non-mandatory.

TITLE III. CLASSIFICATION REQUIREMENTS; STANDARDS FOR PHYSICAL FACILITIES, SERVICES, AND STAFF TRAINING

Section 301. Classification requirements.

This section requires adult and juvenile facilities to implement classification systems that establish specific written objectives for each prisoner and juvenile resident and plans for meeting these objectives and evaluating progress. The intent is to assure that each prisoner and juvenile resident is assigned to the most appropriate security status and participates in the programs and activities that best meet his or her needs.

This requirement is consistent with ACA accreditation standards and the consent decrees that presently govern the Jail, the Modular Facility, and the Central Facil-

ity [*Campbell v. Magruder, Inmates of the Modular Facility et al. v. District of Columbia and Twelve John Does et al. v. District of Columbia*].

Section 302. Standards for space and design: compliance with Construction Codes.

Subsection (a) requires adult and juvenile correctional facilities to be decentralized. No adult facility shall house more than 500 prisoners, and no juvenile facility shall house more than 150 residents. The numerical limitations are identical to ACA standards; these are non-mandatory standards, and the absence of full compliance would not necessarily block accreditation.

Subsection (b) establishes space and design requirements for adult and juvenile correctional facilities.

Paragraph (1) establishes single-occupancy cells or rooms as the standard, but authorizes:

- Double-occupancy cells or rooms when medically or psychologically necessary for the successful conduct of treatment or counseling programs.
- Minimum-security dormitory units for not more than 50 prisoners in each unit and with partitions between sleeping areas for four or more prisoners.

Paragraph (2) prohibits double-bunking in cells or rooms designed for occupancy by one person.

These requirements are consistent with ACA standards, court decisions, and the goals set forth in the Department of Corrections Operational Master Plan.

Paragraph (3) sets 35 square feet of unencumbered floor space as the minimum size for a single-occupancy cell or room, except that a cell or room used for the housing of a prisoner who is required to spend more than 10 hours per day in the cell or room must have at least 80 square feet of total floor space. In dormitory units, the space per person also must be no less than 35 square feet of unencumbered floor space.

Paragraph (4) establishes the same minimum of 35 square feet of unencumbered floor space for single-occupancy rooms in juvenile correctional facilities, and limits dormitory design to no more than 20% of the total housing unit space in a juvenile housing unit.

The space requirements of paragraphs (3) and (4) are identical to the ACA standards. This approach appears to be generally consistent with the Department's Operational Master Plan, which states that rated design capacities are calculated on the basis of 95 square feet per inmate including common space. At the Jail, cells are 70 square feet in size.

Subsection (c) establishes day room requirements.

Subsection (d) requires all adult and juvenile facilities to be maintained in substantial compliance with the D.C. Construction Codes. The citation includes all of the Codes—the BOCA Building, Plumbing, Mechanical, Fire Prevention, Existing Structures, and Electrical Codes, and the D.C. Supplement which made necessary changes in the BOCA Codes to reflect local needs and conditions.

The BOCA Basic Building Code establishes 10 "use group classifications" which are used throughout the Codes to apply specific requirements to specific types of buildings, or to exempt certain types of buildings from certain requirements. Use Group I is defined as institutional buildings, and within that category, Use Group I-1 includes hospitals and infirmaries and Use Group I-3 "shall include all buildings designed for the detention of people under restraint, including, among others, jails, prisons, reformatories, insane asylums, and similar uses." (Article 3, sec. 307, BOCA Basic National Building Code)

In the event of violations, the Department of Corrections (or in the case of juvenile facilities, the Department of Human Resources) could be fined in the same manner as any other violator, and the fines would be paid into the Correctional Industries Fund.

Building code compliance is consistent with ACA standards, and fire code compliance is mandatory for accreditation.

The consent decrees applicable to the Central Facility and the Maximum Security Facility specifically require compliance with the D.C. Plumbing Code, the Fire Prevention Code, and the accident and fire prevention provisions of the Building Code.

The consent decree applicable to Occoquan does not explicitly require code compliance, but sets forth specific remedial actions consistent with the Fire Prevention Code. Interestingly, the government in 1989 filed a memorandum in the Occoquan case stating that "all dormitories will be brought into strict compliance with all applicable D.C. Codes."

Subsection (f) requires indoor and outdoor recreation space.

Subsection (g) is a limited-grandfather clause allowing the continued use of existing facilities that do not comply with these standards.

All new facilities must comply with the standards of this section. And all existing facilities that are in substantial compliance must be maintained in substantial compliance. The intent of this provision is to make clear that the grandfather clause is not to be used to allow the conversion of in-compliance existing facilities in ways that would put them out of compliance, i.e., by expanding size and prisoner/resident population.

As for existing facilities that are not in substantial compliance, the Mayor is required to bring them into compliance, or to give the Council good reasons—in the 10-year plan and the biennial progress reports—why this is not being done.

Most existing adult facilities are larger than the population maximum of 500 required by subsection (a). The Jail and Lorton's Central and Maximum Security Facilities have rated design and operational capacities in excess of 500, according to the Department's Operational Master Plan (1,694 for the Jail, 1,301 for Central, and 528 for Maximum, all of which are court-ordered maximums). Rated design and operational capacities for other facilities are follows:

Modular: Rated design capacity, 400; operational capacity, 700;

Minimum: Rated design, 400; operational, 700;

Minimum Annex: Rated design, 150; operational, 160;

Medium: Rated design, 292; operational, 576;

Occoquan: Rated design and operational, 1,767;

Youth Center: Rated design, 448; operational, 854; and

Correctional Treatment Facility: Rated design, 800.

The limited-grandfather clause is included in recognition of the fiscal reality that existing facilities cannot be closed down or reduced in size in the immediate future. In further recognition of fiscal limitations, paragraph (3) provides that insufficient funds shall be lawful grounds for failure to comply with these standards.

The intent, however, is to require the Mayor to give serious consideration to all available options to bring these facilities into compliance with the size requirements—as well as all other physical space requirements set forth in this section—in the course of implementing the 10-year plan. The Mayor would have to provide justification to the Council for any decision not to bring the existing facilities into compliance.

Section 303. Standards for prisoner and juvenile resident apparel, hygiene, and sanitation.

Subsections (a) and (b) require that prisoners and juvenile residents must be provided with standard uniforms, clean and fire-retardant bedding, clean bed linens, facilities and supplies for personal hygiene, and protective clothing as needed.

Subsection (c) requires all facilities to implement sanitation procedures that comply with American Public Health Association standards for correctional institutions. This is consistent with ACA standards and provisions of the consent decrees applicable to Maximum and Central.

Section 304. Standards for food service.

This section requires compliance with the District's food and food operations regulations and authorizes fines for violations against both private contractors and the government. The fines are to be paid into the Correctional Industries Fund.

Section 305. Standards for health care services.

This section requires each facility to provide prisoners or juvenile residents health care services in accordance with a written plan and under the direction of a licensed physician. Health care must be provided in compliance with the Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Code, sec. 2-3301.1 et seq.)

Evidence in Inmates of Occoquan established that medical technical assistants, a job description for which there is no licensing or certification requirement in District law, frequently provided primary medical care within the scope of practice of registered nurses or physician assistants. The Occoquan consent decree prohibits the use of MTAs in the provision of primary care.

This requirement is intended to ensure that health care in all facilities is provided by properly licensed health professionals operating within the scope of practice authorized by their licenses.

Section 306. Inspections.

This section requires the Department of Consumer and Regulatory Affairs, the Fire Department, and any other applicable District agency to inspect adult and juvenile correctional facilities for code compliance at least once a year. Whenever a facility is found not to be in substantial compliance, the inspections must be done every

three months until the agency is found in substantial compliance in two consecutive inspections. Food service inspections always must be done every 3 months.

This is patterned after the inspection requirements of the consent decrees applicable to Central and Maximum. The Central consent decree required three-month inspections until the facility was determined to be in substantial compliance; at that point, the next inspection was to occur six months later and, if the facility was still in substantial compliance, inspections then became annual so long as the facility remained in substantial compliance. Food service inspections were required every three months, regardless of any lesser frequency for general inspections. The inspection requirements applicable to Maximum are similar though somewhat less restrictive.

Section 307. Standards for recreation.

This section requires each facility to implement a recreation program and provide prisoners and juvenile residents with at least one hour per day for recreational activities outside of their cell, room, or dormitory.

Section 308. Standards for training of correctional officers and other correctional facility employees.

The Department's Operational Master Plan states that current training programs include "an eight-week pre-service program for all correctional officer recruits and a 40-hour inservice program for correctional officers a 40-hour inservice program for civilian staff and a 16-hour inservice overview for clerical staff." The eight-week pre-service program is a full 40-hour/week program (totalling 320 hours).

This section requires pre-service training to the same extent as presently provided, an additional 40 hours during the first year of employment, and 40 hours in each year thereafter. The subject areas are consistent with ACA standards.

As for other employees and contractors who work "in direct and continuing contact with prisoners," such as teachers, counselors, health care personnel, and food service personnel, this section requires training but allows the Mayor to determine the length and content through rules and regulations.

Section 309. Standards for training of juvenile careworkers and other juvenile correctional facility employees.

This establishes training requirements for juvenile careworkers, the term used by the ACA for the juvenile correctional officers who provide day-to-day custody and care of juvenile residents and assure the security of the facility, and also for other juvenile facility personnel who work in direct and continuing contact with juvenile residents. The Mayor is to determine the number of required training hours through rule-making. The subject areas are the same as for correctional officers, but training course content is tailored to the juvenile age group.

TITLE IV. MANDATORY DRUG TESTING; STANDARDS FOR SUBSTANCE ABUSE TREATMENT, LITERACY, AND ACADEMIC AND VOCATIONAL EDUCATION

Section 401. Mandatory drug testing.

This section requires each prisoner and juvenile resident to be tested for the use of illegal drugs within 12 hours of initial confinement. In addition, the Mayor must issue rules establishing procedures:

- For random drug testing of the correctional facility population;
- For drug testing whenever a correctional officer or juvenile careworker has reasonable cause to believe a prisoner or juvenile resident has used drugs; (If, for instance, an item of drug paraphernalia is seized as contraband from a prisoner's cell or room, this would be reasonable cause for requiring the prisoner to be tested for drug use.); and
- For drug testing whenever a correctional officer, juvenile careworker, or licensed health professional determines that a prisoner or juvenile resident displays the symptoms of illegal drug use.

The intent of this section is to put in place reasonable but thorough drug-testing procedures as a necessary tool to end illegal drug use in the corrections system.

Section 402. Standards for substance abuse treatment.

This section requires adult and juvenile correctional facilities to provide comprehensive substance abuse treatment to any prisoner or juvenile resident who is diagnosed as a substance abuser by a physician, psychologist, or social worker. The diagnosis standard is the same as in the Drug Abuse, Alcohol Abuse, and Mental Illness Insurance Coverage Act of 1986. Treatment must be made available to the prisoner or juvenile resident immediately upon the diagnosis and is not to be delayed until some point prior to his or her anticipated parole or discharge. Any diag-

nosed prisoner or juvenile resident who refuses treatment may be separated from the general population.

Treatment programs must comply with the certification requirements for nonhospital residential and outpatient treatment programs, set forth in section 7 of the Drug Abuse, Alcohol Abuse, and Mental Illness Insurance Coverage Act.

Section 403. Standards for literacy.

This section requires adult correctional facilities to provide a literacy instruction program to assure that prisoners, to the maximum extent possible, attain at least an eighth-grade level of literacy prior to parole or discharge. Prisoners must be tested for literacy within seven days after initial confinement, and those who do not demonstrate at least an eighth-grade level of competency must participate in the literacy program unless exempted by order of the correctional facility superintendent. An exemption may be granted if the superintendent determines, on the basis of professional recommendations, that it would not be in a prisoner's best interests to participate. As an example, a prisoner's mental or physical incapacitation would be reasonable grounds for an exemption.

The Board of Parole is prohibited from paroling any prisoner who is physically and mentally capable of attaining eighth-grade-level literacy and who has not done so. But exceptions are provided, to assure that this requirement does not become an unreasonable barrier to parole. The requirement does not apply to any prisoner exempted from participation in the literacy program. It does not apply to any prisoner whose confinement is of such short duration that he could not have reasonably attained this literacy level during incarceration. And, it does not apply if the correctional facility fails to provide the prisoner with the literacy instruction program.

Recognizing the high drop-out rate in the public school system of the District, particularly at the junior high school level, it is reasonable to conclude that a significant proportion of District prisoners are not reading, comprehending written material, and performing basic arithmetic at the eighth-grade level. Those who suffer such functional illiteracy will be forever handicapped in obtaining employment and carrying out normal daily activities in the absence of firm and aggressive action to help them attain a minimum level of literacy. No service a correctional system provides can be any more important than this.

Section 404. Standards for academic and vocational education.

This section requires adult correctional facilities to provide academic and vocational education and establishes standards for these programs, consistent with ACA standards.

The thrust of these provisions is to require programs that reflect real-world conditions, and that are based on thorough and expert analyses and projections of the area economy and employment needs in the short-term and long-term future. Vocational programs must be tailored to train prisoners to qualify for District licenses in the crafts and trades requiring licenses, and to meet the apprenticeship standards of trade unions. Vocational training in electrical work, for example, is of little use if it fails to include even one of the skills the prisoner-trainee must demonstrate to qualify for an electrician's license.

Education programs also must include training in social skills, communications skills, conflict resolution, personal money management, work habits, job readiness, and job development skills. These aspects are required in recognition of the fact that a significant number of prisoners have grown up in an environment in which they were seldom if ever exposed to role models to teach the basic values and skills of daily living in mainstream society. Training in conflict resolution—through negotiation and peaceful means—is particularly important given the alarming rise in violent crimes that brought about the incarceration of many District prisoners.

Section 405. Standards for academic and vocational education in juvenile correctional facilities.

This section establishes similar academic and vocational requirements tailored to the needs of juveniles. Education programs must meet the standards of the District of Columbia Board of Education for elementary- and secondary-level schooling.

TITLE V. OPERATION OF THE CORRECTIONAL INDUSTRIES PROGRAM

This title sets up the overall program of correctional industries consisting of manufacturing, sales, and service enterprises operating for commercial purposes on the grounds of correctional facilities. In general, the language throughout this title is drawn from statutes establishing similar programs in Oklahoma, California, Nebraska, Minnesota, Indiana, Maryland, New York, and Illinois.

In addition, language throughout this title reflects the statutory and regulatory requirements of the federal Private Sector/Prison Industry Enhancement Program and is intended to enable the District to obtain certification for any suitable correctional industry. The intent is to provide all of the statutory authorizations necessary for the District to qualify for federal certification for one or more correctional industries, either in the public-sector or the private-sector component or both, to sell goods and services to the federal government and on the open market in interstate commerce. Federal certification will be advantageous—and may even be essential—to ensuring a financially-successful pay-as-you-go operation.

Federal law prohibits the sale of prison-made goods in interstate commerce or to the federal government except by certification under this program. Certification is available only to correctional facility on-site industries operated either by the state or by a private business under contract with the state. The law and rules establishing the certification program require, as conditions for certification, that a state correctional industry must:

- Be authorized by state statute;
- Include consultation with organized labor and local private industry;
- Pay prisoner employees “prevailing wages . . . comparable to wages paid for work of a similar nature in the locality. . . .”
- Be certified by the state employment agency as not “resulting in the displacement of employed workers” and not engaging in “skills, crafts, or trades in which there is a surplus of available gainful labor” in the locality;
- Assure that prisoner participation is voluntary, with the prisoners’ specific acceptance of wage deductions;
- Provide prisoner employees “entitlement to benefits and compensation as a result of injuries sustained in the course of employment,” either through workers’ compensation insurance or government self-insurance;
- Provide for “substantial involvement of the private sector,” either as an employer, investor, customer, or manager of the prison-based business; and
- Provide, either by statute or by rule, for payment of an amount that is not less than 5 percent or more than 20 percent of prisoner employees’ gross wages into either a Crime Victim Compensation Program or a Crime Victim Assistance Program.

Provisions in this title are intended to meet all of these requirements.

Section 501. Establishment of the correctional industries program.

This section establishes the program and defines its purposes as engaging in commerce, generating sufficient income to be self-supporting, producing goods and services to meet the purchasing needs of District government agencies, and providing employment, wages, and training to prisoners.

Section 502. Sales, advertising, and marketing of correctional industries products and services: tax exemption.

Subsection (a) requires that, whenever possible, District government agencies should purchase needed goods and services from the correctional industries.

Subsection (b) authorizes the purchase of correctional industries goods and services by these additional entities: other state and local governments, the federal government, non-profit organizations, and District government contractors. Consistent with the provisions of section 509, any open-market buyer also may purchase correctional industries goods and services.

Subsection (c) requires the Mayor to carry out specific steps to advertise and market correctional industries goods and services.

Subsection (d) establishes the tax-exempt status of any correctional industry that is wholly owned and operated by the District. For any industry operated as a joint venture with a private-sector employer, the Mayor is authorized to include an exemption from D.C. taxes in the terms of the joint venture agreement.

Section 503. Joint venture agreements.

Subsection (a) authorizes the Mayor to sign an agreement with any private-sector employer for operation of a correctional industry as a joint venture.

Subsection (b) provides that joint-venture agreements may include:

- The Mayor’s commitment to provide appropriate space, security services, and utilities for operation of the industry;
- A description of the procedures for selecting prisoners for employment in the joint-venture industry; and
- A commitment by the private-sector partner to indemnify the District from liability in the event of injuries or damages attributable to correctional industry operations under the control of the private-sector partner.

Subsection (c) requires that the District government and the private-sector parties to joint-venture agreements must assure that the joint-venture correctional industry is operated in compliance with applicable District and federal laws and regulations.

Subsection (d) allows goods and services produced pursuant to joint-venture agreements to be sold on the open market in any manner permitted by federal law.

Section 504. Joint Venture Policy Advisory Board.

This section creates an 11-member Correctional Industry Joint Venture Advisory Board to advise the Mayor regarding correctional industry joint venture policies in general and specific joint-venture proposals.

Section 505. Employment of prisoners; terms and conditions; opportunities for advancement; qualifications.

This section sets forth the overall requirements for the employment of prisoners in correctional industries.

Subsections (a) and (b) require that prisoners must be employed in all entry-level positions, and may be required to work as much as 40 hours a week.

Subsection (c) authorizes the employment of non-prisoners in supervisory positions or positions requiring advanced training, if no prisoners are determined to be qualified for these positions. If prisoners are not qualified for these positions, correctional industry personnel officials must develop a plan to enable prisoners to gain the skills necessary for promotion into these positions.

Subsections (d) and (e) require correctional industries to provide prisoner employees and job applicants with detailed, written information about work requirements, rules of safety and workplace conduct, wages and deductions, factors relevant to promotions and wage increases, training opportunities, and disciplinary rules. As a condition of employment, prisoners must provide their voluntary written consent to these employment terms.

Section 506. Compensation of employed prisoners.

Subsection (a) requires payment of wages to prisoners employed in correctional industries according to a wage scale established by the Director with the approval of the Mayor. In the case of joint-venture industries, the wage scale may be included in the joint-venture agreement.

Subsection (b) states that prisoners employed in any correctional industry that is certified to engage in interstate commerce must be paid no less than the prevailing wage for work of a similar nature in the Washington region and shall not in any case be paid less than the federal minimum wage. This is a requirement for Justice Department certification to engage in interstate commerce.

Section 507. Disbursement of wages to employed prisoners; trust accounts.

This section establishes procedures for the payment of wages to prisoners employed in correctional industries.

Subsection (a) makes clear that these wages are subject to District and federal income taxes. At present, the Department of Finance and Revenue considers prisoners' earnings to be taxable income, although there are no existing procedures for tax withholding.

Subsection (b) provides that prisoners employed in correctional industries wholly owned by the District government are to be paid from the Industries Fund, and that prisoners employed in joint-venture correctional industries are to be paid by the private-sector joint-venture partner.

Subsections (c), (d), and (f) set forth procedures for the Board to follow in recording hours worked and making payments due to prisoners employed in correctional industries according to a disbursement schedule established by the Director. After withholding of District and federal taxes, amounts may be deducted for:

- Reasonable charges paid to the District for room and board;
- Allocations for the prisoner's family;
- Compensation to the District for the cost of the prisoner's criminal act;
- Payment of any civil judgment resulting from the prisoner's criminal act; and
- Payment of restitution or fines ordered by the sentencing court.

These deductions combined may not exceed 80% of the prisoner's wages; the remaining 20% is to be available to the prisoner for commissary purchases and savings.

Section 508. Workers' compensation insurance: property insurance.

Subsection (a) makes clear that the District of Columbia Workers' Compensation Act of 1979 applies to correctional industries.

Subsection (b) authorizes the Board to purchase property insurance for correctional industries.

Section 509. Certification for sales in interstate commerce.

This section authorizes the Mayor to apply for federal certification for any appropriate correctional industry and to issue necessary rules to comply with the certification requirements.

Section 510. Violations; penalties.

This section makes it a violation of the District of Columbia Theft and White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Code, sec. 22-3801 et seq.), to knowingly and willfully falsify any record or make any false statement related to the operation of a correctional industry or the Industries Fund or commit any other action intended to defraud a correctional industry or the Industries Fund.

Section 511. Annual reports; annual inventory.

This section sets forth requirements for annual reports of correctional industries operations and annual inventories of industry equipment and materials.

TITLE VI. EMPLOYMENT OF EX-OFFENDERS; PROHIBITION AGAINST DISCRIMINATION

Section 601. Employment of ex-offenders.

This section is intended to create the mechanism to foster and expand employment opportunities for ex-offenders. The Mayor is required to carry out a continuous public-education campaign to inform Washington area employers about the skills, training, and experience of ex-offenders and to encourage them to hire ex-offenders. The public-education campaign could include, for instance, public service advertising in the mass media and direct-mail contacts with employers, and personal contacts by the Mayor and other appropriate executive-branch officials. The public-education campaign should specifically include information about the skills, training, and experience gained by prisoners employed in the corrections industries program.

Second, the Mayor must make available the counseling and social services resources of the District to assist employers in hiring, training, and counseling ex-offenders. This is intended to help the ex-offender make the transition from incarceration to the private-sector workplace by providing counseling, training and other services an employer seldom has the resources to provide.

Third, the Mayor is required to publish an annual list of Washington area employers that have demonstrated a commitment to hiring ex-offenders. The list is to be published in the D.C. Register and one or more newspapers of general circulation, and also distributed to the Department of Employment Services, the Office of Probation, the Board of Parole, and private employment agencies and job-listing services in the District. The intent is to make this information widely available to ex-offenders to aid in their search for employment.

Fourth, the Board of Parole—within six months from the effective date of this act—must develop and implement a plan to assist parolees in applying for, qualifying for, and obtaining employment and must inform area employers about the existence and content of the plan. The Board plan must be integrated with other District services relating to housing, counseling, education, training, health care, and transportation. As an example, the plan should include coordination with the Department of Public and Assisted Housing to locate public housing or subsidized housing for ex-offenders who qualify for and who need housing assistance. Coordination with other service agencies of the District should be incorporated in the same manner.

Section 602. Prohibition against discrimination.

Subsection (a) makes it illegal for any employer or labor union to engage in any type of employment discrimination against any person solely for the reason that the person is an ex-offender, except as may be otherwise authorized by law. For instance, an ex-offender cannot obtain a District license to work as a security guard until one year after release from incarceration; nothing in this section is intended to override such statutory restrictions.

Subsection (b) allows an employer or labor organization to apply reasonable standards and conditions to the employment of an ex-offender during the first three years following the ex-offender's order of probation, parole, or discharge. As an example of a reasonable condition, an employer could require periodic drug testing of an ex-offender with a prior record of substance abuse.

Subsections (c) and (d) establish that a violation of subsection (a) is a criminal misdemeanor punishable by a fine of no less than \$5,000 and no more than \$10,000.

TITLE VII. REPEALER; CONFORMING AMENDMENTS; RULES; EFFECTIVE DATES

Section 701. Repealer.

This section repeals a provision of the 1921 budget act that let the District sell surplus "Workhouse" products, amended later to let the District sell prison-made brooms.

Section 702. Conforming amendments.

This section makes conforming amendments:

- To the 1964 Congressional act that established the Correctional Industries Fund, to eliminate a sentence that is superseded by language in this act;
- To the District of Columbia Workers' Compensation Act of 1980, to make clear that the Workers Compensation Act applies to correctional industries established pursuant to this act, regardless of whether they are located in the District or elsewhere (Lorton); and
- To the District of Columbia Board of Parole Amendment Act of 1987, to cross-reference the employment plan requirements set forth in section 601 (d).

Section 703. Rules.

This section requires the Mayor to issue rules to implement the provisions of this act.

Section 704. Effective dates.

This section establishes the standard 60-day effective date for provisions codified in titles 22, 23, or 24 of the D.C. Code, and the standard 30-day effective date for provisions codified elsewhere in the Code.

Mr. DAVIS. Let me thank you both for adding to the dialog.

From what I understand, you are saying that we have a unique opportunity, given not only the city's financial straits, but the situation at Lorton, to work together to try to accomplish what I think are very similar goals. You have laid out some issues that this legislation does not specifically address at this point, that I think you would like to see addressed, and which I think we can address.

It seems to me that to not take advantage of this opportunity would be very shortsighted indeed.

Mr. CLARKE. That is correct.

Mr. DAVIS. I don't know that I need to say more, except that I think you have laid out some of the same concerns Ms. Norton and the mayor's office have laid out, issues we need more work on to address together.

Ms. Norton.

Ms. NORTON. Thank you Mr. Chairman.

I would like to ask for the record, Chairman Clarke, what percent of the DC budget goes to house and otherwise support the Lorton facility?

Mr. LIGHTFOOT. Ms. Norton, it is about \$194 to \$200 million for the Lorton facility, I believe.

Ms. NORTON. My information was that there have been no significant increases in the budget in the past 10 years. If that is so, considering that there was a horrific crime explosion in the early 1990's, how has the Council been able to maintain or keep up with that problem as it appropriates each year and otherwise gives oversight to Lorton?

Mr. LIGHTFOOT. What the Council has tried to do is create alternatives to incarceration as a way of trying to deal with the overcrowding situation that has occurred as a result of many arrests. Unfortunately, we have now reached the stage where most resources must be devoted to public safety and security as opposed to programs to rehabilitate, and we are rapidly approaching a point where we are simply warehousing people.

Mr. CLARKE. Ms. Norton, although there was a large increase in crime in the 1990's, which has now, thank goodness, begun to come down, there was a steady level of commitments. The number of commitments to Lorton has hardly changed over the years. However, the incarceration levels have risen dramatically. That is mainly an effect of the amounts of time that people are serving.

They are getting longer sentences. Mandatory sentences went into effect a number of years ago. People are staying there beyond the time that they would have stayed there before. We are still paying for them because they are still staying there. So the increase in incarceration and the overcrowding is not a result of the commitments; it is a result of the length of time that people are staying.

Ms. NORTON. Thank you very much, gentlemen.

Mr. DAVIS. Mr. Moran, any questions?

Mr. MORAN. Very briefly.

If we were to phase-in this—the intent of this legislation, which ultimately is designed to close down Lorton, but I don't think you could do that overnight, and no one thinks that you could, but we would be moving the maximum security people first, I assume, because that is what takes up most of the resources, that is who requires the disproportionate share of guards, I would think. And that might afford you the ability to do a little more of the rehabilitation with other prisoners who are more likely to get out quicker.

Is that the best way to accomplish this transition, to move out the people that are the biggest problem first and give you the ability to try some of the things that you are suggesting that Mr. Lightfoot had in his testimony with those that would remain?

Mr. CLARKE. I think that would seem to be very good. I want to talk with correctional professionals about it, but it would seem that the persons who have shorter terms, the persons who are newer in terms of their incarceration, will be better assisted by being closer to the families and the communities from which they have come.

I think that different kinds of attention needs to be given to certain people who are incarcerated than those who are just going to be there for very long times. I think the greatest attention should be when they are just going in and when they are just ready to come out, although in saying that, I don't think people ought to be ignored and not used for productive activity in the interim.

Mr. MORAN. I understand that, but some of the work training that Mr. Lightfoot talks about I assume you have endorsed as well, Mr. Chairman, and the drug treatment and so on, you would think you would get more immediate payoff with people that are likely to go back into the community the soonest. If you don't disagree with that, I won't take up any more of your time.

Mr. CLARKE. No, we don't.

I might note for the record of this committee, as I think I noted in the testimony that I presented before this committee and the Appropriations Committee on February 22, the resolution that the City Council passed in August of last year, and which has set forth a number of things that we felt the Congress could do to assist in our financial problems, one of which was a better enablement of the use of District of Columbia prisoners for selling goods to non-profit industries and to get them involved in actual activities. Right

now, there are a lot of difficulties associated with that, and to some extent, the difficulties grow from congressional legislation.

Mr. MORAN. Thank you.

Mr. DAVIS. Thank you both.

We look forward to working with you on this.

Let's hear panel five and six together.

As you know, it is the policy of the committee to swear in all witnesses. Would you please raise your right hand?

[Witnesses sworn].

Mr. DAVIS. Good afternoon. Welcome. I am going to start with Mrs. Hanley, the chairman of the Fairfax County Board and my successor and a long-time colleague, and Mr. Hyland, who I served with. We appreciate both of you being here since you have both been concerned about this issue for some time. I will start with Ms. Hanley.

STATEMENT OF KATHERINE K. HANLEY, CHAIRMAN OF THE BOARD OF SUPERVISORS, FAIRFAX COUNTY, AND GERALD HYLAND, SUPERVISOR, FAIRFAX COUNTY

Ms. HANLEY. Good afternoon, Chairman Davis, Congresswoman Norton, and Congressman Moran. I am Kate Hanley, chairman of the Fairfax County Board of Supervisors, and I am pleased to be here representing my fellow board members and the residents of Fairfax County.

I very much appreciate the opportunity to have this discussion on the proposed legislation concerning the closing of the DC Correctional Facility in Lorton. This is an issue for all Fairfax County residents, and we look to you to help resolve the problems and we come in a collaborative and cooperative manner.

With me today is Gerry Hyland, supervisor of the Mount Vernon district, which surrounds the DC Complex in Lorton. Mr. Hyland will deliver the board's testimony and in the interest of time and brevity, I am going to turn it over to him.

Mr. DAVIS. Thank you. Gerry, good afternoon. Welcome.

Mr. HYLAND. Thank you, Mr. Chairman, Congresswoman Norton, my Congressman Jim Moran.

Mr. DAVIS. Can we just introduce Marcia Hansen, who is over there putting everything up? Welcome her as well.

Mr. HYLAND. Thank you. And Mr. Chairman, it seems no matter where I go, for the last 7 years I find myself calling you chairman. And I am very happy to do that.

Congratulations, Tom. Fairfax County is presenting its position in connection with H.R. 461 today, and lends its unequivocal support for the legislation. For too long the presence of the facility in Lorton has evoked criticism and controversy and conflict, and for now it may bring a catastrophe unless something is done.

We have put up with a plethora of problems at the facilities; overcrowding, escapes, rampant drug use, prisoner drug dealing, riots, fires, assault on guards, murders of inmates, like Jericho—a wall falling down recently, failed backup generators, and inoperative locking mechanisms on cell doors in the maximum facility are some, but not all, of the problems at this prison.

For the past 7 years, I have tried with our citizens to work with the District of Columbia concerning issues and problems at the

prison, and in fairness to the District, let me echo the remarks of the chairman. Mrs. Moore has been an absolute delight to work with. She has come into our community and attended our quarterly meetings in that community. And when citizens asked her to try to make changes, she has done that.

We have had our quarterly meetings with prison officials, we have had tours conducted in the facilities, and we have installed a computer-generated telephone notification system for local residents. And the prison even provides milk at no charge to nonprofit organizations. However, the continued presence of these antiquated inadequate facilities and the continuous escapes, and I should note that since 1989, we had 44 escapes from the facility, 33 of which were from the minimum facility, the rest from the other facilities at Lorton, and rhetorically, I would ask the question as to how many escapes we have had from the prison facility in the District of Columbia during that period of time, and I think you will find a remarkable difference in the experience of the two facilities.

The understaffing at this facility, and I think expressions by the Director in terms of her having adequate resources to take care of the facilities, both in the District and in Lorton, and the financial inability of the District to correct these deficiencies, I think, requires the action that this bill contemplates. This position of the Fairfax County Board is one that is shared by the Federation of Lorton Communities, which is located closest to the prison, and the Mount Vernon Council of Citizens Associations, and I have attached resolutions supporting the position the county has taken.

Let me very quickly just talk about a few specific recommendations for changes in the bill. And I go back to my days of having been a legislative counsel, and when I look at legislation, I sit there and nitpick it and try to pull it apart and think about the worst possible scenario.

First question is the land area affected is described as the Lorton Correctional Complex. I know of nothing that describes the 3,000 acres there within those terms, so I think it would be helpful if we indicated that the Lorton Correctional Complex, which you see on the map to the left, comprises approximately 3,000 acres, contains a variety of facilities that I'll address in a minute, but the prison facilities—are located on approximately 500 of those 3,000 acres. So I suggest an amendment to make it clear that we are talking about the entire land known as the Lorton Reservation.

Second, there is, I think, a need in this legislation to recognize that there are a number of existing interjurisdictional agreements that we have with the District of Columbia, Alexandria, Arlington, and Fairfax, which concern solid waste that is taken from the District of Columbia to our facility, the mass burn facility. So I am suggesting that in the bill we indicate that in terms of the transfer of land, that it be done subject to existing interjurisdictional agreements and leases concerning parks or solid waste incinerator, ash filling, and sewer.

In addition, there's a reference in the bill that says that if the District of Columbia wants to locate prison facilities on that 3,000 acres in the future, the approval of the Governor of Virginia would be necessary. I suggest that not only the approval of the Governor

of Virginia should be necessary, but also approval of the local jurisdiction where such a facility would be located.

We will recall the brouhaha when our former Governor attempted to move the Redskins into the city of Alexandria, over the objection of the local jurisdiction, and that is the best example that I can have, that I can bring to this committee, that if you're going to locate any facility, including a prison, that the local jurisdiction to be directly affected should be involved.

In terms of the future use, if the prison is to be moved, and clearly that is a great concern to the citizens that I represent in the Mount Vernon district and in Fairfax County, you will find few places in Fairfax County where you will have 3,000 acres of land that possibly could be developed. And if I could just move to—I don't know if I am going to be picked up. But if you look at the map that we have here, what happens to the rest of this land if the prison is to be moved? It will have a dramatic impact on Fairfax County, Prince William County and Stafford County. And the reason, this 3,000 acres of land sits between Fort Belvoir, with its 8,700 acres, where 20,000 more persons will come by the year 2004, the engineer proving ground site, 820 acres, where we propose 10½ million square feet of commercial office space, and 4,000 housing units, surrounded by intense residential development and in the I-95 corridor where to the south in Prince William and Stafford County we have remarkable residential growth and development. And this corridor, as a transportation corridor, has the highest increase of traffic anywhere else in Fairfax County. So if you look at this piece of land, and to be quite frank it is for that reason that in the surveys that we have done there are many people who have said they prefer to leave the prison here as opposed to what they would get instead. Because the prison is a known factor in terms of the traffic generation. But in terms of the ultimate use of what happens with this land, we're suggesting that that is a matter that we would hope, as we did with the engineer proving ground site, that the land use, the comprehensive plan and the zoning of Fairfax County are applicable to the ultimate use.

Mr. DAVIS. I think that that's a change that we would welcome.

Mr. HYLAND. Mr. Chairman, the other issue is if you look at the possible alternate uses that the Commission, the Closure Commission is permitted, one of them is to commit transfer of the property to the Bureau of Prisons. And after listening to Attorney General Gilmore and looking at his testimony and looking at the language in the bill, and it's clear that Virginia has the need to locate 17 prisons around the Commonwealth, I would suggest that we remove the reference, and I have an amendment to provide that, remove a reference that this land could be transferred to the Bureau of Prisons or to the Commonwealth for a prison or to the District of Columbia for a prison.

Now, that is not to say that the Commission couldn't decide to do that if we leave this language in, but what I'm suggesting is, is that we have a very tough decision to make in terms of what happens if the District of Columbia's prisoners are moved from this facility. And I'm suggesting that a prison has been there for too long, and unfortunately we've not had the resources to make that a safe facility in the midst of a heavily developed residential com-

munity. So that language, to the extent that it stays in the bill, permits a future use of the property as a prison, and I suggest that that is an option we would prefer not to see in the legislation.

Mr. Chairman and members of the committee, there is presently language in our comprehensive plan that I have set out in my testimony that talks about what would happen if the prison were to be located out of Fairfax County. And it suggests that if that were to happen that a land use committee of residents surrounding the prison should be brought together and that they should look at possible future uses of that land to include educational, private, recreational on the closed landfill, mixed use residential. But the key in the present comprehensive plan language is that whatever we do, transportation infrastructure on that site is the most important element. Because if we do develop that land and don't do it right, it will act as a cork in the bottle to the entire I-95 corridor, affecting Fairfax, Prince William, Stafford and probably as far down as the city of Fredericksburg.

So we're suggesting and what we have done, Congressman Moran, after the town meeting that Chairman Davis attended, we have formed a land use—or we have authority to form a land use task force of citizens from the community surrounding the prison. We are now going through the appointment process. And we would proffer that once they come forward with their recommendations, that those would be shared with the Closure Commission.

Finally, if I could turn to Congresswoman Norton, you asked a question of the District of Columbia administrator and Margaret Moore about the proposal to move the prison to West Virginia. And I'm familiar with that proposal, because when Mr. Batmangaledesch came forward with that proposal, he came to Mount Vernon and he met with citizens, and I know he met with the District of Columbia. And that proposal was to build a prison for the District of Columbia for the residents of the Lorton facility.

There was a jurisdiction in West Virginia that apparently was very willing to have that done, and in exchange for having a prison built in West Virginia and housing DC prisoners there, he would have then had the right to develop the 3,000 acres of land in Fairfax County. It was my understanding that that it didn't go forward because of reluctance on the part of the District of Columbia. So I understood that the District did not want to do that. But from what I understand, the people in that West Virginia town or location had great interest in having that done.

Mr. MORAN. Mr. Hyland, can I interject very quickly there? My understanding is that Mayor Barry liked the idea. It would have gone forward, but through some unfortunate incidents that occurred simultaneously at that time, it didn't, and they were approaching the mayoral election.

Mrs. Kelly, when she became mayor, although she never said she didn't like it, chose not to pursue it. So I don't think the District is on record as opposing that idea at any point. Thank you.

Mr. HYLAND. All right. Finally, Mr. Chairman, members of the committee, as far as the composition of the Commission, because of the dramatic impact on what happens to those 3,000 acres of land, we would ask for consideration of the addition of another per-

son to represent Fairfax County. It is not clear in the bill as to whether the administrator is a voting member.

It suggests that the administrator is an ex officio member, and I suppose that could go either way. We would request consideration of adding an additional member to the Commission, which would give it an odd number of members. And finally, to Chairman Davis, I have received yesterday from some of your constituents a survey that was done in the Crosspointe Community and it's about 200—200 persons from the Crosspointe Community.

And as I indicated before, Mr. Chairman, what I would like to do is leave that with you, which expresses their position on the closure of the prison and also expresses their desires as far as future use of the facility. In addition, we have another survey that was done in the area surrounding the prison of about 500 persons, which again expresses about half of the persons who support moving the prison, the other half say if a prison is to stay there, they would prefer that it be Federalized, not expanded, or if the District of Columbia is to continue to maintain it, that it is given sufficient resources to make it a top rate facility. And if I could give those to the chairman.

Mr. DAVIS. Without objection, they will be included in the record. [The information referred to follows:]

INFORMATIONAL SURVEY

I. In your opinion what should be done with the DC prison located in Lorton?

Please chose one of the following:

- Keep the prison in Lorton but improve it to make it safer (69)
- Move the prison out of Lorton (223)
- Federalize the prison and keep in Lorton (70)
- Federalize the prison but do not expand it (60)
- Keep the prison in Lorton but do not expand it (50)
- Federalize and build on land (40)

II. If prison is to be relocated out of Lorton, what would you like to see in its place?

Parkland (111); Mixed recreational sports (non-professional) (golf courses, equestrian field sports, minor league (baseball) stadium, open space, etc.(82); Office complex (less than 3 million sq. ft.) only after infrastructure is in place (18); Housing (15); Education/Research facilities (71); No development (22); Town Center (8); Government facility (8); Petting farm(9); Senior retirement facilities (6); orphanage(4)

III. Does the Citizens Advisory Committee (CAC) help relations with the DCDC officials and should the CAC continue? Yes 114 No 31

Would you want your name added to the CAC notification list? Yes 125 No 96

IV. Would you like your name added to the Community Alert Network?

(Please see DCDC Fact Sheet.) Yes 112 No 103

If you are already being notified when the prison has an emergency, how would you rate this mode of notification? Good 13 Fair 15 Needs improvement 48

Other ideas comments, questions, suggestions:

Hotline is useless unless used and updated immediately

Make sirens louder

Tighten security

Mrs. Moore is very professional

Trade the Navy Yard facilities for the Prison

Drugs have to stop

Grounds along Silverbrook Rd need to be improved

Move the maximum facility to DC; no more than 20% medium and rest in minimum in Lorton

CROSSPOINTE COMMUNITY QUESTIONNAIRE ON LORTON PRISON

Please answer the following questions by checking the applicable box. Return this form to the Crosspointe Community Center lock-box by Sunday, March 19, 1995.*

	Agree	Not Sure	Dis-agree
Security Issues			
Current security measures at the Lorton Correctional Complex are adequate	14	19	163
The District of Columbia's management of the Lorton Correctional Complex should cease immediately	158	24	14
The Lorton Correctional Complex should be temporarily transferred to Federal control to improve security conditions	136	36	24
Favor immediate closure of maximum security system section with the prisoners transferred to Federal facilities	168	17	11
Land Use Issues			
Local citizens should be a majority of any boards, commissions, task forces and or committees that decides on the eventual use of the land occupied by the Lorton Correctional Complex	177	13	6
If sold, I would prefer the land occupied by the Lorton Complex to be used for: (please respond to every category listed below).			
County Park/Recreation Center/Golf Course	191	2	3
Single Family Homes	132	17	47
Townhomes*.			
Condominiums*.			
Apartments*.			
Mixed Use (single family homes/townhomes/condo/apartments)*.			
Planned Community (residential & commercial)*.			
Educational Institution (college, high school, elementary school etc.)*.			
Office/Mail Complex*.			
Research Facility*.			
Industrial Park*.			
Stadium*.			
Theme Park*.			
Government Facility*.			
Federally Run Prison*.			
Homeless Shelter*.			

* *Editor's NOTE:* Additional responses not received as of the date of publication.

Mr. HYLAND. Finally, Mr. Chairman, Congresswoman Norton and Congressman Moran, in the short 7 years that I have had the privilege to represent the people who are most directly affected by this prison, we have tried to make this prison work. And as I said, Mrs. Moore, I think, has done her best. But for the first time that I have represented the citizens of Mount Vernon district, for the first time, I cannot have confidence in the safety and the security of the neighborhoods that are adjacent to this prison that is located in the district that I represent. And I am not happy to have to say that or to feel that, but I must tell you that that is a feeling that is shared by too many residents in the Lorton community.

Something has changed at that facility. Not that any prison is ever going to be perfect. We've tried to make the best and we've tried to be good neighbors one with the other, but with 200 correctional officers who are no longer there, and the problems that each of you have read about in the paper, I cannot have any comfort level that the continued existence of that facility is in the best interests of the citizens of Fairfax, of the residents who are prisoners in that population, or the District of Columbia. And I regret having to feel that way, but I believe that is the truth.

* As of March 16, 1995, 196 responses were received from 1,180 homes.

I thank the members of the committee for the opportunity to testify. And I would be happy to answer any questions that you might have.

[The prepared statement of Mr. Hyland follows:]

PREPARED STATEMENT OF GERALD HYLAND, BOARD OF SUPERVISORS, MT. VERNON DISTRICT, FAIRFAX COUNTY

Chairman Davis, Congressman Moran, Congressman Wolf and Committee members.

My name is Gerry Hyland. I am a member of the Fairfax County Board of Supervisors and I represent the Mount Vernon District where the Lorton Correctional Complex is located. Accompanying me is Kate Hanley, Chairman of the Board of Supervisors and we are here to state Fairfax County's unequivocal support for the closure of the Lorton Correctional Complex, the principal objective of H.R. 461.

RATIONALE FOR CLOSURE

For too long, the presence of the prison in Lorton has evoked criticism, controversy and conflict but now it may bring a catastrophe. We have put up with a plethora of problems at this facility. Overcrowding, escapes, rampant drug use, prisoner drug dealing, riots, fires, assaults on guards, murders of inmates, like Jericho—a wall falling down, failed back-up generators and inoperative locking mechanisms on cell doors in the maximum facility are some, but not all, of the problems at this prison.

For the past seven years, I have tried to work with the District of Columbia concerning issues and problems at the prison. In fairness to the District, they have been cooperative and made changes to accommodate the community. Officials have attended our quarterly Citizen Advisory Committee meetings, conducted tours of the facilities, installed a computer-generated telephone notification system for local residents and provided milk from the prison dairy to non-profit organizations at no cost. However, the continued presence of antiquated and inadequate facilities, the continuous escapes, the understaffing by at least 200 correctional officers, the public statements of the Director that confidence cannot be held in the external and internal security of D.C. Correctional facilities and the financial inability of the District to correct these deficiencies require immediate action to begin closing this facility. This position is supported by the Federation of Lorton Communities and the Mount Vernon Council of Citizens Associations. Please see Enclosures 1 and 2.

THE BILL

This is an excellent Bill. We have some recommended changes to clarify some provisions and make improvements concerning (1) the land area affected; (2) future D.C. prison use of the property; (3) interim control of the prison and transfer of felons; (4) interim safeguards pending closure; (5) future non-prison use of the property; (6) the applicability of Fairfax County's Comprehensive Land Use Plan to the Lorton Correctional Complex property; and (7) composition of the Commission.

LAND AREA AFFECTED

SEC. 2(a), Line 6, Page 2—Recommend adding, after the words "Lorton Correctional Complex" the words "consisting of approximately 3,000 acres".

COMMENT—The prison uses approximately 500 of the 3,000 acres in Lorton, a portion is used for a regional park, a mass-burn facility serving Fairfax County, the District of Columbia and Prince William County, an ash landfill for incinerator ash from the Fairfax mass-burn facility and the Alexandria-Arlington incinerator, a closed landfill and the remainder is in open space. It should be clear that the entire 3,000 acres is being addressed in this legislation.

EXISTING INTERJURISDICTIONAL AGREEMENTS

SEC. 2(a), Line 10, Page 2—Recommend adding after the word "Services", the words "subject to existing interjurisdictional leases and agreements concerning parks, solid waste incinerator, ash landfilling and sewer"

COMMENT—Enclosure 3 hereto is a legal memorandum from our County Attorney describing the agreements we have with the District of Columbia for a variety of uses. It is imperative that these agreements remain in place, particularly because of their importance for the disposal of solid waste in the region.

FUTURE D.C. PRISON FACILITIES IN VIRGINIA—LOCAL APPROVAL

SEC. 2(b), Line 19, Page 2—Recommend changing the period to a comma and add the words “and the local jurisdiction where the property is located.”

COMMENT—We believe approval by the State and local government is desirable and necessary particularly to protect citizens living near a proposed prison facility.

INTERIM CONTROL OF PRISON AND TRANSFER OF PRISONERS

Pending closure of the Lorton Correctional Complex, we urge the Congress to require the Attorney General of the United States to take control of the prison facilities in Lorton upon the effective date of the Act and immediately determine the adequacy or inadequacy of existing physical facilities, staffing and operational procedures of the prison. Further, that the Attorney General receive an appropriation to adequately staff the prison, make interim structural improvements required to contain prisoners in the facility and to ensure the safety of surrounding communities and to transfer prisoners to some other facility if considered necessary.

FUTURE NON-PRISON USE OF PROPERTY

SEC. 4.(a)(3), Lines 8, 9, Page 5—Recommend striking the words “including the Bureau of Prisons” and,

SEC. 4.(a)(3), Line 11, Page 5—Recommend changing the period to a comma and adding the words, “but in no event for any use described in Sec. 2(b) herein”

COMMENT—The purpose of these changes is to preclude any future use of this land for a prison, penitentiary, jail, correctional institution or related facility by the District of Columbia, the Bureau of Federal Prisons or the Commonwealth of Virginia which is consistent with the current Comprehensive Land Use Plan of Fairfax County. See Attachment 4 of Enclosure 3 hereto.

APPLICABILITY OF MCKINNEY ACT

SEC. 4.(a)(4), Line 13, Page 5—Recommend changing the period to a comma and adding the words, “except the provisions of the McKinney Act are hereby expressly waived”.

COMMENT—Fairfax County has adequately provided shelter for homeless persons and use of this property for such purpose is unnecessary.

APPLICABILITY OF FAIRFAX COUNTY ZONING AND COMPREHENSIVE LAND USE PLAN

SEC. 4.(a)(4), Line 13, Page 5—Recommend adding at the end thereof a new sentence to read “Any disposal of real property or improvements thereon shall be subject to provisions of the Zoning Ordinance and Comprehensive Land Use Plan of Fairfax County, Virginia applicable to said property.”

COMMENT—The most critical issue for Fairfax County is the future use of the 3,000 acres once the Lorton Correctional Complex is moved. If you look at these aerial photographs of the area, you can see the strategic location of this property off I-95 as it sits between Fort Belvoir and the Engineer Proving Ground (EPG) sites. Presently, we have traffic gridlock in the I-95 corridor. Fort Belvoir will expand by 20,000 persons by the year 2004. At the EPG site the Army proposes to develop at an overall density of .49 FAR (calculated over the entire 820 acres of the site), that is, approximately 10.5 million gross square feet of non-residential development and 3,950 dwelling units conditioned upon achievement of performance standards specified in the Comprehensive Land Use Plan for Fairfax County. Traffic in this area continues to increase rapidly because of extraordinary development to the south in Prince William and Stafford Counties. Presently, the Comprehensive Land Use Plan for Fairfax County provides in pertinent part,

“If, in the future, the D.C. Department of Corrections facility is relocated and the site is available for redevelopment, a citizens' task force with representation from the adjacent community should be established to work with the County to study alternative uses for this site. The re-use of the site should be planned as a unit. Development or redevelopment of the site should provide a planned mixed-use residential, educational, employment, recreational community with a variety of housing and employment opportunities, sufficient off-site transportation improvements including mass transportation to insure a zero or minimal transportation impact on the adjacent region (including primary arteries, but in any event, creating an impact no worse than Level of Service D), environmental safeguards, sufficient recreation and significant participation by the adjacent community in further development planning and implementation. Efforts should be made to secure dedication to the County's open space system for land which is owned by the Federal government that is at a distance of approximately 500

feet from the edge of privately held parcels. Additionally, in any development proposal, adequate transportation and public facilities improvements, recreation and open space must be provided and sensitivity to the environment ensured."

The Board of Supervisors has, on my motion, authorized the establishment of a land use task force with representation from the adjacent communities to study alternate uses for this property.

The recommendations of this task force will be shared with the Commission on Closure of the Lorton Correctional Complex. We strongly recommend that future use of this land be consistent with the Zoning Ordinance and Comprehensive Land Use Plan of Fairfax County. Please see Enclosure 4.

COMPOSITION OF COMMISSION

SEC. 5(b)(1)(A), Line 16, Page 7—Recommend changing the number "5" to "6" thereby adding an additional member for Fairfax County.

COMMENT—The Bill proposes an 11 member Commission with the Administrator of GSA serving in an ex-officio capacity presumably without a vote. The addition of one member would avoid having an even number of voting members and give Fairfax County representation commensurate with the impact of uses of this property on our citizens, vis-a-vis other jurisdictions represented on the Commission.

In closing, thank you for the opportunity to appear before you to address this most important subject and I stand ready and willing to provide such additional information as required by the Committee.

ENCLOSURE 1—FEDERATION OF LORTON COMMUNITIES

PROPOSED RESOLUTION TO MOUNT VERNON COUNCIL—JANUARY 25, 1995

The Federation of Lorton Communities (FOLC) invites the Mount Vernon Council of Civic Associations (MVCCA) to join with the Federation in support of the proposed legislation introduced by Congressman Wolf and co-sponsored by Congressmen Jim Moran and Tom Davis. The Act, entitled the "Lorton Correctional Complex Closure Act", proposes to close the Lorton Correctional Complex, to prohibit the incarceration of individuals convicted of felonies under the laws of the District of Columbia in facilities of the District of Columbia Department of Corrections and for other purposes.

The FOLC, in joint meetings with the South Run Creek Coalition, et al, neither actively supports or rejects the closure of the D.C. Prison facility in Lorton. Instead, the FOLC and the communities it represents, "and who have the most direct interest in the future of the property occupied by the D.C. Prison", have two principal concerns: First, the safety of county residents during the interim period, prior to its eventual closure; and second, the future use of the property in the event the D.C. Prison facility is closed. We support the creation of a "Commission on Closure of the Lorton Correctional Complex", and its mandate to determine the future use of the land currently occupied by the D.C. Prison.

Notwithstanding our support of the Act and the Commission created by the Act, the FOLC feels strongly that there should be greater representation on the Commission by local citizens who reside in the vicinity of the prison facilities. In this regard, the FOLC, the South Run Creek Coalition, and individual HOA's have already expressed their interest in greater citizen participation to their legislative representatives and will continue to pursue this initiative more directly with Congressmen Wolf, Moran and Davis. The FOLC strongly encourages the creation of a County sponsored Land Use Task Force to advise the Commission on future development of the land in the event the D.C. Prison complex is closed.

The FOLC proposes that local communities, and the organizations that represent them, speak with a single voice in support of the proposed legislation. That is, that communities join together in determining the best interests of the community at large, and then signal our jointly developed views to appropriate elected officials and other governmental entities. Although the FOLC is the one umbrella organization most directly affected by the Act, the FOLC does not propose to be the only voice. Rather, the FOLC intends to take a leadership role in working with the other local group "the Springfield District Council", to define the issues and articulate community concerns about the future of the land currently occupied by the D.C. Prison. All of us in the Mount Vernon, Springfield and Lee Districts need to encourage County and Congressional representatives to ensure that local residents have a deciding impact on future development plans. In short, by joining together as a united community, we speak with the strongest voice possible.

ENCLOSURE 2—MOUNT VERNON COUNCIL OF CITIZENS ASSOCIATIONS

RESOLUTION—PROPOSED FEDERAL LEGISLATION TO CLOSE THE DISTRICT OF COLUMBIA PRISON IN LORTON, VIRGINIA

WHEREAS, the District of Columbia operates a prison for convicted felons on 3000 acres of Federal land in the Mount Vernon District of Fairfax County, Virginia, that was originally purchased by the United States for such purpose; and

WHEREAS, the rationale for such a complex in what was then a rural area isolated from any urban population no longer applies; and

WHEREAS, the current D.C. Department of Corrections which operates the D.C. prison has faced significant reductions in staff, increases in correctional officer vacancies, and lack of sufficient training for the remaining officers due to fiscal constraints of the D.C. Government, thereby resulting in increased risk to the surrounding communities; and

WHEREAS, prisoner escapes into the adjacent heavily-developed Fairfax County neighborhoods, coupled with recent and growing reports of deterioration in the prison complex's internal and external security programs may further increase the risk to these surrounding communities; and

WHEREAS, responding to the assistance needs of the prison represents a drain on the tax resources of Fairfax County for police, fire, and other services; and

WHEREAS, Senators Warner and Robb, and Congressmen Wolf, Moran, and Davis have introduced legislation, the "Lorton Correctional Complex Closure Act", in the U.S. Senate and U.S. House of Representatives to close the prison within six years, transfer the D.C. prisoners to Federal prisons within five years, and develop a plan within 18 months by an 11 member "Commission on Closure of the Lorton Correctional Complex" to dispose of the 3000 acres or re-use it for Federal, D.C. or other government purposes; and

WHEREAS, the 11 member Commission would have 5 from Fairfax County, 3 from Prince William County, 2 from the District of Columbia, and the Administrator from the General Services Administration; and

WHEREAS, it may be several months before the subject legislation could be passed and months later before the Federal Bureau of Prisons could take effective control of the Prison complex, and begin to correct the many internal security and perimeter maintenance problems about which County residents are currently very concerned;

NOW THEREFORE, BE IT RESOLVED that the Mount Vernon Council of Citizens Associations supports the above cited legislation and its creation of the "Commission on the Closure of the Lorton Correctional Complex", with the proviso that Fairfax County citizen representation on the Commission should be increased to a majority; and

BE IT FURTHER RESOLVED that our Federal legislators ensure through appropriate means that adequate immediate security and protection of the surrounding communities are maintained pending final closure of the Lorton Correctional Complex.

BE IT FINALLY RESOLVED that the Fairfax County Board of Supervisors establish a citizens task force as stipulated in the Fairfax County Comprehensive Plan, made up of citizens with representation from the communities surrounding the Lorton Correctional Complex to study alternative uses for the site.

ENCLOSURE 3—TOWN MEETING ON FUTURE OF D.C. PRISON IN LORTON: REQUEST FOR INFORMATION

Background

As the Board knows, the D.C. prison in Lorton has been a subject of considerable controversy and debate for far too long. Presently there are two legislative proposals being considered, one from Congressman Wolf to close the prison and move it out of Lorton, and the second; Congressman Moran's suggestion that the prison be federalized. In order to develop consensus in the Lorton community as to the future of the prison and the federal legislation certain to be introduced in the new Congress, we will hold a town meeting at the Lorton Fire Station on December 15, 1994 at 7:30 p.m. to discuss this most important subject.

In this regard, there are a number of issues and questions presented by the proposed Federal legislation to include the following:

1. If the D.C. prison were to be re-located out of Lorton, what would happen to the 3,000 acres known as the Lorton Reservation, particularly with reference to:
 - Reversion of the land to the Commonwealth of Virginia
 - The future of the mass burn facility

- The future of the ash landfill
 - The future of existing interjurisdictional agreements covering solid waste
 - The future of the sewer agreement recently negotiated with the District of Columbia
 - The ultimate use and disposition of the property including sale or alternative uses
 - The impact on our comprehensive plan for the 3,000 acres and the surrounding area.
2. If the D.C. prison were to be federalized, all of the questions listed in number 1 above need to be addressed as well as the following:
- Would the existing federal law restricting expansion of the prison apply after federalization?
 - Would existing agreements between Fairfax County and the District of Columbia be abrogated with a federal take-over?
 - Would our comprehensive plan apply to the 3,000 acres if the land is controlled by the Federal Government?

Motion

I request the Board's support for staff to review the two legislative proposals for relocating or federalizing the D.C. prison in Lorton and to prepare a review and response to the questions and issues raised herein no later than December 14, 1994 in order that we may have this information available for our town meeting.

Attachment D—December 5, 1994

FAIRFAX COUNTY, VIRGINIA—MEMORANDUM

DATE: December 14, 1994

TO: Gerald W. Hyland, Mount Vernon District Supervisor

FROM: David P. Bobzien, County Attorney

RE: Legislative Proposals for Relocating or Federalizing the D.C. Prison in Lorton

Inquiry:

At the Board of Supervisors meeting on December 5, 1994, you requested a review of two legislative proposals for relocating or federalizing the D.C. prison in Lorton. Specifically, you inquired about the impact of either proposal on the 3,000 acres known as the Lorton Reservation, particularly with reference to the reversion of land to the Commonwealth of Virginia; the future of the mass burn facility, the ash landfill, existing inter-jurisdictional agreements covering solid waste and the sewer agreement recently negotiated with the District of Columbia; the ultimate use and disposition of the property including sale or alternative uses; and the impact on Fairfax County's comprehensive plan for the 3,000 acres and the surrounding area.

If the D.C. prison were federalized, you have also inquired whether existing federal law restricting expansion of the prison would apply after federalization; whether existing agreements between Fairfax County and the District of Columbia would be abrogated; and whether the comprehensive plan would apply to the 3,000 acres if the land is controlled by the Federal Government.

Opinion:

1. The Lorton Tract will not revert to the Commonwealth because the prison is moved out or the control of the prison is transferred to the Bureau of Prisons as discussed in greater detail below.
2. Insufficient information is available to evaluate the future of existing solid waste and sewer agreements and leases for the reasons discussed below.
3. As long as the Lorton Tract is under state or federal jurisdiction for governmental purposes, the Comprehensive Plan of Fairfax County, Virginia, will not impact the redevelopment or use of the property absent a state or federal legislative mandate, respectively, that it apply or be considered.
4. The existing federal law restricting expansion of the prison is applicable to the District and would not apply if the prison were federalized.

Background:

THE MORAN PROPOSAL

On April 21, 1994, the Honorable James P. Moran introduced H.R. 4293 (the "Moran Bill"), a bill which would require the transfer of control of the Lorton Correctional Complex to the U.S. Bureau of Prisons within two years after the enactment of the legislation. The proposed bill defines the "Lorton Correctional Complex"

to include any correctional, reformatory, or related facility in Lorton, Virginia that on March 8, 1994, is under the authority, control, supervision, or management of the Department of Corrections, the mayor, or any other agency or official of the District of Columbia.

The Moran Bill is silent as to portion of the Lorton tract which is not used for correctional purposes. See discussion of alternate scenarios below. A copy of the Moran Bill is attached.

THE WOLF PROPOSAL

On October 28, 1993, the Honorable Frank R. Wolf introduced H.R. 3416 (the "Wolf Bill") to establish a commission to consider the closing and relocation of the Lorton Correctional Complex. As proposed, the Commission would be tasked with developing a comprehensive plan for closing the Lorton Correctional Complex by the year 2010 and, in the plan, identifying and recommending options for the use of the land on which the complex is located.

The Wolf Bill does not define Lorton Correctional Complex and it is not clear whether the bill refers to the entire Lorton tract or only to that portion which is used for correctional purposes. See discussion of alternate scenarios below. A copy of the Wolf Bill is attached.

THE LORTON TRACT

The federal government holds title to the approximately 3,000 acres of land which comprise the Lorton tract. The land was acquired in a series of nine acquisitions over a period of forty-three years. Since it was acquired, the Lorton tract has been controlled, managed and operated by the District of Columbia, although there is no formal lease agreement between the United States and the District—or this land. A letter dated December 19, 1986, from Assistant Attorney General John R. Bolton to the Honorable Paul Trible, which discusses the title issues in more detail, is attached hereto.

In addition to the prison and related facilities, the Lorton tract is used for other purposes, including a landfill, mass burn facility and parks. The arrangements underlying these alternate uses are discussed in more detail below.

The various parcels of land comprising the Lorton tract are held by the federal government under various forms of jurisdiction. The United States claims exclusive jurisdiction over a 1,155 acre tract acquired in 1910. Virginia claims concurrent jurisdiction over approximately 1,421 acres acquired by the United States between 1914 and 1934. The United States has only a proprietary, or ownership, interest in the remaining 422.5 acres. Except as specifically discussed herein, the type of jurisdiction exercised by the United States does not affect the future uses of the property resulting from this legislation.

Discussion:

Prior to any discussion of the impact of either of the proposed bills, we note that several different scenarios could evolve depending on the provisions of the act when finally passed.¹ Under one scenario, the prison could be relocated out of Lorton, or federalized, and the District could retain control over some or all of the remaining portion of the Lorton tract.

The type of control retained by the District would be important. For example, the United States could limit the use of the property by the District, e.g., to the existing uses of the property. If the use of the property was not limited, presumably the arrangements contemplated by D.C. Code § 1-337 would continue to apply. Section 1-337(c) authorizes the Mayor of the District of Columbia to rent any building or land belonging to the District of Columbia or under the jurisdiction of the Mayor when such building or land is not needed for the purpose for which it was acquired.

Under an alternate scenario, the United States could assume control over some or all of the remaining portion of the tract. Finally, the United States could declare the tract (or any portion thereof not needed for the prison, if federalized) as surplus property, and sell the property.² Neither legislative proposal is sufficiently developed to address these scenarios, and in fact, one of the principal purposes of the Wolf Bill is to consider options for use of the land on which the complex is located.

¹ For purposes of this memorandum, we assume that H.R. 4293 and H.R. 3416 will be reintroduced in the 104th Congress in substantially the same form.

² This memorandum does not address the possible application of the Stewart B. McKinney Homeless Assistance Act, as amended.

REVERSION TO THE COMMONWEALTH

Your first inquiry concerns the reversion of land to the Commonwealth. Our preliminary conclusion is that the land would not revert to the Commonwealth simply because the prison is moved out of the Lorton tract or the control of the prison is transferred to the Bureau of Prisons. Va. Code § 7.1-22 (Supp. 1994), which governs the reversion to the Commonwealth of right and title to lands owned by the United States if the United States ceases to own the land or if it is no longer used for its original purposes applies only in cases where the land was granted or conveyed by the Commonwealth. The United States acquired the property from private landowners, not the Commonwealth.

Va. Code § 7.1-23 (1993) also is inapplicable. That section applies to land which was conveyed to the United States with a provision in the deed that upon abandonment or use for any purpose other than stated in the deed such land shall revert to the Commonwealth of Virginia. If such land is abandoned or no longer used for the purposes for which it was conveyed, the Governor is authorized to convey such land to the political subdivision in which the land is located. Most of the land which comprises the Lorton tract was acquired by the United States by condemnation. Deeds for those parcels which were voluntarily conveyed do not contain reversionary language.

Even though title to the land would not revert automatically to the Commonwealth, the United States could voluntarily agree to convey the property to the Commonwealth or another party. In addition, the United States could also agree to relinquish jurisdiction over some or all of the land over which it asserts exclusive or concurrent jurisdiction. Va. Code § 7.1-25.1 (1993).

FUTURE OF EXISTING SOLID WASTE AND SEWER AGREEMENTS AND LEASES INVOLVING USE OF THE LORTON TRACT

The I-95 Resource Recovery, Land Reclamation and Recreation Complex (the I-95 Complex) was established on a portion of the Lorton tract by interjurisdictional agreement in 1971 to serve the solid waste disposal needs of Fairfax County, Arlington County, the City of Alexandria and the District of Columbia.

Since 1971 the landfill has been operated in accordance with memoranda of understanding among the participants. The Memorandum of Understanding dated July 1, 1981, recites a term of fifty years.

A 22.9 acre portion of the I-95 Complex was designated as the site of the mass burn facility. On March 10, 1986, Fairfax County and the District of Columbia entered into an Agreement of Lease, with a term of thirty years. Prior to the execution of this lease, the United States Department of Justice informed attorneys for the District that the United States had no objection to the proposed lease. Although the lease provides that it may be terminated by an Act of Congress, there is no provision for its termination simply due to a change in the ownership or control of the property. In 1988, the Lease was assigned by Fairfax County to the Fairfax County Solid Waste Authority.

The Area 3 Lined Landfill or, as it is more commonly known, the ashfill, which is to be used for the disposal of ash from the mass burn facility, is anticipated to open in 1995. It is not the subject of a separate agreement with the District, but is contemplated by the terms of the various memoranda of understanding referred to above.

The sewer agreement recently negotiated between the District and Fairfax County allows capacity in the County's Lower Potomac Pollution Control Plant ("LPPCP") to be made available to the District to serve the Lorton Correctional Complex. The delivery of wastewater flow from the Lorton Correctional Complex to the LPPCP requires the design and construction of a delivery system at an approximate cost of ten million dollars. The District is responsible for payment of the design and construction costs, subject to reimbursement for some of these costs from fees collected from other users who eventually connect to the delivery system. Either proposal could impact this agreement, although the extent of the impact would depend on the nature and timing of the relocation, or, in the event of a transfer, the ability of the parties to negotiate a new agreement with the transferee.

We are unable to evaluate the future of the existing uses and agreements in light of the proposed legislation. The legislation, in its current form, does not offer any guidance as to whether the District will retain control over the portions of the Lorton tract not used as a prison. Alternatively, if the United States assumed control over the tract or decided to sell the property, it is not clear whether it would do so subject to existing leases and agreements.

COMPREHENSIVE PLAN/LAND USES OF THE LORTON TRACT

The D.C. prison is presently located in Sector LP1—District of Columbia Correctional Facility Community Planning Sector of the Lower Potomac Planning District of Area IV of the Comprehensive Plan for Fairfax County, Virginia. (The applicable portions of the Comprehensive Plan, Area IV District, are attached.)

As long as the property remains under federal jurisdiction, the Comprehensive Plan can only provide a recommendation as to the use and development of the property. The Concept for Future Development "recommends that the Federal government develop or redevelop these areas only when plans are coordinated with the County and consistent with the County goals and Comprehensive Plan." (Comprehensive Plan, Area IV, p. 33).

The Comprehensive Plan contemplates the future relocation of the D.C. Department of Corrections facility and has included recommendations for the redevelopment of the site. (Comprehensive Plan, District IV, RECOMMENDATIONS, Land Use, p. 33, paragraph 2). Federal and State legislation relating to the redevelopment of the property at the time of the relocation could require that the redevelopment occur in coordination with the County and in accordance with the recommendations of the Comprehensive Plan. An example of this type of legislation applies to the Engineering Proving Grounds. The application of the Comprehensive Plan would be subject to interpretation by the Board of Supervisors, the Planning Commission, and the Office of Comprehensive Planning. However, absent a requirement in legislation relating to the redevelopment of this property by the federal government or by the Commonwealth of Virginia, these recommendations would have no legal impact on the redevelopment of the property.

The parts of the property which are currently under exclusive federal jurisdiction or concurrent jurisdiction in the federal government and the Commonwealth of Virginia are currently shown on our maps as zoned to the R-C District (Residential/Conservation District). The remaining parcels are shown as zoned to the R-1 District (Residential District, One Dwelling Unit/Acre). We would note that if for some reason current "zoning" is void because of ownership, section 2-203 of the Zoning Ordinance provides that "unzoned" land is zoned R-C. If all or a portion of the LP1 Sector is conveyed to an individual or private entity, or the property is used for a non-governmental purpose, the recommendations of the Comprehensive Plan would apply and Zoning Ordinance provisions relating to the uses in the applicable zoning districts would also apply, subject to the interpretation of the Zoning Administrator.

APPLICATION OF FEDERAL LAW RESTRICTING EXPANSION

You also inquired about the application of existing federal law restricting expansion of the prison after federalization. You are apparently referring to Senator Robb's amendment to the Violent Crime Control and Law Enforcement Act of 1994 which requires Congressional approval before the existing prison facilities at the Lorton Correctional Complex are expanded. A copy of the relevant section, Section 20410, is attached. Since the approval requirement is based on a section of the District of Columbia Self-Government and Governmental Reorganization Act, this law probably would not apply after federalization. We have not had an opportunity to review other provisions of federal law regarding expansion of prison facilities which may apply to properties under the control of the Bureau of Prisons.

STATUS OF EXISTING AGREEMENTS BETWEEN FAIRFAX COUNTY AND THE DISTRICT
RELATING TO SECURITY

Fairfax County and the District of Columbia have entered into several agreements concerning security at the Lorton facility and for the provision of police and fire services to the facility by Fairfax County. If the facility were to be closed or moved elsewhere, these agreements would no longer be necessary and would be moot. However, if the facility were federalized, the agreements between the District of Columbia and the County would not be binding on the federal operators of the facility and would have to be renegotiated with the federal government.

ATTACHMENT 1

H.R. 4293

IN THE HOUSE OF REPRESENTATIVES

APRIL 21, 1994

Mr. MORAN introduced the following bill; which was referred jointly to the Committees on the Judiciary and the District of Columbia

A BILL

To require the transfer of the control of the Lorton Correctional Complex to the Bureau of Prisons.

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

SECTION 1. TRANSFER OF CONTROL.

(a) **IN GENERAL.**—The Attorney General of the United States, acting through the Director of the Bureau of Prisons, and the District of Columbia shall enter into an agreement under which the Director shall assume control over and management of the Lorton Correctional Complex not later than two years after date of enactment.

(b) **PROVISIONS OF AGREEMENT.**—The agreement entered into pursuant to subsection (a) shall include provisions to ensure that, within two years after date of enactment—

(1) any authority possessed by the Department of Corrections of the District of Columbia on January 1, 1994, to control or manage the Lorton Correctional Complex is transferred to the Director;

(2) the Director has complete control, including the authority to make repairs, alterations, or replacements, of all buildings, facilities, and other physical property on the site of the Lorton Correctional Complex;

(3) all employees at the Lorton Correctional Complex meet the standards that the Bureau of Prisons requires of employees at similar correctional facilities; and

(4) the regulations and policies of the Bureau of Prisons—

(A) apply fully to the Lorton Correctional Complex;

(B) guide the determination of which prisoners serve their sentences at the Lorton Correctional Complex; and

(C) govern the transfer of prisoners between the Lorton Correctional Complex and other institutions.

(c) **SCHEDULE FOR AGREEMENT.**—The agreement required by subsection (a) shall be entered into not later than one hundred and eighty days after the date of the enactment of this Act.

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) The term "Director" means the Director of the Bureau of Prisons.

(2) The term "Lorton Correctional Complex" includes any correctional, reformatory, or related facility in Lorton, Virginia that on March 8, 1994, is under the authority, control, supervision, or management of the Department of Corrections, the mayor, or any other agency or official, of the District of Columbia.

(3) The Bureau of Prisons shall be reimbursed by the District of Columbia for the cost of housing prisoners from the District of Columbia at an amount not less than \$100,000,000 per fiscal year.

ATTACHMENT 2—H.R. 3416

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 28, 1993

Mr. WOLF (for himself, and Mr. BLILEY) introduced the following bill; which was referred jointly to the Committees on the District of Columbia and the Judiciary

A BILL

To establish a commission to consider the closing and relocation of the Lorton Correctional Complex.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commission on Closure and Relocation of the Lorton Correctional Complex Act".

SEC. 2. ESTABLISHMENT.

There is established a commission to be known as the Commission on Closure and Relocation of the Lorton Correctional Complex (in this Act referred to as the "Commission").

SEC. 3. DUTIES OF COMMISSION.

The Commission shall carry out the following:

(1) **COMPREHENSIVE PLAN FOR CLOSING THE LORTON CORRECTIONAL COMPLEX BY 2010.**—Because of the serious operational and safety problems at the Lorton Correctional Complex which adversely affect the inmates of the complex, employees of the District of Columbia Department of Corrections, and residents of the District of Columbia and Fairfax County, Virginia, the Commission shall develop a comprehensive plan for closing the Lorton Correctional Complex by the year 2010 and in the plan shall identify and recommend options for the use of the land on which the complex is located.

(2) **PLAN FOR NEW PRISON FACILITIES LOCATED WITHIN THE DISTRICT OF COLUMBIA.**—The Commission shall develop a comprehensive plan for the establishment of new model prison facilities within the District of Columbia to replace the Lorton Correctional Complex when it is closed in accordance with the plan developed under paragraph (1). The plan shall identify and recommend—

(A) appropriate sites for the new prison facilities,

(B) strategies for financing, including Federal funding for, the new facilities,

(C) plans for expeditiously phasing in the operations of the new facilities, and

(D) plans for ensuring that the new facilities will be models in education, vocational training, and rehabilitation of the inmates of the facilities.

(3) **STEPS FOR IMPROVING OPERATIONS AT THE LORTON CORRECTIONAL COMPLEX.**—The Commission, using existing knowledge, resources and experience, shall identify and recommend appropriate strategies for improving the effectiveness and safety of operations at the Lorton Correctional Complex before it is closed under the plan developed under paragraph (1) and the new facilities are established under the plan developed under paragraph (2).

SEC. 4. MEMBERSHIP.

(a) **NUMBER AND APPOINTMENT.**—The Commission shall be composed of 21 members appointed as follows:

(1) The Fairfax County Board of Supervisors shall appoint 9 members.

(2) The Mayor of the District of Columbia shall appoint 9 members.

(3) The President shall appoint 3 members.

(b) **REQUIREMENTS FOR CERTAIN MEMBERS.**—

(1) **MEMBERS APPOINTED BY THE FAIRFAX COUNTY BOARD OF SUPERVISORS.**—Of the members of the Commission appointed under subsection (a)(1)—

(A) at least one member shall be an individual who is a member of a local civic association in northern Virginia,

(B) at least one member shall be an employee of the Virginia Department of Corrections who is knowledgeable about the establishment of new prison facilities,

(C) at least one member shall be a member of the Fairfax County Board of Supervisors,

(D) at least one member shall be a member of a chamber of commerce in northern Virginia,

(E) at least one member shall be an employee of the Fairfax County Sheriff's Department, and

(F) at least one member shall be an employee of the Fairfax County Police Department.

(2) **MEMBERS APPOINTED BY THE MAYOR OF THE DISTRICT OF COLUMBIA.**—Of the members of the Commission appointed under subsection (a)(2)—

(A) at least one member shall be a member of a local civic association in the District of Columbia,

(B) at least one member shall be an employee of the District of Columbia Department of Corrections who is knowledgeable about the establishment of new prison facilities,

(C) at least one member shall be either the Mayor of the District of Columbia or a member of the District of Columbia City Council,

(D) at least one member shall be a member of a chamber of commerce in the District of Columbia or the Washington Board of Trade, and

(E) at least 2 members shall be employees of the District of Columbia Metropolitan Police Department.

(3) MEMBERS APPOINTED BY THE PRESIDENT.—Of the members of the Commission appointed under subsection (a)(3)—

(A) one member shall be the Director of the Bureau of Prisons, and

(B) one member shall be the Director of the National Institute of Corrections.

(c) CONTINUATION OF MEMBERSHIP.—

(1) GENERAL RULE.—Except as provided in paragraph (2), if a member was appointed to the Commission because the member was an officer or employee of any government or if member is appointed to the Commission and later becomes an officer or employee of a government, that member may continue as a member for not longer than the 30-day period beginning on the date that member ceases to be such an officer or employee or becomes such an officer or employee, as the case may be.

(2) EXCEPTION.—Service as a member of the Commission shall not be discontinued because of paragraph (1) if an individual has served as a member of the Commission for not less than 3 months.

(d) TERMS.—Each member of the Commission shall be appointed for the life of the Commission.

(e) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(f) COMPENSATION.—Members of the Commission may not receive additional pay, allowances, or benefits by reason of their service on the Commission.

(g) QUORUM.—11 members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(h) CHAIRPERSON; VICE CHAIRPERSON.—The Chairperson and Vice Chairperson of the Commission shall be elected by a majority of the members of the Commission.

SEC. 5. DIRECTOR AND STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) DIRECTOR.—The Commission shall, without regard to section 5311(b) of title 5, United States Code, have a Director who shall be appointed by the Commission and paid at the rate of basic pay payable for level III of the Executive Schedule.

(b) APPOINTMENT AND PAY OF STAFF.—The Commission may appoint personnel as it considers appropriate without regard to the provisions of title 5, United States Code, governing appointment to the competitive service. Such personnel shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates.

(c) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(d) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under section 3.

SEC. 6. POWERS OF COMMISSION.

(a) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out section 3. Upon request of the Chairperson or Vice Chairperson of the Commission, the

head of that department or agency shall furnish that information to the Commission to the extent otherwise permitted by law.

(d) **GIFTS AND DONATIONS.**—The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) **MAILS.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) **ADMINISTRATIVE SUPPORT SERVICES.**—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

SEC. 7. REPORTS.

(a) **INTERIM REPORTS.**—The Commission shall submit to the Fairfax County Board of Supervisors, the Mayor of the District of Columbia, and appropriate Committees of Congress interim reports. Such reports shall be submitted at the end of the 6th and 12th month after the date of the enactment of this Act.

(b) **FINAL REPORT.**—The Commission shall transmit a final report to the Fairfax County Board of Supervisors, the Mayor of the District of Columbia, the President, and appropriate committees of the Congress not later than 18 months after the date of the enactment of this Act. The final report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for legislation or administrative actions it considers appropriate.

SEC. 8. TERMINATION.

The Commission shall terminate 90 days after submitting its final report pursuant to section 7.

SEC. 9. AUTHORIZATION.

To carry out this Act there is authorized to be appropriated an amount not to exceed \$1,000,000.

ATTACHMENT 3

U.S. DEPARTMENT OF JUSTICE
WASHINGTON, DC 20530

December 19, 1986

Hon. Paul Trible
U.S. Senate
Washington, DC 20510

DEAR SENATOR TRIBLE: This is in response to the letter dated July 25, 1986, to the Attorney General, from you and Congressman Parris requesting that the Department determine who presently holds title to each tract of the Lorton site; the nature of the leases or other arrangements under which each tract was made available for use as a prison site by the District; and the dates on which these leases or similar arrangements will expire.

As you may know, at the request of the Fairfax County, Virginia government, a meeting was recently held between representatives of the Department and the county to discuss additional issues relating to the Lorton site. These issues, particularly those relating to jurisdiction, may be highly relevant to assessing what disposition may be made of the Lorton site. We are in the process of reviewing those issues and will inform you of the results of our analysis. Our discussion, as follows, addresses only the three questions posed in your letter of July 25, 1986, regarding legal title to the Lorton site.

In response to your first inquiry, please be advised that the United States of America holds title to all of the tracts of land underlying the Lorton Reservation, which comprises the Lorton Reformatory and the Workhouse at Occoquan situated in Fairfax County, Virginia. The cumulative land record maintained by the Department of Land Transfers, Fairfax County, Virginia, lists the United States of America as the owner of the land at Lorton Reservation.¹ Additionally, a title search of the Fairfax County Land Records shows that the United States is the legal owner of all of the Lorton tracts.²

¹The cumulative Fairfax County land record is maintained on microfiche and is accessed by parcel identification numbers shown on the Fairfax County Tax Map.

²A title search of all grantor/grantee indices from 1910 to the present day was conducted under the auspices of the office of Henry E. Hudson, United States Attorney, Eastern District of Virginia.

Four parcels of land consisting of 2,946.15 acres were acquired by condemnation.³ When the first parcel of land, the so-called "Belvoir" or "White House" tract was selected for acquisition (the 1,154 acre tract now forms the major portion of the workhouse property), the Board of Commissioners for the District had an offer from the owners of sixteenths interests therein to sell the land at the rate of \$22.00 per acre. The Commissioners were unable to obtain a contract of sale from the owner of the other one-seventh interest at that price, and were compelled, therefore, to request the institution of proceedings to condemn the site.⁴ The second parcel of land (a 1,388 acre tract which now forms a major portion of the reformatory tract), was so acquired because even though the record owner was willing to execute a contract of sale at a price proposed by the Commissioners, he was unable to convey clear title to the land.⁵ Disagreements as to price as well as title problems necessitated the institution of the condemnation proceeding in 1919 against the third parcel of land consisting of 10.09 acres.⁶ The precise reason for the condemnation in 1944 of the so-called "McElroy" tract consisting of 401.79463 acres is unknown. The five remaining parcels of land consisting of 44.6983 acres were acquired by direct purchase.⁷

That title to all of these properties was "taken directly to and in the name of the United States" comported with the clear congressional mandate to that effect. In this regard, after the first authorizing statute was passed in March, 1909, two representatives of the District's Board of Commissioners requested that the Attorney General, George W. Wickersham, advise as to whether or not the statute directed that title to the land be taken in the name of the Commissioners of the District or in the name of the United States. The Attorney General responded:

It seems to be clear from this act that the purchase is directed by Congress to be made by the Commissioners of the District of Columbia, and that the title to the land when purchased must be taken in the name of the Commissioners of the District—being a municipal corporation, a distinct entity—and not in the name of the United States. That the District is a separate and distinct municipal corporation and not a mere agency of the United States is well settled. (22 Ops. A. G., p. 55; *Metropolitan Railroad v. District of Columbia*, 132 U. S., 1; *District of Columbia v. Woodbury*, 136 U. S., 450.) In case such purchase should be made by the Commissioners of the District, they would be without exclusive jurisdiction over the land, as the cession of jurisdiction and authority to purchase, granted to the United States by the States of Maryland and Virginia, respectively, do not apply to the Commissioners of the District. (See Code of Maryland, 1904, p. 2087, sec. 26; Code of Virginia, 1904; p. 28, sec. 15.) Indeed, it may be seriously questioned whether, without special legislation in the State of Maryland or Virginia, the Commissioners of the District could lawfully hold prisoners on the lands so purchased within either of the States.⁸

The Attorney General urged that "[t]he act of Congress . . . be amended so as to require title to be taken in the name of the United States,"⁹ and proposed a bill to accomplish that result.¹⁰ The original authorizing statute was amended in August 1909.¹¹ To ensure clarity on this matter, the injunction as to the vesting of title in the United States has been expressed in each of the Lorton acquisition authorizing statutes subsequently enacted.¹²

³Title to these parcels vested in the United States of America on March 19, 1910, April 10, 1913, February 5, 1919 and August 3, 1944, as shown at Liber F-7, Pages 212-218; Liber S-7, Pages 495-505; Liber T-8, Pages 410-14; and Book 434, Pages 36-40, respectively, Fairfax County Land Records.

⁴S. Doc. No. 724, 61st Cong., 3rd Sess. 105 (1910).

⁵See Correspondence between the then United States Attorney, Eastern District of Virginia, Alexandria, and the attorneys employed to prepare and review the title abstracts, contained in the Lorton Reservation files of the Corporation Counsel, D. C. Department of Corrections.

⁶See Letter from Commissioners of the District of Columbia to the Attorney General, dated October 31, 1914, contained in the Lorton Reservation files of the Corporation Counsel, D. C. Department of Corrections.

⁷The deeds designating the United States as grantee were dated August 17, 1928, June 8, 1931, August 22, 1934, July 11, 1951, and December 2, 1953, as shown at Liber H #10, Pages 569-570; Liber X #10, Pages 323-325; Liber O #11, Page 482; Deed Book 885, Pages 302-303; Deed Book 1147, Pages 89-90, Fairfax County Land Records, respectively.

⁸H.R. Doc. No. 84, 61st Cong., 1st Sess. 1 (1909).

⁹*Id.*

¹⁰*Id.*

¹¹Act of August 5, 1909, Pub. L. No. 6, ch. 7, 36 Stat. 118, 122, amending, Act of March 3, 1909, Pub. L. No. 303, ch. 250, 35 Stat. 688, 717.

¹²Act of March 4, 1913, Pub. L. No. 435, ch. 150, 37 Stat. 938, 969-970, referencing Act of August 24, 1912, Pub. L. No. 388, ch. 391, 37 Stat. 569, 589-590; Act of July 18, 1950, Pub.

In response to your second and third inquiries, please be advised that there are no terminable leases under which the lands at Lorton were made available for use as a prison site by the District. Instead, Congress directed that the land be purchased to provide a site for the District's workhouse and reformatory. In the District Appropriation Act approved March 3, 1909, the Commissioners of the District of Columbia were authorized and directed to purchase two tracts of land, widely separated, of not less than one thousand acres each, either or both to be situated in the state of Maryland, or in the state of Virginia; one of said tracts to be used as a site for the erection of a reformatory, and the other for the erection of a workhouse, and to build necessary temporary structures on each tract. The "Belvoir" tract for the workhouse site at Occoquan was acquired pursuant to this statute in 1910.¹³ In 1913, Congress authorized the District to spend the sum of \$33,000 for the acquisition of land adjacent or contiguous to the existing workhouse site at Occoquan, Virginia, the second tract to be used for and as a reformatory by the District.¹⁴ Parcels were acquired pursuant to this statute in 1913 and 1919. No particular authorizing statutes were found for the acquisitions by deed in 1928, 1931 and 1934. However, these parcels constitute part of the reformatory site at Lorton; therefore, they were probably acquired under the continuing authority of the 1913 Act. Authorizing statutes similar to the 1913 Act were passed by Congress in 1950 and 1952, and conveyances were made pursuant to these statutes in 1951 and 1953.¹⁵

Therefore, based upon an examination of the deed records and other available data, title to each tract of the Lorton site is vested in the United States of America. None of the tracts was leased to the District of Columbia for use as a prison site. Instead, the tracts are so used by the District because Congress directed that the land be purchased for this purpose. Notwithstanding this opinion as to legal title, further inquiry is necessary as to the feasibility of the United States conveying ownership of the lands to the Commonwealth of Virginia. The interests of the District of Columbia in the site raise several complex questions that must be answered before such a transfer could be accomplished.¹⁶ As noted above, we are reviewing this aspect of the matter now.

I hope this information is responsive to your inquiry. If you have additional questions regarding this subject, please let me know.
Sincerely,

JOHN R. BOLTON,
Assistant Attorney General.

L. No. 616, ch. 467, 64 Stat. 347, 358; Act of July 5, 1952. Pub. L. No. 452, ch. 575, 66 Stat. 352, 382.

¹³ An account of the site selection process by the District's Commissioners is set forth in S. Doc. No. 724, *supra*, at 2.

¹⁴ Act of March 4, 1913, *supra*. The requirement in the 1909 act that the tracts be "widely separated" was repealed.

¹⁵ Acts of July 18, 1950 and July 5, 1952, *supra*.

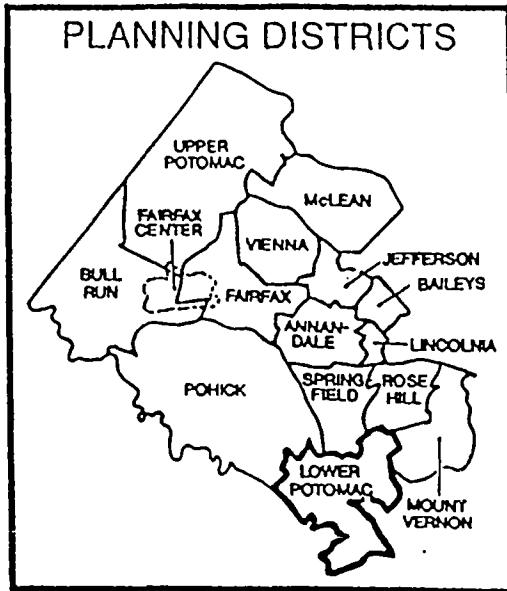
¹⁶ See, e.g., *United States v. District of Columbia*, 788 F.2d 239 (4th Cir. 1986).

ATTACHMENT 4

**LOWER POTOMAC
PLANNING DISTRICT**

Consisting of:

- LP1 - D.C. Correctional Facility Community Planning Sector
- LP2 - Lorton-South Route 1 Community Planning Sector
- LP3 - Mason Neck Community Planning Sector
- LP4 - Fort Belvoir Community Planning Sector



A large low density residential area, known as Mason Neck, is planned and located generally east of Old Colchester Road bordered by Fort Belvoir to the north-east; Pohick Bay, Gunston Cove, and the Potomac River to the east and south; and Occoquan Bay, Belmont Bay, Massey Creek, Occoquan River and the Prince William/Fairfax County line to the south.

MAJOR OBJECTIVES

Planning objectives in the Lower Potomac Planning District are:

- Create a focal point of development or Town Center which includes retail businesses office uses, cultural facilities and community services and establishes a strong "sense of place" and positive image for the Lorton-South Route 1 area;
- Preserve stable residential areas through infill development of a character and intensity or density that is compatible with existing residential uses;
- Limit commercial encroachment into residential neighborhoods and establish a clearly defined "edge" between commercial and residential areas;
- Encourage pedestrian access to retail and mixed-use areas;
- Encourage the creation of additional parks, open space and recreation areas and acquisition of additional acreage in environmentally sensitive areas as part of the Environmental Quality Corridor program;
- Preserve significant heritage resources; and
- Provide adequate buffering and screening and appropriate transitional land uses between residential areas and non-residential uses.

Urban Design Objectives for the Route 1 Corridor

Five urban design objectives are identified for the Route 1 Corridor to implement the overall goal of improving the visual image and efficiency of the Route 1 Corridor. In addition, corresponding urban design guidelines are found after the Plan text on the Fort Belvoir (LP4) Community Planning Sector. These objectives are intended to:

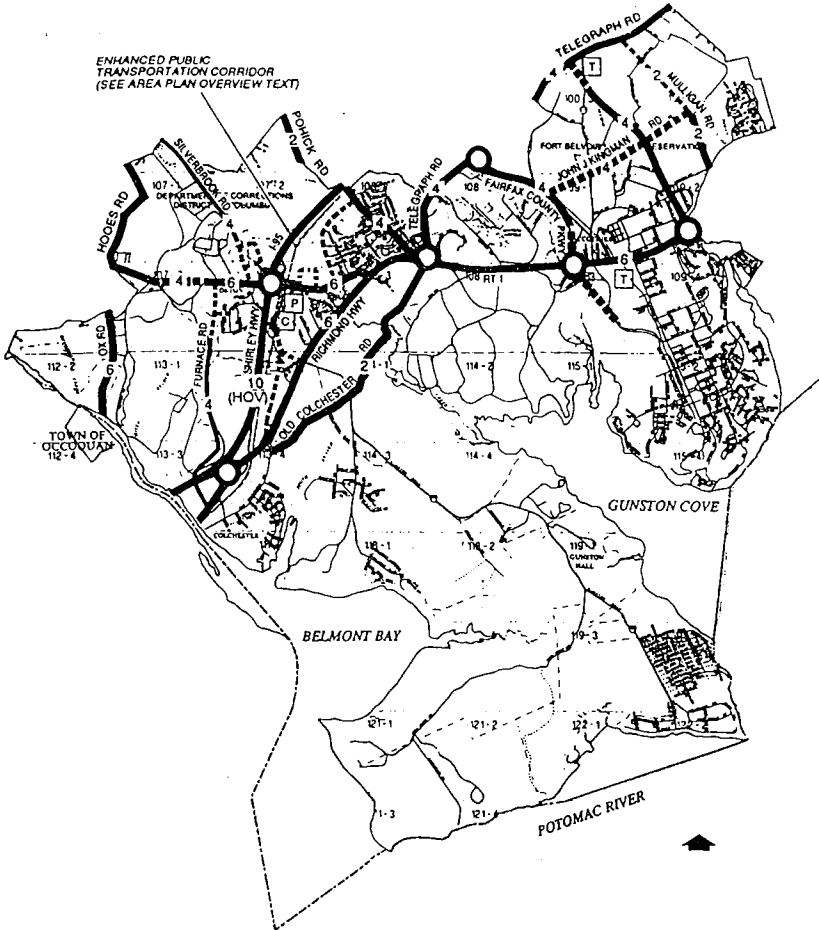
- Establish Visual Continuity—Provide a uniform right-of-way and a consistent or compatible highway edge treatment to create a unified, attractive visual appearance along the Corridor. Place utilities underground in conjunction with all public and private development projects being carried out along the Route 1 Corridor. Place emphasis on signage, landscaping, intersection and service drive definition.
- Provide User Orientation—Provide a sense of orientation through the use of landmarks, public facilities, open space and design centers. Improve street and transportation identification to orient shoppers and visitors within the Corridor.
- Establish a Clear Corridor Image—Develop two well-defined vehicular entry point "gateways" to the Corridor at the Occoquan River and the Capital Beltway to establish a strong overall image and help define the Corridor.
- Improve Access and Functional Amenities—Visually improve pedestrian and vehicular traffic systems to enhance intersections, reduce curb cuts, and provide better signage and access to commercial facilities and adjacent, non-commercial uses.
- Reduce Impact on Adjacent Residential Communities—Mitigate adverse impacts of commercial activity such as noise, glare and incompatible building forms on adjacent residential and non-commercial uses by effective buffering and screening and by designing buildings of appropriate scale and height.

DISTRICT-WIDE RECOMMENDATIONS

Transportation

Travel within and through the Lower Potomac Planning District is affected by land uses and transportation facilities in adjacent districts, as well as throughout the Northern Virginia region. Therefore, the transportation network affecting the District is comprised of several elements, many of which relate to more extensive countywide facilities, services, and policies. The arterial and major collector roadways affecting the District are shown on Figure 5. Other countywide transportation elements are also depicted.

Within the discussion for each sector of the Planning District, a sector map depicting the Transportation Plan recommendations in that sector is provided. More detail is provided on these sector maps than on the planning district map. The additional detail may relate to more local transportation issues that are difficult to present at the planning district scale. In some cases, such as interchange areas, a portion of the sector map has been enlarged so that the transportation recommendations are clearly identified. These enlargements of the sectors may also include guidance regarding the provision of access to selected land areas.









REFER TO THE TRANSPORTATION MAPS RECOMMENDATIONS LEGEND WHICH APPEARS ON THE ADJACENT PAGE.

FAIRFAX COUNTY	COUNTYWIDE TRANSPORTATION RECOMMENDATIONS LOWER POTOMAC PLANNING DISTRICT (SEE SECTOR MAPS FOR DETAILED TRANSPORTATION RECOMMENDATIONS)	FIGURE 5
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TRANSPORTATION RECOMMENDATIONS LEGEND






● ROAD AND HIGHWAY FACILITIES

ARTERIAL	COLLECTOR LOCAL	
		WIDEN OR IMPROVE EXISTING ROADWAY
		CONSTRUCT ROADWAY ON NEW LOCATION
2 4 6 8		TOTAL NUMBER OF LANES, INCLUDING HOV LANES (COLLECTOR/LOCAL CROSS SECTIONS TO BE FINALIZED DURING PROCESS OF REVIEWING PLANS FOR PROPOSED DEVELOPMENT.)
		CONSTRUCT GRADE-SEPARATED INTERCHANGE OR INTERCHANGE IMPROVEMENTS.
		PROVIDE PRIMARY SITE/AREA ACCESS IN LOCATION(S) SHOWN. SEE SITE ACCESS DISCUSSION IN AREA PLAN OVERVIEW TEXT.

NOTE: IMPROVEMENTS TO ARTERIAL FACILITIES SUBJECT TO COMPLETION OF CORRIDOR STUDIES. SEE DISCUSSION IN AREA PLAN OVERVIEW TEXT. FINAL ALIGNMENTS SUBJECT TO COMPLETION OF APPROPRIATE ENGINEERING STUDIES.

HOV LANES TO BE CONSIDERED IN PROJECT DEVELOPMENT. HOV LANES TO BE PROVIDED IF WARRANTED BASED ON DEMAND FORECASTS AND CORRIDOR STUDY.

● PUBLIC TRANSPORTATION FACILITIES (SEE PLAN OVERVIEW TEXT)

-  TRANSIT TRANSFER CENTER (NO PARKING)
-  RAIL STATION
-  COMMUTER PARKING LOT
-  COMMUTER RAIL STATION
-  METRO STATION

TRANSPORTATION GOALS FOR THE ROUTE 1 CORRIDOR

The following goals are intended to guide general transportation decisions in the Route 1 Corridor:

- Route 1 needs extensive improvements to accomplish the goals of (1) providing improved traffic circulation and increased traffic safety during both peak and non-peak hours; (2) maximizing the use of existing highway facilities to move people and goods more efficiently; (3) implementing a firm policy concerning service roads along Route 1, with clear design standards for their development; (4) promoting the increased usage of ridesharing and public transportation to reduce reliance on automobiles; and (5) minimizing the impact of highway widenings, new roadway alignments, and new development projects on adjacent residential communities and the ecology of the district.

The following changes are recommended for accomplishment within the next twenty years. The changes are listed in order of their importance. Priorities for implementation should be consistent with the importance of the improvement, ease of accomplishment, and availability of funds.

- Access to/from the City of Alexandria—Widen Route 1 to six travel lanes plus acceleration/deceleration lanes from Fort Hunt Road to Franklin Street in Alexandria, in order to alleviate the present bottleneck into and out of Alexandria. This improvement is essential to the long-term benefit of other proposals for widening Route 1, improving Fort Hunt Road, and implementing HOV lanes south of this point.

- Service Roads—Develop and implement a Service Road Design Plan and Map for Route 1 between the Capital Beltway and the Occoquan River. In developing the Service Road Design Plan, consider the desirability of one-way versus two-way service roads. Develop a Service Road Design Plan which provides for construction of the remaining section of service road where needed to serve commercial and residential development and elimination of perpendicular curb cuts to reduce marginal friction for through traffic, construction of slip ramps between intersections, signalization, and turn prohibitions. Construct service roads which intersect cross streets as far back from the main roadway on Route 1 as practical, and connect directly with Route 1 at intersections. Until such a Service Road Design Plan is adopted, all development or redevelopment of properties fronting on Route 1 should provide or should dedicate land for a service road, with appropriate setback of the service road from the main roadway at signalized intersections.

- Public Transportation—Establish regular shuttle bus service along Route 1 between the Huntington Metro station and the Lorton Commuter rail station, to serve the needs of residents and businesses in the vicinity of Route 1. Provide paved, pull-off bus loading areas separate from the travel way, and paved and covered waiting areas within the public right-of-way along the length of Route 1. Evaluate the long-term feasibility of using the median along Route 1 for development of a people mover or light rail mass transit system.

- Route 1 Widening and Access—Widen to six travel lanes from the Buckman Road/Route 235 intersection to the Prince William County line. Limit access to the Route 1 main roadway between the Capital Beltway and the Occoquan River to signalized intersections, grade-separated interchanges, and slip ramps from service roads to the maximum extent possible. Where necessary, realign intersecting streets to eliminate offset and angled intersections with Route 1.

- Pedestrian/Bicyclist Services—Provide trails within the public right-of-way along the length of Route 1. Provide sidewalk access to the Route 1 main roadway between the Capital Beltway and the Occoquan River, where needed, to serve adjacent residential and commercial development. Provide adequately marked and appropriately controlled crosswalks to encourage pedestrian/bicyclist movement and assure pedestrian/bicyclist safety.

- Traffic Signalization—Connect all traffic signals to a centrally controlled and performance monitored computer system. Minimize the addition of new traffic signals at any intersection currently without signals and encourage other alternatives for handling access to the main roadway on Route 1. When new traffic signals are installed, consider the consolidation of existing traffic signals. Prohibit left hand turns onto and off of unprotected Route 1 intersections.

- High Occupancy Vehicle (HOV) Lanes—Utilize the curb lanes along Route 1 as HOV lanes for buses, carpools and vanpools during the AM and PM peak hours. Consider, however, HOV operation only if it can be accomplished without adding more travel lanes, because widening the highway from six to eight lanes would be too disruptive to existing commercial and residential development. Implement the first phase of HOV operation from Fort Hunt Road to Buckman Road/Route 235 North in coordination with the widening of Route 1 over the Capital Beltway and

the implementation of a Service Road Design Plan. Identify locations for commuter parking lots.

- **Reversible Lanes**—Use reversible lanes to handle peak hour traffic flows south of Fort Belvoir and study the feasibility of reversible lanes on the remainder of Route 1.

- **Interchanges**—Construct grade-separated interchanges to accommodate major turning movements onto and off of Route 1 only where such interchanges will not adversely impact on adjacent commercial or residential development and/or historic areas. Consider such interchanges, when constructed, on a north/south priority after the Fairfax County Parkway interchange is constructed.

- **Funding Mechanism**—In order to pay for the transportation improvements needed to support new development and redevelopment, create an impact fee, contribution formula, a special tax district or other mechanism to assess fees on any new commercial and residential projects along the Route 1 Corridor that involve an increase in density from present levels. South of Fort Belvoir, the creation of any funding mechanism should be coordinated with, or folded into, any Lorton Area Funding Plan being considered or adopted for that area. Develop standard formulas based upon formulas used elsewhere in Fairfax County.

Housing

A list of existing, under construction, and proposed assisted housing for the Lower Potomac Planning District is shown on Figure 6. Assisted housing includes programs which limit the amount of rent and/or the eligibility of occupants based on income. The following programs are included as assisted housing:

- Housing units owned by the Fairfax County Redevelopment and Housing Authority (FCRHA) and managed by the Department of Housing and Community Development under the Federal Public Housing program or the locally funded Fairfax County Rental Program;

- Housing units owned by the FCRHA and leased to the Fairfax-Falls Church Community Services Board for use as group homes or to nonprofit groups for emergency housing. Also, privately owned group homes assisted by grants or loans from the County's Community Development Block Grant or Housing Trust Fund;

- Federal Section 8 project based rent subsidy units;

- Units subsidized under Federal mortgage subsidy programs including Section 202, Section 221(d)(3), Section 235 or Section 236. These units may be publicly owned but most are owned by private or nonprofit entities;

- Industrial Development Bond (IDB) units which were subsidized with financing from the FCRHA where a portion of the units must have reduced rents for tenants who meet income eligibility requirements;

- Private Rental program units which have similar restrictions to the IDB subsidized units as a result of zoning proffers, but where no special financing or direct subsidies are received;

- Nonprofit rental units, owned by private entities, which were assisted with loans or grants from the Community Development Block Grant or Housing Trust Fund; and

- Moderate Income Direct Sales (MIDS) program units which are for sale to income-eligible first time home buyers with financial assistance provided in return for control of the re-sale price of the home.

Some developments are limited to occupancy by elderly or handicapped persons. In many cases the assisted units represent only a portion of a larger development. Only the number of assisted units is included on the Figure. Also, the housing listed as part of the Section 8 program is that where the Section 8 rent subsidy is tied to specific housing units (project based). Housing where eligible tenants are receiving assistance through the Section 8 rental certificate or voucher program or where the subsidy transfers with the tenant is not listed since the units change continuously as tenants move. Finally, for some proposed developments where a zoning proffer requires the provision of low and/or moderate income housing, but no specific program (such as MIDS) is identified in the proffer, the type of program is listed as Unknown.

Environment

The Lower Potomac Planning District is located within several major watersheds. The stream valleys and floodplains of Accotink Creek, Pohick Creek, Mill Branch, Kane Creek, and High Point watersheds lace the area. The district is bordered by the Potomac River, and associated tidal wetlands and estuaries are found in Accotink Bay, Pohick Bay, Massey Creek, Kane Creek, Thompson Creek and along the southern edge of Mason Neck.

Because of its location in the Coastal Plain geologic province, part of the district (Sectors LP1 and LP2) is in a sensitive aquifer recharge zone. Most of the district lies in an area of slippage-prone swelling clays, and soils are only marginal or poor for septic tanks. The western edge of the district is located in the Piedmont geologic province. Soils in the Piedmont have a high erodibility potential.

Figure 6.—Lower Potomac Planning District Assisted Housing

(Occupied or under construction, as of December 31, 1990)

Location	Plan- ning Sector	No. of As- sisted Units	Type of Program
Washington Square, Pohick Road	LP2	10	MIDS
Sheffield Village, Sheffield Village Lane	LP2	11	8 Public Housing, 3 MIDS
Woods of Fairfax II, Lorton Road and Route 1	LP2	60	Section 8 and IDB Financing
Fairfax Affordable Housing	LP2	6 *	Nonprofit Rental

* Scattered sites.

Accotink Creek, Pohick Creek, Giles Run, and Mason Neck Environmental Quality Corridors are found in the Lower Potomac Planning District. Open space in the district includes the floodplains, stream influence zones, and tidal wetlands associated with major water courses, including the Potomac River. Large portions of Mason Neck are held in public ownership and serve to protect the endangered southern bald eagles of the area as well as many species of fauna and flora. In addition, there are smaller areas of dense vegetation with diverse animal communities that merit protection. The open space network also includes a number of historic sites and resources identified in a survey by residents.

Heritage Resources

The Lower Potomac Planning District contains both known and potential heritage resources. A list of those heritage resources included on Fairfax County's Inventory of Historic Sites as of March 1991 is shown on Figure 7. The Inventory is open-ended and continues to grow. For information about these and other Historic sites, consult the Fairfax County Heritage Resources Office.

Other heritage resources including those protected by Historic Overlay Districts, or listed on the National Register of Historic Places or Virginia Landmarks Register are also shown on Figure 7, and may be identified in the text and recommendations section.

The Fairfax County Inventory of Historic Sites, the National Register of Historic Places, the Virginia Landmarks Register and the County's Historic Overlay Districts promote the recognition of architecturally or historically significant property. Designation confers public recognition and can offer incentives for preservation to the property owner.

The County Inventory of Historic Sites includes properties which meet certain eligibility criteria and are officially designated by the County's History Commission. In addition to architectural or historic significance, property that serves as a focus of community identity and pride may also be recognized. The benefits of designation include public recognition of the structure's significance and enhanced support for preservation. Owners of properties included in the Inventory may meet with the County's Architectural Review Board on a voluntary basis to review proposed changes to their properties. Designation does not preclude demolition.

The Virginia Landmarks Register and National Register of Historic Places also officially recognize properties meeting appropriate criteria. Like the County inventory, recognition does not prohibit demolition. Inclusion on the respective register does, however, require that any State or Federally funded or sanctioned action that would have an adverse effect on a listed property be reviewed by the appropriate State or Federal preservation agency.

The Historic Overlay District is a zoning tool used to regulate proposed new construction and changes to existing structures in areas containing heritage resources to ensure compatibility with the resources. Site design, facades, demolition, and building materials must be reviewed and approved by the County's Architectural Review Board.

The earliest known political capital of Fairfax County, the 1608 Dogue Indian Village of Tausenent, was located along the north shore of the lower Occoquan River, possibly near the Town of Colchester. The identification, investigation, and preservation of this resource are essential elements of the County's Heritage Resource Management Policy.

The Lower Potomac Planning District contains some of the better preserved Indian sites covering the last 8,500 years. Of particular importance are the areas adjacent to the Potomac River and nearby bays. Interior watersheds, particularly along lower Accotink, Pohick and Kane Creeks, contain other important resources.

During the 1600s, the first permanent non-Indian settlements in the County were most likely established in this district. The relatively undeveloped nature of much of the district has helped preserve important evidence of all periods of the area's history. Undeveloped areas in the district have the potential for important heritage resources.

Figure 7.—Inventory of Historic Sites, Lower Potomac Planning District

Name	Address	Parcel No.	Date
Arch Hall	10814 Belmont Bay, Lorton	117-2((1))17	c. 1790 + 1940
Belmont (Cocke-Washington House)	10913 Belmont Boulevard, Lorton	118-1((2))126	c. 1730
Belvoir Ruins N.V.	Fort Belvoir	115-2((1))1	c. 1741
Colchester Town Archaeological Site	Old Colchester Road, Colchester	113-3	1753
Cranford Memorial Methodist Church	9912 Old Colchester Road, Lorton	114-1((1))1	1900
Fairfax Arms N.V. (Colchester Inn)	10712 Old Colchester Road, Lorton	113-3((1))25	c. 1760
Gunston Hall N.V.	10709 Gunston Road, Lorton	119-1((1))1	1755-58
Indian Spring Farm	9829 Gunston Road, Lorton	113-2((1))11A	c. 1810
LaGrange *	9501 Old Colchester Road, Lorton	108-3((1))21	c. 1867
Laurel Hill	D.C. Correctional Facility, Lorton	106-4((1))54	c. 1766
Lebanon	10301 Gunston Road, Lorton	114-1((1))16	c. 1850 + 1942
Mason Boundary Stone (A)	10809 Harley Road, Lorton	118-2((1))5	1783
Mason Boundary Stone (B)	10816 Harley Road, Lorton	118-2((1))6	1783
Metzger House	10720 Old Colchester Road, Lorton	113-3((1))27	1759 + c. 1920
Occoquan Iron Bridge *	Rt. 123 & Occoquan River, Occoquan	112-2((1))4	1878
Overlook (Benvenue)	10711 Gunston Road, Lorton	119-1((1))2	c. 1850
Pohick Church N.V., H	9315 Richmond Highway, Lorton	108-1((1))27	1769-1774
Springfield-Cockburn	10650 Gunston Road, Lorton	114-4((3))01-1	
Woodlawn Friends Meeting House H	Franklin Road, Fort Belvoir	109-2((1))38	c. 1853

* Indicates demolition: potential remains for archaeological site.

N National Register of Historic Places

V Virginia Landmarks Register

The major heritage resource preservation guidelines for the Lower Potomac Planning District are:

- Consider heritage resources at the earliest planning stages of development;
- Continue dedication of undeveloped land as open space (e.g., environmental quality corridors, Agricultural and Forestal Districts, parks) to preserve important heritage resources and maintain visual and cultural evidence of the County's past; and
- Preserve significant resources.

Public Facilities

Existing public facilities located within the Lower Potomac Planning District and those for which a future need has already been identified are included on Figure 8. Major expansions of existing facilities (with the exception of Federal or State facilities) or uses of land that are distinctly different than the use of the public facility must be considered by the County Planning Commission through provisions outlined in Section 15.1-456 of the Code of Virginia. For these existing facilities minor expansions which are in keeping with the character of the facility may be considered in conformance with the Plan.

A number of public facilities has been identified as future needs in this planning district. These projects are included for informational purposes and in most cases will require a 456 Review public hearing before the County Planning Commission prior to being established. Those facilities for which a specific location for future construction has been identified are also listed in the sector recommendations and are considered a feature and concurrence by the Planning Commission. If such feature shown determination is made, these projects will not require a future 456 Review public hearing. The following public facilities are identified as future needs in the Lower Potomac Planning District.

1. In order to meet the growing need for public utilities, additional electrical substations and transmission lines will be required by Virginia Power in Sectors LP1 and LP2.
2. Locate an electrical sub-station by Virginia Power on Parcel 107-2((1))8 in Sector LP2.

3. Construct a methane electric generator facility at the I-95 Landfill in Sector LP1.

4. Locate a senior center and offices of County support agencies providing services to the elderly and relocate the Lorton Community Action Center to be part of the senior center on Parcel 107-4((1))34 in Sector LP2.

5. Locate a permanent site for the South County's Visitors Center, which is currently in leased space.

6. Assess the need for a police station in the vicinity of the Lorton Fire Station in Sector LP2 to serve the southeastern part of the County.

7. Extend the Integrated Sewer Service Area only to the area recommended in Sector LP2.

8. Locate County offices responsible for environmental monitoring and zoning enforcement in Sector LP2.

Parks and Recreation

Public parks located within the Lower Potomac Planning District are listed on Figure 9. Additional recreational facilities are provided at County public school sites. The Lower Potomac Planning District contains major parklands encompassing nationally significant natural and cultural resources and providing diversified recreational opportunities.

Figure 8.—Lower Potomac Planning District, Existing Public Facilities

Schools	Libraries	Public Safety	Human Resources	Public Utilities	Other Public Utilities
LP1:					
				FCWA Water Treatment Plant, I-95 Landfill, I-95 Resource Recovery Facility, Recycling Drop-off.	D.C. Department of Corrections *
LP2:					
Lorton Admin. Center.	Lorton Community.	Lorton Fire Station Co. 19.	Lorton Community Action.	Lower Potomac Pollution Control Plant.	Lorton P.O. *
LP3:					
Gunston Elementary.		Gunston Fire Station Co. 20.			
LP4:					
Markham, * Cheney * and Barden * Elementary Schools.		Ft. Belvoir Fire Station, * Davison Crash and Rescue Station, * Ft. Belvoir Military Police Station *.	Eleanor U. Kennedy Shelter for the Homeless.	Va. Power Belvoir Substation, Sewage Pumping Station.	Dewitt Army Hospital, * Ft. Belvoir P.O. *

* Federal and State facilities are not subject to the 456 Review process.

Figure 9.—Lower Potomac Planning District, Existing Public Parks

Neighborhood	Community	Countywide	Regional	State/Federal
LP1:				
		South Run S.V.	Occoquan.	
LP2:				
Lorton	Mason Neck West	Accotink S.V.		
Southgate	Pohick Estates	Pohick S.V.		
LP3:				
		Pohick S.V.	Pohick Bay, Mason Neck.	Mason Neck State Park, Mason Neck Wildlife Refuge (USFWS)
LP4:				
		Accotink S.V., Dogue S.V., Pohick S.V.		Jackson Niles Abbott Wetlands Wildlife Refuge (USA), Accotink Bay Wildlife Refuge (USA)

Federal, State and Regional agencies all have holdings concentrated in Mason Neck. The Mason Neck National Wildlife Refuge, State Park and Regional Park Authority land holdings on the southern and western portions of the peninsula are primarily managed for the protection of critical wildlife habitats and wetlands, with public recreation as a secondary use.

The Fairfax County Park Authority is responsible for upstream public parklands in the Pohick, Accotink, Dogue Creek and South Run Stream Valleys in addition to four smaller parks intended to serve local residents.

Pohick Bay Regional Park on Gunston Cove offers a variety of water-oriented and other developed recreational facilities which attract users from the entire Northern Virginia and Washington D. C. areas.

A combination of land acquisition methods including dedication, donation of conservation, trail and scenic easements, and purchase should be pursued to provide continuity of bicycle and pedestrian public access to link the significant park and recreation resources of the Planning District. Preservation easements should also be sought for selected sites. Local, Regional, State and Federal governmental agencies should coordinate their resource management planning to ensure maximum protection of natural resources.

There is also an unmet demand for additional active recreation facilities, especially athletic fields, to serve local residents.

LP1 DISTRICT OF COLUMBIA CORRECTIONAL FACILITY—COMMUNITY PLANNING SECTOR

CHARACTER

Sector LP1 contains approximately 3,200 acres. It is generally bounded by the Occoquan River to the south and the D.C. Department of Corrections property lines to the north, east and west.

Most of the area in the sector is utilized by the D.C. Department of Corrections. Besides the correctional facility, the D.C. Department of Corrections property contains the I-95 Landfill and the Energy/Resource Recovery Facility. Other land uses in the sector include an active rock quarry, the Fairfax County Water Authority Occoquan Water Treatment Facility and the Occoquan Regional Park.

Ox Road, Lorton Road, Furnace Road, Silverbrook Road, and Hooes Road are the major roads traversing Sector LP1. Other roads are private roads associated with the D.C. Correctional Facility. The D.C. City Council has stated its intention to build a perimeter road around the prison to improve security.

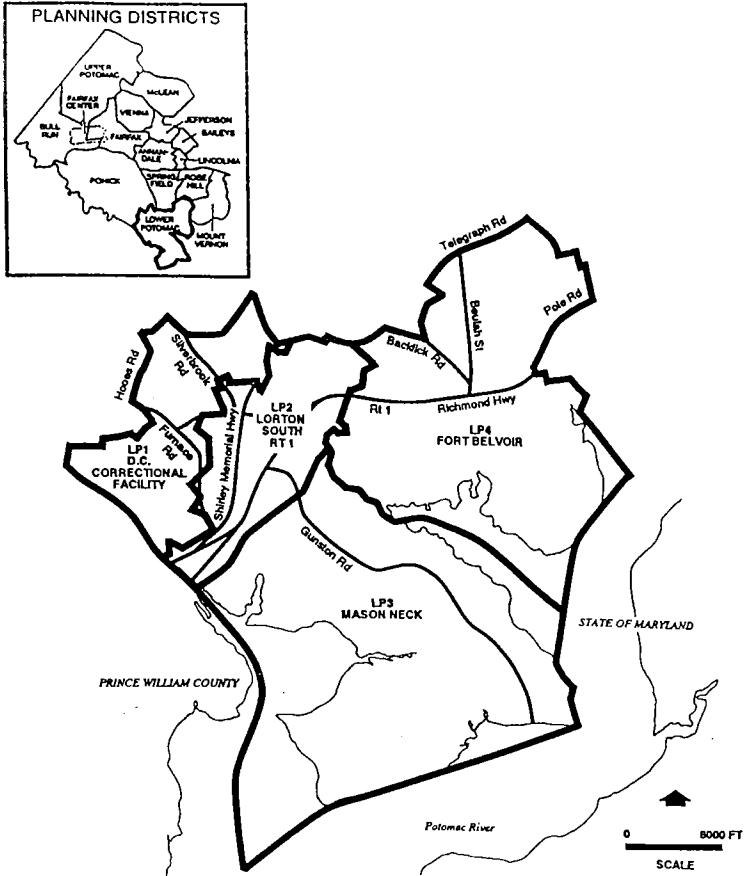
Fire and Rescue services to Sector LP1 have been provided by the Lorton station, Company #19, and in the future may be based on a contractual agreement between Fairfax County and the District of Columbia.

Particularly significant heritage resources are located along the north bank of the Occoquan River and Reservoir and can be expected in the area northeast of Silverbrook Road. Similar quality resources can be expected in undisturbed areas in the southeastern portion of the sector, northeast of the Occoquan River.

Heritage resources located on the D.C. Department of Corrections site are protected by the National Historic Preservation Act and appropriate implementing Federal regulations.

CONCEPT FOR FUTURE DEVELOPMENT

The D.C. Correctional Facility Community Planning Sector is defined in the Concept for Future Development as a Large Institutional Land Area. The boundaries of the designation of the Large Institutional Land Area are coincidental with the planning sector boundaries. The Concept recommends that the Federal government develop or redevelop these areas only when plans are coordinated with the County and consistent with the County goals and the Comprehensive Plan.



FAIRFAX COUNTY	COMMUNITY PLANNING SECTORS LOWER POTOMAC PLANNING DISTRICT	FIGURE 10
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RECOMMENDATIONS

Figure 11 indicates the geographic location of land use recommendations for this sector. Where recommendations are not shown on the General Locator Map, it is so noted.

1. Any development within the I-95 and Ox Road corridors along the southern boundary to Fairfax County should contribute to an attractive "Gateway to Fairfax County." All future development should be located, designed, accessed, buffered, and screened, where necessary, to help further the attainment of the "gateway" concept. Well-designed private and public development should be sought and encouraged. Special emphasis should be placed on preserving or restoring landscaped or natural treed open space along major roadways. [Not shown]

2. If, in the future, the D.C. Department of Corrections facility is relocated and the site is available for redevelopment, a citizens' task force with representation from the adjacent community should be established to work with the County to study alternative uses for this site. The re-use of the site should be planned as a unit. Development or redevelopment of the site should provide a planned mixed-use residential, educational, employment, recreational community with a variety of housing and employment opportunities, sufficient off-site transportation improvements including mass transportation to insure a zero or minimal transportation impact on the adjacent region (including primary arteries, but in any event, creating an impact no worse than Level of Service D) environmental safeguards, sufficient recreation, and significant participation by the adjacent community in further development planning and implementation. Efforts should be made to secure dedication to the county's open space system for land which is owned by the Federal government that is at a distance of approximately 500 feet from the edge of privately held parcels. Additionally, in any development proposal, adequate transportation and public facilities improvements, recreation and open space must be provided, and sensitivity to the environment ensured. [Not shown]

3. The I-95 Energy/Resource Recovery Facility is located in this community planning sector. Also located in proximity to this sector are a primary source of water, and one of the more fragile wildlife sanctuaries on the eastern coast, the bald eagle refuge on Mason Neck. The county should continue to monitor the facility to ensure the highest feasible level of toxic pollutant removal using proven technology. The project should provide for continuous monitoring of technology updates on:

- The use of scrubbers, filters, and similar physical means to remove ash particulates and solid pollutants from the stack prior to discharge into the environment.
- State-of-the-art stack monitoring equipment to detect excessive levels of any toxic pollutants prior to their discharge.
- Physical separation of certain materials such as paper, heavy metals and polychlorinated vinyl from the waste stream prior to combustion.
- The means to maintain optimal temperatures and pressures throughout the combustion process.

The results of such monitoring should be periodically reported to the Board of Supervisors for further action.

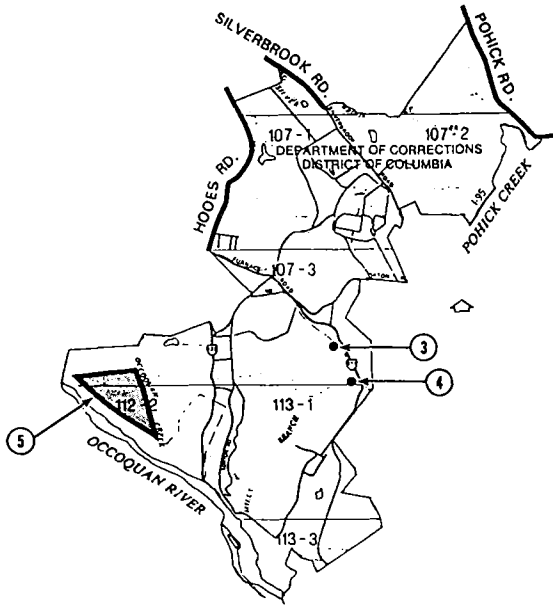
Traffic volumes should not exceed acceptable levels of service. Methods to effectively mitigate traffic impacts should include emphasizing off-peak use of the facility and providing for appropriate roadway improvements in the area. In order to maximize the aesthetic value of the facility, landscaping should be provided and maintained on the site.

4. The County is encouraged to construct and lease a convenience food store/delicatessen at the entrance of the I-95 Landfill provided such a facility is determined to be economically feasible. The use would be intended to serve employees and users of the I-95 Landfill and minimize vehicle trips resulting from travel to similar establishments in the surrounding area.

5. If extraction continues to be permitted on the property west of Ox Road near the Occoquan River (presently the Vulcan Quarry), extraction should be predicated on the assumption that severe slopes, especially adjacent to swales and streams, will not be disturbed so as to pose a direct threat to stream water quality. Consequently, limits of clearing for proposed extraction sites should not encroach on severe slopes in such a manner as to render impossible sediment control and/or visual buffering for nearby residents. Further, sediment control measures should be adequate to control sheel, rill, or gully erosion in conformance with the guidelines of the County sediment and erosion control inspectors and/or ordinance, whichever measures are more stringent. A natural buffer of at least one hundred feet along the southwest line of the property parallel to the Occoquan Creek should be maintained.

Within six months of final fill grade, or as soon thereafter as possible, the visual berm areas along the southwesterly property line, the northwest and southern corners of the property and at the creek entrance to the property along the northern property line should be planted. The plantings should consist of ground cover and evergreen trees. Upon completion of operations, the land should be left in a safe and stabilized condition so that the area can be developed for public park or private recreation uses as shown on the Comprehensive Plan map.

**LP1
D.C. CORRECTIONAL FACILITY
COMMUNITY PLANNING SECTOR**



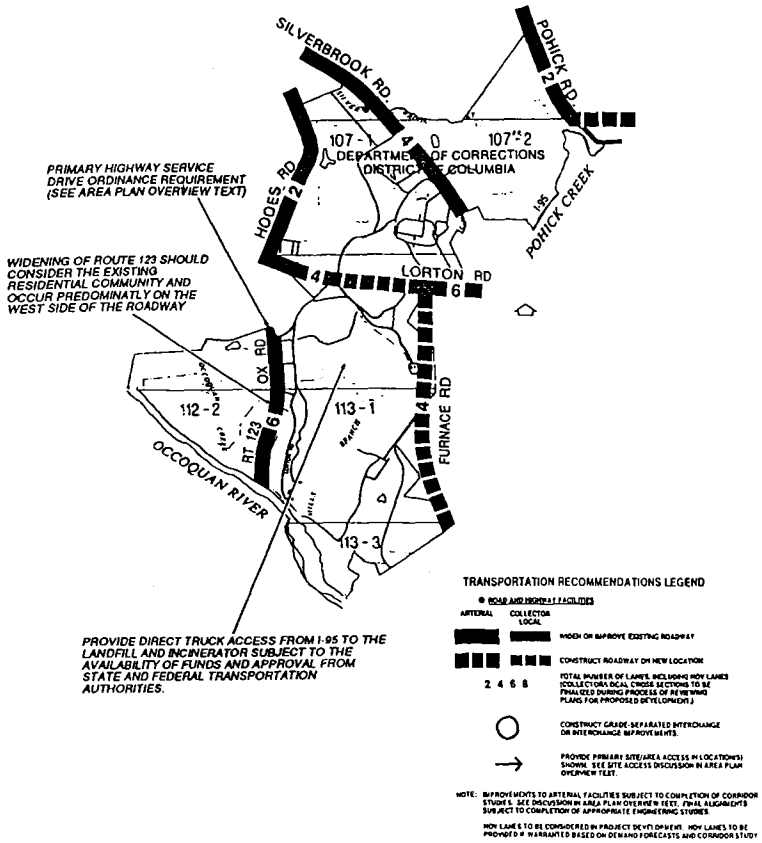
FAIRFAX COUNTY	LAND USE RECOMMENDATIONS GENERAL LOCATOR MAP	FIGURE 11
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Transportation

Transportation recommendations for this sector are shown on Figure 12. In some instances, site-specific transportation recommendations are included in the land use recommendations section. The figure shows access orientation, circulation plans, interchange impact areas and generalized locations of proposed transit facilities. The recommendations contained in the Area Plan text and maps, the Policy Plan and Transportation Plan map, policies and requirements in the Public Facilities Manual, the Zoning Ordinance, and other standards will be utilized in the evaluation of development proposals.

Direct access should be provided from I-95 to the landfill and incinerator subject to the availability of funds and approval from State and Federal transportation authorities.

LP1 D.C. CORRECTIONAL FACILITY COMMUNITY PLANNING SECTOR



FAIRFAX COUNTY	TRANSPORTATION RECOMMENDATIONS	FIGURE 12
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Public Facilities

The most up-to-date technology should be used at the I-95 Landfill to assure that the waste management system does not endanger the County's environmental quality. Areas of environmental sensitivity should be avoided for ash landfill operations and all ash fill disposal areas should be separated at a minimum of 500 feet from areas planned for residential development or public parks.

The following public facilities are identified as future needs in the LP1 Community Planning Sector:

- In order to meet the growing needs for public utilities, additional electrical substations and transmission lines will be required by Virginia Power in Sector LP1.
- Construct a methane electric generator facility at the I-95 Landfill.

Parks and Recreation

Park and recreation recommendations for this sector are shown on Figure 13. The column "Park Classification" includes existing park facilities. The "Recommendations" column includes entries for both existing and proposed facilities. Prior to developing parkland, the Fairfax County Park Authority initiates a master planning process to determine the appropriate facilities and design for that park. This process involves extensive citizen review and participation. If an existing park is listed but no recommendation appears on that line, it means the park has been developed in accordance with its master plan.

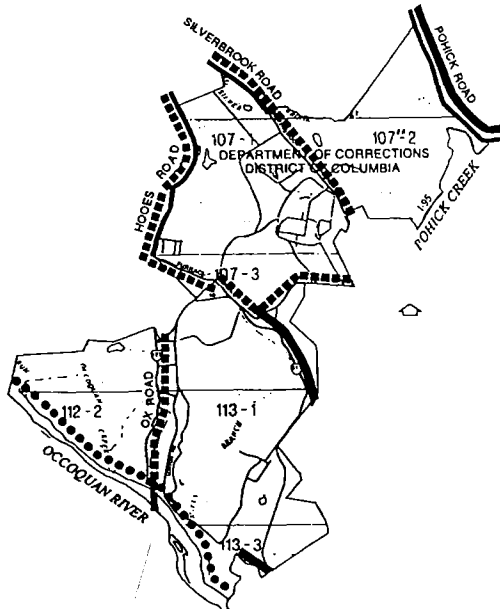
Figure 13.—Park and Recreation Recommendations—Sector LP1

Park Classification	Recommendations
Neighborhood parks	Neighborhood Park facilities are not recommended in Low Density Residential Areas.
Community parks	Community Park facilities are available in adjacent sectors at Lorton and Mason Neck West Parks.
District parks	This sector lies on the perimeter of the South Run District Park service area. If the Newington Heights Park is expanded as proposed in the Pohick Planning District, it would serve this sector. In the future when private landfill operations cease, the area should be developed with active recreation uses.
Countywide parks—South Run Stream Valley	Ensure protection of the Environmental Quality Corridor and public access to the stream valley park through acquisition and/or donation/dedication of land or open space easements to the Fairfax County Park Authority. Complete development of countywide stream valley trail. If the D.C. Department of Corrections site is ever developed by the private sector, land should be dedicated to the Fairfax County Park Authority for Environmental Quality Corridor protection and continuity of trail access.
Regional parks—Occoquan	Complete development in accordance with approved master plan. In the future, when the adjacent I-95 Landfill operations cease, that area should be restored for public park use and operated by the Northern Virginia Regional Park Authority.

Trails

Trails planned for this sector are delineated on Figure 14 and are an integral part of the overall County system. While some of the segments have already been constructed, the map portrays the ultimate system for the sector. In addition, the map specifies either a pedestrian, bicycle or equestrian classification for each segment which represents the desired ultimate function of that trail. Specific construction requirements are detailed in the Public Facilities Manual.

LP1
**D.C. CORRECTIONAL FACILITY
 COMMUNITY PLANNING SECTOR**



KEY

- PRIMARY TRAIL FUNCTION:**
 PEDESTRIAN —————
 BICYCLE - - - - -
 EQUESTRIAN
 ●●●●●●●

NOTE: For specific guidance on trail location, type and function, please consult the Countywide Trails Map published at 1:4000 scale and the Public Facilities Manual. In certain instances, the trail alignments shown on the above sector map may represent designated Stream Valley Trails, as shown on the Countywide Trails Map, which are planned by the Fairfax County Park Authority (FCPA). The specific type and function of these Stream Valley Trails will be determined through the FCPA.

FAIRFAX COUNTY	PLANNED TRAIL SYSTEM	FIGURE 14
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ATTACHMENT 5—VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994
(Public Law 103-322 [H.R. 3355]; September 13, 1994)

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

* * * * *

SEC. 2. TABLE OF CONTENTS.

The following is the table of contents for this Act:

* * * * *

TITLE II—PRISONS

* * * * *

Subtitle D—Miscellaneous Provisions

* * * * *

Sec. 20410. Congressional approval of any expansion at Lorton and congressional hearings on future needs.

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SEC. 20410. CONGRESSIONAL APPROVAL OF ANY EXPANSION AT LORTON AND CONGRESSIONAL HEARINGS ON FUTURE NEEDS.

(a) **CONGRESSIONAL APPROVAL.**—Notwithstanding any other provision of law, the existing prison facilities and complex at the District of Columbia Corrections Facility at Lorton, Virginia, shall not be expanded unless such expansion has been approved by the Congress under the authority provided to Congress in section 446 of the District of Columbia Self-Government and Governmental Reorganization Act.

(b) **SENATE HEARINGS.**—The Senate directs the Subcommittee on the District of Columbia of the Committee on Appropriations of the Senate to conduct hearings regarding expansion of the prison complex in Lorton, Virginia, prior to any approval granted pursuant to subsection (a). The subcommittee shall permit interested parties, including appropriate officials from the County of Fairfax, Virginia, to testify at such hearings.

(c) **DEFINITION.**—For purposes of this section, the terms “expanded” and “expansion” mean any alteration of the physical structure of the prison complex that is made to increase the number of inmates incarcerated at the prison.

* * * * *

ESTABLISH A LOWER POTOMAC (1) LAND USE CITIZENS ADVISORY COMMITTEE FOR THE DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS' PROPERTY LOCATED IN LORTON, VIRGINIA

February 13, 1995

Background

The United States Congress, House of Representatives, under the sponsorship of Representatives Moran, Wolf and Davis, recently introduced legislation, H.R. 461, that, if passed, will begin the process of moving the District of Columbia's Department of Corrections from Fairfax County. Should this Bill become law, this would leave 3,009 acres of land in Fairfax County open to many land use options, including but not limited to being subjected to various federal, state and local laws that may or may not be in the best interest of Fairfax County. I am requesting this Board's support in establishing a “Lower Potomac (1) Land Use Citizens Advisory Committee” to study, plan as one unit and make recommendations to us for restoring, preserving and reusing this site to create a “gateway” concept for Fairfax County.

Attached hereto is a copy of H.R. 461 and my letter prepared for my Mount Vernon January 28, 1995 Town Meeting. The letter is an overview of that Bill which briefly states what it contains, including establishing an eleven member Commission (which will have five members appointed by this Board) to develop an Implementation Plan for closing the District of Columbia's Lorton Correctional Complex. This Commission would present its recommendations to Congress for their review and action. In order for us to respond appropriately and fully, I am requesting this

Board's support in establishing a citizens land use advisory committee, comprised of the planning commissioners from Mount Vernon, Lee and Springfield magisterial districts, residents who live in close proximity to the prison including residents from the Mount Vernon, Lee and Springfield magisterial districts and three representatives from Prince William County to be facilitated by the office of comprehensive planning. This committee would review the current Fairfax County comprehensive plan, transportation plans, current zoning and other pertinent regulations and then make land use recommendations to the Board of Supervisors for our consideration which would ultimately be transmitted to the Congressional Commission and be submitted for public hearings and incorporation into the Fairfax County comprehensive land use plan and other pertinent documents for implementation.

Motion

I request this Board's support in establishing a Lower Potomac (1) Land Use Citizens Advisory Committee as described above.

GERALD HYLAND,

Board of Supervisors, Mt. Vernon District, Fairfax County.

Mr. DAVIS. Thank you very much. I think we will move onto Prince William County first. I see that Ms. Maureen Caddigan, supervisor from the Dumfries district, will be giving testimony. Ms. Sefelt chairman of the Board of Supervisors of Prince William County couldn't be with us today. Ms. Caddigan will be followed by Mrs. McQuigg, who is another member of the Board of Supervisors from Occoquan district.

**STATEMENT OF MAUREEN CADDIGAN, VICE CHAIRMAN,
PRINCE WILLIAM BOARD OF COUNTY SUPERVISORS**

Ms. CADDIGAN. Thank you, Mr. Chairman, Ms. Norton, Congresswoman Norton. It's a pleasure to be here today. And first of all, I'd like to wish all of you a very happy St. Patrick's Day.

My name is Maureen Caddigan. I am the vice chairman of the Prince William County Board of Supervisors, and I am delivering these remarks on behalf of the board. We very much appreciate your involvement in this process, along with Congressman Wolf and Congressman Moran.

We have had an opportunity to review an initial draft of the Lorton Correctional Complex Closure Act, and on Tuesday evening, our board unanimously approved the following prepared statement. We are extremely pleased to see your recommendation that three representatives from Prince William County sit on this Commission.

Mr. Chairman, the Prince William Board of County Supervisors has only recently begun to focus on this very complex set of issues. However, we would like to raise six very preliminary issues from the subcommittee—with the subcommittee.

First, if the Lorton Correctional Complex is closed, then the entire metropolitan region needs assurances that all District of Columbia inmates can be safely and securely housed within the District of Columbia and the Federal prison system. This is essential to the proper functioning of the criminal justice system in our entire region.

Second, whatever recommendations are made by the General Services Administrator, they should be completely reliable. In other words, the residents of our region should know with a high degree of specificity what future uses, if any, will be on this site. Appropriate legislative and site-specific legal requirements should be a

part of any final implementation plan. None of us wants to be surprised 10 years down the road.

Third, transportation, as you know, is a major issue on this site. At the direction of Congress, this region has developed a constrained long range transportation plan, which reflects long-range land use projections. Any future uses which increase transportation congestion in this area will require expensive new road and transit improvements. The Commission should be charged with evaluating the actual costs of any additional transportation improvements required to serve more intensive uses on this site. More intensive uses should not be allowed on the Lorton site unless and until all the necessary transportation improvements are in place.

Fourth, we know from experience that the demolition and removal of older facilities can be quite expensive. We would recommend that the General Services Administration begin a fairly immediate estimate of the time and cost involved in the demolition process, including asbestos removal.

Fifth, the act should provide for the donation of all necessary rights of way for the widening of Route 123. This major arterial is dangerously overcrowded today.

Sixth, the draft legislation we have reviewed includes a provision for an executive director. We are certainly open to suggestions on that subject. However, it appears that a dedicated group of volunteers with good staff support from the General Services Administration and the Federal Bureau of Prisons should be able to resolve these issues in an efficient and economical manner.

Mr. Chairman, I want to reiterate that these are the very initial reactions of the Prince William Board of County Supervisors to what we understand is an initial legislative proposal. We very much appreciate the opportunity to be here with you today and look forward to working with you on these very difficult issues. Thank you and I would be pleased to answer any questions.

[The prepared statement of Ms. Caddigan follows:]

PREPARED STATEMENT OF MAUREEN CADDIGAN, VICE CHAIRMAN, PRINCE WILLIAM BOARD OF COUNTY SUPERVISORS

Thank you, Mr. Chairman. My name is Maureen Caddigan, the Vice Chair of the Prince William Board of County Supervisors, and I am delivering these remarks on behalf of the Board. We very much appreciate your involvement in this process along with Congressman Wolf and Congressman Moran.

We have had an opportunity to review an initial draft of the Lorton Correctional Complex Closure Act. We understand that this Act would provide for the removal of all District of Columbia inmates from the Lorton Complex over a five year period. In addition, the Act provides that within six years, the General Services Administrator close the Lorton Complex in accordance with an adopted implementation plan. The implementation plan is to be developed jointly by the General Services Administrator and the Commission on Closure of the Lorton Correctional Complex.

We are extremely pleased to see your recommendation that three representatives from Prince William County sit on this Commission.

Mr. Chairman, the Prince William Board of County Supervisors has only recently begun to focus on this very complex set of issues. However, we would like to raise six very preliminary issues with the subcommittee.

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Mr. Chairman, I want to reiterate that these are the very initial reactions of the Prince William Board of County Supervisors to what we understand is an initial legislative proposal. We very much appreciate the opportunity to be here with you today and look forward to working with you on these very difficult issues. Thank you and I would be pleased to answer any questions.

Mr. DAVIS. Thank you. Now, we'll go to Supervisor McQuigg, who represents the Occoquan district, which is just across the river from the Lorton Complex. Good afternoon, Michèle.

STATEMENT OF MICHÈLE B. MCQUIGG

Ms. MCQUIGG. Good afternoon. Thank you, Mr. Chairman, and members of the subcommittee. My name is Michèle McQuigg and I am a member of the Prince William Board of County Supervisors. I appreciate the opportunity to speak with you this afternoon on H.R. 461. You've heard many valid concerns this afternoon.

I'd like to give you a slightly different perspective. For almost 22 years, I have lived right off of Route 123, less than a half mile south of the prison. From my personal perspective, the prison has been a reasonably good neighbor.

As an elected official representing the Occoquan Magisterial District for the last 3½ years, I have received two phone calls from citizens concerned about the prison. Both of them were new residents who just read about another escape, and had discovered the proximity of the Lorton Correctional Complex. I told them this story.

In the 22 years that I've lived in the area, no one can remember more than one escapee being caught in Prince William County. By the way, there are no police statistics kept as escapees are just turned back over to the prison. As the story goes, that escapee was found cowering in the stairwell in an apartment complex just across the bridge. He was lost, cold and scared, and very glad when the police showed up. Some even say he gave the police a big hug because he was so happy to see them.

In the past, there have been problems with people on work release and the alcoholic treatment center, but these programs have been canceled.

I am notified by the police each time an escape has occurred. There are definitely too many. Lorton is not secure. If I lived north of the facility, on the other side of the river, I would probably be a great deal more concerned about the security of the facility, since most escapees try to go back north.

I do see the land as large and undeveloped. If Lorton prison is closed, what becomes of the 3,000 acres of land? If it is developed as residential, the residents will add thousands of vehicle trips per day to roads operating over capacity. It would make our commutes much worse, if not impossible.

If it is developed as commercial, especially office, it will inhibit Prince William's ability to increase our commercial tax base. We will not be able to reduce our property taxes, which are amongst the highest in the Commonwealth of Virginia, nor will we be able to bring jobs to our county that will employ our highly educated population. Most likely, the remaining property on the eastern end of the county will become residential, making us more of a bedroom community, not less. What else could it become, a park, large institutional user? No one knows at this point, and that determination will occur after passage of this legislation.

I do appreciate the inclusion of Prince William on the committee. It affects our future and certainly the closure has a potential negative impact. Hopefully, a win/win or all parties involved can be created. Thank you.

Mr. DAVIS. Ms. McQuigg, thank you very much. Let me just ask a question. I think you can all answer it, or perhaps one of you. It seems to me that the closure of the facility is something that would probably be looked upon as advantageous to the region, unless you replace it with something that's going to generate much more traffic to the I-95 corridor, which is the worst transportation corridor on the East Coast.

Given that, if you feel that's correct, you can indicate that, but more importantly, are you comfortable with the solution that we've crafted here? And that would include the complex being subject to the Fairfax County land use laws, and the Commission, which would be broadly representative of the community, appointed by your local boards, to agree on what that solution is because the alternative would be for Congress to outline what the solution is now, and that would probably bog this legislation down. We'd never get the goal accomplished.

Now, Ms. Hanley, I'll start with you, and then I'll go down the panel to let anybody who would like to comment on that.

Ms. HANLEY. Well, certainly, I think you've accurately characterized the concerns of what happens next on that—on that land. I think everybody agrees that something has to happen with the complex. But there is a concern about the future.

Certainly the localities, Fairfax County particularly, think it's important to be involved with the decisions about what is going to go on on the land. I know it's hard for us to buy into a decision at this point about doing something differently, and not knowing exactly what it is. That difficulty is made easier by the involvement of the local government.

Mr. HYLAND. Mr. Chairman, a structure that has been proposed in the legislation, I believe, is a workable one to the extent that we

have representatives from Fairfax, Prince William, the District of Columbia and the administrator. The experience that we had with the engineer proving ground site, the 820 acres that sits to the north of this facility, of course, was for the Federal Government to agree that the development of that site, which would include office buildings for the Department of Defense as well as commercial development for the private sector, that specific legislation provided that the development would be subject to the comprehensive plan of Fairfax County.

And I think no less so the 3,000 acres that we're talking about here. So I think the structure that we have proposed in the Closure Commission is appropriate, but I would hope that we would make it very clear that the comprehensive plan of the county will come into play in terms of the ultimate use of the land.

Mr. DAVIS. And, of course, there's no prohibition now over what the Federal Government could put on that without the county, either county, having any say in it.

Mr. HYLAND. Absolutely correct, Mr. Chairman.

Mr. DAVIS. Ms. Caddigan.

Ms. CADDIGAN. Mr. Chairman, the Prince William County Board of Supervisors has not taken a position on the questions until these issue, you know, have been answered.

Mr. DAVIS. OK. Any personal position from either one of you—Michèle?

Ms. MCQUIGG. It is preliminary. We really, as a board, as Ms. Caddigan said, have not looked at it. But, you know, on the surface, the structure certainly seems appropriate and I think it would be safe to say that we always look forward to working with our neighbors to the north.

Mr. DAVIS. Well, I simply say that the goal here is twofold. In the first case it's what is best for these inmates over the long term, to get the rehabilitation, so you can bring the recidivism rate down, make these productive citizens when they get out. And we're failing to do that collectively, not just the District government, but all of us, because we have constitutional oversight responsibility here in this committee. And I think that's got to be first.

And then, second, to take a look at the surrounding communities, which has been a bone of contention for years. And I guess third is just take—in looking at the structure of the District government—looking ahead to try to get, once we get through this financial crisis, to get a structure that's going to be in place for a long time, that will allow the District to thrive and become the kind of city I think we all want it to be, not be burdened down with some rising expenditures in some areas that probably aren't appropriate for cities. I think a key component is how are the surrounding jurisdictions going to react to the solution.

Is the cure here worse than the problem we're trying to solve? And I think you've answered that. But it's going to take a continuing dialog, as I think all of you have indicated.

Ms. Norton.

Ms. NORTON. Thank you very much, Mr. Chairman. First, let me say how much the District has appreciated the cooperation of the surrounding community. It is often brought to my attention that many, many residents and public officials in the surrounding com-

munity have gone out of their way to not only cooperate, but to facilitate communication and improvements and considering, particularly considering that prison is always controversial, that's been especially appreciated by me.

I must say, considering that one reads in the newspaper about how gung-ho your Governor is on building more and more prisons, I was sure that you would want to retain Lorton to house the growing number of felons that it appears you will have in Virginia because of change in your own laws and view of parole. Are you sure that Lorton won't be high-jacked by the State of Virginia for its own use?

Mr. HYLAND. Congresswoman Norton, if you look at the amendment that I have suggested, which is intended to clearly prohibit the District of Columbia from locating a prison anywhere in Virginia without the approval of the Governor, I have suggested that an appropriate amendment would be that concerning this piece of ground, not only should the Bureau of Prisons not have the option to use it, but neither should the Commonwealth of Virginia. Because if I were the Governor, I would be looking at that site big time.

Ms. NORTON. I noted that. But what has driven—what is driving this for DC is money, and I have to tell you, if you all build all the prisons that your Governor wants to, you may need Lorton more than we do. Finally—

Mr. HYLAND. I share your view.

Mr. DAVIS. I knew she couldn't resist. I knew that was coming.

Mr. HYLAND. I am glad she couldn't.

Ms. NORTON. All said in good fun and good neighborliness, and with great appreciation for the way in which your communities, your respective communities have interacted with mine and with the prison itself.

Thank you very much, Mr. Chairman.

Mr. DAVIS. Thank you.

Mr. Hyland. Mr. Moran, I'm sorry.

Mr. MORAN. We're both from Holy Cross. The only way you can tell us apart is Jerry didn't wear a green tie today. I don't know why he didn't.

Mr. DAVIS. Well, you're both noted for short speeches.

Mr. MORAN. I'm glad you noticed. You know, I was particularly struck by Mr. Hyland's comment that there had been how many escapes from Lorton?

Mr. HYLAND. Since 1989, there have been 44. Thirty-three from minimum, and the rest from the remainder—according to our records, and—

Mr. MORAN. Well, 44 is the figure I've been told.

Mr. HYLAND. Forty-four since 1989.

Mr. MORAN. But that was a very—that was a very interesting observation, 44 since 1989. That's only—it's just over 5 years. And virtually none from the DC jail, that I am aware of.

Maybe Lorton just gets reported and the DC correctional facilities don't. But it may also indicate that there is a greater level of security provided within the District than there is by the District in Fairfax County. That may have been the implication. And it's

one worth making, if it's true. I thought it was very good testimony and I—and I thank the witnesses. And I thank you, Mr. Chairman.

Mr. DAVIS. Thank you very much. In conclusion, I do have a letter here from the Federation of Lorton Communities, from Lauri Frost, the president, that was given to us today. I'd like to enter this in the record. And Lauri, we'll give you a chance to testify when we do a field hearing down there. I think we've made it clear that this is just the first of several hearings that we will do on this.

[The information referred to follows:]

FEDERATION OF LORTON COMMUNITIES,
LORTON, VA 22199
March 17, 1985

Hon. Thomas M. Davis, III
U.S. House of Representatives
Washington, D.C. 20510

DEAR CONGRESSMAN DAVIS: As you know, today is the first scheduled hearing on H.R. 461, the so-called "Lorton Correctional Complex Closure Act." In preparation for the testimony you will hear today, the Federation of Lorton Communities, the umbrella group representing most of the homeowners association and individual homeowners living around the D.C. Department of Corrections facilities in Lorton, would like you to be aware of two points with respect to this legislation.

First, the Federation of Lorton Communities supports in concept the legislation. We believe it is time to plan ahead for removal of the prison facilities in Lorton from the District of Columbia. We are very concerned about the adequacy of security at the prison facilities, given the financial difficulties of the District of Columbia. This concern has been underscored by the most recent escapes/attempted escapes, the February 5 melee at the maximum security facility, and reports of continuing deterioration of conditions at the prison complex in Lorton.

Second, the Federation of Lorton Communities believes that there are a number of modifications to H.R. 461 that must be made for the benefit of communities surrounding the prison. These are as follows:

- Clarify that the legislation refers to the entire 3,000 acres of federal land in Lorton (not just physical facilities) and prohibit future use of the land and/or facilities as a penal institute.
- Require the U.S. Attorney General to appoint a responsible Department of Justice Official, with appropriate staff, to advise the Attorney General on the continuing adequacy of security of the prison facilities in Lorton. Oversight of security is critically needed.
- Restructure membership on the Closure Commission for Fairfax County members (increase members from 5 to 6) of which 3 should be private citizens living near the prison and representing the community; and the District of Columbia (reduce members from 2 to 1).
- Restrict Closure Commission to planning only for future Federal use of the vacated property. Private land use should be planned by Fairfax County residents.
- Require the Closure Commission and the General Services Administration to be bound by the Fairfax County Comprehensive Land Use Plan.
- Require the Closure Commission to provide an Impact Assessment on local and regional transportation and other public facilities and services.
- Require the Closure Commission to provide a cost assessment for removal of the facilities and for environmental cleanup of the property.
- Remove the "Bureau of Prisons" and the "District of Columbia" as potential users of the vacated prison facilities.
- Require the federal Bureau of Prisons to give priority to D.C. Department of Corrections prisoners for the purpose of initiating a speedy transfer of D.C. prisoners to federal prison facilities.
- Waive the McKinney Homeless Act from applicability to the complex.

These amendments will ensure that the prison complex is actually closed and not just transferred to another custodian; put Fairfax County citizens into closure process; establish an oversight authority to ensure a high degree of public safety is maintained; and put private land use planning into the hands of Fairfax County and its residents.

We are asking you to take these proposed modifications into account in evaluating what you hear today. We plan to meet with you to discuss these essential changes to the legislation, and we will be submitting more detailed language changes and their justifications to the D.C. Subcommittee in the near future.

Thank you in advance for ensuring that the concerns of the the residents of Lorton and surrounding areas—your constituents—are given fair consideration.
Respectfully submitted,

LAURIE A. FROST,
President.

P.S. We would appreciate it if you would not refer to the prison as "Lorton" or the "Lorton prison." The true residents of Lorton are not prisoners—except of the intransigent media, which continues to call the facility the "Lorton Prison."

Mr. DAVIS. I understand there was an inmate who was arrested, as Mr. Gilmore made mention in his testimony, and was running a business out of his cell. It was reported in the paper to be a half-million-dollar-a-year business that he was running from his cell in Lorton. I just wondered if Fairfax was looking at a gross receipts tax.

Ms. HANLEY. Yes, we're checking to see if he paid BPOL.

Mr. DAVIS. Any other questions? I want to just thank my colleagues for coming today and testifying. I think, as long as we keep the discussion where it is in terms of let's try to solve the problem for everybody, hopefully, we will seize the opportunity during this Congress and move ahead. We thank you all very much. This hearing will be adjourned.

Mr. HYLAND. I can leave these?

Mr. DAVIS. Yes, Mr. Hyland, those will be entered in the record.
[The information referred to follows:]

D.C. Department of Corrections Correctional Complex

[Escape Data (January 1989 to September 1993)]

Name	DCDC	Date	Apprehended
Occoquan Facility—High Medium:			
Kelvin Ford	245051	7/21/91	8/8/91
Andre Villogram	239670	7/21/91	7/25/91
David Green	237744	7/1/93	7/1/93
Wendell Harris	210667	10/10/93	10/12/93
Minimum Security Facility:			
Antonio Thomas	215578	1/28/89	1/29/89
Stanford Brown	231625	6/24/89	9/28/89
Rodney Taylor	233184	9/10/89	9/11/89
Gregory Ebron	182032	12/5/89	12/5/89
Walter Mattos	236399	3/6/90	3/7/90
John Wills	226997	11/14/90	11/15/90
Michael Matthews	197023	3/26/91	10/25/91
Anthony Blanton	197363	4/4/91	Deceased
Mark Lucas	183573	11/18/91	11/23/91
John Savoy	225031	1/11/92	1/12/92
Jemaine Graves	247952	1/11/92	1/11/92
Gustavo Escobar	253721	2/1/92	2/1/92
James Lee	199091	2/14/92	11/20/92
Kevin Miller	213370	9/15/92	12/12/92
Irving Johnson *	164821	9/29/92	9/29/92
Reginald Williams	199640	10/12/92	10/12/92
Noble Britt	213097	10/12/92	10/12/92
William Watkins	232283	10/12/92	10/12/92
Charles Coates *	231541	1/15/93	2/5/93
Alvin Wilson	183595	5/31/93	9/9/93
Barry Brawmer	196608	6/30/93	
* Milton Jackson	212571	7/27/93	
Manuel Cruz	234366	8/27/93	
Julio Maldonado	254026	8/27/93	
Cedric Earles	197956	10/19/93	
Central Facility—High Medium:			
Tony Weems	240877	9/25/89	9/26/89

D.C. Department of Corrections Correctional Complex—Continued

[Escape Data (January 1989 to September 1993)]

Name	DCDC	Date	Apprehended
Kevin King	233418	10/29/92	10/30/92
Daleton Horn	255939	10/29/92	11/1/92

* Reservation Detail Walkaway
Revised: 10/25/93

Calls for Service

[Lorton Facilities]

Call #	Date/Time	Event	Location	Name
95065001429	03-06-95/194 Hrs.	Escape	9601 Ox Road, Occoquan— High medium.	Ronald Jennings, 41, 3-23-54
95061001686	03-02-95	Escape	9209 Furnace Road—Mini- mum.	James Connors, 29, 2-24-66
94300001852	10-27-94/2229 Hrs.	Escape	9209 Furnace Rd—Mini- mum.	Robert Black, 40, 5-2-54
94286001178	10-13-94/1629 Hrs.	Escape	8600 Silverbrook—Maximum	Alphonso Braxton, 36, 1-31-59
94193000781	07-12-94/1500 Hrs.	Escape	9601 Ox Road, Occoquan	Kelvin Gethers, 31, 11-28-60
94130000990	05-16-94/	Escape	9206 Furnace Rd—Mini- mum.	Morris Speight, 25, 5-21-63
94105000104	04-15-94/0154 Hrs.	Escape	9601 Ox Road	Attempt
94103000267	04-13-94/	Escape	9206 Furnace Rd—Mini- mum.	Leonard Crawford, Frank Walker, 26, 11-22-67, Regional Keys, 24, 9-15-69
94101001085	04-11-94/1600 Hrs.	Escape	9209 Furnace Rd, Youth Center I.	Donald Henderson, 33, 5-29-59
94070001748	03-11-94/2174 Hrs.	Escape	9209 Furnace Rd—Mini- mum.	Reginald Tucker, 27, 3-19-66
94015001682	01-11-94/0500 Hrs.	Escape	9206 Furnace Rd—Mini- mum.	Alvin Wilson, 38, 5-18-55
93335001578	12-01-93/1500 Hrs.	Escape	9209 Furnace Rd—Mini- mum.	Darrell Washington, 28, 8-29-65
93322000222	11-17-93/0406 Hrs.	Escape	9206 Furnace Rd—Mini- mum.	Leonard Prue, 577-02-1991

Mr. DAVIS. The meeting will be adjourned.
[Whereupon, at 3:29 p.m., the subcommittee was adjourned.]
[Additional information submitted for the record follows:]

RESOLUTION ADOPTED BY THE OCCOQUAN TOWN COUNCIL

RESOLUTION

Whereas, it has come to the attention of the Town Council of Occoquan, Virginia that it has been proposed that the Federal Government take over Lorton prison; and

Whereas, it has also been proposed that the prison will be closed within a six year period after the date of the enactment of this act, all real property and improvements thereon comprising the Lorton Correctional Complex as of the date of the enactment of this act (other than any such property retained by the District of Columbia under the implementation plan described in section 4) shall be transferred to the Administrator of General Services for disposal in accordance with the implementation plan described in section 4); and

Since the proposed bill includes the establishment of a Commission on Closure of the Lorton Correctional Complex being comprised of 11 members consisting of five appointed by the Fairfax County Board of Supervisors, three appointed by the Prince William Board of Supervisors, two appointed by the mayor of the District of Columbia, with advice and consent of the District of Columbia City Council and the Administrator shall serve as an ex officio member with each member appointed for the life of the Commission; and

Since this prison is located in the proximity of the Town of Occoquan, which is located in Prince William County, and has the distinction of having a historic designation; and

Since the welfare and safety of all citizens and merchants is the responsibility of the mayor and Town Council;

Be it resolved this 14th day of February, 1995 that the Town Council of the Town of Occoquan, Virginia expresses its advocacy to Congressman Tom Davis in support of the "Lorton Correctional Complex Closure Act" (H.R. 461).

Be it further resolved that officials and concerned citizens of the Town of Occoquan are encouraged to voice their individual support of this bill.

Votes: Ayes: Casperson, Conway, Frank, Ritenour; Nays: 0; Absent from vote: Ervin; Absent from meeting: Barnes.

J. ROBERT RITENOUR

Council Member and President Pro Tempore

Attest: Marie Huyett, CMC Town Clerk.

H.R. 461, LORTON CORRECTIONAL COMPLEX CLOSURE ACT

WEDNESDAY, JUNE 7, 1995

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA,
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:10 a.m., in room 2203, Rayburn House Office Building, the Honorable Thomas M. Davis (chairman of the subcommittee) presiding.

Present: Representatives Davis, LaTourette, and Norton.

Staff present: Ron Hamm, staff director; Howard Denis, counsel; Roland Gunn, professional staff; Anne Mack, press secretary; Ellen Brown, clerk; and Cedric Hendricks and Myles Romney, minority professional staff.

Mr. DAVIS. Good morning. Welcome to our second hearing on the Lorton Correctional Complex Closure Act.

In our first hearing we heard from Members of Congress and State and local elected officials. They expressed their views with regard to the proposed closing of Lorton. We were able to take their views and concerns into account as we continue to work toward a resolution of the difficult problems associated with the D.C. Department of Corrections.

Today's hearing provides an opportunity for input from diverse citizens' groups. It is crucial for the legislative process to have a broad range of viewpoints and concerns before this subcommittee. This is why we have organized the two very important panels before us this morning.

The first panel consists of residents of the District of Columbia. I want to take this opportunity to thank Ms. Norton and her staff for their help in organizing this panel. It is essential that Congress, as it seeks to work for the revitalization of our Nation's capital, to pay careful attention not only to the hopes and fears of all the citizens of the city but also to solicit, actively, their direct input into our deliberations. Neither the Congress as a whole nor the D.C. Subcommittee has a monopoly on how to best solve the city's problems. The impact of management of the District of Columbia Department of Corrections does not stop at the District's boundaries. This is why we have a second panel. It gives residents who live in communities near Lorton an opportunity to inform the subcommittee of the concerns about the future of Lorton. Their views must be given full consideration both by the Congress and by Fairfax County officials. As the process of closing Lorton moves forward,

there will be other opportunities for concerned groups to provide us with their valuable insights about the best way to move forward.

Any viable effort to come to grips with the city's financial and administrative crisis requires a comprehensive and thoughtful reexamination of the way the city performs its basic functions. There is a strong temptation to search for a single change in public policy that will transform the District from its current condition. As tempting as this approach might be, it is dangerous because it leads to unrealistic expectations. In the end, such an approach results in a profound sense of frustration and failure.

There is no single, simple formula we can realistically expect to solve the District's entire fiscal or management crisis. The problems are too deeply ingrained to be easily eradicated, but this doesn't mean that we should walk away and do nothing. This does mean that the city and Congress, working together, need to find a series of incremental steps across a broad front which, when taken as a whole, will lead to a renaissance for our Nation's capital.

No one can deny there are serious problems associated with the D.C. Department of Corrections. It is also true that no other city in America is directly responsible for the management of a long-term correctional facility. But it is also true that no city is exempt from paying State taxes for the maintenance of a State department of corrections. Neither the District of Columbia nor the Commonwealth of Virginia can realistically expect to shift the entire cost of its prison system to the Federal Government. Because of its special relationship with the Federal Government, the District can expect to receive additional help in meeting its responsibility for prisons. The exact form this assistance will take will be determined in consultation with the city, Congress, and the Federal Executive.

One thing is clear: the way Lorton is now run is unacceptable. It is unacceptable because the city can't afford to pay what it costs to run it. It is unacceptable because of the burden it places on the residents of Northern Virginia. But, most of all, it is unacceptable because of the human cost it exacts from both the prisoners and the residents of the District. Federal and city officials, working together, will find a new and better way for the District of Columbia to deal with its prison population.

[The prepared statement of Hon. Cardiss Collins follows:]

PREPARED STATEMENT OF HON. CARDISS COLLINS, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF ILLINOIS

Mr. Chairman, the District of Columbia, unlike any other city in America, bears the total responsibility for the confinement of its felony offenders. Everywhere else, the cost of constructing and operating prisons is provided for by the state. The District government currently expends over \$200 million a year on corrections. Given its current fiscal crisis, it is understandable that the District is seeking relief from this substantial burden.

The legislation before us today, H.R. 461, the Lorton Correctional Complex Closure Act, does not appear on its face to provide the District with real financial relief. It fails to address key questions such as who will pay future incarceration costs, and who will benefit from the disposal of the Federal land on which the Lorton Complex is located, and how.

The bill also raises questions about certain nonfinancial matters such as how visitation and communication between inmates and their families will be affected by incarceration hundreds, if not thousands, of miles from home, and whether the goal of rehabilitation will be advanced or frustrated.

It is important to note that the elected officials who represent those persons who would be primarily affected by this legislation—the citizens of the District of Colum-

bia—have all expressed strong reservations about the bill. They have insisted that if the bill is to move forward, changes be made which would ensure that the District derives an economic benefit, and that the inmates not be dispersed to remote parts of the nation. These are not unrealistic demands. Neither District officials nor I believe that this bill necessarily represents the only way or the best way for the Federal government to help the District address the financial needs of its corrections system.

Mr. DAVIS. I would now yield to our ranking minority member, Ms. Norton, for any statement she may have for the record.

Ms. NORTON. Thank you, Mr. Chairman.

May I thank Chairman Davis for affording me the opportunity to call as witnesses in today's hearing representatives of the organizations most knowledgeable about Lorton Prison and the District's incarcerated population. I welcome these witnesses and the Virginia witnesses as well. The chairman's commitment to hearing all sides of a complicated issue shows a serious regard for D.C. residents. His willingness to listen to those in the District who know Lorton well is the best way to assure the best outcome.

We will find that none of today's witnesses from the District are apologists for Lorton and its problems. That would betray the prison population, personnel, and D.C. residents. However, closing Lorton is not about merely shutting the gates; it is about a thousand critical details, from how to keep from sending inmates to the functional equivalent of Siberia, to how to pay for them.

So far, none of the hard questions have been addressed. Until they are, I cannot support H.R. 461.

At the same time, I have nothing but admiration and respect for the way Chairman Davis approaches hard problems and brings in solutions. This one, Mr. Chairman, is genuinely difficult. However, the resolution to hard problems usually is in direct proportion to the hard thinking and determined energy they receive. Need I say that this is especially true for D.C. issues. On that basis, I remain optimistic and open to any solutions that, working together, we can all agree upon.

Thank you very much, Mr. Chairman.

Mr. DAVIS. Ms. Norton, thank you very much.

Mr. LaTourette, the gentleman from Ohio, do you wish to make any statement at this time?

Mr. LATOURETTE. No, sir.

Mr. DAVIS. All right. Thank you very much.

At this time, would the panel I witnesses please come forward. It is the custom of this subcommittee to swear in all the witnesses, so if you would just rise with me and raise your right hands.

[Witnesses sworn.]

Mr. DAVIS. Thank you all. Please be seated.

I understand the first panel witnesses will testify on the rights and the welfare of the inmates in the Lorton Correctional Complex. I understand Ms. Sullivan and Ms. Jackson are from the D.C. Chapter of Citizens United for the Rehabilitation of Errants, DC-CURE. I understand you work with and represent the families of offenders.

Mr. Smith is the executive director of the D.C. Prisoners Legal Services Project. Mr. Koren is a staff attorney with the American Civil Liberties Union National Prison Project. Ms. Smith is senior counsel with the Women in Prison Project. Ms. Hunter is the exec-

utive director of the D.C. Catholic Conference of the Archdiocese of Washington. They maintain a chaplain at the Lorton Complex who conducts the prison ministry. And Mr. Sidney Davis is the co-founder of the Coalition of Ex-Offenders Against Community Violence. Mr. Davis is also a former Lorton inmate.

We welcome you. Ms. Sullivan, we will begin with your testimony, followed by Mr. Smith, Mr. Koren, and so on.

STATEMENT OF PAULINE SULLIVAN, CITIZENS UNITED FOR THE REHABILITATION OF ERRANTS, DC-CURE, ACCOMPANIED BY DARLENE P. JACKSON; JONATHAN M. SMITH, EXECUTIVE DIRECTOR, D.C. PRISONERS LEGAL SERVICES PROJECT; EDWARD KOREN, AMERICAN CIVIL LIBERTIES UNION NATIONAL PRISON PROJECT; BRENDA V. SMITH, SENIOR COUNSEL AND DIRECTOR, WOMEN IN PRISON PROJECT, NATIONAL WOMEN'S LAW CENTER; JANICE K. JOHNSON HUNTER, EXECUTIVE DIRECTOR, DISTRICT OF COLUMBIA CATHOLIC CONFERENCE, ARCHDIOCESE OF WASHINGTON, AND FATHER GEORGE QUICKLY, S.J., CATHOLIC CHAPLAIN, LORTON CENTRAL FACILITY; AND SIDNEY DAVIS, CO-FOUNDER, COALITION OF EX-OFFENDERS AGAINST COMMUNITY VIOLENCE

Ms. SULLIVAN. Good morning, members of the committee.

My name is Pauline Sullivan, and I am director of the D.C. Chapter of CURE. CURE is a criminal justice reform organization, an advocacy organization that has been in existence for about 25 years. We have a very strong chapter in the District of Columbia. We have about 40 chapters across the country in the various States. Our membership is unique because we deal with consumers of the criminal justice system, being their families, the prisoners, and the ex-offender.

I am happy to be here today to speak to you, because you can imagine, whenever the issue of shutting down Lorton becomes evident or is discussed, it causes a great deal of trauma among the members of our organization. Of course, this is not the first time this issue has come up, and I think some of our members are somewhat jaded about this particular move, because they say, "We have heard this before, so maybe they are whistling Dixie." Maybe this is a move that will take place.

I really thank you for your remarks, Ms. Norton, because when you said it's not about land, it's not about money—those are some of the issues, but the issues are people. There are two groups of people that we feel have got to be heard on this issue, because this move will affect their lives drastically.

And if you don't believe this, I have some suggestions for you. Go out to Lorton and ask the prisoners. Have a real forum at Lorton. Go to the central facility and ask the leaders there—and there are leaders among the prison population who can tell you what they need for Lorton. And I don't think it's—I don't know if you used the word "banishment," Ms. Norton, but it would be that.

Some of the prisoners admit that Lorton is a disaster in some ways and that a move might be better. But when it comes down to not seeing your loved ones, that is the crucial issue. Statistics show that prisoners who maintain a strong family relationship

have a six times better chance of making it when they are released. The family is the most important rehabilitative tool for any prisoner.

I attended the graduation at Lorton a couple weeks ago, the UDC college graduation, 29 graduates, with proud family members who encouraged those men all along the way to get their education. Those men would not have achieved that without mothers, grandmothers, wives, friends encouraging them.

So the first group I think you need to go back to, probably the primary group, are the prisoners themselves. The second group, for us of course, are the families, and you are making a start today.

We did have a forum in our community in D.C., and everyone was invited. We were very disappointed. I know it was a very cold winter night and there was the threat of a storm, but we had about 60 folks there, and we had no one from the congressional offices, although we were promised there would be representation from each office. Well, we're not going to cry over spilled milk, but it was very disappointing that no one came out and heard us. But we are being heard today, and we want to continue to be heard on this issue.

The biggest problem with this would of course be, if prisoners were sent all over the country, there would not be possibilities for visits. The chairperson of our organization, her husband was sent to Wisconsin. Just fiscally, this is what it would cost her to go to Oxford, WI, from D.C., for one visit, \$1,000, which she saved. She was able to make a visit 1 year. She is a teacher. She gets a pretty good salary.

I was down at the buses last week. The buses go out to Lorton every Tuesday and Thursday evening, and Saturday and Sunday, hundreds of family members and children. It was late in the month and there were not as many people. And I asked one of the drivers for a van—the vans go out also—why. And he said, "Well, it's the end of the month." He said, "A lot of folks just don't have the money."

It costs \$1.50 one way, so that's \$3 round trip. If those family members, at the end of the month, cannot come up with the \$3 trip, how do you think they are going to get to Texas, Florida, California, anyplace in this country where there is a Federal prison? So I'm very concerned about that.

I hope that you will listen to those groups. I know I have limited time. I have in my testimony four suggestions from our organization that we think would aid Lorton. We're kind of saying to you today: Fix it up. Make it a model facility now. Make us proud to have Lorton in our midst, and do something for the offenders in the District of Columbia that will really change their lives.

We ask for a survey of the population to determine who really needs to be there. We also recommend a strong relationship with the Federal Bureau of Prisons. We are in a city where we have the National Institute of Corrections. The Justice Department has numerous aids for running correctional facilities. We ought to use all of that and turn Lorton into a real model.

Maintaining family ties, I would see that strengthened in every area. And I get back to Speaker Gingrich talking about the District being a model, maybe we should start with Lorton.

I thank you very much for allowing me to testify today.
 [The prepared statement of Ms. Sullivan follows:]

PREPARED STATEMENT OF PAULINE SULLIVAN, CITIZENS UNITED FOR THE
 REHABILITATION OF ERRANTS, DC-CURE

There are two groups of people who will be drastically affected by the proposal to shut down Lorton and move DC prisoners to the Federal Prison System. They are the prisoners and their families.

PRISONER INPUT

We have suggested that prisoners be allowed to testify on this legislation but it looks like that will not be possible. I still strongly recommend that you provide for such a forum. Perhaps if prisoner/witnesses cannot be brought here a hearing could be held at one of the facilities at Lorton. You will find that they will have an excellent analysis of what the effects of H.R. 461 will be if it is enacted. They could also tell you about alternatives to this proposal that will result in a more humane prison system that will bring about true rehabilitation.

FAMILY PARTICIPATION

DC-CURE has attempted to provide information on how moving all DC prisoners will impact on families of prisoners. Each of the sponsors were invited to a meeting with us, none of you came or sent representation. We were not allowed to attend the media conference when you announced the introduction of H.R. 461. Unfortunately, we have not succeeded in getting "your ear". Today we are allowed five minutes to explain our objection to the "banishment" of our loved ones at Lorton. We hope that this is not an indication that you intend to go ahead with your proposal without considering its impact on the families of prisoners.

There are some positive ways that Lorton could be helped now.

1) A survey of the present population should be conducted. Prisoners serving sentences for mis-demeanors should be placed under community supervision. Those that are elderly, or suffering from fatal diseases should be paroled to nursing homes or treatment facilities. Chemically addicted prisoners whose sentences are a result of these dependencies should be moved to drug treatment centers in the community.

2) DC Department of Corrections should form a strong partnership with the Federal Bureau of Prisons. Many of the resources the Bureau has to offer could be shared with DC such as training for correctional staff, educational programs, treatment programs and participation in UNICOR the federal work program. Under the leadership of Director Margaret Moore you will begin to realize real changes at Lorton.

3) Statistics show that maintaining family ties during incarceration significantly reduces recidivism. Family programs which include parenting education should be expanded.

Family visitation programs should be expanded and policies of the department should be pro-family and strengthen the crucial bonds that will enable prisoner to return to the community as productive members.

4) Speaker Gingrich speaks about making the District of Columbia a model city. Why not make the prisons in Lorton model facilities. Of course, this can only take place if adequate funding is provided.

Mr. DAVIS. Thank you. We appreciate your being here. We will have questions after we have heard from the whole panel.

Ms. SULLIVAN. Thank you, Mr. Davis.

Mr. DAVIS. Jonathan Smith.

Mr. Smith, thank you for being here.

Mr. SMITH. Thank you. Good morning. My name is Jonathan Smith. I'm the executive director of the D.C. Prisoners Legal Services Project. I would like to thank you for the opportunity to speak with you regarding the proposed legislation to close the District's prisons in Lorton, VA.

I think there is little dispute that the District's correctional system is extremely troubled. The District's prisons have, over the last several years, been subject to repeated scandal, including corrupt guards, sexual harassment of prisoners and staff, and frequent

halfway house escapes. Moreover, the courts have uniformly criticized the District for failing to provide prisoners with adequate security and health care, and for failing to institute necessary public health measures, such as tuberculosis prevention.

The Lorton closure proposal, however, is not a solution to these problems. The proposal would be very costly both to the District and to the Federal Government, and would require that prisoners be separated from their families. I applaud Congresswoman Norton and Attorney General Reno for publicly calling attention to the flaws in this legislation, and I urge that H.R. 461 not be passed.

There are a number of important reasons to continue to have the District operate its prisons in Lorton. First, the District will pay much more to incarcerate its prisoners if they are transferred to Federal prisons. H.R. 461 leaves in place the obligation of the District to reimburse the Federal Government for the costs associated with the incarceration of its prisoners.

At the current rate of reimbursement, if all 7,300 prisoners confined to Lorton were transferred to Federal institutions, it would cost the District almost \$160 million a year. This cost will be even higher during the initial 5-year period when the District must pay both the Federal Bureau of Prisons for District prisoners in the Federal system and continue to operate its prisons in Lorton.

Moreover, because of recent changes in D.C. law, the District's prison population will likely increase, causing the cost of this legislation to increase, as well. Attorney General Reno estimates that the cost will increase to \$200 million by the year 2000, if H.R. 461 is enacted.

In order to incarcerate pretrial detainees and misdemeanants, the District must continue to operate the D.C. Jail, the correctional treatment facility, and halfway houses. In the end, the District will pay more for corrections under this proposal than its current budget. The District already spends more per capita on corrections than any State in the country, at \$627 per citizen. Most States spend less than \$100 per citizen, and no State spends more than \$185 per citizen.

Second, there is currently insufficient space in the Federal prisons for the District's prisoners. According to a June 1994 report of the Bureau of Justice Statistics, Federal prisons currently incarcerate 90,000 prisoners in prisons designed to hold 60,000 prisoners. Attorney General Reno, in her March 16 letter to the chair of this subcommittee, stated that Federal prisons are already at 160 percent of capacity. According to Attorney General Reno, crowding would increase to 172 percent of capacity in the Federal prisons if this legislation is enacted.

The Bureau of Justice Statistics report reveals that Federal prisons are overcrowded at a rate higher than the District and higher than most States. Moreover, the population in the Federal prisons is growing. During the decade between 1983 and 1993, the Federal prison population increased by 182.5 percent.

Attorney General Reno estimates that the cost of prison construction to house D.C. prisoners in the Federal system could be as high as \$629 million. In addition, the Attorney General estimates that the total cost to the United States of the first 5-year transition period is between \$760 million and \$1.2 billion.

Third, the Bureau of Prisons will experience significant administrative burdens unique to the District's prisoners. The District's prisoners will require frequent transfer back to the District for appeals and post-trial evidentiary hearings. Moreover, the prisoners who are parole violators will be required to be transferred frequently for short terms after violations are determined. This constant transfer of large numbers of prisoners will require a significant commitment of resources by the Bureau of Prisons.

Fourth, the proposal will neither help the citizens of the District nor the citizens of Lorton. The proposed legislation will commit the District's resources and deprive the District of the flexibility necessary to effectively address the causes of crime. If the District retains jurisdiction over its criminal justice system, it could, for example, increase drug treatment in prison, use halfway houses more creatively, and implement intensive probation and parole programs.

Federal prison officials have little incentive and insufficient knowledge to tailor rehabilitative programs to local needs. Moreover, the quality of life in the communities surrounding the prisons will be degraded. Prisons are good neighbors. The prisons at Lorton are quiet and have little negative environmental impact. If they close, the citizens living in the immediate vicinity of the prisons and those that rely on Route 95 to commute will suffer the effects of new development. Virtually any other proposed use of the land will increase noise, traffic, and pollution.

Fifth, the transfer of prisoners to distant Federal prisons will destroy family relationships and will break community ties. If District prisoners are transferred to Federal prisons, they will be scattered across the country. The closest family members and friends could visit only on rare occasions. Maintaining these family and community connections is essential to a prisoner's success upon release. A prisoner who has a supportive family is much less likely to return to criminal activity than a prisoner who must attempt to reenter society without support, on her or his own.

Finally, if D.C. prisoners are transferred to the Federal system, they will have greater difficulty in communicating with their lawyers. Not only will this place the adequate representation of these prisoners in jeopardy but may well create additional litigation by prisoners who believe that they were denied the right to pursue their legal remedies by their transfer.

If the goal is to improve the conditions in the District's prisons, there are other more effective and less expensive alternatives. The Federal Government should provide technical assistance to the District to improve the quality of its prisons. Many of the problems in the District's prisons spring from inadequate training of staff, poorly drafted and implemented procedures, and incompetent management.

The District has taken an important step toward solving these problems by the appointment of Margaret Morris, director of Corrections. Over the past year, Ms. Morris has begun to instill a level of professionalism in the department that has been lacking for years.

Resolving these management deficiencies, however, is a long and painful process. The Federal officials could accelerate necessary re-

forms by providing technical assistance and training to local officials.

This is far cheaper than trying to assimilate the District's 7,300 Lorton prisoners into the Federal prison system's already overcrowded institutions.

A serious effort to assist the District to reform its prisons would be welcome. Unfortunately, the proposal to close Lorton is not such an effort. Rather, the proposal will simply make land available for development at great expense to the District's citizens, the U.S. Government, the citizens of the surrounding Lorton community, and to prisoners and their families.

Thank you.

[The prepared statement of Mr. Smith follows:]

PREPARED STATEMENT OF JONATHAN M. SMITH, EXECUTIVE DIRECTOR, D.C.
PRISONERS LEGAL SERVICES PROJECT

I. INTRODUCTION

Good morning. I am Brenda V. Smith, Senior Counsel for the National Women's Law Center ("Center") and Director of the Center's Women in Prison Project. First, I would like to thank the Subcommittee on the District of Columbia for providing me with the opportunity to speak today on H.R. 461, the Lorton Correctional Complex Closure Act. The decision whether or not to close the Lorton correctional facilities will have very significant implications for many District of Columbia families, and especially for the children of incarcerated parents. Consequently, I am here today to discuss the particular impact that closing the Lorton facilities will have on women prisoners and their families.

The National Women's Law Center is a non-profit organization which has been working since 1972 to advance and protect women's legal rights. The Center has testified before and worked with Congress on numerous issues, including the 1993 hearings before the Senate Judiciary Committee on women in prison. The Center focuses on major policy areas of importance to women and their families including employment, education, reproductive rights and health, child and adult dependent care, child support and enforcement, public assistance, tax reform and social security—with special attention given to the concerns of low-income women. Five years ago, the Center began to focus on the toll that crime and drug dependence take on women and their families, in particular low-income women and women of color, and the threat that addiction poses not only to their livelihood, but to their very lives.

At the time, the Center initiated a project which draws upon its many years of experience advocating for low-income women and their families to provide direct services to over 600 incarcerated women in the District of Columbia. Since that time the District of Columbia female prison population has increased and the project now serves approximately 1,000 women in three correctional facilities, three halfway houses and the community. Since 1990, the Center has provided legal services to over 2,500 women prisoners. The Center provides the women with legal counseling, services and education on issues they have identified as priorities, such as child custody, child care, child support, domestic violence, AIDS and other medical care issues. This local experience has also allowed us to advocate effectively for women on the national level. The Center has testified before various committees of the House, conducted Senate briefings, and provided technical assistance to the Department of Health and Human Services and the U.S. Department of Justice on these and other related issues. The testimony I present today is based both on my direct work with women prisoners in the District and on research on women in prison from around the country.

II. PROFILE OF INCARCERATED WOMEN IN THE DISTRICT OF COLUMBIA AND ACROSS THE NATION

Before discussing the impact of HR 461 on incarcerated women, it is helpful to have a brief sketch of this population of women. As of January 1995, there were

680 women incarcerated in the District of Columbia.¹ In the District, as well as across the nation, there has been a significant increase in the women's prison population over the past decade and a half. National statistics reveal that the women's prison population increased approximately 313 percent between 1980 and 1993.² This growth rate significantly outstripped that of the male prison population, which grew at a rate of 182 percent.³

The primary reason for the marked increase in the number of incarcerated women both here in the District and nationally has been the focus on curbing drug crimes along with the advent of mandatory minimum sentences for many drug offenses. The combined focus on interdiction rather than on treatment and prevention, along with mandatory minimums, has had a devastating impact on women. Today, women are more likely than men to be serving sentences for drug offenses. In the District of Columbia, 59 percent of all women prisoners, compared to 35 percent of men, are serving sentences for drug offenses.⁴ Nationally as of 1991, 64 percent of women incarcerated in federal prison, compared to 54 percent of men, were serving sentences for drug offenses.⁵ In state prisons, the number of women incarcerated for drug offenses between 1986 and 1991 grew 432 percent, compared to 281 percent for men.⁶ There is a direct correlation between crime and drug use. In 1993, 71 percent of women who were arrested in DC, compared to 60 percent of men, tested positive for any drug.⁷ Sixty-four percent of women, compared to 44 percent of men, tested positive for cocaine.⁸

Today, the District of Columbia has by far the highest incarceration rate of any jurisdiction in the nation. While the national rate of incarceration is 38 per 100,000 women, the rate of incarceration in the District of Columbia is 119 per 100,000.⁹ In the District and across the nation, women prisoners are predominately low-income women of color caring for dependent children with little family or social support. Many of these women struggle daily to provide for themselves and their children. As of January of this year, 85 percent of all women in DC correctional facilities were unemployed prior to their incarceration.¹⁰ It is not surprising, therefore, that the vast majority of women prisoners in the District are convicted of non-violent economic crimes—crimes such as drug sales which generate income.

Incarcerated women are primarily young, between the ages of 20 and 34 years old, in their prime childbearing years. Sixty-seven percent of women in state prisons have children under 18, and the vast majority of these women are single parents.¹¹ Prior to their incarceration, 70 percent of women prisoners, compared to 50 percent of male prisoners, had custody of their children.¹² When women are incarcerated, 74 percent of their children are cared for by their grandparents, other relatives or friends.¹³ Often these relatives are rearing their own children or have few resources to care for another child. Only 25 percent of the children's fathers assume responsibility for them.¹⁴ Women's incarceration therefore has a much greater impact on the stability of their families than does the incarceration of men, who often did not have custody prior to their incarceration, and even during incarceration can rely on their children's mother to care for them. In addition, a significant number of women have given birth to children shortly before they begin to serve prison sentences, or are pregnant and give birth during their incarceration. Bureau of Justice statistics

¹ Demographic Characteristics of the Incarcerated Population—DCDC (First Quarter—FY 1995), Office of Planning Analysis, DC Department of Corrections.

² Darrell K. Gilliard and Allen J. Beck, Prisoners in 1993, Bureau of Justice Statistics Bulletin, June 1994 at p. 4; Lawrence A. Greenfeld and Stephanie Minor-Harper, Women in Prison, Bureau of Justice Statistics Special Report, March 1991 at p. 7.

³ Id.

⁴ Demographic Characteristics of the Incarcerated Population, supra note 1.

⁵ Sue Kline, "A Profile of Female Offenders in the Federal Bureau of Prisons," Federal Prisons Journal, Spring 1992 at p.34. In state prisons, 33 percent of women in 1991 were incarcerated for a drug offense, compared to 21 percent of the men. Allen Beck et al., Survey of State Prison Inmates, 1991, Bureau of Justice Statistics, March 1993 at p.4.

⁶ Beck et al., supra note 5, at p.5.

⁷ Drug Use Forecasting 1993—Annual Report on Adult Arrestees: Drugs and Crime in America's Cities, National Institute of Justice, November 1994 at p.28.

⁸ Id.

⁹ Gilliard and Beck, supra note 2, at p.5.

¹⁰ Demographic Characteristics of the Incarcerated Population, supra note 1.

¹¹ Beck et al., supra note 5, at 10.

¹² Id.

¹³ Id.

¹⁴ Id.

indicate that 6 percent of women prisoners are pregnant in prison,¹⁵ and approximately 15 percent are post-partum.¹⁶

III. HISTORICAL CONTEXT OF HR 461

Having provided you with a profile of the local and national women's prison population, I will discuss H.R. 461 within a historical context which demonstrates that sending local women inmates to federal facilities is an ill-advised and potentially unsustainable endeavor. In order to compensate for the closure of the Lorton facilities, H.R. 461 proposes to send all prisoners convicted of felonies in the District of Columbia Superior Court to out-of-state institutions run by the Federal Bureau of Prisons (BOP). With respect to the women's prison population, this is not a new suggestion. In the late 1960's when the District did not have any facilities available to house women, female inmates who were sentenced to terms exceeding one year were sent to any one of a number of federal institutions across the nation. While this practice continued for a number of years, the BOP quickly had to come to terms with significant overcrowding within its own facilities due to a prison population that was exploding in size. Eventually in 1992 the BOP was forced to alleviate this overcrowding by sending 200 District of Columbia women prisoners back to the District to be incarcerated locally. At the time, the District did not have the capacity to accommodate this large influx of women, and as a result opened the recently built Correctional Treatment Facility, which had been designed as a premiere mental health and substance abuse treatment center for special population inmates, to general population women inmates.

Today, women prisoners in the District of Columbia are housed in three correctional facilities, in addition to halfway houses in the community. Of the 680 women incarcerated in District of Columbia as of January 1995, 148 were held at the Central Detention Facility, otherwise known as the "DC Jail,"¹⁷ which houses individuals who are awaiting trial. The Correctional Treatment Facility, or "CTF," houses 267 medium custody women serving sentences of two years to life.¹⁸ The Lorton Minimum Security Annex houses 171 minimum custody women who are within two years of a presumptive release date.¹⁹ The remaining 94 women are confined to halfway houses.²⁰

III. THE IMPACT OF HR 461 ON WOMEN PRISONERS

If Congress transfers the responsibility of housing District of Columbia prisoners to the BOP, District of Columbia women could be placed in any one of 19 federal facilities across the country which house women prisoners, including facilities as far away as California, Texas and Florida. Because there are far fewer prison facilities for women in the BOP, an incarcerated woman is ordinarily placed much farther from her home and family than the average male prisoners. In fact, the two closest federal facilities to the District which house women are located in Alderson, West Virginia, which is 250 miles from the District, and Lexington, Kentucky. In comparison, the closest federal prison for men is in Petersburg, Virginia, which is approximately 130 miles away.

This displacement creates problems for all prisoners but is especially damaging for women prisoners. This is in large part due to the significant responsibilities that women have for rearing children. Often incarcerated women do not have family or friends to assume temporary custody of their children and have no other option for placement except foster care. The foster care system in the District is tremendously overburdened. Women's incarceration further stretches the system. While the ultimate goal of the child welfare system is reunification, often this does not occur. Even women who are incarcerated locally have difficulty arranging visits with their children because the social service system is overburdened, or because their children's caregiver is unwilling or unable to transport the children to the prisons. These barriers to visitation only become far more acute as distances between a woman's correctional facility and her family increase. Women prisoners are consequently often unable to maintain contact with their children, and leave prison to find that their children have bonded to another caregiver who is pressing for permanent legal custody, termination of parental rights, or adoption. The ramifications of

¹⁵ Tracy L. Snell and Danielle C. Morton, *Women in Prison: Survey of State Prison 1991*, Bureau of Justice Special Report, March 1994, at p.19.

¹⁶ Greenfeld and Minor-Harper, *supra* note 2, at p.6.

¹⁷ Demographic Characteristics of the incarcerated Population, *supra* note 1.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

this policy would ultimately translate to increased costs to the District's child welfare system the foster care system, the juvenile justice system and other social services which intervene when parents are unable to assume their role as caregiver and their children become involved in these systems.

In addition to keeping families together, family visitation is critical to women's rehabilitation as well. It has been demonstrated that incarcerated parents who have contact with their children have a lower rate of recidivism and work harder toward rehabilitation. The isolation of women prisoners from their families may therefore have a significant impact on their ultimate rehabilitation as well as their ability to remain outside of the criminal justice system once they are released.

In addition to breaking up families, HR 461 is impractical from a logistical perspective due to the already existing overcrowding problems in the federal system. The vast majority of federal institutions currently house inmate populations which far exceed their capacity, and we know that prison overcrowding places a huge strain on correctional staff, institutional resources, and prisoners themselves. On average, these federal institutions are operating at 136 percent of their rated capacity.²¹ In light of this overcrowding, it is unreasonable to think that the BOP will simply be able to accommodate the District's female prison population within its already overcrowded and overburdened facilities.

IV. ECONOMIC IMPLICATIONS OF HR 461

In addition to the potentially devastating impact that HR 461 could have on many families in the District of Columbia, sending local prisoners to federal institutions is economically inefficient and promises to be a large waste of federal dollars and taxpayer money at a time when legislators are working to cut back waste and excesses in government. Federal placement of District of Columbia prisoners should be saved only for those individuals who are serving very long sentences and will not be returning to the community any time soon. However, the vast majority of women prisoners are serving relatively short sentences for drug offenses which are classified as felonies and technical parole violations. In fact, 221 of the women prisoners in the District—or approximately one-third—are incarcerated due to a parole or work release violation, or are awaiting a parole rehearing.²²

Few who are familiar with the DC Department of Corrections would disagree that the Department of Corrections has done a very poor job in meeting the needs of the District's incarcerated population. This is largely due to chronic mismanagement at the Department of Corrections. The answer, however, is not to allow the District to abdicate its criminal justice responsibilities to the federal government. Instead, the District needs to take affirmative steps to correct these deficiencies. As advocates we have strong hopes that the newly appointed financial control board and recent efforts to seek management and technical assistance from places like the National Institute of Corrections will help resolve these ongoing problems. Ultimately, the District needs to develop institutional and city-wide expertise in criminal justice issues.

As I have testified, history has proven that sending our prisoners to federal facilities is not a long-term solution. The District must instead begin to develop its own capacity and internal systems to address criminal justice issues. To alleviate its need for space, the Department of Corrections must rectify its very inefficient use of Departmental resources. For example, many prisoners who are eligible for parole and could be out in the community are unnecessarily detained because their paperwork is not prepared or processed in a timely manner. The same is true for individuals eligible for halfway house placement, and as a result District halfway houses have a vacancy rate of 28 percent. At the same time, the District needs to make use of existing community resources and develop alternative placement options for non-violent offenders, including women with young children and individuals needing drug treatment in the community.

V. CONCLUSION

H.R. 461 will not address the problems in the District's criminal justice system. Instead, it will separate families and place additional strains on already overburdened social service systems which come to the aid of children of incarcerated parents. We would, however, welcome discussions geared toward achieving systemic change within the Department of Corrections.

Mr. DAVIS. Thank you very much.

²¹ Gilliard and Beck, *supra* note 2, at p.6.

²² Memorandum from Edmund P. Walsh to Mike Hagstad, Impact Statement regarding Women Prisoners of DCDC v. District of Columbia, April 3, 1995.

Mr. Koren.

Mr. KOREN. Mr. Chairman, thank you for inviting me to testify today on this very important issue.

My name is Ed Koren, and I am a staff attorney with the National Prison Project. The project is that part of the ACLU which is concerned with conditions of confinement and delivery of health care services to prisoners across the country. We have been bringing lawsuits in which we have represented prisoners about these issues since 1973. We are and have been involved in litigation in Alabama, Rhode Island, Colorado, California, Maryland, and Virginia. We have represented D.C. prisoners confined at Lorton and at the D.C. Jail since the mid-1970's.

We also oppose H.R. 461, the Lorton Closure Act, for many of the same reasons that Pauline Sullivan and Jonathan Smith have so persuasively developed in their testimony. I wish to reiterate Mr. Smith's comments about the negative impact closure will have on the employment prospects of D.C. prisoners sent to faraway Federal prisons.

You should be reminded that D.C. prisoners will be returning to their home community. We tend to forget this fact in our headlong, unthinking punitive efforts that are all the political rage today. If they are returning home and we are truly interested in preventing further crime and promoting healing, we should do all in our power to facilitate finding productive employment and reintegration into the community.

Closure of Lorton means that often tenuous ties to family, friends, and community are further strained, cut, and broken. Previous contacts and relationships tend to fall away with time and distance. If you are really concerned about policy here, you must reject closure of Lorton.

Moreover, this is not just the ACLU saying this. I would respectfully refer the committee to the 1973 National Advisory Commission on Criminal Justice Standards and Goals, which supports this social reintegration concept. Among the members of that commission and attendant task forces were some well-known correctional professionals such as Norman Carlson, the former director of the Federal Bureau of Prisons, and present U.S. Senators, Arlen Specter and Richard Lugar.

Related to this, as Mr. Smith noted, is another serious effect which has constitutional implications for the Lorton prison population. Closure will mean separation from lawyers handling their criminal cases, including appeals from convictions. It will not only reduce the ability of transferred prisoners to communicate meaningfully with lawyers who currently represent them, but it will inevitably reduce their ability to seek and secure such representation. I say "meaningfully," because there is quite a difference between writing letters and telephone calls, on one hand, and speaking face-to-face, one-on-one with your attorney.

Finally, I would mention one very critical issue that is generally not recognized in this debate. One enormous advantage that Lorton has over almost every other prison system in the United States that I am aware of is the significant lack of racial hostility, tension, and periodic violence that you see everywhere in our prisons and jails, including the Federal system today.

Lorton houses a population which is 98 percent African-American, virtually all poor people from D.C. neighborhoods. A very high percentage of staff is also African-American, 76 percent, by my calculations, many from the same D.C. neighborhoods. As a result, people know each other. Moreover, and to the point, there is hostility and violence at Lorton, but it is not related to racial or cultural animosity and hatred. This a very strong argument in favor of keeping Lorton open. Moreover, if Lorton is indeed closed pursuant to H.R. 461, and D.C. prisoners are sent to Federal prisons scattered across the mainly rural landscape of the country, we are asking for trouble.

D.C. prisoners have been transferred into the Federal system in substantial numbers over many years. There is a history here. Federal Bureau of Prisons line staff, rightly or wrongly, receive D.C. prisoners as troublemakers from the big city. D.C. has a bad reputation among Federal prison staff. I believe it is mainly an example of culture clash, but there is a racial element to this antagonism that cannot be ignored.

You may remember an analogous situation from the recent past which illustrates this problem. A few years ago, D.C. contracted with a private provider to house D.C. prisoners in a private facility in Pennsylvania. That State's attorney general, at the behest of the Governor, obtained an injunction to prevent that transfer. The buses were literally turned back at the border by the attorneys bearing the court order.

I am convinced that pressure for this train of events started with a rural population that did not want to see a facility housing D.C. African-American prisoners located in their midst.

Thank you for this opportunity to present these remarks to the committee.

Mr. DAVIS. Mr. Koren, thank you very much.

Ms. Smith, thank you for being here.

Ms. SMITH. Good morning. Again, I would like to reiterate our thanks to the subcommittee and the delegate from the District of Columbia and you, Mr. Davis, for providing the community with the opportunity to speak about the impact of the Lorton closure on the District of Columbia community and on its citizens.

I am here specifically today to discuss the particular impact that closing Lorton would have on women prisoners and their families. As indicated in my testimony, the National Women's Law Center is a nonprofit organization which has been working since 1972 to advance and protect women's legal rights. The center has testified before this committee and other committees on a number of issues affecting low-income women.

In 1990, the center began a project with women in the criminal justice system, and we began that project out at the Lorton minimum security annex. At that time, we worked with about 170 women. Currently, we work with all 680 women who are in the District's three correctional facilities and three halfway houses and out in the community. Since 1990, we have provided legal services to 2,500 women and their families. So the testimony that I present today is based on that direct work with those women.

Before discussing the impact of H.R. 461 on incarcerated women, it is helpful to know exactly who we are talking about. In January

1995, there were 680 women under the jurisdiction of the Department of Corrections. The District of Columbia has by far the highest incarceration rate of any jurisdiction in the Nation. Its incarceration of women prisoners is three times the national average at 119 per 100,000.

Most of these women are incarcerated on drug offenses which are classified as felonies. Those women would be directly impacted by the closure. In fact, currently 73 percent of District of Columbia women prisoners are classified as felons and under this legislation would be transferred. What is clear is that women are more likely than men to be serving sentences for drug offenses. Fifty-nine percent of women prisoners, compared to 35 percent of men, are serving sentences for drug offenses, and women have higher rates of drug use, with 71 percent of women who were arrested in D.C., compared to 61 percent of men testing positive for any drugs.

These women are primarily low-income women and, importantly, have the care of dependent children. In January 1995, 85 percent of women in D.C. correctional facilities were unemployed prior to their incarceration.

I think one of the most important statistics I want to present to the committee and that has a direct bearing on this hearing and on the impact of the families of these women is that the majority are between 20 to 34 years old, in their primary child-bearing years. Prior to their incarceration, 70 percent had custody of their children.

When women are incarcerated, 74 percent of their children are cared for by grandparents, other relatives, or friends. Only 25 percent of the children's fathers care for them during the incarceration. Women's incarceration, therefore, has a much greater impact on the stability of their families.

I would like to now talk about the reasons that I believe militate against the closure of Lorton. First of all, closure of Lorton is an unsustainable endeavor from a purely historical context. As Ms. Sullivan mentioned, there have been numerous proposals to close Lorton.

In fact, women prisoners have been incarcerated in much higher percentages than men over the past 30 years. In 1987, in a case called Pitts, women specifically challenged their incarceration at farther distances away than men. While that case was ultimately unsuccessful, time was obviously on the women's side, because in 1992 the Federal Bureau of Prisons, on its own, sent back the majority of D.C. prisoners, including 200 women prisoners. The reason for sending these women back was because of significant overcrowding problems in the Federal Bureau of Prisons and their inability to handle that number.

As has already been stated, by the year 2000, the District of Columbia population is going to increase at the same time that the Federal Bureau of Prisons is experiencing its own increase. Consequently, historically and from just a practical point of view, the closure of Lorton is not feasible.

Second, the impact on the families of women. As noted above, women's incarceration has a devastating impact on families because of their primary responsibility for child-rearing. This problem

would be exacerbated by this legislation, which would mean that women would be sent to facilities far from their homes.

Interestingly for women, the closest Federal facility is Alderson, WV, 250 miles away. The next is Lexington, which is over 400 miles away. This distance fuels the degeneration of women's families and also would severely burden the foster care system, the child welfare system, juvenile justice, and other social services systems, which will take up the responsibility—have to—for these women's children.

Third, logistical problems. There are significant differences in Federal law and D.C. law, including parole eligibility, the imposition of the death sentence, which the citizens of the District of Columbia have specifically rejected, eligibility and placement in work release and work training. Sending Federal prisoners away, and particularly those who have little history of employment, is not going to improve that situation at all and, as Jonathan Smith has testified, would create significant problems, in terms of transportation, for the Federal Bureau of Prisons.

All of us can talk about why there are problems, and I can also talk about one of the reasons that I am sure is fueling this whole issue around closure of Lorton. As everyone has testified and as Ms. Norton has indicated, we are not here as apologists for what has happened in the District of Columbia Department of Corrections. In fact, many of us have sued the District of Columbia Department of Corrections. I, most recently, was involved in litigation on behalf of women prisoners related to sexual misconduct and sexual harassment.

Mr. DAVIS. You sued them successfully, too.

Ms. SMITH. Yes.

Mr. DAVIS. OK.

Ms. SMITH. What I would like to say, though, is that the solution is not to have the District of Columbia abdicate its responsibility. One of the constant refrains that we have heard in this Congress, and which I believe that the citizens of the District hear, and which I believe the public hears, is the whole notion of capacity building, of people taking responsibility.

Taking the responsibility for important city functions away from the District is not the way to build capacity, in particular when we know that ultimately they are going to have to resume those responsibilities. What I would require, what I would suggest is that we help in terms of building that capacity. I have several concrete solutions.

First of all, I believe, even though the financial control board is unpopular with many, I believe that the financial control board will have an important impact on resolving many of these problems related to mismanagement, in particular, mismanagement of money.

A number of other concrete steps: There have already been specific collaborations between the National Institute of Corrections and the National Institute of Justice on important issues related to the District. Let's enlarge that concept. Let's specifically provide more of that technical assistance for the District to handle its prisons.

Also, importantly, let's encourage the District to use the resources that it already has. As I have already indicated, a large

percentage of not only women but men are in prison on drug offenses. Drug treatment is a much less costly alternative and also an alternative which, in the long run, has a much better chance of success. Currently, there is also a 28 percent vacancy rate in halfway houses in the District of Columbia. Let us use those.

Again, the solution is not capacity-building, not stripping the District of what is clearly its responsibility and clearly a responsibility that it will have to maintain in some other way.

[The prepared statement of Ms. Smith follows:]

PREPARED STATEMENT OF BRENDA V. SMITH, SENIOR COUNSEL AND DIRECTOR,
WOMEN IN PRISON PROJECT, NATIONAL WOMEN'S LAW CENTER

I. INTRODUCTION

Good morning. I am Brenda V. Smith, Senior Counsel for the National Women's Law Center ("Center") and Director of the Center's Women in Prison Project. First, I would like to thank the Subcommittee on the District of Columbia for providing me with the opportunity to speak today on H.R. 461, the Lorton Correctional Complex Closure Act. The decision whether or not to close the Lorton correctional facilities will have very significant implications for many District of Columbia families, and especially for the children of incarcerated parents. Consequently, I am here today to discuss the particular impact that closing the Lorton facilities will have on women prisoners and their families.

The National Women's Law Center is a non-profit organization which has been working since 1972 to advance and protect women's legal rights. The Center has testified before and worked with Congress on numerous issues, including the 1993 hearings before the Senate Judiciary Committee on women in prison. The Center focuses on major policy areas of importance to women and their families including employment, education, reproductive rights and health, child and adult dependent care, child support and enforcement, public assistance, tax reform and social security—with special attention given to the concerns of low-income women. Five years ago, the Center began to focus on the toll that crime and drug dependence take on women and their families, in particular low-income women and women of color, and the threat that addiction poses not only to their livelihood, but to their very lives.

At the time, the Center initiated a project which draws upon its many years of experience advocating for low-income women and their families to provide direct services to over 600 incarcerated women in the District of Columbia. Since that time the District of Columbia female prison population has increased and the project now serves approximately 1,000 women in three correctional facilities, three halfway houses and the community. Since 1990, the Center has provided legal services to over 2,500 women prisoners. The Center provides the women with legal counseling, services and education on issues they have identified as priorities, such as child custody, child care, child support, domestic violence, AIDS and other medical care issues. This local experience has also allowed us to advocate effectively for women on the national level. The Center has testified before various committees of the House, conducted Senate briefings, and provided technical assistance to the Department of Health and Human Services and the U.S. Department of Justice on these and other related issues. The testimony I present today is based both on my direct work with women prisoners in the District and on research on women in prison from around the country.

II. PROFILE OF INCARCERATED WOMEN IN THE DISTRICT OF COLUMBIA AND ACROSS THE NATION

Before discussing the impact of HR 461 on incarcerated women, it is helpful to have a brief sketch of this population of women. As of January 1995, there were 680 women incarcerated in the District of Columbia.¹ In the District, as well as across the nation, there has been a significant increase in the women's prison population over the past decade and a half. National statistics reveal that the women's

¹Demographic Characteristics of the Incarcerated Population—DCDC (First Quarter—FY 1995), Office of Planning Analysis, DC Department of Corrections.

prison population increased approximately 313 percent between 1980 and 1993.² This growth rate significantly outstripped that of the male prison population, which grew at a rate of 182 percent.³

The primary reason for the marked increase in the number of incarcerated women both here in the District and nationally has been the focus on curbing drug crimes along with the advent of mandatory minimum sentences for many drug offenses. The combined focus on interdiction rather than on treatment and prevention, along with mandatory minimums, has had a devastating impact on women. Today, women are more likely than men to be serving sentences for drug-offenses. In the District of Columbia, 59 percent of all women prisoners, compared to 35 percent of men, are serving sentences for drug offenses.⁴ Nationally as of 1991, 64 percent of women incarcerated in federal prison, compared to 54 percent of men, were serving sentences for drug offenses.⁵ In state prisons, the number of women incarcerated for drug offenses between 1986 and 1991 grew 432 percent, compared to 281 percent for men.⁶ There is a direct correlation between crime and drug use. In 1993, 71 percent of women who were arrested in DC, compared to 60 percent of men, tested positive for any drug.⁷ Sixty-four percent of women, compared to 44 percent of men, tested positive for cocaine.⁸

Today, the District of Columbia has by far the highest incarceration rate of any jurisdiction in the nation. While the national rate of incarceration is 38 per 100,000 women, the rate of incarceration in the District of Columbia is 119 per 100,000.⁹ In the District and across the nation, women prisoners are predominately low-income women of color caring for dependent children with little family or social support. Many of these women struggle daily to provide for themselves and their children. As of January of this year, 85 percent of all women in DC correctional facilities were unemployed prior to their incarceration.¹⁰ It is not surprising, therefore, that the vast majority of women prisoners in the District are convicted of non-violent economic crimes—crimes such as drug sales which generate income.

Incarcerated women are primarily young, between the ages of 20 and 34 years old, in their prime childbearing years. Sixty-seven percent of women in state prisons have children under 18, and the vast majority of these women are single parents.¹¹ Prior to their incarceration, 70 percent of women prisoners, compared to 50 percent of male prisoners, had custody of their children.¹² When women are incarcerated, 74 percent of their children are cared for by their grandparents, other relatives or friends.¹³ Often these relatives are rearing their own children or have few resources to care for another child. Only 25 percent of the children's fathers assume responsibility for them.¹⁴ Women's incarceration therefore has a much greater impact on the stability of their families than does the incarceration of men, who often did not have custody prior to their incarceration, and even during incarceration can rely on their children's mother to care for them. In addition, a significant number of women have given birth to children shortly before they begin to serve prison sentences, or are pregnant and give birth during their incarceration. Bureau of Justice statistics indicate that 6 percent of women prisoners are pregnant in prison,¹⁵ and approximately 15 percent are post-partum.¹⁶

² Darrell K. Gilliard and Allen J. Beck, *Prisoners in 1993*, Bureau of Justice Statistics Bulletin, June 1994 at p. 4; Lawrence A. Greenfeld and Stephanie Minor-Harper, *Women in Prison*, Bureau of Justice Statistics Special Report, March 1991 at p. 7.

³ *Id.*

⁴ Demographic Characteristics of the Incarcerated Population, *supra* note 1.

⁵ Sue Klone, "A Profile of Female Offenders in the Federal Bureau of Prisons," *Federal Prisons Journal*, Spring 1992 at p.34. In state prisons, 33 percent of women in 1991 were incarcerated for a drug offense, compared to 21 percent of the men. Allen Beck et al., *Survey of State Prison Inmates, 1991*, Bureau of Justice Statistics, March 1993 at p.4.

⁶ Beck et al., *supra* note 5, at p.5.

⁷ Drug Use Forecasting 1993—Annual Report on Adult Arrestees: Drugs and Crime in America's Cities, National Institute of Justice, November 1994 at p.28.

⁸ *Id.*

⁹ Gilliard and Beck, *supra* note 2, at p.5.

¹⁰ Demographic Characteristics of the Incarcerated Population, *supra* note 1.

¹¹ Beck et al., *supra* note 5, at 10.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Tracy L. Snell and Danielle C. Morton, *Women in Prison: Survey of State Prison 1991*, Bureau of Justice Special Report, March 1994, at p.19.

¹⁶ Greenfeld and Minor-Harper, *supra* note 2, at p.6.

III. HISTORICAL CONTEXT OF HR 461

Having provided you with a profile of the local and national women's prison population, I will discuss H.R. 461 within a historical context which demonstrates that sending local women inmates to federal facilities is an ill-advised and potentially unsustainable endeavor. In order to compensate for the closure of the Lorton facilities, H.R. 461 proposes to send all prisoners convicted of felonies in the District of Columbia Superior Court to out-of-state institutions run by the Federal Bureau of Prisons (BOP). With respect to the women's prison population, this is not a new suggestion. In the late 1960's when the District did not have any facilities available to house women, female inmates who were sentenced to terms exceeding one year were sent to any one of a number of federal institutions across the nation. While this practice continued for a number of years, the BOP quickly had to come to terms with significant overcrowding within its own facilities due to a prison population that was exploding in size. Eventually in 1992 the BOP was forced to alleviate this overcrowding by sending 200 District of Columbia women prisoners back to the District to be incarcerated locally. At the time, the District did not have the capacity to accommodate this large influx of women, and as a result opened the recently built Correctional Treatment Facility, which had been designed as a premiere mental health and substance abuse treatment center for special population inmates, to general population women inmates.

Today, women prisoners in the District of Columbia are housed in three correctional facilities, in addition to halfway houses in the community. Of the 680 women incarcerated in District of Columbia as of January 1995, 148 were held at the Central Detention Facility, otherwise known as the "DC Jail,"¹⁷ which houses individuals who are awaiting trial. The Correctional Treatment Facility, or "CTF," houses 267 medium custody women serving sentences of two years to life.¹⁸ The Lorton Minimum Security Annex houses 171 minimum custody women who are within two years of a presumptive release date.¹⁹ The remaining 94 women are confined to halfway houses.²⁰

III. THE IMPACT OF HR 461 ON WOMEN PRISONERS

If Congress transfers the responsibility of housing District of Columbia prisoners to the BOP, District of Columbia women could be placed in any one of 19 federal facilities across the country which house women prisoners, including facilities as far away as California, Texas and Florida. Because there are far fewer prison facilities for women in the BOP, an incarcerated woman is ordinarily placed much farther from her home and family than the average male prisoners. In fact, the two closest federal facilities to the District which house women are located in Alderson, West Virginia, which is 250 miles from the District, and Lexington, Kentucky. In comparison, the closest federal prison for men is in Petersburg, Virginia, which is approximately 130 miles away.

This displacement creates problems for all prisoners but is especially damaging for women prisoners. This is in large part due to the significant responsibilities that women have for rearing children. Often incarcerated women do not have family or friends to assume temporary custody of their children and have no other option for placement except foster care. The foster care system in the District is tremendously overburdened. Women's incarceration further stretches the system. While the ultimate goal of the child welfare system is reunification, often this does not occur. Even women who are incarcerated locally have difficulty arranging visits with their children because the social service system is overburdened, or because their children's caregiver is unwilling or unable to transport the children to the prisons. These barriers to visitation only become far more acute as distances between a woman's correctional facility and her family increase. Women prisoners are consequently often unable to maintain contact with their children, and leave prison to find that their children have bonded to another caregiver who is pressing for permanent legal custody, termination of parental rights, or adoption. The ramifications of this policy would ultimately translate to increased costs to the District's child welfare system the foster care system, the juvenile justice system and other social services which intervene when parents are unable to assume their role as caregiver and their children become involved in these systems.

In addition to keeping families together, family visitation is critical to women's rehabilitation as well. It has been demonstrated that incarcerated parents who have

¹⁷ Demographic Characteristics of the incarcerated Population, *supra* note 1.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

contact with their children have a lower rate of recidivism and work harder toward rehabilitation. The isolation of women prisoners from their families may therefore have a significant impact on their ultimate rehabilitation as well as their ability to remain outside of the criminal justice system once they are released.

In addition to breaking up families, HR 461 is impractical from a logistical perspective due to the already existing overcrowding problems in the federal system. The vast majority of federal institutions currently house inmate populations which far exceed their capacity, and we know that prison overcrowding places a huge strain on correctional staff, institutional resources, and prisoners themselves. On average, these federal institutions are operating at 136 percent of their rated capacity.²¹ In light of this overcrowding, it is unreasonable to think that the BOP will simply be able to accommodate the District's female prison population within its already overcrowded and overburdened facilities.

IV. ECONOMIC IMPLICATIONS OF HR 461

In addition to the potentially devastating impact that HR 461 could have on many families in the District of Columbia, sending local prisoners to federal institutions is economically inefficient and promises to be a large waste of federal dollars and taxpayer money at a time when legislators are working to cut back waste and excesses in government. Federal placement of District of Columbia prisoners should be saved only for those individuals who are serving very long sentences and will not be returning to the community any time soon. However, the vast majority of women prisoners are serving relatively short sentences for drug offenses which are classified as felonies and technical parole violations. In fact, 221 of the women prisoners in the District—or approximately one-third—are incarcerated due to a parole or work release violation, or are awaiting a parole rehearing.²²

Few who are familiar with the DC Department of Corrections would disagree that the Department of Corrections has done a very poor job in meeting the needs of the District's incarcerated population. This is largely due to chronic mismanagement at the Department of Corrections. The answer, however, is not to allow the District to abdicate its criminal justice responsibilities to the federal government. Instead, the District needs to take affirmative steps to correct these deficiencies. As advocates we have strong hopes that the newly appointed financial control board and recent efforts to seek management and technical assistance from places like the National Institute of Corrections will help resolve these ongoing problems. Ultimately, the District needs to develop institutional and city-wide expertise in criminal justice issues.

As I have testified, history has proven that sending our prisoners to federal facilities is not a long-term solution. The District must instead begin to develop its own capacity and internal systems to address criminal justice issues. To alleviate its need for space, the Department of Corrections must rectify its very inefficient use of Departmental resources. For example, many prisoners who are eligible for parole and could be out in the community are unnecessarily detained because their paperwork is not prepared or processed in a timely manner. The same is true for individuals eligible for halfway house placement, and as a result District halfway houses have a vacancy rate of 28 percent. At the same time, the District needs to make use of existing community resources and develop alternative placement options for non-violent offenders, including women with young children and individuals needing drug treatment in the community.

V. CONCLUSION

H.R. 461 will not address the problems in the District's criminal justice system. Instead, it will separate families and place additional strains on already overburdened social service systems which come to the aid of children of incarcerated parents. We would, however, welcome discussions geared toward achieving systemic change within the Department of Corrections.

Mr. DAVIS. Thank you very much.

Ms. JOHNSON. Thank you, Mr. Chairman.

Mr. DAVIS. Ms. Hunter, thank you for being here.

Ms. HUNTER. Good morning, Mr. Chairman. I am Janice Johnson Hunter, executive director of the D.C. Catholic Conference, and I am joined by Father George Quickly, who is the Catholic chaplain

²¹ Gilliard and Beck, *supra* note 2, at p.6.

²² Memorandum from Edmund P. Walsh to Mike Hagstad, Impact Statement regarding Women Prisoners of DCDC v. District of Columbia, April 3, 1995.

at the central facility at Lorton. I wish to thank the subcommittee for inviting us to testify on this important issue.

The stated mission of the department is twofold: to protect public safety and to increase the probability that those in its care will live law-abiding lives after their release. However, as an institution plagued with underfunding, poor management, overcrowding, scandals, and inadequate availability of services, such as health care, vocational and educational programs, the Department of Corrections has been unable to meet both goals.

In order to resolve these many failings, it has been proposed that the Lorton Complex be closed and that the inmate population be transferred to the Federal Bureau of Prisons. However, in spite of Lorton's many failings, the Archdiocese of Washington opposes its closure.

The Archdiocese has a long history of service to offenders who are incarcerated in the District's corrections system and to their families. Through the Catholic chaplain's office at Lorton the Archdiocese has provided religious and support services to inmates and their families for many years. Volunteers from parishes throughout the city also serve in a variety of prison ministries.

Over the years, we have seen the local prison population increase and the services available to meet the many and varied needs of the inmates diminish. Closing Lorton does nothing to solve these problems. There has been no indication that the closing of Lorton will save the District of Columbia much money.

If the inmate population is transferred to the Federal Bureau of Prisons, the District will still pay a hefty fee for this service, estimated to be as high as \$164 million a year. Yet, the District of Columbia will lose its ability to monitor and evaluate the effectiveness and quality of the corrections system and the conditions of confinement.

Nearly 2 percent of the District's population is confined in the corrections system. The residents of the District of Columbia have an important stake in the operation of the corrections program. We believe that city residents should have the opportunity to meet the challenge to correct longstanding problems in the prison system. We believe that the money paid to the Federal Bureau of Prisons would be better spent, and the city would be greater enriched, if we vigorously embraced the goal to improve conditions in our District prisons, including Lorton. Father Quickly will comment on our other concerns and suggested methods to improve conditions at Lorton.

Rev. QUICKLY. Mr. Chairman, I am Father George Quickly, and I have been the Catholic chaplain at Lorton's central facility for more than 6 years. I see firsthand the destructive effects of too few resources for the residents at the Lorton facilities. The failure to address the failings of Lorton within the local community will exact both a financial and human toll.

The transfer of the prison population from Lorton into Federal prisons across the country will create new difficulties for an already vulnerable population. Tenuous family relationships will be further compromised by the strain of distance and greater expenses. Travel and telephone calls for the family members trying to maintain contact will be more costly. Family and community

ties, which have been shown to reinforce the rehabilitation of offenders, will be destroyed.

Virtually all prisoners are eventually released. Someone with a supportive family and a supportive community is much less likely to return to criminal activity upon release from prison. Closing Lorton will eliminate the benefits of work release programs and disengage the community from involvement in rehabilitation. The Archdiocese has long recognized that rehabilitation is a primary ingredient to reduce recidivism and deter crime.

As an example, through the efforts of the Catholic chaplain's office at D.C. Detention Center, we launched a collaborative effort between the North Capital Neighborhood Development Corp., the Department of Corrections, and the Archdiocese to train Lorton residents in the construction trades. Their acquired skills are used to actually refurbish once-grim housing structures into affordable housing for families on Hanover Place, Northwest. Both homes and lives are restored.

This program and others like it create a "win-win" situation. The offenders develop job skills in the construction trades that translate into jobs once they are released. District residents benefit from the renovation of moderate and low-income housing and the enhancement of the community, and public-private partnerships that benefit the community are nurtured. Just last week I had the opportunity to visit, at Hanover Place, William Jewels, a former resident who participated in this building trades program. Thanks to this collaborative effort, upon his release he was hired by a local contractor. If the Lorton prison population is dispersed, programs such as this, which benefit the offender and the community, will be unavailable.

The Archdiocese of Washington supports measures that offer the prison population opportunities for rehabilitation. We believe that programs and services that provide treatment of substance abuse, adequate health care, education, vocational and counseling programs are essential for sound rehabilitation to occur at Lorton. Such programs are essential to allow the offenders to feel purposeful, competent, and prepared to reestablish themselves in the community. Given adequate resources, there is no reason to doubt that cost-effective rehabilitation can occur at Lorton.

The Archdiocese of Washington strongly supports alternatives to incarceration. Overcrowded conditions can be eliminated through the effective use of less-expensive intermediate sanctions as alternatives to incarceration for nonviolent offenders, such as halfway houses and electronic monitoring. The use of maximum sanctions should be reserved for violent offenders.

Our church believes in the Judeo-Christian principle of restorative justice. As a people of faith, we ultimately believe in the possible restoration of every individual, especially those nonviolent offenders who are mentally and physically shackled by the scourge of drug dependency. Restorative justice involves not only the individual offender but also the community.

We urge that the Lorton Correctional Complex remain open and be given adequate support and resources to meet its mission and to meet the needs of the citizens of the District of Columbia. We thank you for this opportunity to express our concern.

Mr. DAVIS. Thank you, Father Quickly.
We ask, is Mr. Davis here, from the Coalition of Ex-Offenders Against Community Violence?

Mr. Davis, thank you for being here today.

Mr. SIDNEY DAVIS. Thank you.

Mr. DAVIS. Whenever you are ready.

Mr. SIDNEY DAVIS. I would like to thank the panel for this opportunity to just say a few things on record.

I am one of the co-founders of the Coalition of Ex-Offenders Against Community Violence. This lawfully chartered organization was established in 1992. Some of what we do is go into schools and communities where there is gang violence and school violence, and we offer alternatives to youngsters. We work with the agencies that are presently involved with the District of Columbia educational system.

I am here today just to say that if we are to talk about the moving of Lorton or the uprooting of families or some of what has already been institutionalized, in terms of dealing with the transition of men coming from institution to community, then we ought to look deeper, at the historical dynamics of what this means across the board.

There is definitely a need for partnership between the District, Virginia, and Maryland. When we look at this in terms of partnership, we look at it from many aspects; specifically, community safety as well as accountability in service agencies that respond to the needs of its constituents.

I served in Lorton 21 years, and I took advantage of opportunities, educational and vocational opportunities, to prepare myself for the real world and to be held accountable for my actions. I would like to say that to move Lorton would be very detrimental to a partnership between Virginia, Maryland, and the District of Columbia.

In the past we have had Senators and Congressmen to issue forth this same initiative. Senator Broyhill was one of the forerunners for this as it related to business interests, commercial/business interests, to seize the property and to uproot families. That, to me, doesn't seem to be the primary concern, the uprooting of families.

In all of the testimony that has been given here this morning, I support that, in terms of Lorton not being moved. But I look to the deeper aspect, for the Congressmen and all of the concerned, interested people to primarily look at setting this matter off until there is a comprehensive plan presented across the board. If there is a comprehensive plan submitted to this committee, then I think you can look at how it impacts the lives of people, how it impacts business, and how it is going to impact public safety in the community.

I don't think there has been an opportunity for a realistic partnership between the three jurisdictions. So you have civic organizations in Virginia, as well as Maryland, who may be prepared to partner with the District to provide resources than can make for better, and I think we need to realistically look at that.

We talk about crime, the definition of crime. We talk about letting folk back into the community. How are we going to let them

back into the community? If you send them to Federal institutions, are you prepared, as this sister was saying, to treat the drug situation—and many are affected by drugs, and drugs are being made conveniently available to young folks, as well as guns being made conveniently available to them.

So we have to look at the whole spectrum, in terms of the historical and contemporary impact right now, and look at setting this matter aside until there is a comprehensive plan presented to this committee from the three jurisdictions. If Maryland is to come forth with their plan, in terms of how we intend to deal with this whole metropolitan crime situation, and not only crime but services to people, then I think we would come up with a better way as a win/win situation and not putting anyone at a disadvantage.

But not to consider it from a three-jurisdictional perspective puts all of us in difficulty. So I think it is important right now to look at it from the very essence of what it means.

Now, we have the Mayor, who is the chief representative of the District of Columbia, who I think is in need of many things; specifically, resources to the constituency that he serves and represents. If that is to be done with uniformity and specificity, then we ought to support what all constituents can do across the board.

But a comprehensive plan is lacking at this time, and I would recommend that we look at a comprehensive plan from a three-jurisdictional point of view, Maryland, Washington, and Virginia, to bring the three jurisdictions together, or some committee, that you would form a metropolitan commission to look at a comprehensive plan.

There are some things that are being done in other jurisdictions, as well as this jurisdiction, that are not being looked at as critically as this. This is the Nation's capital. It's supposed to be the model of which other things are looked at and emulated. So we have to look at that critically and not be too hasty in making a decision to move families, and displace and dislocate agencies, and put people out of work.

So that's my recommendation to this committee.

Mr. DAVIS. Thank you very much. I appreciate your comments.

We also have Darlene Jackson from DC-CURE here.

Ms. JACKSON, thank you for being with us.

Ms. JACKSON. My name is Darlene Jackson, and I am with DC-CURE. I am here today with the purpose of representing families who would be directly affected by H.R. 461.

Mr. Chairman, I have sat and listened to previous hearings. What I have found to be the case in these hearings is that little focus has been given to the concerns of families of inmates housed at the Lorton Complex. While many have come before this committee to express their concerns with Lorton and what should be done with the complex, my direct intent is to give you insight from a personal perspective of having a family member housed at Lorton and from the concerns I have from being directly involved in a criminal justice reform organization.

First, I would be remiss to deny that there are serious problems at the Lorton Complex. However, I do not believe closing the complex would be the solution to the problem. Moreover, with the overcrowding of the Bureau of Prisons at its current problematic stage,

sending over 7,300 inmates and possible increases to the Federal system would only exacerbate the problem. Second, how could increased rehabilitation, programs, et cetera, occur if the BOP is at capacity now? Third, what would happen to good time credits, parole hearings, and family ties? Mr. Chairman, H.R. 461 does not give enough insight to these topics stated above, much less to other concerns.

Transferring D.C. inmates all over the country would be cruel and I believe would only add to the problems already facing inmates. The families would be most affected by the closure. The effects of transferring D.C. inmates all over the country would have short- and long-term effects on the families as well as the inmates. In speaking with families who have significant others housed at Lorton, the responses to H.R. 461 have been varied. However, the response almost always given is, how will I/we be able to afford to travel and see my husband, father, son, daughter, and friend? How will we keep family ties intact? How will my children know their fathers or mothers? My concern, however, is, what will happen if we can only afford to visit once a year, or perhaps once every 2 years, or perhaps never?

Moreover, in speaking with inmates, frequent contact with family by way of visits greatly helps the inmate's term of incarceration and encourages the inmates to improve their lives and to return to their waiting families and communities as productive individuals. Additionally, in speaking with correctional officers, those inmates who maintain constant and consistent family ties fare better in the institution than those who do not have family ties. Studies have also shown that those inmates with family contact also fare better upon release because of the maintained family ties. Many of those incarcerated will 1 day return to their communities. It is important that every effort be made to make sure this happens. Severing family ties is not the solution to the problems at Lorton.

I would suggest other alternatives be taken into consideration. Perhaps the BOP could upgrade the Lorton Complex. In reading the statement from Attorney General Janet Reno, she has suggested that to upgrade the Lorton Complex would be far less expensive than to transfer all Lorton felons to the BOP. The transfer would also lead to building new facilities because of the BOP being at 160 percent of capacity, with Lorton inmates, it would increase to 172 percent.

Lorton is currently 44 percent over capacity. Attorney General Reno estimated the cost of the upgrade projected at \$150 million versus \$629 million for the construction of new facilities. Lorton inmates will fare far better with upgraded facilities, for education can be increased, and where current facilities can be more secure, and where rehabilitation can become a reality instead of an illusion. Moreover, family ties could be kept intact.

Again, there are many answers to the problems at Lorton. However, transferring inmates all over the country and separating families, in many instances, will not increase their chances for better rehabilitation but perhaps make a bad situation worse.

I ask this committee to seriously consider the options. I hope that in your decisions you will put yourself in the shoes of me and other

families whom this will affect. Moreover, I hope you will never have to know the reality of being separated from your families.

In conclusion, the response that comes to my mind with regard to H.R. 461 is, are we trying to prepare incarcerated persons to come back and be productive individuals in the community or keep them institutionalized?

Thank you.

Mr. DAVIS. Thank you very much.

I will start the questioning. We don't have a time schedule. I will try to hold everybody to 5 minutes the first time around, to give everybody a chance to respond to questions.

Let me say, I have sat where you sit. My father served two tours in the State prison system in Virginia. I remember going to visit him one time a couple hours away, and another time when he was on a road gang in Stafford. So I don't approach this just from a theoretical point of view. I know what a hardship it is for families to keep that tie, how important a support that can be, in some cases, to the prisoners.

But there is another tie here. We've got 32,000 phone calls a day coming out of a complex with 7,600 prisoners, and not all those calls are to their families. There are other elements that they keep in close contact with, too. I mean, there are two sides to this that we are trying to balance.

The proposed legislation says that they would go to the closest Federal facility, but there is no reason that, if additional facilities are built, they couldn't be proximate to the area. If, for example, the prisoners were to be sent to somewhere within a 2-hour drive, would that change your thinking a little bit? It certainly would make it better than going to Chicago.

Ms. JACKSON. Yes, but 2 hours is a long way.

Mr. DAVIS. Well, it's 2 hours at rush hour sometimes.

Ms. JACKSON. Especially when you work.

Mr. DAVIS. OK. I understand. I'm just saying there are some safeguards that we might want to put in here in order to be sensitive to the issues that CURE and others have raised. I don't think it can drive the legislative process, but it's something I think we need to consider. In fact, as everybody said here today, it's something we need to give thought to as we move forward on this.

But my perspective is that the current situation—and many of you agree with it—is broken, and it needs to be fixed. The question then is what is the best and most efficient fix to this situation?

The difficulty we have today, even with the prisoners in close proximity to their family and loved ones, is that we have, I believe, the highest recidivist rate in the country. It's over 70 percent at this facility, and approaching 80 percent, even with the family support groups. Therefore, it doesn't seem to be working.

I heard some comments about alternatives to incarceration, but the bottom line is that most of the individuals who come out of that complex end up going back into the system in one way, shape, or form. The motivation behind this isn't that you have D.C. prisoners in Virginia, or anything like that, it's the fact that the current system is broken, and the people who end up going in there end up coming back into the system at one point, and aren't getting the help we would like to be able to provide for them.

Let me ask Mr. Davis if you have any comments on that, because you're an alumnus. I mean, you served in the prison. You have come out back on your feet, but many of the people you served with have not. Any thoughts on how we can improve that?

Mr. SIDNEY DAVIS. Primarily, one of the dynamics of what is being discussed here is what Ms. Jackson echoed about treatment or programs. No, programs are not necessarily the answer, but it gives an opportunity for an individual to look at himself more critically; specifically, where the training is involved. So you look at drug treatment, and you look at the accessibility and no treatment. So if a man goes into the community—if you send him away, you send him to any Federal institution, and there's no treatment for what in fact he has been affected by, then he comes out the same way.

For instance, if we look at rape, psychological crime, no treatment for that kind of situation. But then the man does his time and he comes back out, but he had no treatment for that. So we're looking at—if Lorton is to be moved, it has to be that individuals who are there are going to be given treatment. We can't look at public safety and not treat folk who in fact have violated public safety.

Mr. DAVIS. Well, I don't disagree with that, but the current system right now has no Federal or congressional interference, and yet, these individuals who are going to Lorton are not getting treatment under the current system. They would get more under the Federal system than they currently get today. Absolutely.

Now, whether they would get enough treatment is a different issue. But if we leave this issue alone, if we don't address it, they will go back into a system, and will receive no help.

Mr. SIDNEY DAVIS. I'm not saying that you not look at it. I'm saying we must look at it, in terms of improvement. I'm saying, let's look at what works. Let's look at the 1965 Rehabilitation Act and all of what it had in it to make it work for the benefit of community, as it related to public safety. But you recall that during the Nixon administration, when there was Attorney General Saxbe there, there was an abolishment of that program as it had an impact on community recreation centers, day care centers, churches.

You had some participatory involvement from communities, civic relations. But when he cut that act out, it left no alternative or no opportunity for realistic programs and treatment. So that worked. Now, why, politically, it was cut out, that's a whole other situation.

Mr. DAVIS. This city and every other city has the opportunity to put programs in place—and some, I think, have been very good about it. In Fairfax County, where I come from, we have more alternatives to incarceration than any other jurisdiction in Virginia. Some of them have worked very effectively, and I have supported them. So I think we can look at those and expand them, but that won't solve the underlying problems.

Let me just say, on the funding issue for the city, they are in a financial crisis right now and, realistically, you can't expect the city, by itself, to come in here and put more money into the complex. It's a shame, because they ought to be doing so. They are spending the same amount at Lorton today that they did 12 years ago, and yet they have doubled the inmate population.

Mr. SIDNEY DAVIS. What I am asking, Mr. Chairman, is that you would look at this from a threefold jurisdiction, as it relates to Maryland, Virginia, and Washington.

Mr. DAVIS. Right.

Mr. SIDNEY DAVIS. I'm saying, to look at it from a comprehensive view—come up with a comprehensive plan that would be presented with the input of those who are at this table and others who have been working for many years. Then I think that you would be able to have some realistic measure here. But right now it's going to be an imbalance.

Mr. DAVIS. Well, we'll take that under advisement.

Just so you will understand a different perspective: in Northern Virginia, the crime rates are so much lower than in the District. It's night and day, in terms of the types of crimes committed, and the number. Since the situations are different, it allows us to put more into rehabilitation and treatment programs, than the city. We're not reacting to the same situations. But I appreciate your comments, and we'll take them under advisement as we move forward in this legislation.

My 5 minutes are up. I'm going to yield now to the ranking minority member and then move to Mr. LaTourette.

Ms. Norton.

Ms. NORTON. Thank you, Mr. Chairman, and I thank the witnesses for their very thoughtful testimony.

Let me ask if any of you know of any precedent for the wholesale transfer of State prisoners to Federal prisons?

Ms. SMITH. In preparing my testimony, and actually in the comments that I made, that was a point that I actually made, but because of the quick turnaround time was not able to do the research. In terms of an informal poll of people who work in this area, I am not aware of any precedent like that. Ed Koren might know, or others.

But I also thought about the situation in some of our other territories, like Puerto Rico or Guam or the Virgin Islands, and I don't think that we have ever done anything like what we're contemplating right now.

Ms. NORTON. On the other hand, there is a very long tradition of housing State prisoners in Federal prison. This is not a new idea, to say the very least. There is a very long tradition of the District of Columbia housing its prisoners in Federal prisons. How many are there now? How do they deal with their families? And what have you to say about an ongoing experience, which I would think would provide some evidence, one way or the other, about what would happen if these transfers were to be made, and why have you not testified as to that?

Mr. SMITH. Ms. Norton, if I could comment. There is some comment about this in my written testimony. Given the brevity of the oral testimony, I did not include it. There were other points I wanted to make. But there has been a long history in the District of sending its prisoners into the Federal system. I think Ms. Smith testified a little bit about what happened to women. There was also a large number of men.

Because of the District's unique relationship to the Federal Government, as a technical matter, all prisoners convicted in the Dis-

trict are under the jurisdiction of the Attorney General. Throughout the 1980's, between 2,000 and 2,500 of the District's 11,500 prisoners were confined in Federal prisons across the country.

That experience was, I don't think, a particularly good one for either the District of Columbia or for the Federal Bureau of Prisons. Those prisoners were returned to the District in the early 1990's because of the overcrowding problem in the Federal system and, to some degree at least, in testimony that was delivered before the District Council around that time, because the District of Columbia failed to pay its bill to the Federal Government, and the Federal Government was reluctant to keep the District's prisoners without appropriate payment.

But that experience was mixed. And it's interesting—and Mr. Koren touched upon it in his testimony—one of the examples of what happened is that a large number of the District's prisoners were confined in Leavenworth, KS. They were sent to the prison there. There was recently an expose about what happened in Leavenworth, called "The Hothouse." It was written by a social worker who worked there.

One of the things that he talked about was the trouble the District of Columbia prisoners experienced in the Federal system. In fact, that trouble was so distinct that, for the purposes of classification in Leavenworth, if you were from the District of Columbia, they classified you as if you were in a gang, and there was an automatic classification with the other District prisoners.

So that experience really didn't work. I would challenge—you know, D.C. has a terrible recidivism rate. Everybody argues about what it is. The Board of Parole tells us it's about 20 percent. If you look at other numbers, it's much higher. So it's all over the map, and I think that it depends on how you define what constitutes recidivism.

But I don't think anybody would dispute that a lot of people who come out of the system go back in. But I would challenge that probably the people who go to the Federal system fare no better when they come back into the community than those people who go into the D.C. system from the District of Columbia, because there are other causes of crime in the community than the prison system. And the prison system cannot, by itself, resolve those problems.

We need to look at the fact that there are not jobs in this community. There's nothing for people to go back to; that we have families that have collapsed; that housing is abysmal; that there is poor education; that there is no industry; that those reasons all work very closely in concert with the problems that we experience in our prison system to contribute to recidivism.

Someone growing up in this community who is, you know, poor and African-American, and living in a poor community, living in housing that doesn't work, going to a school that doesn't work, has a terrible chance of success. African-American males—35 percent of African-American males in the city, between the ages of 18 and 25—

Ms. NORTON. Mr. Smith, those depressing statistics are all too familiar to me, and I could not agree more. Just let me say to you, the reason I'm exploring this—and you know I oppose this bill—let me just tell you all why I'm exploring this. And I would ask staff

to work with my staff in finding out what the figures are presently of D.C. prisoners in Federal prisons.

Why I am exploring this is that I have some familiarity with some of what the Federal prisons do, and I know what Lorton is. Those who have testified here today have made as their overarching value one that really gets to me, and that is the family visitation. But you haven't mentioned other values. You are beginning to mention other causes. And ultimately, when we come to some kind of solution, we have to put all the values on the table.

Now, family visitation is one of those values that, to me, is almost instinctive. The recidivism rate doesn't help you on that value, doesn't help you at all on that value. Moreover, my colleagues here openly wonder whether we care about prisoners if what we do is simply defend Lorton, a place where the recent sexual harassment suit made my stomach turn, reporting of weapons and drug trade back and forth, as if you were trading on the streets.

So we are accused in the District of coming forward either with unrealistic solutions—give me a zillion dollars and I'll change the world—or with patch-up solutions. You know, all we need is a little bit of this and that, and it will all be perfect.

While I will always fight for more money and the rest for the District of Columbia, I want you to know that everybody in the District who pays taxes, poor people in the District who don't pay taxes, are just fed up with solutions that don't look like they want to get ahold of the situation and turn it around. So I want to press for the situation to turn around.

The Federal prisons, for example, have a report on what I will call prison factories. It's very interesting, because they dramatically reduced the recidivism rate by teaching people a trade. They found a way to do it and to do it with enough relevance—not all of the prisons, obviously, they are more overcrowded than we—but I'm just telling you as to what impresses me and what does not.

Lorton impresses me not at all. Lorton impresses not at all. And I really wonder what we can do. It just doesn't impress me. I am impressed that the Federal prison factories got a 35 percent reduction in recidivism. That impresses me.

So when I look at something, the first thing I want to find out is, how did they do it? It obviously wasn't simply because it was a Federal prison. But somebody needs to tell me how they did it and what it would take to recreate it in Lorton. Lorton has been spoken about in vagaries, without details, for as long as this native Washingtonian has been alive.

Let me ask you a question: If you had the choice of a brand new facility, let's say, not a great deal further than Lorton, but somewhat further, on the one hand, and patching up Lorton on the other, which would any of you choose?

Ms. JACKSON. When you speak of a little further, personally I don't have a problem with that, if it's going to be a new facility where rehabilitation is comprehensive. But I don't have a problem with it because I have a car to drive.

Ms. NORTON. Well, suppose there was transportation provided.

Ms. JACKSON. But if there is public transportation provided—

Ms. NORTON. I'm trying to get toward a solution. Suppose there was transportation provided—leave aside the \$1.50 or whatever—suppose, because it was a little further, transportation came with the package.

Ms. JACKSON. I could see it, if it works. Building a new facility where rehabilitation would take place, people were securely housed, I don't see a problem with that, per se.

Mr. SIDNEY DAVIS. Can I add to that?

Ms. NORTON. Yes.

Mr. SIDNEY DAVIS. I'm in agreement. No—I mean, a new facility would bring about additional problems also. Deal specifically with the structure that you already have. Evaluating the training of staff, and treatment within the facility. The structure itself makes no difference. We can put the structure in this building right here, now, downstairs, put cells around it and have all these folks here to, you know, participate. But how are we going to train the staff?

Ms. NORTON. OK. Let's include that in the package.

Mr. SIDNEY DAVIS. OK. Training of staff. If you move the facility, still it would have the same impact as it would if you deal with it right where it is. Train the staff to deal with the individuals who are already in there. You're going to get the same balance.

Ms. NORTON. All right. I told you, it's in the package. My question still remains. You're not talking about putting the same kind of corruption that we see at Lorton in a brand new facility. As you say—you're absolutely right. That would simply take back all you're trying to accomplish.

Mr. SIDNEY DAVIS. Right.

Ms. NORTON. I'm putting all of that in my model.

Ms. SULLIVAN. I guess my question would be, Delegate Norton, whose money are you talking about to do this?

Ms. NORTON. Well, you know what the answer to that question is, because I think the chairman has been realistic on that. D.C. doesn't have money for Lorton, much less money for a more expensive facility.

Ms. SULLIVAN. Yes. That's a very seductive proposal, if, you know, it would be built with Federal money but it would still have D.C. jurisdiction, that the D.C. citizens would still have something to say about their corrections department.

Ms. NORTON. We're not talking about turning over District laws or anything that we have. I don't think I need to lay my record on home rule out here. I'm trying to say, if there was a new facility—I don't know how many it would hold—

Mr. DAVIS. Yes. I think she has laid out what looks like what we call a no-brainer, in terms of a brand new facility, with proximity to Washington versus what is there in Lorton. And I guess what I hear out here is a lot of—"This can't be. Could you ever do something like that?"

But I think her question is, in an ideal world, if you could do those things, is that unacceptable?

Ms. SULLIVAN. Well, there is unexpended money in the Federal budget, the Bureau, that they have not spent on prisons.

Mr. DAVIS. We're not asking you to find the money. That's not part of the question.

Ms. SULLIVAN. OK. But, I mean—so it's a possibility.

Mr. DAVIS. OK. So if we could do that, would folks say, "Yeah, we'd like to look at that," is that what I'm hearing?

Ms. SULLIVAN. I'd have to—

Mr. SIDNEY DAVIS. That would be another jurisdiction.

Mr. DAVIS. I don't know what jurisdiction it would be in, but it would be close by.

Ms. NORTON. Well, I know it won't be in this jurisdiction, because we can't build any—we don't have room to build a facility in the territory of the District of Columbia.

Mr. SIDNEY DAVIS. OK. What I'm saying is, how would that impact in terms of the persons who are—say you moved it, how would that impact on the employees? You're going to move the residents, but how would that impact employees?

Ms. NORTON. I don't know how it would impact on employees. How does it impact on them now to have to go all the way to Lorton?

Mr. SIDNEY DAVIS. Well, it doesn't, because it's within the jurisdiction.

Ms. NORTON. Let me tell you something. Let me just get this straight right now. When the chairman says a model, a no-brainer, I'm talking about something that might be able to happen. There's money to build prisons. I don't know anything about how it's going to go, but you know that my problem with the crime bill was that they put all the money in building prisons. That's not going to help D.C. at all.

They didn't put any money that we can now put into Lorton to have a prison factory there. They didn't do any of that. They put money in there to build prisons. And then the Federal Government, obviously, has money to build prisons, as well.

Whatever solutions we're going to come up with—and this is exactly what I'm trying to get out of the D.C. mentality—the D.C. mentality says, "OK. If you do perfect one, perfect two, perfect three, perfect four, perfect five, and perfect six, then I'll be for a real change." Well, you all have nothing but imperfections here now.

So let's take off the table that in this country today there will be a perfect solution to Lorton. We might not be able to take care of all the employees. We would hope that there would be many of them. We might not be able to have a complete state-of-the-art prison factory. We hope there would be substantial state-of-the-art.

Again, I'm dealing with a city that is seen as not only in utter crisis but doesn't come up with can-do ways to get to real improvement, but can tell you a thousand reasons why they can't do something. If we don't change that quickly—if we don't change that quickly—they are going to take this city from us, and other people are going to start to change it.

So I'm trying to just see, OK, let's start at ground zero. There's some prison money out there. Do we have something more dramatic than saying, "Hey, patch over Lorton. See if you can clean up a little bit of the sexual harassment. Do what you can about the drug peddling there that's worse than any ward in the District. You know, do whatever you can. Clean it up if you can. Corruption, try to help us out on that?"

I mean, have you all got anything better than that to talk about in a prison that I, frankly, am ashamed of and, frankly, ashamed to be associated with, and wouldn't want any human being that I know in the District to be sent to.

Rev. QUICKLY. Congresswoman Norton, my problem with the question is that I think that the answer, to build more prisons, is the answer that we commonly give in dealing with the issue of crime.

Ms. NORTON. Not to build more prisons; this is a replacement for Lorton. You've got to—I am going to insist that you help me with my model so that we can change it. We're not talking about building more prisons. We're not talking about keeping Lorton and then putting another. We're talking about, is there some way that we can take this perversion of a crime bill, which gives virtually all of its money to building prisons, yank it from them, and use it for our purposes?

I want you to answer that question and not give me a philosophic answer about, isn't it terrible that my chairman's party has indeed put all that money into prisons. They have. Is there any way to turn that on them?

Rev. QUICKLY. Well, what I would suggest—and Chairman Davis has already spoken to this—rather than investing resources into building prisons, why aren't we looking at alternatives to incarceration. Someone has already stated statistics where 70 percent—

Mr. DAVIS. There's nothing to stop the city from doing that right now.

Could we answer Ms. Norton's question? Anybody want to answer her question? Because her time is up.

Mr. SIDNEY DAVIS. Yes, I want to answer it.

Mr. DAVIS. Yes, please.

Mr. SIDNEY DAVIS. I would like to answer her question; specifically, a partnership between Maryland, Washington, and Virginia to address this issue in a comprehensive way. Now, I mean, don't ask us, the committee, to speak—I mean, like, let's look at that. Let's look at establishing that.

Ms. NORTON. If you would do that, if you would be interested in some kind of partnership to look closely at that, I would like to work with you.

Mr. SIDNEY DAVIS. That's right.

Ms. NORTON. I would like to work with you.

Mr. SIDNEY DAVIS. That's the deal.

Ms. NORTON. That's the deal. You've got a deal.

Now, let me say one thing about alternatives, because I think Father is right on alternatives. And I think the District has been a jurisdiction that has not been closed to alternatives.

But what do you say—I know my time is up, and I appreciate the chairman's courtesy—but what do you say to the wholesale criticism about how alternatives have impacted on the community; the terrible stories in the newspaper about the alternatives, that include halfway houses people walk away from as if they didn't exist; people preying on the community; alternatives where there has not been the kind of supervision so that you can point to the alternative itself as a rehabilitation vehicle?

What do you have to say about alternatives and how they can be improved or what effect they have had?

Ms. SMITH. Well, Ms. Norton, what I'd like to say in response to the question that you asked and in addition to the question that you asked about alternatives, I don't think that any of us would be opposed—or I know myself—would be opposed to looking at a facility that might be farther away but that was model and that dealt—not necessarily model—but dealt with these issues.

But I think that the key issue that all of us are talking about is talking about accountability. Those alternatives that you are talking about and what we're talking about in terms of Lorton, we're not talking about anything at all that has been in any way accountable. I mean, what we're talking about—

Ms. NORTON. So how would you make them more accountable?

Ms. SMITH. In terms of how I would make them much more accountable, I would conduct an audit of what is going on right now in the District of Columbia.

I will give you a perfect example: We received over 20 or 30 phone calls from prisoners at the correctional treatment facility, which is a new, state-of-the-art facility that was built in 1992—your whole notion of a new facility, one of the facilities that was racked by complaints about sexual misconduct and sexual harassment.

We received complaints from these 20 women that they were 3 to 6 months past their parole eligibility dates. These were people who could have been out of the community. What we did was, we got back in contact with them, and there was an audit conducted, and indeed, we found that there was a problem. We worked with the administration, and we resolved that. I believe that that presents a model for what we do with the District of Columbia with regard to these things.

We have a situation right now where what we do is, we learn about what goes on in the District of Columbia Department of Corrections by reading the Washington Post and the Washington Times.

If we want to get serious about improving the system, then what we need to do is do what we did in the Rivlin Report, do a specific audit of the Department of Corrections, with specific recommendations for changing them. I'm willing to bet you that you would see a significant improvement in the operation of that facility without the expenditure of the kinds of funds that you're talking about.

What I'd like to say is that my bottom line is not, again, about apology, or about what happened with the halfway houses and all that stuff. That is inexcusable. But what we need is this committee to demand accountability. How we structure that accountability, I don't know, but I think that that should be the guiding principle.

Ms. NORTON. You mentioned the control board and how it might be helpful in this regard, since that's part of its charge. So I appreciate what you have said. It is absolutely the case. It is obviously an administrative, operational mess, or it wouldn't be under court order in the first place.

Ms. SMITH. But I definitely recommend and, to a certain extent, echo what Mr. Davis said, which is, before we start this wholesale—we're going to close this; we're going to close that—why don't

we do an audit? Why don't we figure out what we're talking about, because I think that will give us some guidance, in terms of the kinds of changes we need to make.

Mr. DAVIS. We will lay out for you some of the work that has already been done that maybe you aren't familiar with as we move through this process. The city has not had the propensity to put the money into bringing this facility up to where it ought to be for a number of reasons. One is, the facility is in Virginia. Another is, they are strapped for cash right now. Federalizing the prison would allow some of the needed changes you've talked about that aren't happening now.

Let me ask the gentleman from Ohio if he has any questions.

Mr. LaTourette, I appreciate your staying through the hearing.

Mr. LATOURETTE. Thank you, Mr. Chairman.

I would like to focus on some of the testimony earlier by Mr. Smith and Mr. Koren and ask you gentlemen questions.

Both of you highlighted in your testimony, to a certain extent, the negative impact on the legal rights of prisoners being transferred from a close proximity to their lawyers to other locations, and ask you how that proposed transfer—again, there seems to be some discussion—I don't know where this new prison is going to come from, but there seems to be some discussion about a 2-hour or 3-hour, 4-hour, whatever, drive—how that situation differs, in terms of legal rights, from a defendant convicted in the Northern District of Ohio and sentenced to the Federal prison in Midland, MI, or a prisoner who is sentenced in Cuyahoga County or Cleveland, OH, come in police court and shipped to Lucasville, which is a 5-hour drive?

How does that differ at all?

Mr. SMITH. Well, it differs a great deal. If someone is a day's drive from meeting with their client and you have brief due in the Supreme Court, you can take the brief draft, you can drive there, you can meet with the client, and you can sit, you can look them in the eye, you can talk about it. A prisoner who is confined in Leavenworth, KS, in Lompoc, CA, in Louisiana, wherever, in Michigan, and the lawyer is here arguing a case, if the lawyer can do it at all, it's a much more costly exercise. Frequently, it just simply would not happen.

In addition, to the extent to which a prisoner needs to return—let's say, for example, the prisoner has made an allegation that the lawyer was ineffective in the representation at the trial stage and is challenging that in the appellate stage, a question that it requires an evidentiary hearing, that prisoner would be required to be returned. It's much different to return them from the State prison in Ohio to a county jail in Ohio than it is to return them from a Federal prison in California to the city jail here in the District of Columbia.

Just the obstacles to getting a good, fair, adequate representation are much higher. The burden is much more severe.

Mr. LATOURETTE. Is the sort of rule of thumb or test, then, a day's drive is OK, but 2 days' drive isn't OK? Where do we draw that line?

Mr. SMITH. I don't know that there is a rule of thumb. And if you're asking me whether it's constitutional to send them to Cali-

fornia, it probably is. Could you challenge it in the court and say that it deprives them of their right to appeal? You probably wouldn't succeed. Is it fair? It's not fair. And I think that that's fairly clear.

I would say that's probably a good rule of thumb. If the lawyer is more than a day from the client, you know, that creates the kind of obstacle that will make it likely that the lawyer won't involve the client in the way that the lawyer should in the representation on the appeal or collateral attack of a conviction.

Mr. LATOURETTE. Mr. Koren, do you sort of agree with that assessment, or do you have a different conclusion?

Mr. KOREN. No. I don't have anything to add to that.

Mr. LATOURETTE. Mr. Koren, on the Pennsylvania situation, is there something contained somewhere in the record, allegations made by the attorney general of Pennsylvania, that leads you to the conclusion that that was based on race, the rejection of those District prisoners, or is that an assumption on your part?

Mr. KOREN. No. This is all, I think, an educated guess, given my experience in these kinds of matters.

Mr. LATOURETTE. OK.

Mr. KOREN. And certainly I think he would disagree with me, but there is an attitude. It's a conflict. You may not agree with it, but it is out there. Difference between rural and urban. Difference between ethnic groups. Differences—political differences.

Mr. LATOURETTE. I don't disagree that there are some ethnicity difficulties or difficulties by jurisdiction, but I don't know if we can then take that leap of faith and make it race-based. For instance, we have a Federal contract where I live, and the residents are a little uneasy about that. It has nothing to do with race; it has to do with the fact that we were shipping into a rural community people who had been convicted of rather violent crimes. That made the residents rather uneasy.

I would suggest to you that has nothing to do with race; that has to do with not wanting murderers next door to you, which makes people squeamish, of all colors, I would suggest.

Mr. KOREN. As I said, I think in my testimony, I think there is an element of race that is involved in this. But, of course, there is also the differences between people that come from where they have lived and what their experiences are. I described it as a cultural kind of clash.

Mr. LATOURETTE. If I could, Father Quickly, I'm a big advocate of electronic monitoring and alternative sentencing, and so forth and so on, and I was impressed by Ms. Smith's demographics, in terms of the range of sentences that the women suffer, between 2 years and life.

I'm wondering if any of you have—that's a terrible hodgepodge for a prison, from 2 years to life.

Ms. SMITH. Yes.

Mr. LATOURETTE. I'm wondering if any of you in your studies have—are these sentences being served by the male prisoners similar to that? Do we have people who are petty thieves housed with murderers in Lorton prison?

Ms. SMITH. Well, the reality is that, because of the relatively smaller numbers for women, you're much more likely to get that

serious range that you have, for example, at the correctional treatment facility. What you have for the male facilities is that you have a range of facilities where you have people who have longer terms together, people who have shorter terms together.

But these kinds of proposals enact a really serious hardship on women, where you have, for example, serious problems at the correctional treatment facility where you have people who will essentially be doing 20 years to life in a maximum security facility, even though they are basically minimum to medium custody prisoners.

Mr. LATOURETTE. Are the men that way also?

Mr. SMITH. Yes.

Mr. LATOURETTE. Do you have murderers together with the—

Mr. SMITH. Well, there are various levels of classification. There's minimum through maximum classification. The problem is that the classification system is so driven by the population pressures that there's very poor classification done for both men and women prisoners.

So you might have in a facility where someone might, on a murder offense, begin their sentence in a maximum facility and, over a period of years, make it to a medium security facility. At that same medium security facility you might have someone who has committed a nonviolent drug offense, who has a year or two that they are doing, with someone who may have 20 years on a 30-to-life sentence left to serve.

Unfortunately, because of the overcrowding and because of very significant problems in management in corrections, you have a very poor classification system. I understand that the National Institute of Corrections has just given a grant to the Department of Corrections to study that system and to come up with some modification. That's a very welcome change, because that, one hopes, would alleviate some of the very serious violence which occurs in the institutions.

Mr. KOREN. I might add to that that during our trial of the Occoquan case—Occoquan is one of the facilities out at Lorton—back in the middle 1980's, there was testimony that the—there was a riot out at Occoquan, a lot of property damage and a lot of people were hurt—that the people who started that, the prisoners who started that series of fires were prisoners who had been transferred from the central facility, basically because the central facility was overcrowded and they had to make some transfers.

So they transferred them off to the so-called "medium security" facility at Occoquan, and they were the people who started the fires at Occoquan. That's what you get into when you get to an overcrowding kind of a situation. You can't have a functioning classification scheme.

Mr. SIDNEY DAVIS. May I add to that?

Mr. LATOURETTE. Yes, please.

Mr. SIDNEY DAVIS. Historically speaking, when there was a reorganization of the laws in the District of Columbia, in the District of Columbia Superior Court, you had an influx of individuals coming in with all kinds of situations, as it relates to classification.

The laws changed where a man would get, for theft or for burglary, he would get anywhere from 1 to life or 10 to life. The jurisdiction of the Superior Court, the latitude that they have now, adds

to this overcrowdedness, because of the classification of the crimes and charges and the time that goes along with them.

Judges now have more latitude and discretion to sentence people for longer times than they did before. The way the charges are classified, burglary II is considered, in many instances, as a violent offense, and the institution has to classify them according to that particular description. This makes for overcrowding. It makes for a lot of chaos and confusion, because for one classification officer there may be 150 inmates, which is a tremendous responsibility. So the Reorganization Act of 1973, as it relates to the Superior Court, brought that about.

Again, there was no comprehensive study or structure looked at, how that would impact where we are right here today. So the results of not looking comprehensively always leaves us with these kinds of situations where everybody is talking about, let's fix it now, let's move this now, it's time to change the furniture now. Well, you know, we've got to stop looking at things like that, demonstrating that if we don't have a set plan, we always run into conflict.

Instead we have to look, historically, at why these things were done, what worked, why they worked, what went wrong. So there needs to be some in-depth study, in terms of the history of how this all came about right now.

Mr. LATOURETTE. I don't disagree with that, Mr. Davis. I would suggest, however, that there are different experiences in different parts of the country. While you indicate that increased discretion or sentencing ranges for judges leads to difficulties, we've had a goofy legislature in my State that decided to have a war on drugs and make minimum and maximum sentences that led to a 50 percent explosion of the prison population, because they tied the judges' and the prosecutors' hands and said, "If you sell drugs, you have to go to prison."

Mr. SIDNEY DAVIS. That's right.

Mr. LATOURETTE. My own view, and hopefully we're moving in a good direction in parts of the country, is that we need to treat prisons a little bit like gardens. We have now created felony offenses, which are enhanced misdemeanors for the nonviolent drug offenders, subject them to alternative treatment, electronic monitoring at home, and for those who would commit violence in our society, we need to warehouse them for as long as possible and separate them from the rest of the law-abiding, peaceful society.

So I would hope that whatever is done—and I, unfortunately, have to take a different view than the ranking member of the crime bill that just recently passed, because I believe that although there is prison construction money, we recognize that States need flexibility and not every jurisdiction needs another man or woman in blue standing on the street corner. We could also benefit from having security in our schools to keep our children safe and other devices which that flexibility provides.

But I want to thank all of you for your testimony this morning. I learned a great deal, and I would be most interested in—since I'm not an expert on the Lorton prison when it comes to population, I'm most concerned about the negative impacts, not only for the fire that you stated, but we used to have a fear that we would send the

young, 18-year-old offender in with the guy who is 40 years old and has broken into 10 houses, that we were actually—sort of a college for crime, that we were teaching that 18-year-old how to be a criminal by housing him in that facility.

Anything you have to add to that I would be most interested in learning about.

I don't want to hog up more time than I have already hogged up. Thank you.

Mr. DAVIS. You didn't hog it all. Thank you, Mr. LaTourette.

I thank all of you. We appreciate your being here with us today. If you have anything you thought you should have said that you didn't say, and you want to send us a note, we would be happy to put it in the record. Thank you very much.

Ms. Norton, thank you for making them available.

As these witnesses step down, we would like our second panel of witnesses to come forward.

As you observed in the first panel, we are going to have to swear you in. What I would like to do is, to have everybody raise their right hands.

[Witnesses sworn.]

Mr. DAVIS. Thank you. You may be seated.

The second panel of witnesses are officials and residents from the Lorton area. We are pleased to have them and look forward to their testimony.

Let me start with Ms. Bourne. You are president of the Sulgrave Manor Civic Association.

STATEMENT OF ALEXANDRA LIDDY BOURNE, PRESIDENT, SULGRAVE MANOR CIVIC ASSOCIATION; LAURIE A. FROST, FEDERATION OF LORTON COMMUNITIES; DAVID B. ALBO, DELEGATE, GENERAL ASSEMBLY, VIRGINIA HOUSE OF DELEGATES; DALLAS W. SHAWKEY, CHAIR, PUBLIC SAFETY COMMITTEE, MT. VERNON COUNCIL OF CITIZENS' ASSOCIATIONS; CAROLE HARMAN, CO-CHAIR; NEAL McBRIDE, NEWINGTON FOREST COMMUNITY ASSOCIATION; AND TIM SARGEANT, CROSSPOINTE HOMEOWNERS ASSOCIATION

Ms. BOURNE. I am speaking on behalf of H.R. 461, the Lorton Correctional Complex Closure Act, or otherwise known in our area as the D.C. prison.

I believe the Lorton Correctional Complex should be closed. The conditions of the prison are deplorable. Overcrowding is now routine, and the facilities are antiquated for both prisoners and guards. There appears to be little correctional or rehabilitation activity that is effective, as the recidivism rate is high. Escapes are frequent. There is a strong concern among the communities surrounding the Lorton complex about the lapses in security at the facility.

The history of illegal drug use by prisoners and guards, evidenced by the 1990 drug indictments, has long been regarded as a cause for the breach in public safety. With the increased residential development in the area, the Lorton Correctional Complex is no longer an appropriate site for a prison.

As president of my civic association, which consists of 130 single-family homes, I am concerned about the use of the land after clo-

sure of the Lorton Correctional Complex. Three thousand acres in the Washington metropolitan area is a rare find these days. If the land should become surplus, who will have first claim, industry, the homeless, or developers? If the land is sold to the private sector, what restrictions will be in place?

High density development will result in high density traffic and low-speed transportation. Our roads in the area, Routes 123, 1, and Interstate 95, are already too congested and inadequate for the demand for safe travel. I believe that the local government, the Fairfax County Board of Supervisors, should have jurisdiction over the disposition and zoning of the land.

I would like the land zoned for low-density residential use, one house per 5 acres. My request is for an active citizen input, with the involvement of surrounding communities in determination of land use after closure of the Lorton Correctional Complex.

One thing I would like to add, which I wasn't planning to, but I think, Mr. Chairman, you and I share the unique position of visiting family members in prisons. And my experience has been that the Federal prison system was much better than the local prison system. The prisoners can request to be transferred to facilities closer to their families. It has a tremendous impact on the families to be away from the prisoner.

But when you're putting a community at risk like this facility has, you have to consider the community first. There are things that we can do within the correctional system to correct the problems that are there, and I don't think that they have to be addressed by Congress.

I think you have to tighten up the problems in the correctional system with the guards. First you want to look at separating the violent offenders from the nonviolent offenders. There is a culture in prison where the nonviolent offenders require protection, so you've got a whole bartering system set up there. Who's in charge, the guards or the prisoners? And I hate to tell you this, but I don't think it's the guards.

We've got to consider new prison facilities, but we also have to consider the culture and how you change that. And that means prisoners won't be rehabilitated just because it's the nice, right thing to do. They're only rehabilitated because they choose to do so.

[The prepared statement of Ms. Bourne follows:]

PREPARED STATEMENT OF ALEXANDRA LIDDY BOURNE, PRESIDENT, SULGRAVE MANOR
CIVIC ASSOCIATION

I believe the Lorton Correctional Complex should be closed. The conditions of the prison are deplorable. Over crowding is now routine. The facilities are antiquated for prisoners and guards. There appears to be little correctional or rehabilitation activity that is effective as the recidivism rate is high.

Escapes are frequent. There is strong concern among the communities surrounding the Lorton Complex about the lapses in security at the facility. The history of illegal drug use by prisoners and guards, evidenced by the 1990 drug indictments, has long been regarded as the cause for the breach in public safety. With the increased residential development in the area, the Lorton Correctional Complex is no longer an appropriate site for a prison.

As President of my civic association, which consists of 130 single family homes, I am concerned about use of the land after closure of the Lorton Correctional Complex. 3000 acres in the Washington metropolitan area is a rare find these days.

If the land should become surplus who will have first claim; industry, the homeless, or developers? If the land is sold to the private sector what restrictions will

be in place? High density development will result in high density traffic and low speed transportation. Our roads in the area, Routes 123, 1, and interstate 95, are already too congested and inadequate for the demand for safe travel.

I believe that the local government, the Fairfax County Board of Supervisors, should have jurisdiction over the disposition and zoning of the land. I would like the land zoned for low density residential use- 1 house per 5 acres. My request is for active citizen input with the involvement of surrounding communities in determination of land use after closure of the Lorton Correctional Complex.

Mr. DAVIS. OK. Sandy, thank you very much.

We will now have Laurie Frost, who is the president of the Federation of Lorton Communities.

Laurie, thank you for being with us this morning.

Ms. FROST. Good morning, Mr. Chairman and members of the subcommittee.

My name is Laurie Frost, and I reside at 8950 Hoes Road, in Lorton, VA. I'm president of the Federation of Lorton Communities, which is an umbrella group representing over 25,000 families, homeowners associations, and other coalition groups in the Springfield, Mt. Vernon, and Lee magisterial districts. I'm also a member of the Fairfax County Citizens Advisory Committee on the D.C. prison, which was established by our supervisor, Gerry Hyland, a number of years ago.

On behalf of the citizens that we represent, the federation would like to congratulate Congressmen Wolf, Moran, and Davis, and Senators Warner and Robb for introducing this legislation; namely, the closure of the District of Columbia Correctional Complex at Lorton, to remedy a situation that has deteriorated into an increasingly dangerous and unacceptable blight on our community.

Speaking of the D.C. Correctional Complex, I would like to mention at the outset and as a point of clarification, and out of respect for the true residents of Lorton, VA, that the legislation be changed to call it the D.C. Correctional Complex rather than the Lorton Correctional Complex, because when you sit there and say, "We're going to close Lorton," the rest of us citizens say, "Well, where do we go?"

Despite the valiant efforts of Director Margaret Moore of the D.C. Department of Corrections and members of her staff, the prison has steadily fallen into disrepair. It's an old facility that has outlived its usefulness and now poses a continuing danger to the thousands of families that live in its tumultuous shadow.

Crumbling perimeter walls, abandoned guard towers, malfunctioning security systems, escapes, riots, inadequate maintenance of facilities, murder within its confines, gross personnel shortages, inadequately trained staff, and readily available drugs paint a picture of a prison facility that is no longer serving the public interest.

For the past several years, the D.C. government has lost the political will and the financial wherewithal to maintain the facilities, to hire and train an appropriate staff, to provide rehabilitation services, which have recently been cutoff, and to shield the surrounding communities from the impact of incidents at the prison. The cost of rehabilitating the facilities would be astronomical and would result simply in a collection of very old buildings with a new face. This is tantamount to throwing money down the drain, as far as we're concerned. If viewed from the standpoint and from the cost of building new facilities, then the Lorton site, with its increased

residential development around the perimeter is not an appropriate site for a prison.

While the FOLC supports very much House bill 461, we do have some changes that we would like to see in the legislation that we view as protecting to a greater extent the interests of the residents in the community surrounding the facility. The federation has worked very closely with other coalition groups, with homeowners associations, with our Board of Supervisors member, and with individual residents, and we have come up with specific recommendations that we would like to make to improve the legislation.

Attached to our testimony today is a complete markup of the legislation that includes additions, deletions, and language changes, as well as a document that provides supporting justification for these changes which we feel will strengthen the legislation in its stated objective of closing the D.C. prison.

These changes are designed to, No. 1, prohibit future use of the land or the facilities as a penal institution, whether Federal, State, or local. We do not want to simply exchange one prison for another.

Unfortunately, at least when the D.C. prisoners escape, we have a pretty good idea where they're going. They want to go back home and visit their families, and generally, when they are found, they are found with their families back in D.C. We get a State facility there; we don't know where they are going to be going.

Second, we would like to require the U.S. Attorney General to appoint a responsible Department of Justice official, with appropriate staff, to advise the Attorney General on continuing adequacy of security at the D.C. prison, particularly as it relates to the safety of citizens in the area surrounding the complex. We simply must maintain adequate interim security during the process of closing down the facility. That is the only way that the interests and the security and safety of surrounding citizens can be maintained.

Third, we'd like to restrict the deliberations of the closure commission to planning only for Federal Government use of the vacated property. We believe that private land use, whether commercial, residential, industrial, or even public facility use by the State or local government, planning for it should be done by local citizens, with input and cooperation with county officials. As the residents who would be most impacted by future uses of this land, we don't want to end up with something that is far worse than what we have right now.

Fourth, we'd like to require the closure commission to provide an impact assessment, or at least some kind of evaluation of needed local and regional transportation measures and other public facilities and services. This is something that is going to have to go into the discussion during the entire process of closing down this facility and determining what's going to come next.

Fifth, we'd like to remove the Bureau of Prisons and the District of Columbia as potential users of the vacated D.C. prison site. Again, we don't want another prison there, and further use by the District of Columbia, once the prison complex is vacated, we believe is inappropriate.

Sixth, we'd like to require the closure commission to provide a cost assessment for any recommended removal of facilities from the prison property, meaning those that cannot be used for any future

use. And that would include the cost of storage and disposal for any environmental clean-up that needs to be done at this facility.

In its past history, it has been used, in part, as a military installation, and we also discovered a number of years ago sites on the prison property that were being used as illegal landfills. There's going to be a cost in making sure that those kinds of sites are cleaned up, and we'd like to know what that is at the outset.

Seventh, we'd like to have the legislation waive the requirements of the McKinney Homeless Act from future use consideration. We believe that if there's going to be planning for any homeless shelters on this property, that should come through the local land use planning.

Next, we'd like to restructure the membership on the closure commission. We believe it's very important to have the input of citizens and representatives from the surrounding community on this closure commission. And with that in mind, we'd like to have the Fairfax County representation increased from five to six members, three of whom should be citizen representatives from the surrounding communities.

We also believe that the membership of the District of Columbia can be reduced from two members to one member, as their concern is really with the closure of the facility and the transfer of the prisoners to either new facilities or the Federal system, or whatever this Congress determines should happen, but that future use of the property is the concern of the local citizens.

We'd also like to require the Federal Bureau of Prisons, if this legislation determines that that is where the D.C. prisoners are to go, should give priority, in terms of transfer, to those D.C. prisoners. This will initiate a speedy transfer to other facilities.

We also want to make sure that there are public hearings on any final implementation plan that is developed by the closure commission in conjunction with the administrator of the General Services Administration, as well as an increase in the amount of congressional review time from 60 days to 120 days.

And again, this just gets back to my point that, as the citizens living around the area, we're the ones who are going to be impacted by future use, and we want to make sure that we've got an opportunity to review and comment on the plans for the future use of this property.

Last, we'd like to ensure, beyond changing the name of the bill, that the description of the complex is amended to include all of the approximately 3,000 acres that encompass the prison complex. Viewed as the legislation is drafted right now, it could be interpreted to mean just the actual physical facilities of the prison, which they sit on only about 300 acres in the entire site.

Mr. Chairman, these recommendations do not come from a handful of Dudley Do-Rights who have nothing else to do than attend citizen meetings and complain. Instead, they come from hard-working, responsible citizens who have been very careful and constructive in deliberating these many issues and formulating the proposals I've described today.

Many of us have worked with D.C. prison officials for many years, trying to strengthen community relations and to suggest improvements that can be made in the Department of Corrections

practices. I don't believe that these efforts have been in vain, as we have tried to maintain a good neighborly policy with the Department of Corrections. And there have been improvements made, I will be the first to admit that.

Nevertheless, if this Congress determines that the District of Columbia should not maintain and fund a prison facility, then the most significant of our changes will be, again, to ensure Fairfax County's interests are protected, that there is a high level of security in the interim, while the prisoners are being transferred to other facilities, that there is citizen participation, and that the prison is actually closed and not simply exchanged for another type of facility. If there are any proposals for State, you can be sure that you would see a citizen revolt against that type of proposal.

In closing, I'd like to thank the chairman and the members of the committee for inviting us to speak here today, and we hope our comments and the accompanying documentation are helpful in your markup of H.R. 461. Thank you.

[The prepared statement of Ms. Frost follows:]

PREPARED STATEMENT OF LAURIE A. FROST, FEDERATION OF LORTON COMMUNITIES

My name is Laurie A. Frost, and I reside at 8950 Hoes Road, Lorton, Virginia 22079. I am President of the Federation of Lorton Communities (FOLC), an umbrella group, representing over 25,000 families, Homeowner Associations and other coalition groups from the Springfield, Mount Vernon and Lee Districts. I am also one of the original members of the Fairfax County Citizen Advisory Committee on the D.C. Prison, set up by Supervisor Gerry Hyland. On behalf of those citizens, which the Federation represents, we wish to congratulate Congressmen Wolf, Moran and Davis, and Senators Warner and Robb, for introducing legislation—namely, for the closure of the District of Columbia Correctional Complex at Lorton, Virginia, to remedy a situation that has deteriorated into an increasingly dangerous and unacceptable blight on our community. And, speaking of the D.C. Correctional Complex, I would like to mention at the outset, as a point of clarification and out of respect for the true residents of Lorton, Virginia, that we respectfully request that you use the term "D.C. Correctional Complex", rather than "Lorton Correctional Complex."

Despite the valiant efforts of Director Margaret Moore and some members of her staff, the Prison has steadily fallen into disrepair. It is an old facility that has outlived its usefulness, and now poses a continuing danger to the thousands of families that live in its tumultuous shadow. Crumbling perimeter walls, abandoned guard towers, malfunctioning security systems, escapes, riots, inadequate maintenance of facilities, murder within its confines, gross personnel shortages, inadequately trained staff, and readily available drugs, paint a picture of a prison facility that is no longer serving the public interest. There are many reasons for this deterioration, beyond age and fatigue. For the past several years, the D.C. Government has lost the political will and the financial wherewithal to maintain the facilities, to hire and train an appropriate staff, to provide rehabilitation services, or to shield the surrounding communities. The cost of rehabilitating the facilities would be astronomical, and would result simply in a collection of very old buildings with a new face. The FOLC believes H.R. 461 is both timely and appropriate.

While the FOLC supports House Bill H.R. 461, that support is conditional. Working closely with other coalition groups, homeowner associations, members of the Fairfax County Board of Supervisors, and individual residents, we would like to offer specific recommendations to amend the proposed legislation. Attached to our testimony is a complete mark-up for each change to H.R. 461, including additions, deletions and language changes, and supporting justification, which we feel strengthens the legislation and its stated objective of closing the D.C. Prison. These changes are designed to:

- 1) Prohibit future use of the land and/or facilities as a penal institution, federal, state or local.
- 2) Require the U.S. Attorney General to appoint a responsible Department of Justice official, with appropriate staff, to advise the Attorney General on the continuing adequacy of security at the D.C. Prison, particularly as it relates to the safety of citizens in the area surrounding the prison complex.

3) Restrict the Closure Commission to planning only for Federal Government use of the vacated property. We believe private, whether commercial, residential, industrial or public facility land use planning should be done by Fairfax County residents, in cooperation with County officials.

4) Require the Closure Commission to provide an Impact Assessment on local and regional transportation and other public facilities and services.

5) Remove the "Bureau of Prisons and District of Columbia" as potential users of the D.C. Prison site.

6) Require the Closure Commission to provide a cost assessment for any recommended removal of facilities and other prison property, including storage and disposal site clean-up.

7) Waive the McKinney Homeless Act from "future use" consideration.

8) Clarify the description of the D.C. Prison site, to include all the prison property under the beneficial control of the District of Columbia, estimated to be approximately 3,000 acres.

9) Restructure the membership on the Closure Commission:

a. Increase Fairfax County from 5 to 6 members, 3 of which shall be citizen representatives from communities surrounding the D.C. Prison.

b. Reduce the District of Columbia from 2 to 1 member.

10) Require the Closure Commission and the General Services Administration to be bound by the Fairfax County Comprehensive Land Use Plan.

11) Require the Bureau of Prisons to give inmates at the D.C. Prison priority over other Federal prisoners, for the purpose of initiating a speedy transfer of prisoners to other Federal facilities.

12) Require public hearings before any final plan is presented by the General Services Administration to the Congress for approval.

Mr. Chairman, these recommendations do not come from a handful of "Dudley Dorights" who have little else to do than attend citizen meetings. Instead, they come from hard working, responsible citizens, who have been very careful and constructive in deliberating these many issues and formulating the proposals I've described today. Many of us have worked with D.C. Prison officials for many years, strengthening community relations, which, I might add, have not been in vain. Nevertheless, if the Congress of the United States determines that the District of Columbia should not maintain and fund a prison facility for the incarceration of convicted felons, then the most significant of our proposed changes will: (1) Ensure that final legislation enacted by Congress protects the interests of Fairfax County residents; (2) Ensure that the D.C. Prison Complex is actually closed, not simply transferred to the Federal Bureau of Prisons or the State; (3) Ensure that representation on the Closure Commission includes at least 3 citizen representatives from communities surrounding the D.C. Prison Complex; (4) Ensure that a high level of security, for the protection of the community, is maintained at the D.C. Prison Complex during the closure process; and (5) Ensure a speedy transfer of those felons currently incarcerated at the D.C. Prison Complex, to other penal institutions.

In closing, we want to thank the Chairman and members of this committee for inviting us to speak. We hope our comments and the accompanying documentation are helpful to this committee in your mark-up of H.R. 461.

Thank you.

ATTACHMENT 1 TO FEDERATION OF LORTON COMMUNITIES TESTIMONY JUNE 7, 1995

A BILL

To close the Lorton District of Columbia Correctional Complex, to prohibit future use of the land and/or facilities as a penal institution, to prohibit the incarceration of individuals convicted of felonies under the laws of the District of Columbia in facilities of the District of Columbia Department of Corrections, and for other purposes.

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

Section 1. Short Title

This Act may be cited as the "Lorton D.C. Correctional Complex Closure Act".

Section 2. Closure of the Lorton D.C. Correctional Complex.

(a) In General.—Notwithstanding any other provision of law, not later than 6 years after the date of the enactment of this Act, all real property and improvements thereon comprising the Lorton D.C. Correctional Complex as of the date of the enactment of this Act (other than any such property retained by the District of

Columbia under the Implementation Plan described in section 4) shall be transferred to the Administrator of General Services for disposal in accordance with the Implementation Plan described in section 4.

(b) Prohibiting Placement of Future District of Columbia Prison Facilities in Virginia.—No prison, penitentiary, jail, correctional institution, or related facility of the District of Columbia may be established in the Commonwealth of Virginia after the date of the enactment of this Act without the approval of the Governor of Virginia, and the local jurisdiction where the proposed facility will be located.

(c) Community Safety.—The Attorney General of the United States shall, on a reimbursable basis, appoint a responsible official from the Department of Justice to advise the Attorney General on the continuing adequacy of security at the D.C. Correctional Complex, particularly as it relates to the safety of citizens in the area surrounding such complex. Further, the Attorney General shall take appropriate measures, consistent with United States laws, to protect and safeguard the safety of citizens of the Commonwealth of Virginia residing in the vicinity of the D.C. Correctional Complex, pending transfer of all prisoners incarcerated at the D.C. Correctional Complex to other Federal Prison facilities' pursuant to Section 3 of this Act.

Sec. 3. Incarceration of District of Columbia Felons.

(a) Transfer of Federal Custody.—

(1) IN GENERAL.—Notwithstanding any other provision of law, any District of Columbia felon who is committed to the custody of the Attorney General for a term of imprisonment on or after the date of the enactment of this Act shall be incarcerated in a facility designated by the Director of the Bureau of Prisons, in accordance with such rules as the Attorney General may establish to assure that the treatment of District of Columbia felons is similar to the treatment of other comparable prisoners at such facilities.

(2) TRANSITION RULE.—In the case of an individual convicted of a felony in the Superior Court of the District of Columbia who is under the custody and control of the Director of the District of Columbia Department of Corrections as of the date of the enactment of this Act, the individual shall be transferred to the control of the director of the Bureau of Prisons not later than 5 years after the date of the enactment of this Act. Prisoners incarcerated at the D.C. Correctional Complex shall be given transfer priority over other federal prisoners remanded to the custody of the Attorney General for incarceration at a Bureau of Prisons facility, including those federal prisoners already incarcerated at a Bureau of Prisons facility.

(3) CONFORMING AMENDMENT.—Section 4042 of title 18, United States Code, is amended—

(A) by striking "and" at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting "; and;" and

(C) by adding at the end the following new paragraph:

"(6) provide suitable quarters and provide for the safekeeping, care and subsistence and for the protection, instruction and discipline of all District of Columbia felons (as defined in section 3(b) of the Lorton D.C. Correctional Complex Closure Act) who are sentenced to death or committed to the custody of the Attorney General for a term of imprisonment."

(b) DISTRICT OF COLUMBIA FELON DEFINED.—The term "District of Columbia felon" means an individual convicted in the Superior Court of the District of Columbia of an offense punishable by death or imprisonment for a term exceeding one year (without regard to the sentence actually imposed), but does not include any individual convicted in the Superior Court of the District of Columbia of a misdemeanor offense, as a juvenile offender, or any person detained pending trial in the Superior Court of the District of Columbia.

Sec. 4. IMPLEMENTATION PLAN.

(a) DESCRIPTION OF PLAN.—In accordance with the process described in subsection (b), not later than 18 months after the date of the enactment of this Act, the Administrator of General Services shall submit to Congress, after a public hearing, an Implementation Plan for the closure of the Lorton D.C. Correctional Complex which shall identify actions with respect to each of the following:

(1) The future federal use of the land on which the Complex is located, including (if appropriate) plans for a regional park at the site.

(2) The need to address the impact of such future uses on local and regional transportation resources and other public facilities and services.

(3) If appropriate, the transfer of real property and improvements thereon to Federal agencies [(including the Bureau of Prisons)] for Federal use, [the Gov-

ernment of the District of Columbia, or any other governmental entity, but in no event for any use described in Section 2(b) of this Act.

(4) If appropriate, the disposal of real property or improvements thereon. Any disposal of real property or improvements thereon, shall be subject to provisions of the Comprehensive Land Use Plan and Zoning Ordinance of Fairfax County, Virginia, applicable to such property.

(5) Changes in law or regulation necessary to effect the purposes of this Act and the closure of the Lorton D.C. Correctional Complex.

(6) Such other actions as considered appropriate by the Administrator to effectively implement this Act.

(b) **COST ASSESSMENT OF IMPLEMENTATION PLAN.**—The Commission shall develop a cost estimate associated with each action described in subsection (a). Such estimate(s) shall include, to the extent practicable, the cost of removal of correctional facilities and infrastructure, clean-up of all storage and disposal sites, and other relevant costs affecting future habitability of such property.

(c) **PROCESS FOR SUBMISSION OF FINAL IMPLEMENTATION PLAN.**—

(1) **DEVELOPMENT AND SUBMISSION OF INITIAL PROPOSAL BY COMMISSION.**—Not later than 13 months after the date of the enactment of this Act, the Commission shall develop and submit to the Administrator a proposal for the Implementation Plan.

(2) **REVIEW OF COMMISSION PROPOSAL.**—Not later than 4 months after receiving the proposal for the Implementation Plan from the Commission under paragraph (1), the Administrator shall submit a proposal for the Plan to the Commission for comment and review.

(3) **COMMENTS OF COMMISSION.**—During the 1 month period beginning on the date the Administrator submits the proposed final Implementation Plan to the Commission under paragraph (2), the Commission and each of its members may submit comments on the Plan to the Administrator. Any comments made by the Commission or any individual commissioner shall be transmitted by the Administrator with the final Implementation Plan under paragraph (4).

(4) **SUBMISSION OF FINAL PLAN.**—Not later than 18 months after the date of the enactment of this Act, the Administrator shall submit to Congress, after a public hearing, the final Implementation Plan for the closure of the Lorton D.C. Correctional Complex.

(e) (d) **AUTOMATIC IMPLEMENTATION OF PLAN.**—The Implementation Plan submitted by the Administrator under subsection (b)(4) shall take effect at the end of the 60 120-day period beginning on the day such plan is transmitted to the Speaker of the House of Representatives and the President of the Senate.

(e) **WAIVER OF MCKINNEY HOMELESS ACT.**—The provisions of the McKinney Homeless Act are hereby waived from consideration by the Administrator.

Sect. 5. COMMISSION ON CLOSURE OF LORTON D.C. CORRECTIONAL COMPLEX

(a) **ESTABLISHMENT.**—There is hereby established a commission to be known as the Commission on Closure of the Lorton D.C. Correctional Complex.

(b) **MEMBERSHIP.**—

(1) **NUMBER AND APPOINTMENT.**—The Commission shall be composed of all members appointed not later than 1 month after the date of the enactment of this Act as follows:

(A) The Fairfax County Board of Supervisors shall appoint [5] 6 members, one of which shall be specially qualified by training and/QE experience in matters relating to regional transportation problems and issues; one of which shall be specially qualified by training and/or experience in matters relating to local land use problems and issues; and two citizen members from communities surrounding the Correctional Complex.

(B) The Prince William County Board of Supervisors shall appoint 3 members, one of which shall be specially qualified by training and/or experience in matters relating to regional transportation problems and issues.

(C) The Mayor of the District of Columbia, with the advice and consent of the District of Columbia City Council, shall appoint [2] 1 member[s].

(F) The Administrator shall serve as an ex officio member.

(2) **CONTINUATION OF MEMBERSHIP.**—

(A) **GENERAL RULE.**—Except as provided in subparagraph (B), if a member was appointed to the Commission because the member was an officer or employee of any government or if a member is appointed to the Commission and later becomes an officer or employee of a government, the member may continue service on the Commission for not longer than the 30-day period beginning on

the date the member ceases to be such an officer or employee or becomes such an officer or employee, as the case may be.

(B) EXCEPTION.—Service as a member of the Commission shall not be discontinued pursuant to subparagraph (A) in the case of a member who has served on the Commission for not less than 3 months.

(3) TERMS.—Each member of the Commission shall be appointed for the life of the Commission.

(4) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term, except that a member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) COMPENSATION.—No member of the Commission may receive additional pay, allowances, or benefits by reason of service on the Commission.

(6) QUORUM.—6 members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(7) CHAIRPERSON; VICE CHAIRPERSON.—The Chairperson and Vice Chairperson of the Commission shall be elected by a majority of the members of the Commission.

(c) DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.—

(1) DIRECTOR.—The Commission shall, without regard to section 5311(b) of title 5, United States Code, have a Director who shall be appointed by the Commission and paid at the rate of basic pay payable for Level III of the Executive Schedule.

(2) APPOINTMENT AND PAY OF STAFF.—The Commission may appoint such personnel as it considers appropriate without regard to the provisions of title 5, United States Code, governing appointment to the competitive service. Such personnel shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates.

(3) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(4) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties.

(d) POWERS.—

(1) HEARINGS AND SESSIONS.—

(A) IN GENERAL.—The Commission may hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate to carry out its duties under this Act. The Commission may administer oaths or affirmations to witnesses appearing before it.

(B) MAXIMIZATION OF LOCAL INVOLVEMENT.—The Commission shall hold its hearings in a place and manner which maximizes local community involvement, input, and participation.

(2) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(3) INFORMATION.—The Commission may secure directly from any department or agency of the United States any information necessary to enable it to carry out its duties under this Act. Upon request of the Chairperson or Vice Chairperson of the Commission, the head of that department or agency shall furnish that information to the Commission to the extent otherwise permitted by law.

(4) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property, except that no individual member may accept, for personal use, any gift, donation or other consideration, from any person or organization, or agent thereof, who may have a financial interest in the findings or recommendations of the Commission.

(5) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(6) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(e) **TERMINATION.**—The Commission shall terminate 30 days after submitting its final comments pursuant to section 4(b)(3).

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Commission for carrying out its duties under this Act an amount not to exceed \$200,000.

Sec. 6. DEFINITIONS.

In this Act, the following definitions apply:

(1) The term "Administrator" means the Administrator of General Services or the Administrator's designated representative.

(2) The term "Commission" means the Commission on Closure of the Lorton D.C. Correctional Complex established under section 5(a).

(3) The term "Lorton D.C. Correctional Complex" means the approximately 3,000 acres of land located in Fairfax County, Commonwealth of Virginia, commonly known as the Lorton Reservation, and includes, inter alia, any District of Columbia correctional, reformatory, or related facility which is located in the Commonwealth of Virginia and which is operated under the authority, control, supervision or management of the District of Columbia Department of Corrections, the Mayor of the District of Columbia, or any other agency or official of the District of Columbia.

(4) The term "Implementation Plan" means the Implementation Plan described in section 4.

ATTACHMENT 2 TO TESTIMONY OF FEDERATION OF LORTON COMMUNITIES

SUPPORTING RATIONALE FOR RECOMMENDED CHANGES TO H.R. 461 MADE BY THE FEDERATION OF LORTON COMMUNITIES—JUNE 7, 1995

1. Prohibiting future use of the Lorton Correctional Complex property as a penal institution.

A. Page 1, Preamble: Strike the word "Lorton" and substitute the words "District of Columbia." After the word "Complex," insert "to prohibit future use of the land and/or facilities as a penal institution,".

DISCUSSION

The D.C. Department of Corrections Complex in Lorton, Virginia, originally established as a Reformatory and Workhouse around the turn of the century for miscreants and felons from the District of Columbia, was sited at its current location so as to be far removed from the more sophisticated families living in our Nation's capitol. It was sited on the large land mass on which it sits today in order to provide a generous and wide buffer between the prison facilities and surrounding Virginia residents. The prison land is not owned by the District of Columbia, but D.C. has been awarded management and control of the complex by previous Congresses.

In the intervening decades since the prison complex was established in Lorton, much has changed, both at the D.C. Correctional Complex and in the surrounding neighborhoods. New dense residential developments have sprung up. Gone are the handful of farms that once surrounded the Complex. Today, Northern Virginia boasts the highest per capita income in the nation; its citizens are amongst the most educated; its schools are amongst the finest in the nation; its road system is said to pose the longest commute time in the country; and its home and its land prices are amongst the highest in the nation. The property on which the D.C. Correctional Complex is located, if available for development, would rank amongst the most valuable land on the eastern seaboard.

Although the Lorton area represents 65% of the remaining land in Fairfax County planned or zoned for industrial development, it has not attracted the high-tech and service-based industries found in other parts of Fairfax County. Instead, it is the site of five landfills, an ash landfill, an incinerator, a sewage treatment plant, two trash recycling centers, auto junkyards and heavy equipment sales and service. The residents of Lorton have worked long and hard to eliminate these undesirable uses and to become the southern gateway to Fairfax County that we have long envisioned. Accordingly, re-establishing a different penal institution on the property currently occupied by the D.C. Correctional Complex will be to the detriment of this southern gateway.

B. Page 1, Section 2: Strike the word "Lorton" and replace with "D.C."

DISCUSSION

The D.C. Correctional Complex is not officially known as the "Lorton Correctional Complex," and the legislation should be changed accordingly. Citizens of Lorton have long had to endure the stigma of living near the prison, but there is a community of people who have lived in Lorton, and there is a wealth of history to Lorton, that is not associated in any way with the prison. Conforming changes have been made throughout our marked-up version of the legislation.

2. Attorney General appoint a responsible official to ensure community safety.

- A. Page 2, Section 2(b): Before the period at the end of the sentence, insert "and the local jurisdiction where the proposed facility will be located."

DISCUSSION

The Federation of Lorton Communities believes both State and local government approval should be required before siting any new or transferred prison facilities in an area.

B. Page 2, Section 2: Add a new sub-paragraph (c) to read as follows:

"(c) Community Safety.—The Attorney General of the United States shall, on a reimbursable basis, appoint a responsible official from the Department of Justice to advise the Attorney General on the continuing adequacy of security at the D.C. Correctional Complex, particularly as it relates to the safety of citizens in the area surrounding such Complex. Further, the Attorney General shall take appropriate measures, consistent with United States laws, to protect and safeguard the safety of citizens of the Commonwealth of Virginia residing in the vicinity of the D.C. Correctional Complex, pending transfer of all prisoners incarcerated at the D.C. Correctional Complex to other Federal Prison facilities, pursuant to Section 3 of this Act."

DISCUSSION

The communities surrounding the D.C. Correctional Complex feel increasingly less safe in their own homes with the continued presence of the prison. Housing some of the most dangerous criminals in America, in facilities some of which are over 65 years old, and faced with significant budget cuts, massive staff shortages, double bunking, inadequate security systems, excessive overtime, abandonment of some guard towers and closure of some housing facilities due to lack of operating funds, the D.C. Correctional Complex has deteriorated into an unmanageable and potentially explosive situation. This deterioration has been the result of years of political and financial neglect, managerial ineptitude, and a growing collusion between inmates and staff. The D.C. Correctional Complex, despite the excellent efforts of its newest Director, has become a dangerous institution and poses an unacceptable danger to the families residing in its close proximity. The facility has outlived its usefulness and its continued deterioration presents an elevated risk to local citizens.

The D.C. Government has demonstrated, through budget cuts, hiring moratoriums, reduction in maintenance funds, cancellation of training and rehabilitation programs, unchecked corruption, escapes, and mismanagement that it has neither the political will nor the funds to properly manage the D.C. Correctional Complex, and conversely, protect the citizens of host neighborhoods in Fairfax County. The senior public safety official of the United States, the U.S. Attorney General, is the only government official with both the responsibility and authority to initiate corrective measures to safeguard the lives and property of local Virginia residents. The Attorney General must appoint a responsible Department of Justice official, with appropriate staff support, to conduct on-going inspections of the D.C. Correctional Complex, identify staff, security and facility weaknesses that would contribute to a breakdown in over-all security, and take appropriate measures to correct such weaknesses, to include requesting Congressional funding support.

3. Priority Status for the Transfer of Lorton Prisoners to Other Federal Facilities

- A. Page 3, Section 3: Add a new sentence at the end of paragraph (a)(2):

"Prisoners incarcerated at the D.C. Correctional Complex shall be given transfer priority over other federal prisoners remanded to the custody of the Attorney General for incarceration at a Bureau of Prisons facility, including those federal prisoners already incarcerated at a Bureau of Prisons facility."

DISCUSSION

The Bureau of Prisons system nationwide is significantly overcrowded. Recent figures suggest that the system is 43 percent over capacity. Other reports indicate that the system is also under-funded and understaffed. We understand the difficulties posed by dumping upwards of 10,000 additional prisoners from the D.C. Correctional Complex. Moreover, with passage of the 1994 Crime Bill, including revised sentencing and parole guidelines, experts predict a significant expansion of the federal prisoner population over the next decade. Funding for new prisons will help to attenuate the expanding population, but will not eliminate it or appreciably reduce existing overcrowding. Unless D.C. Correctional Complex prisoners are given priority over other federal prisoners, the transfer process will proceed at an agonizingly slow pace, if at all. Closing the D.C. Correctional Complex is not "business as usual." Instead, it is a direct action by the U.S. Congress to close a penal facility that has outlived its usefulness, poses a public safety threat to local communities, and has been deemed an inappropriate function for a municipality such as the District of Columbia.

4. Restrict Closure Commission to Planning for Federal Reuse of the D.C. Correctional Complex

A. Page 4, Sec. 4, paragraph (a): After the word "Congress" add ", after a public hearing,".

DISCUSSION

The citizens who will be most affected by any actions taken by the Closure Commission in the Implementation Plan should have an opportunity to review and provide comments on such plan. We are the ones who will be living next door to whatever use for the land is decided by the Closure Commission.

B. Page 5, Sec. 4., paragraph (a)(1): After the word "future" insert the word "federal".

DISCUSSION

The property upon which the D.C. Correctional Complex is situated is owned by the United States, and has been made available to the District of Columbia for the purpose of operating a penal institution. Should H.R. 461 be enacted by Congress, the D.C. Correctional Complex will close and cease to be a penal institution. As this is a prime piece of property of great importance to the communities surrounding it, local citizens have expressed overwhelming concern about the future development of this property. As provided in the legislation at this time, a Closure Commission will develop an Implementation Plan for the future development of the vacated property. This Closure Commission will have unrestricted authority to propose any development plan it deems appropriate, including potentially making the property available for storage of nuclear waste material. The property could also be made available to groups such as Disney or other theme park operators. While use of the property as a nuclear waste storage area may be viewed by many as "wild speculation", it serves the more important point of illustrating the omnipotence of the Closure Commission in the legislation as currently drafted. This is unacceptable to Virginia residents living near the Complex.

Therefore, the role of the Closure Commission should be carefully defined and limited to actions that directly support the closure process, and land use planning, with respect to continued federal use of the property. The Closure Commission should not be involved in land use planning involving State, County or private development. If the federal government has no further use for the vacated property, then the Closure Commission should recommend one of several options: (1) Turn the property over to Fairfax County for use as a park; or (2) Place the property into a Land Bank arrangement for future development, subject to Fairfax County's Comprehensive Land Use Plan. If option 2 is selected, consideration should be given to federal funding for ridding the property of undesirable D.C. Department of Corrections facilities and equipment. Unoccupied and vacant, any abandoned facilities on this property would pose an unacceptable attraction and corresponding danger to local children and miscreants.

5. Address Impact on Public Facilities and Services

Page 5, Sec. 4., paragraph (a)(2): Add at the end of the sentence before the period "and other public facilities and services".

DISCUSSION

This portion of the Act requires the Closure Commission to address the impact of future land use planning on local and regional transportation resources. While vitally important to any future land use planning, it fails to address other vital community concerns. Multi-use development of almost 3,000 acres will have a profound impact on the school system, fire protection, police services, medical care, sanitation, and delivery of utilities. All of these services require tedious planning and long lead-times to bring facilities and staff on line. The Closure Commission should address these important issues to give municipal planners much-needed planning data to ensure municipal services keep pace with development plans.

6. Eliminate "Bureau of Prisons and Government of the District of Columbia, as potential Tenants

A. Page 5, Sec. 4, paragraph (a)(3): After the words "Federal agencies" delete "(including the Bureau of Prisons)"; and after the words "for Federal use," delete "the Government of the District of Columbia,".

B. Page 5, Sec. 4, paragraph (a)(3): Add at the end of the sentence before the period " but in no event for any of the uses described in Section 2(b) of this Act".

DISCUSSION

The intention of H.R. 461 is to close the D.C. Correctional Complex and transfer the prisoners to other federal penal facilities. Language that allows the Bureau of Prisons to use the property is tantamount to simply changing custodians and signs. If the Bureau of Prisons simply takes over the facilities, the U.S. Congress will have played a dastardly trick on the citizens of Fairfax County. As for the Government of the District of Columbia, no language is necessary to allow the federal government to permit the D.C. Government to use the property for purposes other than a penal institution. Including language in H.R. 461 allowing the D.C. Government to continue to use the property clouds the intent of H.R. 461 and invites community speculation about "hidden agendas."

7. Future Land Use Planning Must Conform to the Fairfax County Comprehensive Land Use Plan

Page 5, Sec. 4., paragraph (a)(4): At the end of the paragraph, add a new sentence:

"Any disposal of real property or improvements thereon shall be subject to provisions of the Comprehensive Land Use Plan and Zoning Ordinance of Fairfax County, Virginia applicable to such property."

DISCUSSION

Notwithstanding new (proposed) restrictive language limiting the Closure Commission to considering alternative federal use of the property currently occupied by the D.C. Correctional Complex, additional language should be included requiring all future private or non-federal land use to conform to the Fairfax County Comprehensive Land Use Plan and the Zoning Ordinance, as they may exist at the time such land use is undertaken.

This language originally was proposed by our Supervisor, Gerry Hyland, and we support its inclusion in the legislation. Supervisor Hyland already has taken steps to create a county land use planning task force, made up of citizen representatives, to determine what the land use plan for this large area should be. This property is strategically located off the most travelled highway corridor in the country—1-95. The traffic is gridlocked, and public facilities for any development are nil. We must have adequate planning that takes into account the needs of current residents and the anticipated needs of future development. What we do not want is to end up with land uses far worse than what we have right now.

8. Provide Cost Assessment of Implementation Plan

A. Page 5, Sec. 4., add a new paragraph (b) as follows:

"(b) COST ASSESSMENT OF IMPLEMENTATION PLAN.—The Commission shall develop a cost estimate associated with each action described in subsection (a).

Such costs shall include, to the extent practicable, the cost of removal of correctional facilities and infrastructure, clean-up of all storage and disposal sites, and other relevant costs affecting future habitability of such property."

- B. Page 5, Sec. 4., redesignate paragraph "(b)", "PROCESS FOR SUBMISSION OF FINAL IMPLEMENTATION PLAN," as paragraph "(c)".
- C. Page 6, Sec. 4., redesignate paragraph "(c)", "AUTOMATIC IMPLEMENTATION OF PLAN" as paragraph "(d)".

DISCUSSION

As with any federal closure plan, cost assessments must be provided for razing inhabitable buildings; clean-up of storage areas, including toxic waste; removing certain in-ground and above ground utilities and other infrastructure; removal of hazardous and/or dangerous property; and other actions that would return the property to a habitable state. These assessments will be vitally important for federal budgeting, as well as State, County and/or private development planning.

9. Public Hearing on Implementation Plan

- A. Page 6, Sec. 4, original paragraph (b)(4): Add ", after a public hearing," after the word "Congress."
- B. Page 6, Sec. 4, original paragraph (c): Change "60" to read "120."

DISCUSSION

As discussed above, the citizens who will be most affected by any actions taken by the Closure Commission in the Implementation Plan should have an opportunity to review and provide comments on such plan through a public hearing process. We are the ones who will be living next door to whatever use for the land is decided by the Closure Commission. In addition, we should be given sufficient time once the final Implementation Plan is submitted to Congress to let our Representatives and Senators know what we think about the Implementation Plan and whether we believe it is good or bad for our community.

10. Waiver of McKinney Homeless Act

Page 7, Sec. 4: Add a new paragraph "(e)" as follows:

"(e) WAIVER OF MCKINNEY HOMELESS ACT.—The provisions of the McKinney Homeless Act are hereby waived from consideration by the Administrator."

DISCUSSION

This large parcel of property, including the facilities located on the property, is inappropriate for housing homeless persons. Additionally, the property is too far removed from any major metropolitan area from which homeless persons are drawn. There is no public transportation to the site, and it unnecessarily places a large group of unemployed and, in some cases, mentally dysfunctional, people in immediate proximity to large residential communities and schools.

11. Adjust the Membership on the D.C. Correctional Complex Closure Commission

- A. Page 7, Sec. 5, paragraph (b)(1)(A): Amend this paragraph to read as follows:

"(A) The Fairfax County Board of Supervisors shall appoint 6 members, one of which shall be specially qualified by training and/or experience in matters relating to regional transportation problems and issues; one of which shall be specially qualified by training and/or experience in matters relating to local land use problems and issues; and two citizen members from communities surrounding the Correctional Complex."

- B. Page 7, Sec. 5, paragraph (b)(1)(B): After the words "3 members", add ", one of which shall be specially qualified by training and/or experience in matters relating to regional transportation problems and issues."
- C. Page 7, Sec. 5, paragraph (b)(1)(C): Strike the words "shall appoint 2 members." and replace with "shall appoint 1 member."

DISCUSSION

Fairfax County, host jurisdiction for the D.C. Correctional Complex, and whose future will be most affected by the closure of the D.C. Correctional Complex, should have majority representation on the Commission. Further, Fairfax County represen-

tation should include: one member specially qualified by training and/or experience in matters relating to local land use issues; and two citizen members from communities surrounding the D.C. Correctional Complex. The total representation from Fairfax County should be increased from 5 to 6. This will eliminate the possibility of any tie votes, as the current structure of the Commission could allow.

Three (3) members from Prince William County, while questionable and not understood by Fairfax County residents, should include one member specially qualified by training and/or experience in matters relating to regional transportation problems and issues.

District of Columbia representation should be reduced from two members to one member. The singular interest of the D.C. Government is the transfer of its prisoners and the closure of the facility. It does not require two persons to represent these interests.

12. Gifts and Donations

Page 11, Sec. 5, paragraph (d)(4): At the end of the paragraph before the period, add "except that no individual member may accept, for personal use, any gift, donation, or other consideration, from any person or organization, or agent thereof, who may have a financial interest in the findings or recommendations of the Commission."

DISCUSSION

The purpose of this added language is to prohibit developers from attempting to influence Commission members through gifts, donations or other considerations. In fact, the Commission, as a federal entity, should be restricted as to the type of gifts and donations they can accept, and from whom. There also should be some form of financial disclosure requirements imposed on the Commission members. As the legislation now reads, the Commission can accept substantial gifts and donations from a major developer. Without restrictive language, community residents, unknowingly may become victims of unscrupulous developers' largesse. Although purely hypothetical and not intended to impugn the integrity of anyone, protective language is needed to avoid improper financial incentives.

13. Definitions

Page 12, Sec. 6, paragraph (3): Change "Lorton Correctional Complex" to read "D.C. Correctional Complex" and add after the word "means", "the approximately 3,000 acres of land located in Fairfax County, Commonwealth of Virginia, commonly known as the Lorton Reservation, and includes, inter alia,".

DISCUSSION

The property on which the D.C. Correctional Complex is situated should be more clearly and precisely defined, to encompass the entire approximately 3,000 acres of land under the control of the District of Columbia. Otherwise, the legislation could be read as applying only to property on which some physical facilities sit and not the vast expanse of open space used for corn fields, cow grazing, duck ponds, etc. We want to make it clear that the legislation applies to all of the prison land.

Mr. DAVIS. Laurie, thank you very much.

I see that David Albo, a member of the Virginia General Assembly is here.

Mr. ALBO. Mr. Chairman, committee, I represent the 42nd District, for any of you who don't know, and that includes the entire Lorton area, in the Virginia General Assembly.

The one thing I wanted to point out, and Ms. Frost just mentioned, there is currently no proposal or any initiative by the State, in my discussions with the Governor's office recently, to put a State facility there. As a matter of fact, the State has more than enough counties who want prisons, believe it or not, to fully satisfy any desire to build a new State facility.

Second, I wanted to point out one thing. In my free time, I'm an attorney. I've represented a lot of people in the Lorton facility. Federalizing D.C. prisoners is really nothing new. If a prisoner com-

mits a crime while in Lorton, he gets sent to the court in Alexandria, Federal court, and if he is convicted, then he is shipped off to the Federal system. So a lot of people were talking today about it being a strange thing that we're Federalizing D.C. prisoners, that is not a strange thing at all. It happens every day.

I don't want to repeat a lot of the things that Ms. Frost said, but I wanted to point out a couple of things. I've talked to a lot of my constituents. I'm the elected representative that represents the least amount of people, and I like to then, therefore, use that position to keep in touch with my constituents.

The No. 1 thing is that my constituents, 100 percent of them, want the D.C. correctional facility moved. You talk to anybody there, they just don't think it's fair that they have to live next to a facility which houses not even prisoners from their own State. The interesting thing, though, is that a significant portion, and in my recent survey, 65 percent of the people are concerned about what's going to go there in its place. And that is a legitimate concern.

Mr. Chairman, I think a great idea and the one thing I want to propose to you all is, let's look at the model we had set up for the engineering proving ground development, when we looked at the Army facility, and how we used citizen involvement to develop that land. I would like to see a similar type program set up for the Lorton facility, if it does eventually move, and that we get a group of citizens, county officials, and the Federal officials and the District officials all together, and we can come up with a plan for some reasonable development.

I think we'd all like to see it a park, but, you know, that's a pipe dream, of course, and we realize that. We were very pleased with the outcome of the engineering proving ground development, thought that that development, as it turned out, was something that everybody could live with and we're happy with. And I'd like to see that type of system set up for the moving of the facility.

[The prepared statement of Mr. Albo follows:]

PREPARED STATEMENT OF DAVID B. ALBO, DELEGATE, GENERAL ASSEMBLY, VIRGINIA
HOUSE OF DELEGATES

I am David Albo, Delegate to the Virginia General Assembly for the 42nd District. My District includes the Lorton Prison facility and surrounding land.

I represent the fewest people of any elected representative in Fairfax County. Thus, I am closest to the people. I want to communicate today what my extensive conversations with my constituents and surveys of my constituents indicate.

For people directly bordering the prison, there seems to be no price too high to move this facility. They have great fear about the safety of their families, especially in light of the fact that there has been a number of escapes recently. This is not surprising. What is surprising, though, is that many of my constituents (65% of the respondents in my Newsletter survey) have an equivalent fear about what will be put in place if the prison is moved. In other words, people are hesitant to blindly support moving the prison if something worse is put in its place or if the land is developed into high density home and office developments. Already, I-95 is packed to a standstill and people can barely get to work on Route 123.

My solution is to use the model of citizen involvement we used in the proposed development of the Fort Belvoir Engineering Proving Grounds. Citizens, Federal Government representatives and County representatives all worked together to achieve a well balanced mixed use development which assured the construction of adequate facilities to support the development. Congressman Davis is very familiar with this process and can offer great guidance in setting up this system.

Mr. DAVIS. Mr. Albo, thank you very much.

We now have Dallas Shawkey, who is the chair of the Public Safety Committee of the Mt. Vernon Council of Citizens' Associations.

Dallas, welcome.

Mr. SHAWKEY. Good morning, Mr. Chairman and members of the subcommittee.

I'm Dallas Shawkey, chair of the Public Safety Committee for the Mt. Vernon Council of Citizens' Associations. The Mt. Vernon Council is comprised of 60 homeowner associations in the Mt. Vernon District of Fairfax County. The Lorton Correctional Complex is located within our district. I have resided in this district for over 17 years and have been active on the Public Safety Committee for 15 years.

The subject of problems at the D.C. prison at Lorton was the subject of the very first Public Safety Committee meeting that I attended, and those problems have continued to this day. It has been a sad, repetitive history of underfunding, overcrowding, and failure of internal security, resulting in escapes, riots, drug use, and assaults on inmates and guards. While this has continued, we also see the lack of funding by the District of Columbia causing vacancies to more than 200 correctional officer positions, reduction in necessary correctional officer training support, in the decline in the maintenance of facilities and equipment, and in rehabilitative programs.

The problem is inherent to the situation. Out of sight; out of mind. The prisons are not located in the District of Columbia. The problems in the prisons at the Lorton Correctional Complex do not directly impact the majority of citizens in the District of Columbia. The District of Columbia is not responsible to the Commonwealth of Virginia for its operation of the prisons at Lorton. The citizens of Virginia have no way to affect the elected officials in the District of Columbia. For most of the last 15 years, District of Columbia corrections officials have declined my invitations to come to my committee to discuss how persistent problems can be corrected and what they are doing to correct them. The attention to and funding of the operations at the prison will always be of secondary importance vis-a-vis other problems facing the officials of the District of Columbia.

Court suits to correct conditions there have had little, if any, effect to improve the situation. Relocating the prison to another facility outside the District but under the direction of the District of Columbia would eventually just replicate the current unsatisfactory situation at the new location. For these reasons, my committee believes the District of Columbia should not operate a facility outside its own boundaries.

The Public Safety Committee reviewed H.R. 461 and developed a resolution to support it. The resolution was published for review by the council members. Subsequently, the council passed the resolution at its regular general membership meeting on February 22, 1995. The resolution is attached to the testimony.

Our resolution supports the intent of H.R. 461 to close the Lorton Correctional Complex. However, we ask that some changes be made to the legislation. First, the Fairfax County citizen represen-

tation on the 11-member commission on the closure of the Lorton Correctional Complex should be increased to a majority.

Currently, the commission would have five members from Fairfax County, three from Prince William County, two from the District, and the administrator from the General Services Administration. The addition of one member from Fairfax County will assure that the county's interests in the disposition of the 3,000 acres within its borders are fully addressed.

As you are aware, approximately 500 of the 3,000 acres are dedicated to the prisons. It should be noted that the Fairfax County comprehensive plan already has a requirement for the establishment of a citizens task force to study alternative uses for any land returned to the county so that the best possible uses can be made of it.

Second, and very important, is the concern we have about the maintenance of internal and external security until the Federal Bureau of Prisons can take effective control of the correctional complex and begin to correct the many problems there.

Once H.R. 461 is signed, the District of Columbia will have even less concern about the operation and maintenance of the prisons, with the result that the conditions within the prisons could further deteriorate, creating more frustration and desperation on the parts of the inmates.

At the same time, security will decline, creating greater concern on the part of residents around the prisons. The Congress must take appropriate steps to ensure that this does not happen by requiring the Attorney General of the United States to take control of the prison facilities at Lorton on the effective date of the act. The Attorney General should conduct an inventory of the facilities to identify deficiencies in corrections regulations, correctional staffing, training, building maintenance, and equipment maintenance. Taking into account the time until the correctional complex is closed, a plan should be implemented to upgrade living conditions by moving some inmates to other prison facilities and accomplishing necessary repairs and maintenance in the facilities at Lorton.

Thank you for letting me speak to you this morning.

[The resolution referred to follows:]

PROPOSED FEDERAL LEGISLATION TO CLOSE THE DISTRICT OF COLUMBIA PRISON IN
LORTON, VIRGINIA

RESOLUTION

WHEREAS, the District of Columbia operates a prison for convicted felons on 3000 acres of Federal land in the Mount Vernon District of Fairfax County, Virginia, that was originally purchased by the United States for such purpose; and

WHEREAS, the rationale for such a complex in what was then a rural area isolated from any urban population no longer applies; and

WHEREAS, the current D.C. Department of Corrections which operates the D.C. prison has faced significant reductions in staff, increases in correctional officer vacancies, and lack of sufficient training for the remaining officers due to fiscal constraints of the D.C. Government, thereby resulting in increased risk to the surrounding communities; and

WHEREAS, prisoner escapes into the adjacent heavily-developed Fairfax County neighborhoods, coupled with recent and growing reports of deterioration in the prison complex's internal and external security program, may further increase the risk to these surrounding communities; and

WHEREAS, responding to the assistance needs of the prison represents a drain on the tax resources of Fairfax County for police, fire, and other services; and

WHEREAS, Senators Warner and Robb, and Congressmen Wolf, Moran, and Davis have introduced legislation, the "Lorton Correctional Complex Closure Act", in the U.S. Senate and U.S. House of Representatives to close the prison within six years, transfer the D.C. prisoners to Federal prisons within five years, and develop a plan within 18 months by an 11 member "Commission on Closure of the Lorton Correctional Complex" to dispose of the 3000 acres or re-use it for Federal, D.C. or other government purposes; and

WHEREAS, the 11 member Commission would have 5 from Fairfax County, 3 from Prince William County, 2 from the District of Columbia, and the Administrator from the General Services Administration; and

WHEREAS, it may be several months before the subject legislation could be passed and months later before the Federal Bureau of Prisons could take effective control of the Prison complex, and begin to correct the many internal security and perimeter maintenance problems about which County residents are currently very concerned;

NOW THEREFORE, BE IT RESOLVED that the Mount Vernon Council of Citizens Associations supports the above cited legislation and its creation of the "Commission on the Closure of the Lorton Correctional Complex", with the proviso that Fairfax County citizen representation on the Commission should be increased to a majority; and

BE IT FURTHER RESOLVED that our Federal legislators ensure through appropriate means that adequate immediate security and protection of the surrounding communities are maintained pending final closure of the Lorton Correctional Complex.

BE IT FINALLY RESOLVED that the Fairfax County Board of Supervisors establish a citizens task force as stipulated in the Fairfax County Comprehensive Plan, made up of citizens with representation from the communities surrounding the Lorton Correctional Complex to study alternative uses for the site.

Mr. DAVIS. Dallas, thank you very much.

We now have Carole Harman, who is the co-chair of the Mt. Vernon Council of Citizens' Associations.

Carole, welcome.

Ms. HARMAN. Good morning, Chairman Davis, Ms. Norton, committee.

My name is Carole Harman, and I am co-chair of the Mt. Vernon Council of Citizens' Associations. Our council has, for 25 years, represented the interests of civic associations and residents of the Mt. Vernon Magisterial District in Fairfax County, VA. At present we are comprised of about 60 member associations. The D.C. Correctional Complex is in our district.

The Mt. Vernon Council fully supports the intent of H.R. 461. We propose an addition to the language to ensure that local residents have some input commensurate to their interest in and proximity to the 3,000-acre Lorton prison property. Our concerns and proposals stem from our interest in a stronger and healthier community and our view that there must be some accountability by the responsible jurisdiction to the Mt. Vernon community, both in the interim operation of the complex pending its closure and in the ultimate disposition of the property.

The Mt. Vernon Council has, as I mentioned, for many years represented residents' and association interests to county, State, and Federal officials on issues such as transportation, parks, development, and the like. We expect and have always received a hearing and a response from accountable officials.

Yet, District officials have provided an exception to this pattern. As Dallas has pointed out, our Public Safety Committee has carefully considered problems at the complex and invited people to speak with us about those issues, and we simply have not had a

response over the years. And it's obvious to us that the District has not viewed itself as accountable to Virginia citizens for the operation of the facility.

Therefore, at its February 1995 general meeting, the Mt. Vernon Council approved a published resolution in support of H.R. 461, and I attach that resolution. We also propose a change in the legislation to provide for greater citizen input. We believe that Fairfax residents living in the jurisdiction most impacted of those represented on the 11-member closure commission, should have 6 members rather than 5, to ensure that the county's interests are fully addressed in matters of disposition of the property.

Also, as pointed out in Supervisor Gerry Hyland's testimony last March, another way to broaden citizen input and ensure accountability is to amend Section 2(b) at the end of line 19, adding "for the local jurisdiction to have an opportunity to comment on land use."

And we also urge your involvement in ensuring adequate security and protection for local communities pending final closure of the complex. In view of past disregard for our public safety concerns, we expect that there would be a deterioration of conditions after passage of the bill.

So we urge that you address ongoing shortfalls in the needs of inmates and staff for adequate space, equipment, and security, and of course those shortfalls ultimately affecting Mr. Vernon citizens.

Thank you for the opportunity to comment today, and I hope we can be helpful in coming up with a solution.

[The prepared statement of Ms. Harman follows:]

PREPARED STATEMENT OF CAROLE HARMAN, CO-CHAIR, MT. VERNON COUNCIL OF
CITIZEN'S ASSOCIATIONS

Good morning My name is Carole Harman. I am Co-Chair of the Mount Vernon Council of Citizens' Associations. The Mount Vernon Council has for 25 years represented the interests of civic associations and residents of the Mount Vernon Magisterial District of Fairfax County, Virginia, and at present is comprised of over 60 member associations. The Lorton Correctional Complex is located in our District.

The Mount Vernon Council fully supports the intent of H.R. 461 and proposes an addition to the bill's language to ensure that local residents have input commensurate to their interest in and proximity to the 3000 acre Lorton property. Our concerns and proposal stem from our interest in a stronger, healthier community, and our view that there must be accountability by the responsible jurisdiction to the Mount Vernon community, both in the interim operation of the Complex pending its closure and in the ultimate disposition of the property.

The Mount Vernon Council has for years represented residents' and associations' interests to County, State and Federal officials on issues such as transportation, parks, environmental issues, development and zoning, and the like. We expect—and have received—a bearing and a response from accountable officials. District officials have provided a notable exception to this pattern. Our Public Safety Committee has carefully reviewed and considered the well-known problems at the Complex: internal security problems, drug use by inmates, trafficking by visitors and staff, escapes, assaults, recidivism, staffing vacancies, and declines in staff training and maintenance of facilities and equipment due to funding difficulties. Yet, District correctional officials have never agreed to speak to the Public Safety Committee on these problems. It is obvious that the District does not view itself as accountable to Virginia citizens for the operation of the facility in Virginia. I cannot imagine such long-term non-responsiveness by prison management were the correctional facility operated by Fairfax County, Virginia, or the Federal Government.

Therefore, in its February 1995 general meeting, the Mount Vernon Council approved a published Resolution in support of H.R. 461. A copy of the resolution is attached.

In that resolution, the Council proposes a change in the legislation to provide for greater citizen input. We believe that Fairfax residents—living in the jurisdiction most impacted of those represented on the 11-member closure Commission—should have 6 members rather than 5. This change will ensure that the County's interests are fully addressed in matters of disposition of the Lorton property.

As pointed out by Mt. Vernon District Supervisor Gerry Hyland in his testimony, another way to broaden citizen input and ensure accountability is to amend SEC. 2(b), line 19, page 2, to add the words "and the local jurisdiction where the property is located."

We also urge Federal legislators' involvement in ensuring adequate security and protection for the local communities pending final closure of the Complex. In view of D.C. corrections officials' past disregard for our public safety concerns—their out-of-sight, out-of-mind attitude—we expect that conditions will only deteriorate after passage of the bill. We ask that you address the ongoing shortfalls in the needs of inmates and staff for adequate space, equipment and security, which ultimately affect Mount Vernon's citizens.

Thank you for the opportunity to talk with you today.

Mr. DAVIS. Thank you very much.

Mr. McBride.

Mr. MCBRIDE. Thank you.

My name is Neal McBride, and I live at 8105 Winter Blue Court in Springfield, VA. I am testifying in the dual capacity as vice president of the Newington Forest Community Association and as secretary of the South Run Coalition.

Newington Forest is an 18-year-old planned community of about 5,000 residents, living on 1,000 acres in southern Fairfax County. It has the longest common border with the D.C. prison complex of any community association in Virginia. The South Run Coalition is a 5-year-old organization, located within the South Run Valley, composed of 25 homeowner associations, with a residential membership of over 17,000 citizens. Coalition communities border the Lorton Federal reservation on three of its five sides.

Let me begin by giving you some history. Twelve years ago, residents of Newington Forest had bullets hitting their cars and penetrating their bedroom walls as they were fired upon from the adjacent prison grounds. Until an agreement could be worked out to relocate the prison firing range, we lived for months with the constant fear of potential injury against our citizens and with a very real stagnation in property values, due to the negative image this crisis brought to our community.

Four years ago, as a result of a Federation of Lorton Communities undercover investigation, we learned that we were once again under attack from the prison grounds. This time the threats against our residents were somewhat more insidious, by way of the illegal trash and industrial materials dump which the prison had allowed to develop close to many of our homes, ironically located on the site of the old prison firing range.

Even then, until the District of Columbia was forced by our current county supervisor to clean up this hazardous mess, Newington Forest lived with yet another negative factor which impacted its reputation and disturbed its residents' equilibrium. As a result of these two serious episodes, that particular section of Newington Forest still does not enjoy the same level of market value as the rest of the community.

Recently, Newington Forest and the South Run Coalition have witnessed a whole new series of so-called "prison incidents," inmate disturbances, and managerial incompetencies, all of which serve to

bring this issue as to the District's future control over the Lorton reservation into much sharper focus. But even with all this, Newington Forest has still been able, through much hard work, to accomplish what few other communities have been able to achieve, the selection recently by the editors and readers of our local news weekly as the prettiest neighborhood in Springfield. Therefore, we will not just stand by and let our quality of life and the safety of our children be threatened for yet the third time in our rather short existence by our ever-expanding and ever-more-dangerous alien neighbor to the south, the D.C. prison on the Lorton Federal reservation.

With that information as a backdrop, my statement is provided today within the broad context that reveals our community's long-standing interest in the operations of the D.C. prison, specifically, and our concerns about the District of Columbia's stewardship over the Lorton reservation generally. As a result, our citizens are overwhelmingly in support of the proposed prison closure legislation and urge its passage, with but a small number of suggestions for amended language or added improvements which are attached separately to my testimony. Most of these may have already been provided to you through previous testimony this past March by our county supervisor, Gerry Hyland, or by way of our local congressional representatives, Jim Moran and Tom Davis. We also, of course, support the recommended improvements suggested by our local umbrella organization, the Federation of Lorton Communities.

In closing, Newington Forest and other area communities have also had growing concerns about the District's recent failure to implement its earlier promises to us to initiate and complete a wide variety of prison security deficiency corrections and management improvements which are minimally necessary to assure adequate safety for Virginia residents, prison staff, and inmates alike. As a result of recent Department of Corrections operational, budgetary, and staffing problems, we must now strongly insist that some kind of effective oversight activity, possibly via the new D.C. financial review and control board, be charged with reviewing these and other perimeter security and operational management programs and that all of them—all of them—be fully and timely completed.

Finally, the probable reuse or redevelopment of the prison complex and the Lorton reservation for nonprison purposes will most likely have the single largest impact ever on southern Fairfax communities, even possibly more than the previously approved redevelopment plan for the Ft. Belvoir engineer proving grounds. Therefore, we feel that the ultimate land use proposals for the reservation should be decided according to the Fairfax County comprehensive plan, with the greater Lorton area residents heavily involved in both the Federal Government's proposed prison closure commission and in the county's locally established land use task force.

Thank you for inviting us to testify, and best wishes in a good legislation.

Mr. DAVIS. Thank you very much.

We have Tim Sargeant from Crosspointe. Thank you for being with us today.

Mr. SARGEANT. Good afternoon.

My name is Tim Sargeant. I am the president of the board of trustees of the Crosspointe Homeowners Association, a community of 1,200 homes and growing. Last year I served as vice president of the Federation of Lorton Communities and as a member of Fairfax County Supervisor Gerry Hyland's citizen advisory committee on the D.C. prison.

The Crosspointe community is especially concerned about the fate of the D.C. correctional complex at Lorton, VA. We are located right next door to the prison lands. Some of the prison facilities are within walking distance of our homes. In addition, Crosspointe is now the site of two elementary schools. Needless to say, security is very much on our minds.

Our homeowners have indicated through a community-wide survey that they believe current security measures at the correctional complex are not adequate. A strong majority of those responding believe the District of Columbia's management of the prison facilities at Lorton must cease immediately. Many favor immediate action such as the closure of the maximum security facility.

The responses are based on an acute awareness of the situation of what is happening within the walls and barbed wire fences of the prison complex. They read and hear about the District's budget crisis that prevents adequate funding for the prison facilities, its staff, and even its inmates. They are well aware of the violence that has taken place within the confines of the facility.

This is why we welcome the legislative action that Congressmen Wolf, Moran, and Davis, as well as Senators Warner and Robb, are taking. H.R. 461 provides a resolution to a situation that holds the potential for tragedy, both inside the prison and in the surrounding communities. However, we must stress the importance of quick action on this bill, as well as the need to maintain a high level of security between now and when the prison facilities at Lorton are finally closed.

The District's financial situation and an uncertain timetable for congressional action make it difficult to know whether funding will be adequate for the security of all the adjacent communities, as well as the corrections officers and the prisoners themselves. It is a potentially dangerous and unstable situation. Now that Congress is stepping in, Federal lawmakers assume a greater responsibility for our safety. We urge you to make sure that security at the prison complex at Lorton is maintained.

The Crosspointe board of trustees has reviewed the amendments to H.R. 461 proposed by the Federation of Lorton Communities. They are sound proposals and worthy of inclusion.

We are especially supportive of the following recommendations, which include prohibiting future use of the land and/or facilities as a penal institution at the Federal, State, or local level, as well as the appointment of a Justice Department official and staff to monitor the continuing adequacy of security at the D.C. prison, particularly as it relates to the safety of citizens in the area surrounding the prison complex.

We also support restricting the closure commission to planning only for Federal Government use of the vacated property, and we would like to see the removal of the Bureau of Prisons and the District of Columbia as potential users of the prison site. We also sup-

port the waiving of the McKinney Homeless Act from future use consideration.

We, too, believe that Fairfax County membership on the Federal Closure Commission should be increased from five to six, with three citizen representatives from communities surrounding the D.C. prison. Where we may differ with the Lorton Federation is on whether membership on the commission should be reduced for the District of Columbia or for Prince William County.

We also support the requirement that the closure commission and the General Services Administration should be bound by the Fairfax County comprehensive land use plan. As has been mentioned earlier, it calls for a citizen task force to review future use of that site, which we endorse.

We also support the facilitation of the transfer of inmates at the D.C. prison at Lorton to other penal institutions, and we believe that there should be a requirement for public hearings before any final plan is presented by the General Services Administration to the Congress for approval, so that additional legislative changes can be reviewed by the citizenry.

Mr. Chairman, there is no doubt that many D.C. corrections officers and staff serve with honor and professionalism at the complex. We have appreciated the candor of Department of Corrections Director Margaret Moore in recent months, as well as her efforts to turn the situation around. But the District's budget crisis, combined with all the problems that plague the prison complex at Lorton, have created an untenable situation. So we urge congressional support for H.R. 461, as well as the amendments proposed by the Federation of Lorton Communities.

We also ask you to ensure that security is maintained until the D.C. prison at Lorton is finally closed. The opportunity now exists to resolve a District of Columbia problem that affects so many families 20 miles south of the Nation's capital.

Thank you, Mr. Chairman and members of the committee for listening to my presentation.

[The prepared statement of Mr. Sargeant follows:]

PREPARED STATEMENT OF TIM SARGEANT, CROSSPOINTE HOMEOWNERS ASSOCIATION

My name is Tim Sargeant. I reside at 8803 Cross Chase Circle, Fairfax Station, Virginia, 22039. I am the president of the Board of Trustees of the Crosspointe Homeowners Association, a community of twelve hundred homes and growing. Last year, I served as vice president of the Federation of Lorton Communities and as a member of Fairfax County Supervisor Gerry Hyland's Citizen Advisory Committee on the D.C. Prison. I have also chaired my community's Land Use and Transportation Committee.

The Crosspointe community is especially concerned about the fate of the D.C. Correctional Complex at Lorton, Virginia. We are located right next door to the prison lands. Some of the prison facilities are within walking distance of our homes. In addition, Crosspointe is now the site of two elementary schools. Needless to say, security is very much on our minds.

Our homeowners have indicated through a community-wide survey, that they believe current security measures at the Correctional Complex are not adequate. A strong majority of those responding believe the District of Columbia's management of the prison facilities at Lorton must cease immediately. Many favor immediate action, such as the closure of the maximum security facility. Their responses are based on an acute awareness of what is happening within the walls and barbed wire fences of the prison complex. They read and hear about the District's budget crisis that prevents adequate funding for the prison facilities, its staff and even the in-

mates. They are well aware of the violence that has taken place within the confines of the facility.

This is why we welcome the legislative action that Congressmen Wolf, Moran and Davis, as well as Senators Warner and Robb are taking. H.R. 461 provides a resolution to a situation that holds the potential for tragedy both inside the prison and in the surrounding communities. However, we must stress the importance of quick action on this bill as well as the need to maintain a high level of security between now and when the prison facilities at Lorton are finally closed. The District's financial situation and an uncertain timetable for congressional action make it difficult to know whether funding will be adequate for the security of all the adjacent communities, as well as the corrections officers and the prisoners themselves. It is a potentially dangerous and unstable situation. Now that Congress is stepping in, federal lawmakers assume a greater responsibility for our safety. We urge you to make sure that security at the prison complex at Lorton is maintained.

The Crosspointe Board of Trustees has reviewed the amendments to H.R. 461 proposed by the Federation of Lorton Communities. They are sound proposals and worthy of inclusion. We are especially supportive of the following recommendations:

- Prohibit future use of the land and/or facilities as a penal institution, federal, state or local.
- The appointment of a Justice Department official and staff to monitor the continuing adequacy of security at the D.C. Prison, particularly as it relates to the safety of citizens in the area surrounding the prison complex.
- Restrict the Closure Commission to planning only for federal government use of the vacated property.
- Remove the "Bureau of Prisons and District of Columbia" as potential users of the prison site.
- Waive the McKinney Homeless Act from "future use" consideration.
- Increase Fairfax County membership on the federal Closure Commission from 5 to 6, 3 of which shall be citizen representatives from communities surrounding the D.C. Prison (We may differ with the Lorton Federation on whether membership on the Commission should be reduced for D.C. or Prince William County).
- Require the Closure Commission and the General Services Administration to be bound by the Fairfax County Comprehensive Land Use Plan.
- Facilitate the transfer of inmates at the D.C. Prison at Lorton to other penal institutions.
- Require public hearings before any final plan is presented by the General Services Administration to the Congress for approval.

Mr. Chairman, there is no doubt that many D.C. Corrections officers and staff serve with honor and professionalism. We have appreciated the candor of Department of Corrections Director Margaret Moore in recent months as well as her efforts to turn the situation around. But the District's budget crisis combined with all the problems that plague the prison complex at Lorton have created an untenable situation. So we urge congressional support for H.R. 461 as well as the amendments proposed by the Federation or Lorton Communities. We also ask you to ensure that security is maintained until the D.C. Prison at Lorton is finally closed. The opportunity now exists to resolve a District of Columbia problem that affects so many families 20 miles south of the nation's capital.

Thank you, Mr. Chairman and members of the committee for listening to my presentation.

Mr. DAVIS. Tim, thank you very much for your testimony.

Let me start the questioning with our ranking minority member, Ms. Norton.

Ms. NORTON. Thank you, Mr. Chairman.

I appreciate the testimony of all of you. It was thoughtful testimony, and I want to assure you that we in the District understand your concerns.

You, of course, recognize that the placement of this prison in Lorton was a congressional act, not an act of the District of Columbia officials, that it bore a direct relationship to the limited land space in the District, far more limited than in Virginia or in our other suburbs, and that part and parcel of the solution here is finding alternative space at a cost that the District can afford or, more likely, with some cost transfer.

It had been my impression, from contacts with Virginia and with District officials prior to this year, that very considerable work had been done to alleviate tensions between the Lorton community and the prison, although some of the testimony here left the impression that nothing had been done.

Ms. FROST. Let me respond to that, Congresswoman Norton.

We have worked over the years very closely, through our Citizens Advisory Committee and through the federation, with D.C. Department of Corrections officials. In fact, we have your Department of Corrections for D.C. community liaison attend most of our monthly federation meetings, simply to update us on what is taking place at the complex.

There have been, as I mentioned in my testimony, many improvements made over the years, as a result of the discussions that we have had. However, it is in the very recent times, due to the financial difficulties of the D.C. city government that we have seen many of the promises made to us recently fall by the wayside and further reductions in security taken at the facility.

Recently, we had an 80-foot section of brick wall at maximum security fall down. It fell apart. It has now been replaced, not with a brick wall but with chain link fence with barbed wire at the top. There are other sections of the wall that need to be replaced, and we're told the money is not there to do it.

There have been promises made to us that razor wire would be included, would be installed on perimeter fences around a number of the facilities, and now we're being told that that cannot take place because the money is not available.

We have been told that a number of the guard towers are not being manned anymore because there's not enough personnel to man them and not enough money to hire the new personnel that are needed. We know that the ranks of the corrections officers are short by at least 200 officers.

When you look at that all together, in the big picture, so to speak, it leads us to the conclusion that there needs to be something else done, that our negotiations, our discussions with Department of Corrections officials can only accomplish so much, but this needs a total overhaul.

Ms. NORTON. Apparently, at a meeting in December concerning the closure of Lorton, many of those who came opposed closure and expressed a concern for what could be dramatic development in the area, increased traffic, and the like. Has anybody ever done a poll on what the residents want, so that one has more than anecdotal evidence?

Mr. SARGEANT. Ms. Norton, our community did a community-wide survey, and the majority of residents did favor immediate closure of the prison; if not, having the District cease to manage the prisonsite. Many would love to see a park site and realize that's unrealistic. Many also would favor mixed use residential/commercial.

I think the overwhelming response is that they would like to see some local control, with local citizens having input to this process of developing an ongoing plan for this site. That's key. There is great concern about what Federal control of either a prison on that site or of the land itself would lead to. I don't think they want to

see Federal control any greater than what we have now. They would like to see it with local control, with local land use control, and with local input to what happens there next.

Ms. NORTON. Your concern about local control resonates particularly well with this member, and I want to assure everyone here that the makeup of the commission with some D.C. representation does not reflect any attempt on the part of—of course, it comes from the chairman's bill, not from anything we suggested in the first place—but we would be particularly sensitive to the concern of local residents that the representation reflect local concerns.

The notion, though, of reducing D.C. representation, assuming this bill gets realistic enough to go forward—and let me just say to you now, this is a pie-in-the-sky bill and a lot of this talk is just that. But since there is a commission, the concern about putting D.C. residents on the commission doesn't have to do with what use will be made of the property; it has to do with having no leverage, really, when the transfer occurs, and it has to do with always being out there with no leverage.

Your concern, it seems to me, about whether there are one or two members of the District is not well placed, because the District, with an 11-member commission, could have so little leverage in the first place.

In the spirit of cooperation, as we get to a point where this would become even realistic to discuss, I urge you to understand that there is huge sensitivity in the District of Columbia to local concerns and therefore great sympathy to your concerns.

But there would be a great suspicion about why, considering that there are these inmates from the District involved, why it would hurt to have more than one lone voice sitting there for the District of Columbia, when two voices could hardly have much impact anyway. Again, I don't take a position on that question; I just want to sensitize you to it.

The District sees Virginia residents, frankly, as people who come in here, use our facilities, use our streets, leave not one red cent, go home, say "Bye-bye," and continue to have the highest taxes in the United States, frankly. So there's not a lot of feeling that we owe Virginia anything. There really isn't. We believe that if you added up what even a reasonable commuter tax would have brought the District, just in the last 20 years of home rule, that you would have seen a different District of Columbia here now.

I tried to say to my own residents, there are certain things we have to live with; let's concentrate on what we can really do. And I urge you, in the same spirit, to do so. I don't ask you now to come back with an answer on whether there are one, two, or half a one, or more, but to simply bear in mind that all of this is going to be give-and-take.

A prisoner testified before you—a prisoner—an ex-prisoner testified before you. And I was impressed that he said, "Look, we ought to all sit around and discuss this in the region and see if we can together come forward with a solution." And, you know, that's a guy who has been in Lorton. I think if we take the spirit he brought to the table away with us, even this very difficult problem can be solved.

I want to thank the chairman for allowing me this time.

Mr. DAVIS. Thank you very much.

Mr. LaTourette, do you have any questions at this time?

Mr. LATOURETTE. No, I don't.

Mr. DAVIS. Let me make a couple of comments and questions.

I don't think the bill is pie-in-the-sky at all. The one issue we have, of course, is the budget, how it's going to affect the city, and where we get the money to build the prisons. After that, the issues become technical in nature.

There are issues that Ms. Norton's constituents have raised today, that can be addressed as a part of this. There are issues that you all have raised that need to be addressed. But they are resolvable issues.

I think this is the first time we've held hearings on the closing of Lorton. The bill has been introduced for years, but we've never progressed to the point where there are hearings.

As you could hear, even from Ms. Norton's questions, there are legitimate concerns for everybody: the fact that this prison is run, not just in a way that's detrimental to your communities, but for the prisoners themselves; the city's ability to pay for it; and the fairness of having a city that is strapped for cash trying to pay for its felony prisoners, that no other city in America does.

So we want to work through these issues. What you have to say is important to us. We didn't try to address the land use issues because that would have put a bigger target up there, just among our own constituency. I've offered Ms. Norton, if she would vote to make it a park, that we would name it after her.

And that offer still stands, Eleanor, whenever you're ready for that.

But more importantly, this is an issue whose time has come. The city can no longer afford to put the resources into that prison. There are tens of millions of dollars, at a minimum, of deferred maintenance on that facility, that the city would have to make to continue to run this facility in the correct way. The city doesn't have the money to do it.

The city would be, I think, very happy to get rid of running that prison day-to-day. I have some concerns about the laws that apply, and those are issues that we will work through in a dialog. We also have concern over who's going to pay for the new prisons because just absorbing them into the Federal system, as the bill reads now, creates some issues in overcrowding that I'm not sure we have the votes to move through.

But there is money in the crime bill that can be allocated for this purpose that is being looked at, as well as some privatization initiatives, in terms of building prisons. We have to look at what the bottom line is going to be at the District government. Those are the issues that, at this point, we're trying to work through, as well as addressing some of the issues that you all have raised today.

Let me just ask one question to all of you, and I'll start with Laurie Frost, who has been a leader out there for many years.

There was a proposal in the past that would just simply Federalize the Lorton sites. We know the prison is not being run well; that's documented. I don't think there has been anybody here today who has said it's being done correctly. But instead of moving that, why not take the current site, Federalize that, and try to improve

on that site as a cheaper alternative. It would have certain safeguards in it, according to its proponents.

What is your reaction to that, both parochially, living around there, and second, in terms of the welfare of the prisoners and being able to retrofit something like that on some of these older buildings?

Ms. FROST. I appreciate the question, Mr. Chairman. I do live very close to it, since I'm right next door, and my property actually abuts prison property and has for quite some time.

I think you have to look at it from the standpoint of a comparison of costs and what makes the most sense. If you look at the amount of money that is scheduled right now or planned to go into maintenance of the facilities and/or building new facilities at the site—and there are a number of those plans right now—compared to building a new facility elsewhere, I think that you would find the bottom line is, it makes more sense to build a new facility elsewhere.

Some of the buildings, Youth Center I, for instance—Congressman LaTourette asked about whether the youth offenders are mixed in with the older offenders. Unless they are in maximum, they are actually not, because they are in the youth centers.

Those are terrible facilities, and many, many suits have been brought over the years, including by some of the representatives who testified on the earlier panel, about cruel and unusual punishment simply by being housed at the Youth Center, because it's an un-air-conditioned facility. It's right next door to Fairfax County's landfill that has a monstrous methane gas problem. The smell is atrocious. There are lots of problems. The whole thing needs to be replaced.

There are a number of other facilities that really need to be razed and built again from the ground up. And if you're going to look at it from that standpoint, I think the bottom line would be, it makes more economic sense for the future of the corrections system and the prisoners of D.C. to build a new facility somewhere.

Mr. DAVIS. I guess we have to look at some suits under the Clean Air Act, being next to the landfill.

Any other comments?

Tim.

Mr. SARGEANT. I think, from a local resident's standpoint, what control do we have? What input do local residents have with a Federal facility on the site? I think we believe we have very little, perhaps even less than we have now with a locally controlled prison facility. So I don't think trading one for another is an option that many of us want to consider.

Mr. DAVIS. Also, there is a permanence with a Federal facility.

Mr. SARGEANT. With the D.C. prison master plan, there was a call for a cap of an inmate population of 10,000, roughly 10,000. I don't think you can anticipate a cap if the Federal Government wants to go beyond that for a Federal Bureau of Prisons site.

Mr. DAVIS. OK. Any other questions or comments on that? Anything anybody would like to add before we conclude?

Let me just say—yes, Neal.

Mr. MCBRIDE. One thing, partly in answer to Delegate Norton's question. Timing is everything, and up until a year or so ago, a lot

of our residents—and we probably, in Newington Forest, for about 20 years now, have lived in large numbers next to the prison more than anybody else, and we've had, as Laurie said, some good relations over the last few years. The local folks who work there every day have been great. They try and they do work.

However, this past year has been a nightmare. And our citizens for years—we've taken periodic surveys—and generally speaking, they don't want to live next to a prison, but they also enjoy the open space, so they haven't been too hard about it.

This past year has changed. And timing—in January, in February, and March, with the constant drumbeat of escapes, of disturbances, of incidents, of the constant stuff coming out of the District, that there's no money, there's no money, and to be honest with you, the folks here didn't seem to evidence—and control, I'm talking about—other than Mrs. Moore—the fact that they cared, not only about their own people who are housed there, but the people around the prison who have been living there.

So I think that has changed a lot. And as far as we're concerned, we'd like to work with you on having an interim plan, since we see this moving forward, to make sure it's maintained properly. Whether it's the Federal Bureau of Prisons that runs it in the interim, I'm not really too sure our people care. But in the long-term, we want to work with you and make sure what happens is best for all.

Thank you.

Mr. DAVIS. OK. Yes, Sandy.

Ms. BOURNE. One comment: I think part of the problems this past year have been the escapes and the lack of response to notify the community of the escapes in a timely manner. And I think that the community, at this point, does not have the patience or the tolerance for one more episode. For the current structure, in the interim, I would request that the Federal Bureau of Prisons step in and take control at this time, because I think, even if you voted today to close it, it won't be closed tomorrow; it will take quite a while.

Mr. DAVIS. We recognize that.

Yes, Tim.

Mr. SARGEANT. If I may add one comment to Ms. Norton's comments about representation on the Federal Commission. I think, for many, the idea of the number—at least increasing the Fairfax County representation is as much a concern about the decisions concerning the dispensation of the land as anything, with less—unfortunate—due consideration for what happens.

It would appear that the determination of what happens with the prisoners would come within the legislation itself. The dispensation of the land through the Federal system would come through that task force, which is why we were more concerned about increasing representation.

Mr. DAVIS. I think we would write in the bill some local land use controls, which you don't have now under any Federal facilities.

This is the start of a dialog. Ms. Norton—as you could understand from her questions, too, that we are searching for answers here. We don't agree right now, necessarily, on where we're going to end up, but I'm determined to come to some kind of conclusion,

and it's going to take a dialog, as Mr. Davis testified earlier about these problems.

But you are an important part of that discussion, probably the most directly affected, and we appreciate your being with us today. So thank you very much.

This hearing will be adjourned.

[Whereupon, at 11:45 a.m., the subcommittee was adjourned, subject to the call of the Chair.]

[Additional information submitted for the record follows:]

PREPARED STATEMENT OF BRUCE J. SMITH, WOODBRIDGE, VA

Dear Congressman

I am asking you to reconsider your support of the Lorton Correctional Complex Closure Act. A careful reading of the Act shows more concern with disposing of the property than with corrections and crime prevention. But more importantly, this proposed Act will only shift some problems out of sight while creating or ignoring others.

Land developers have been trying to get their hands on that piece of Fairfax County since I was a kid growing up around there in the 1950s. Development of that property would inevitably lead to greatly increased traffic congestion on I-95 and Rt. 123. It would compound the already daunting challenge faced by residents of eastern Prince William and Stafford Counties who need to drive north to work, shop, eat, or visit family and tourist attractions. The relatively peaceful atmosphere in communities surrounding the complex would be transformed into the world of hustle and bustle which many residents move there to escape. Although the proposal leaves disposition of the land up to a commission, the history of Fairfax County leaves me no doubt that the commission will be dominated by persons representing the interests of real estate developers, not the interests of nearby residents of Fairfax or Prince William County, much less of the interests of D.C. residents, the prisoners, or of the 2700 people who currently work at the prison complex.

Most importantly, transforming the Lorton complex should be part of an overall attack on the causes of crime in The District and surrounding areas. And the problems of the District of Columbia are the problems of the entire metropolitan area. No city the size of Washington should be faced with housing, much less rehabilitating 10,000 convicted felons. The Netherlands has a population 25 times larger than Washington but only half as many convicted felons in the entire country. The prisoner population at Lorton is three or four times as great as it was in 1960 or 1970. What was the unemployment rate in D.C. in the 50s, 60s and 70s? Warehousing 10,000 people for years at the Lorton complex without enough work, vocational or academic education for most, certainly adds to the problem of crime, and it leaves them less able to be self supportive upon release, but it is not the root causes of crime as some of your colleagues professed in remarks introducing the proposed Act. Individuals decide to commit crimes, but the root causes of a trend toward criminality are to be found in the greater community from which it springs. Problems related to the specter of increasing joblessness, poverty and hopelessness will not go away if prisoners are dispersed all over the United States.

To explain my point, I have taught school at the Occoquan prison at Lorton for almost eight years now. My students are made up mostly of African-American men in their twenties and thirties. In that one institution are many kinfolk and friends from the same communities: fathers and sons, brothers, cousins, uncles and nephews. Most dropped out of school between the eighth and tenth grades, some even earlier, and they sought their fortune in the streets. I encountered many guys like them in the '80s when the most overwhelming problem I faced in six years of teaching in inner city public schools was the hopelessness expressed by so many thirteen and fourteen year old boys. They had entered school wanting to be astronauts, like any other kids, but entered adolescence feeling unwanted by a society which had no use for them. Marginalized as a group. For the rest of society, that problem is manifested in the antisocial behavior of a community of outcasts. But that community is real. There is no magic pill, bullet, jail or electric chair that will fix the problem. That problem can only be solved by the people in our schools, churches, community, labor and fraternal groups, businesses and governments, throughout the metropolitan area, working together, listening to each other, trying to find answers.

As part of that solution, my suggestion is to begin a process of transforming the Lorton complex into a system of facilities which provide academic and vocational education, work training, counseling, addiction treatment, psychological counseling,

family support services to prisoners as part of an overall program which needs to be activated in the most affected communities as well as at Lorton. The Lorton complex should eventually become a center of academic and vocational training for youth throughout the metro area. When unemployment is reduced to what it is in the outer suburbs, D.C. won't have 500 convicted felons in prison, and they could be conveniently and securely housed in a few small facilities in Lorton or in the City. No one will even notice where.

You should help re-write this act to transform Lorton into a series of institutions which can be part of the solution to the "crime problem". Join Mayor Barry, City Council, business and labor groups and the Council of Governments in an effort to visualize 'what should be' and figure out how we can get there. It will take time, money, sweat, patience and persistence, but it can be done. The alternative is to worsen the problem by ignoring it, to scatter and hide its current manifestations at Lorton, and hope that it will go away. A prison system run by the District or Federal officials, located in Lorton, Leavenworth or L Street, given enough staff and resources, can educate, treat and prepare prisoners to be constructive members of society, but that must be part of an overall effort to transform the families, neighborhoods and greater communities those prisoners come from.

So why not disperse the prisoners anyway and get them out of sight? The Federal prison system is already way overcrowded (140% of capacity). Congress has already saddled the taxpaying public with the expense of acquiring land and building who knows how many more prisons to hold the additional population of felons mandated by last year's Crime Bill. There is no room in the Federal system for D.C. prison population. It is stupid for the Federal Government to give up this land in Fairfax only to search for even more land to buy somewhere else. And prisoners need to have lots of positive interaction with family and loved ones while in prison. Correctional professionals from around the world have told me that promoting constructive family and community ties is the best way to reduce the chance that a person will come back to prison. All family contacts aren't positive, but dispersing D.C. prisoners around the county will only heighten their alienation from family and community and increase their identity as a community of outlaws. That would be terribly counter productive.

Don't shift or hide the responsibility for D.C. prisoners, their incarceration, treatment and rehabilitation. The United States is the chartering agency for the District of Columbia, just as Pennsylvania is the chartering agency for Philadelphia. Congress should provide the same degree of general support for the transformation and maintenance of the Correctional facilities at Lorton as Pennsylvania does for prisoners from Philadelphia. The system can be operated by the District or by the Federal Bureau of Prisons. With adequate resources and a shared vision of transformation, the job can be done at Lorton better than it can be done anywhere else.

