
COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON THE JUDICIARY
FISCAL YEAR 2012 COMMITTEE BUDGET REPORT



TO: All Councilmembers
FROM: Councilmember Phil Mendelson
Chairman, Committee on the Judiciary
DATE: May 11, 2011
SUBJECT: Report and Recommendations of the Committee on the Judiciary on the Fiscal Year 2012 Budget and corresponding Budget Support Act

The Committee on the Judiciary, having conducted hearings and received testimony on the Mayor's proposed operating and capital budgets for fiscal year 2012 for the agencies under its purview, reports its recommendations for consideration by the Committee of the Whole. The Committee also comments on several sections in the Fiscal Year 2012 Budget Support Act of 2011, and makes its own proposals.

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INTRODUCTION

The Committee on the Judiciary (Committee) presents its recommendations for the District of Columbia's fiscal year 2012 budget and the corresponding Budget Support Act.

The Committee is responsible for matters affecting the judiciary and judicial procedure which are within the authority of the Council; matters affecting decedents' estates and fiduciary affairs; matters affecting administrative law and procedure; matters affecting criminal law and procedure; matters arising from or pertaining to the police and fire regulations of the District of Columbia; and other matters related to police protection, correctional institutions (including youth corrections), fire prevention, emergency medical services, homeland security, criminal justice, and public safety.

The Committee oversees all of the public safety agencies within the District¹ and interacts with local and federal prosecuting authorities, serving as the Council's liaison with federal partners in the justice system, including the D.C. Courts, the D.C. Public Defender Service, the Court Services and Offender Supervision Agency, and the U.S. Parole Commission. The following agencies come within the purview of the Committee: Access to Justice Initiative; Child Support Guideline Commission; Commission on Judicial Disabilities and Tenure; Corrections Information Council; Criminal Justice Coordinating Council; Department of Corrections; Deputy Mayor for Public Safety and Justice; Fire and Emergency Medical Services; Forensic Health and Science Laboratories; Homeland Security and Emergency Management Agency; Judicial Nomination Commission; Justice Grants Administration; Metropolitan Police Department; District of Columbia National Guard; Office of Administrative Hearings; Office of Police Complaints; Office of Unified Communications; Office of Victim Services; Office of the Attorney General; Office of the Chief Medical Examiner; Police Officers' and Fire Fighters' Retirement System; and the District of Columbia Sentencing and Criminal Code Revision Commission.

On April 1, 2011, Mayor Vincent C. Gray submitted to the Council of the District of Columbia a proposed operating budget and financial plan for the upcoming fiscal year. The Mayor's budget proposal for fiscal year 2012 provides for a gross funds budget of \$8.986 billion (with local funds comprising of \$5.5 billion, or 61.6 percent of the total budget),² and seeks to close a \$322.1 million budget gap through a combination of both new revenue generation and expenditure reductions. The proposal also shows a government-wide reduction of 170.5 full-time equivalents as compared to the current fiscal year.³

¹ Except the Department of Youth Rehabilitation Services; that agency falls under the jurisdiction of the Committee on Human Services.

² *Public Briefing on the Mayors Fiscal Year 2012 Proposed Budget and Financial Plan: Public Hearing Before the Council of the District of Columbia*, at 2-3 (Apr. 1, 2011) (written testimony of Vincent C. Gray, Mayor of the District of Columbia). The fiscal year 2012 gross funds budget represents an increase of \$164.9 million, or 1.9 percent, over the fiscal year 2011 approved budget. *Id.*

³ FY 2012 Budget Overview: One City...Rising to the Challenge, Government of the District of Columbia, Mayor Vincent C. Gray, 2-5 (Apr. 2011). The Mayor's budget proposal seeks to close the \$322.1 million budget gap

In order to review the Mayor's budget proposal, determine the wants and needs of each agency under its jurisdiction, and provide the public with an opportunity to comment, the Committee held budget hearings for the agencies under its purview as follows:

Friday, **April 8, 2011** at 10:00 a.m. in the Council Chamber

- Metropolitan Police Department (MPD)
- Fire & Emergency Medical Services (FEMS)
- Consolidated Forensics Lab (CFL)
- Office of Police Complaints (OPC)
- Office of Administrative Hearings (OAH)

Thursday, **April 14, 2011** at 10:00 a.m. in Hearing Room 123

- Judicial Nomination Commission (JNC)
- Corrections Information Council (CIC)
- Commission on Judicial Disabilities & Tenure (CJDT)
- Criminal Justice Coordinating Council (CJCC)
- Sentencing & Criminal Code Revision Comm. (SCCRC)
- Justice Grants Administration (JGA)
- Access to Justice (ATJ)
- Office of Victim Services (OVS)

Monday, **May 2, 2011** at 10:00 a.m. in Hearing Room 412

- DC National Guard (DCNG)
- Office of Unified Communications (OUC)
- Deputy Mayor for Public Safety & Justice (DMPSJ)
- Department of Corrections (DOC)
- Office of the Attorney General (OAG)
- Homeland Security & Emergency Mgmt. (HSEMA)
- Office of the Chief Medical Examiner (OCME)

The Mayor's fiscal year 2012 budget proposal kept most of the agency budgets within the public safety and justice cluster at their fiscal year 2011 level. While the agencies in this cluster are, under the proposal, required to absorb mandatory union step increases and inflation adjustments (and in some cases furlough savings and other gap-closing reductions mid-fiscal year 2011), these agencies were, for the most part, not required to sustain any additional cuts.

through: \$187.0 million in expenditure cuts from the CFO's Current Services Funding Level Budget (58 percent); \$127.2 million in revenue increases (39 percent); and \$7.9 million in additional income from leasing, expanded sales, and advertising (3 percent). *Id.* at 5.

One priority identified by the Mayor in presenting the budget to the Council was the need for increased funding for hiring new police recruits. Specifically, the Mayor testified before the Council on April 1, 2011 that in reviewing the Metropolitan Police Department's (MPD) budget it was learned that the agency had stopped hiring new recruits. This places MPD at risk of falling below an acceptable level of police officers. The Mayor's budget proposal seeks to remedy this by funding an additional 120 officers for fiscal year 2012, and has identified funding for this initiative through savings in attrition.⁴

In previous budget proposals submitted to the Council, it has been the Committee's experience that obfuscation replaced sound budgeting. This required the exertion of more time and resources to obtain details on the proposal, and then resolve problems neither identified nor acknowledged; this at the expense of working with agencies to meet their fiscal needs. The Committee is pleased to see that, in contrast, the Mayor has paid close attention to the public safety cluster in his budget proposal, and that sincere efforts, and not budget gimmicks, have been made to fund adequately the agencies and services under this Committee's purview. Indeed, these agencies and programs have been kept largely at the levels approved by the Committee for the current fiscal year.

Likewise, the Committee appreciates the collaborative efforts of the Executive in both the development, and the Council's subsequent consideration, of the budget proposal. This Committee has had cause in consideration of previous budgets to chastise the Executive for a lack of transparency and unwillingness to work with the Council in establishing the District's budget. The budgetary process is dependent upon the Council's ability to obtain information and details about spending, agency needs, and the proposed budget. This includes not only the dollar figures, but also the plans that are in place to implement the policy proposals on which the budget is based. In contrast to previous budget cycles, the Executive has been forthcoming and helpful, even proactive in offering assistance, in working with the Committee. This collaborative relationship helps ensure that the budget presented by the Council is one that truly serves the needs of the District.

The Committee has previously voiced concern over the increasing reliance on federal funding for a number of District agencies. Specifically, the following agencies are affected: the District of Columbia National Guard (DCNG), the Criminal Justice Coordinating Council (CJCC), the Judicial Nomination Commission (JNC), and the Commission on Judicial Disabilities and Tenure (CJDT). The current economic climate has created significant financial stress on both the local and national level. However, reliance on federal assistance for these agencies is not only antithetical to Home Rule, but it creates serious financial problems for the agencies. Federal funding is not assured, and reliance on federal funds has the effect of reducing local responsibility and essentially federalizing the agencies. The Committee is not against federal funds, but believes the District's efforts to exert greater local control over its own affairs necessitates supporting these agencies out of local funds.

The Committee realized in review of the fiscal year 2012 budget that there is a trend regarding fringe benefits not seen previously. A number of agencies were substantially

⁴ Gray Testimony, *supra* note 2, at 9.

underfunded in Comptroller Source Group 14 (Fringe Benefits - Curr Personnel) this fiscal year (2011) -- creating spending pressures this year and also the need for increases next year. Further, fringe benefits for agencies (excluding MPD and FEMS) range from the high teens to the high 20s as a percent of payroll. The OCFO assured the Committee that fringe is properly budgeted for fiscal year 2012. However, the range, the growth over the years, and the high percentage for some agencies is a concern. The costs of fringe benefits must be managed and the Committee urges the Executive to look closely at this issue.

Having thoroughly reviewed the proposed budget, the Committee believes that the recommendations contained herein provide each agency under its purview with the funds necessary to fulfill its core mission, and represent the policy priorities that best serve the people of the District of Columbia.

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SUMMARY TABLES

FISCAL YEAR 2012 AGENCY BUDGET SUMMARY TABLE

(dollars in thousands)

| AGENCY | FY 2010 Actual | FY 2011 Approved | FY 2012 Mayor | FY 2012 Committee | Committee Change | Percent Change |
|---|-------------------|---------------------|------------------|----------------------|---------------------|-------------------|
| Office of the Attorney General (CB) | | | | | | |
| Local Funds | 56,039 | 50,220 | 56,368 | 56,661 | 293 | 0.5% |
| Special Purpose | 3,813 | 8,093 | 1,624 | 1,624 | 0 | 0.0% |
| Federal Funds | 18,598 | 20,053 | 19,613 | 19,613 | 0 | 0.0% |
| Private Funds | 102 | 139 | 144 | 144 | 0 | 0.0% |
| Intra-District | 14,065 | 16,446 | 16,490 | 16,490 | 0 | 0.0% |
| Gross Funds | 92,616 | 94,951 | 94,239 | 94,532 | 293 | 0.3% |
| Metropolitan Police Department (FA) | | | | | | |
| Local Funds | 437,494 | 407,416 | 433,295 | 432,511 | (784) | -0.2% |
| Special Purpose | 21,021 | 31,861 | 9,452 | 9,452 | 0 | 0.0% |
| Federal Funds | 5,539 | 5,529 | 5,683 | 5,683 | 0 | 0.0% |
| Private Funds | 124 | 20 | 0 | 0 | 0 | 0.0% |
| Intra-District | 40,881 | 23,827 | 21,280 | 21,330 | 50 | 0.2% |
| Gross Funds | 505,059 | 468,652 | 469,710 | 468,976 | (734) | -0.2% |
| Fire and Emergency Medical Services (FB) | | | | | | |
| Local Funds | 193,326 | 195,095 | 195,387 | 193,902 | (1,485) | -0.8% |
| Special Purpose | 1,504 | 1,520 | 1,520 | 1,520 | 0 | 0.0% |
| Federal Funds | 1,982 | 0 | 0 | 0 | 0 | 0.0% |
| Intra-District | 2,721 | 0 | 0 | 0 | 0 | 0.0% |
| Gross Funds | 199,533 | 196,615 | 196,907 | 195,422 | (1,485) | -0.8% |
| Police Officers' and Fire Fighters' Retirement System (FD) | | | | | | |
| Local Funds | 132,300 | 127,200 | 116,700 | 116,700 | 0 | 0.0% |
| Gross Funds | 132,200 | 127,200 | 116,700 | 116,700 | 0 | 0.0% |
| Department of Corrections (FL) | | | | | | |
| Local Funds | 124,778 | 108,534 | 116,056 | 115,556 | (500) | -0.4% |
| Special Purpose | 25,801 | 25,541 | 20,035 | 20,035 | 0 | 0.0% |
| Federal Funds | 187 | 265 | 359 | 359 | 0 | 0.0% |
| Intra-District | 1,008 | 139 | 337 | 337 | 0 | 0.0% |
| Gross Funds | 151,775 | 134,478 | 136,787 | 136,287 | (500) | -0.4% |

| AGENCY | FY 2010 Actual | FY 2011 Approved | FY 2012 Mayor | FY 2012 Committee | Committee Change | Percent Change |
|---|----------------|------------------|---------------|-------------------|------------------|----------------|
| District of Columbia National Guard (FK) | | | | | | |
| Local Funds | 3,317 | 2,278 | 2,270 | 2,270 | 0 | 0.0% |
| Federal Funds | 2,617 | 5,929 | 5,523 | 5,995 | 472 | 8.5% |
| Gross Funds | 5,935 | 8,207 | 7,793 | 8,265 | 472 | 6.1% |
| Homeland Security and Emergency Management Agency (BN) | | | | | | |
| Local Funds | 3,561 | 1,932 | 1,829 | 1,829 | 0 | 0.0% |
| Federal Funds | 91,831 | 196,913 | 135,619 | 135,619 | 0 | 0.0% |
| Intra-District | 235 | 0 | 0 | 0 | 0 | 0.0% |
| Gross Funds | 95,627 | 198,845 | 137,448 | 137,448 | 0 | 0.0% |
| Commission on Judicial Disabilities and Tenure (DQ) | | | | | | |
| Local Funds | 0 | 0 | 0 | 0 | 0 | 0.0% |
| Federal Funds | 263 | 295 | 295 | 295 | 0 | 0.0% |
| Gross Funds | 263 | 295 | 295 | 295 | 0 | 0.0% |
| Judicial Nomination Commission (DV) | | | | | | |
| Local Funds | 0 | 0 | 0 | 0 | 0 | 0.0% |
| Federal Funds | 146 | 205 | 205 | 205 | 0 | 0.0% |
| Gross Funds | 146 | 205 | 205 | 205 | 0 | 0.0% |
| Office of Police Complaints (FH) | | | | | | |
| Local Funds | 2,587 | 2,058 | 1,859 | 2,052 | 193 | 10.4% |
| Gross Funds | 2,587 | 2,058 | 1,859 | 2,052 | 193 | 10.4% |
| Sentencing and Criminal Code Revision Commission (FZ) | | | | | | |
| Local Funds | 794 | 768 | 768 | 866 | 98 | 12.8% |
| Gross Funds | 794 | 768 | 768 | 866 | 98 | 12.8% |
| Office of the Chief Medical Examiner (FX) | | | | | | |
| Local Funds | 8,074 | 7,113 | 7,444 | 7,659 | 125 | 1.7% |
| Special Purpose | 251 | 266 | 0 | 0 | 0 | 0.0% |
| Intra-District | 83 | 0 | 0 | 0 | 90 | 0.0% |
| Gross Funds | 8,407 | 7,378 | 7,444 | 7,659 | 215 | 2.9% |

| AGENCY | FY 2010 Actual | FY 2011 Approved | FY 2012 Mayor | FY 2012 Committee | Committee Change | Percent Change |
|---|----------------|------------------|---------------|-------------------|------------------|----------------|
| Office of Administrative Hearings (FS) | | | | | | |
| Local Funds | 7,003 | 6,920 | 6,846 | 7,637 | 791 | 11.6% |
| Special Purpose | 0 | 8 | 0 | 0 | 0 | 0.0% |
| Federal Funds | 0 | 0 | 0 | 128 | 128 | 0.0% |
| Intra-District | 1,045 | 1,119 | 1,100 | 1,100 | 0 | 0.0% |
| Gross Funds | 8,048 | 8,047 | 7,946 | 8,865 | 919 | 11.6% |
| Criminal Justice Coordinating Council (FJ) | | | | | | |
| Local Funds | 298 | 195 | 195 | 195 | 0 | 0.0% |
| Federal Funds | 1,383 | 1,800 | 1,800 | 1,800 | 0 | 0.0% |
| Private Funds | 38 | 0 | 0 | 0 | 0 | 0.0% |
| Intra-District | 721 | 0 | 110 | 110 | 0 | 0.0% |
| Gross Funds | 2,440 | 1,995 | 2,105 | 2,105 | 0 | 0.0% |
| Forensic Laboratory Technician Training Program (FV) | | | | | | |
| Local Funds | 1,293 | 1,601 | 1,601 | 1,551 | (50) | -3.1% |
| Gross Funds | 1,293 | 1,601 | 1,601 | 1,551 | (50) | -3.1% |
| Office of Unified Communications (UC) | | | | | | |
| Local Funds | 31,003 | 26,686 | 26,686 | 26,536 | (150) | -0.6% |
| Special Purpose | 15,777 | 18,872 | 12,028 | 12,028 | 0 | 0.0% |
| Private Funds | 0 | 0 | 1,280 | 1,280 | 0 | 0.0% |
| Intra-District | 962 | 246 | 246 | 246 | 0 | 0.0% |
| Gross Funds | 47,742 | 45,804 | 40,240 | 40,090 | (150) | -0.4% |
| Deputy Mayor for Public Safety and Justice (FQ) | | | | | | |
| <i>Agency Management:</i> | | | | | | |
| Local Funds | 0 | 375 | 464 | 664 | 200 | 43.1% |
| Gross Funds | 0 | 375 | 464 | 664 | 200 | 43.1% |
| <i>Access to Justice(AJ)</i> | | | | | | |
| Local Funds | 0 | 2,951 | 2,951 | 3,051 | 100 | 3.4% |
| Gross Funds | 0 | 2,951 | 2,951 | 3,051 | 100 | 3.4% |
| <i>Office of Victim Services(FE)</i> | | | | | | |
| Local Funds | 3,065 | 2,377 | 2,378 | 3,686 | 1,308 | 55.0% |
| Special Purpose | 1,602 | 7,131 | 1,000 | 1,000 | 0 | 0.0% |
| Federal Funds | 3,681 | 3,236 | 2,555 | 2,555 | 0 | 0.0% |
| Intra-District | 108 | 892 | 0 | 0 | 0 | 0.0% |
| Gross Funds | 8,456 | 13,635 | 5,933 | 7,241 | 1,308 | 22.0% |

| AGENCY | FY 2010 Actual | FY 2011 Approved | FY 2012 Mayor | FY 2012 Committee | Committee Change | Percent Change |
|--|----------------|------------------|---------------|-------------------|------------------|----------------|
| <i>Office of Justice Grants Administration(FO)</i> | | | | | | |
| Local Funds | 395 | 70 | 66 | 187 | 121 | 183.3% |
| Federal Funds | 9,988 | 12,343 | 7,907 | 7,907 | 0 | 0.0% |
| Gross Funds | 10,383 | 12,413 | 7,973 | 8,094 | 121 | 1.5% |
| <i>Corrections Information Council(FI)</i> | | | | | | |
| Local Funds | 0 | 130 | 130 | 130 | 0 | 0.0% |
| Gross Funds | 0 | 130 | 130 | 130 | 0 | 0.0% |
| <i>Motor Vehicle Theft Prevention Commission(FW)</i> | | | | | | |
| Local Funds | 0 | 0 | 250 | 250 | 0 | 0.0% |
| Gross Funds | 0 | 250 | 250 | 250 | 0 | 0.0% |
| <i>Agency Gross Funds (FQ)</i> | | | | | | |
| | 0 | 0 | 17,701 | 19,430 | 1,729 | 9.8% |

OTHER ACTIONS

Intra-District *OCME for forensic sciences (from JGA) (90) (90)

VARIANCE

Gross Funds *Mayor FY 2012 - Committee FY 2012 (910)

COMMITTEE REVENUE AND OTHER INCREASES

Special Purpose *DOC per diem BOP reimbursement (revenue) 260
 Federal Funds *DCNG Funds for Youth Challenge program 472
 *OAH Medicaid Reimbursement (revenue) 128
 Intra-District *MPD Bait Bike Program (transfer from CPWT) 50

Total Committee Revenue & Other Increases: 910

NET EXPENDITURES

| | | | | | | |
|-----------------|-----------|-----------|-----------|-----------|-----|------|
| Local Funds | 1,005,327 | 943,919 | 973,543 | 973,893 | 260 | 0.0% |
| Dedicated Taxes | 0 | 0 | 0 | 0 | 0 | NA |
| Special Purpose | 69,769 | 93,292 | 45,659 | 45,659 | 0 | 0.0% |
| Federal Funds | 136,215 | 246,568 | 179,559 | 180,159 | 600 | 0.3% |
| Private Funds | 264 | 159 | 1,424 | 1,424 | 0 | 0.0% |
| Intra-District | 61,746 | 42,669 | 39,563 | 39,523 | 50 | 0.1% |
| Gross Funds | 1,273,304 | 1,326,853 | 1,239,748 | 1,240,658 | 910 | 0.1% |

FISCAL YEAR 2012 AGENCY FULL-TIME EQUIVALENT TABLE
(by all funding sources)

| AGENCY | FY 2010 Actual | FY 2011 Approved | FY 2012 Mayor | FY 2012 Committee | Committee Change | Percent Change |
|---|-------------------|---------------------|------------------|----------------------|---------------------|-------------------|
| Office of the Attorney General (CB) | | | | | | |
| Local Funds | 441.6 | 420.3 | 450.1 | 453.1 | 3.0 | 0.7% |
| Special Purpose | 32.0 | 43.5 | 0.4 | 0.4 | 0.0 | 0.0% |
| Federal Funds | 151.0 | 135.3 | 132.0 | 132.0 | 0.0 | 0.0% |
| Private Funds | 0.0 | 3.0 | 3.0 | 3.0 | 0.0 | 0.0% |
| Intra-District | 111.5 | 140.1 | 140.2 | 140.2 | 0.0 | 0.0% |
| Gross Funds | 736.2 | 742.1 | 725.7 | 728.7 | 3.0 | 0.4% |
| Metropolitan Police Department (FA) | | | | | | |
| Local Funds | 4,737.3 | 4,781.7 | 4,538.2 | 4,538.2 | 0.0 | 0.0% |
| Special Purpose | 5.7 | 24.0 | 3.0 | 3.0 | 0.0 | 0.0% |
| Federal Funds | 55.0 | 59.5 | 59.5 | 59.5 | 0.0 | 0.0% |
| Intra-District | 2.8 | 1.8 | 4.2 | 4.2 | 0.0 | 0.0% |
| Gross Funds | 4,800.7 | 4,867.0 | 4,605.0 | 4,605.0 | 0.0 | 0.0% |
| Fire and Emergency Medical Services (FB) | | | | | | |
| Local Funds | 2,201.5 | 2,207.0 | 2,128.0 | 2,128.0 | 0.0 | 0.0% |
| Gross Funds | 2,201.5 | 2,207.0 | 2,128.0 | 2,128.0 | 0.0 | 0.0% |
| Police Officers' and Fire Fighters' Retirement System (FD) | | | | | | |
| Local Funds | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0% |
| Gross Funds | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0% |
| Department of Corrections (FL) | | | | | | |
| Local Funds | 851.2 | 869.4 | 867.6 | 867.6 | 0.0 | 0.0% |
| Special Purpose | (13.9) | 19.6 | 20.0 | 20.0 | 0.0 | 0.0% |
| Federal Funds | 0.0 | 3.2 | 5.0 | 5.0 | 0.0 | 0.0% |
| Intra-District | 0.0 | 1.8 | 1.4 | 1.4 | 0.0 | 0.0% |
| Gross Funds | 837.4 | 894.0 | 894.0 | 894.0 | 0.0 | 0.0% |
| District of Columbia National Guard (FK) | | | | | | |
| Local Funds | 24.4 | 27.4 | 27.5 | 27.5 | 0.0 | 0.0% |
| Federal Funds | 40.7 | 39.6 | 40.8 | 40.8 | 0.0 | 0.0% |
| Gross Funds | 65.1 | 67.0 | 68.2 | 68.2 | 0.0 | 0.0% |

| AGENCY | FY 2010 Actual | FY 2011 Approved | FY 2012 Mayor | FY 2012 Committee | Committee Change | Percent Change |
|---|----------------|------------------|---------------|-------------------|------------------|----------------|
| Homeland Security and Emergency Management Agency (BN) | | | | | | |
| Local Funds | 22.5 | 18.0 | 16.5 | 16.5 | 0.0 | 0.0% |
| Federal Funds | 26.4 | 35.0 | 39.5 | 39.5 | 0.0 | 0.0% |
| Gross Funds | 48.8 | 53.0 | 56.0 | 56.0 | 0.0 | 0.0% |
| Commission on Judicial Disabilities and Tenure (DQ) | | | | | | |
| Local Funds | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0% |
| Federal Funds | 2.0 | 2.0 | 2.0 | 2.0 | 0.0 | 0.0% |
| Gross Funds | 2.0 | 2.0 | 2.0 | 2.0 | 0.0 | 0.0% |
| Judicial Nomination Commission (DV) | | | | | | |
| Local Funds | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0% |
| Federal Funds | 1.5 | 2.0 | 2.0 | 2.0 | 0.0 | 0.0% |
| Gross Funds | 1.5 | 2.0 | 2.0 | 2.0 | 0.0 | 0.0% |
| Office of Police Complaints (FH) | | | | | | |
| Local Funds | 23.2 | 23.2 | 21.2 | 23.2 | 2.0 | 9.4% |
| Gross Funds | 23.2 | 23.2 | 21.2 | 23.2 | 2.0 | 9.4% |
| Sentencing and Criminal Code Revision Commission (FZ) | | | | | | |
| Local Funds | 6.4 | 8.0 | 6.0 | 8.0 | 2.0 | 33.3% |
| Gross Funds | 6.4 | 8.0 | 6.0 | 8.0 | 2.0 | 33.3% |
| Office of the Chief Medical Examiner (FX) | | | | | | |
| Local Funds | 70.4 | 68.0 | 68.0 | 68.0 | 0.0 | 0.0% |
| Special Purpose | 1.8 | 2.0 | 0.0 | 0.0 | 0.0 | 0.0% |
| Gross Funds | 72.2 | 70.0 | 68.0 | 68.0 | 0.0 | 0.0% |
| Office of Administrative Hearings (FS) | | | | | | |
| Local Funds | 55.0 | 56.8 | 56.6 | 66.6 | 10.0 | 17.7% |
| Special Purpose | 0.0 | 0.2 | 0.0 | 0.0 | 0.0 | 0.0% |
| Intra-District | 8.3 | 8.0 | 8.0 | 8.0 | 0.0 | 0.0% |
| Gross Funds | 63.3 | 65.1 | 64.6 | 74.6 | 10.0 | 15.5% |

| AGENCY | FY 2010 Actual | FY 2011 Approved | FY 2012 Mayor | FY 2012 Committee | Committee Change | Percent Change |
|---|----------------|------------------|---------------|-------------------|------------------|----------------|
| Criminal Justice Coordinating Council (FJ) | | | | | | |
| Local Funds | 1.7 | 1.5 | 1.3 | 1.3 | 0.0 | 0.0% |
| Federal Funds | 11.0 | 12.5 | 12.7 | 12.7 | 0.0 | 0.0% |
| Intra-District | 0.0 | 0.0 | 1.0 | 1.0 | 0.0 | 0.0% |
| Gross Funds | 12.7 | 14.0 | 15.0 | 15.0 | 0.0 | 0.0% |
| Forensic Laboratory Technician Training Program (FV) | | | | | | |
| Local Funds | 14.9 | 17.0 | 17.0 | 17.0 | 0.0 | 0.0% |
| Gross Funds | 14.9 | 17.0 | 17.0 | 17.0 | 0.0 | 0.0% |
| Office of Unified Communications (UC) | | | | | | |
| Local Funds | 358.0 | 343.0 | 343.0 | 343.0 | 0.0 | 0.0% |
| Private Funds | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | #DIV/0! |
| Intra-District | 0.6 | 2.0 | 2.0 | 2.0 | 0.0 | 0.0% |
| Gross Funds | 358.6 | 345.0 | 345.0 | 345.0 | 0.0 | 0.0% |
| Deputy Mayor for Public Safety and Justice (FQ) | | | | | | |
| <i>Agency Management:</i> | | | | | | |
| Local Funds | 0.0 | 3.0 | 3.0 | 3.0 | 0.0 | 0.0% |
| Intra-District | 0.0 | 0.0 | 0.0 | 2.0 | 2.0 | NA |
| Gross Funds | 0.0 | 3.0 | 3.0 | 5.0 | 2.0 | 66.7% |
| <i>Access to Justice(AJ)</i> | | | | | | |
| Local Funds | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | NA |
| Gross Funds | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | NA |
| <i>Office of Victim Services(FE)</i> | | | | | | |
| Local Funds | 2.0 | 1.0 | 4.7 | 4.7 | 0.0 | 0.0% |
| Special Purpose | 2.4 | 2.5 | 0.0 | 0.0 | 0.0 | NA |
| Federal Funds | 1.3 | 2.5 | 1.3 | 1.3 | 0.0 | 0.0% |
| Gross Funds | 5.7 | 6.0 | 6.0 | 6.0 | 0.0 | 0.0% |
| <i>Office of Justice Grants Administration(FO)</i> | | | | | | |
| Local Funds | 1.9 | 0.7 | 0.8 | 0.8 | 0.0 | 0.0% |
| Federal Funds | 3.0 | 5.3 | 6.2 | 6.2 | 0.0 | 0.0% |
| Gross Funds | 4.9 | 6.0 | 7.0 | 7.0 | 0.0 | 0.0% |
| <i>Corrections Information Council(FI)</i> | | | | | | |
| Local Funds | 0.0 | 1.0 | 1.0 | 1.0 | 0.0 | 0.0% |
| Gross Funds | 0.0 | 1.0 | 1.0 | 1.0 | 0.0 | 0.0% |
| <i>Motor Vehicle Theft Prevention Commission(FW)</i> | | | | | | |
| Local Funds | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | NA |
| Gross Funds | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | NA |
| Agency Gross Budget | 10.6 | 16.0 | 17.0 | 19.0 | 2.0 | NA |

| AGENCY | FY 2010 Actual | FY 2011 Approved | FY 2012 Mayor | FY 2012 Committee | Committee Change | Percent Change |
|----------------------------------|-------------------|---------------------|------------------|----------------------|---------------------|-------------------|
| NET FULL TIME EQUIVALENTS | | | | | | |
| Local Funds | 8,812.0 | 8,847.0 | 8,550.5 | 8,567.5 | 17.0 | 0.2% |
| Dedicated Taxes | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | NA |
| Special Purpose | 28.0 | 91.8 | 23.4 | 23.4 | 0.0 | 0.0% |
| Federal Funds | 291.9 | 296.9 | 301.0 | 301.0 | 0.0 | 0.0% |
| Private Funds | 0.0 | 3.0 | 3.0 | 3.0 | 0.0 | 0.0% |
| Intra-District | 123.2 | 153.7 | 156.8 | 158.8 | 2.0 | 1.3% |
| Gross Funds | 9,255.1 | 9,392.4 | 9,034.7 | 9,053.7 | 19.0 | 0.2% |

FISCAL YEAR 2012 AGENCY CAPITAL BUDGET SUMMARY TABLE

| Metropolitan Police Department (MPD) | | | | | | | | | | |
|---|------------|-------------------------|-------------|---------------------|---------------------|---------------------|---------------------|----------------------|----------------------|----------------------|
| Mayor's Proposed Fiscal Year 2012-2017 Capital Budget, By Project | | | | | | | | | | |
| Owner Agency | Project No | Project Title | Impl Agency | FY 2012 | FT 2013 | FY 2014 | FY 2015 | FY 2016 | FY 2017 | 6-yr Total |
| FAO - METROPOLITAN POLICE DEPARTMENT | PEQ20C | SPECIALIZED VEHICLES | ELC | 4,000,000.00 | 4,200,000.00 | 2,399,000.00 | 3,049,600.00 | 5,200,000.00 | 5,200,000.00 | 24,048,600.00 |
| | PEQ22C | SPECIALIZED VEHICLES | FAO | 0.00 | 0.00 | 1,500,000.00 | 1,500,000.00 | 1,500,000.00 | 1,500,000.00 | 6,000,000.00 |
| | PL110C | MPD BUILDING RENOVATION | FAO | 1,400,000.00 | 3,000,000.00 | 3,000,000.00 | 3,000,000.00 | 4,000,000.00 | 4,000,000.00 | 18,400,000.00 |
| FAO - METROPOLITAN POLICE DEPARTMENT Total | | | | 5,400,000.00 | 7,200,000.00 | 6,899,000.00 | 7,549,600.00 | 10,700,000.00 | 10,700,000.00 | 48,448,600.00 |

| Fire and Emergency Medical Services Department (FEMS) | | | | | | | | | | |
|---|---------------------------|----------------------------|-------------|----------------------|----------------------|----------------------|----------------------|----------------------|---------------------|----------------------|
| Mayor's Proposed Fiscal Year 2012-2017 Capital Budget, By Project | | | | | | | | | | |
| Owner Agency | Project No | Project Title | Impl Agency | FY 2012 | FT 2013 | FY 2014 | FY 2015 | FY 2016 | FY 2017 | 6-yr Total |
| FBO - FIRE AND EMERGENCY MEDICAL SERVICES | 20630C | FIRE APPARATUS | ELC | 8,096,000.00 | 8,096,000.00 | 4,048,000.00 | 4,048,000.00 | 8,096,000.00 | 0.00 | 32,384,000.00 |
| | LC437C | E-22 FIREHOUSE REPLACEMENT | FBO | 4,700,000.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 4,700,000.00 |
| | LD839C | EVOCC COURSE | FBO | 2,000,000.00 | 250,000.00 | 0.00 | 0.00 | 0.00 | 0.00 | 2,250,000.00 |
| | LES37C | ENGINE 14 MAJOR RENOVAT | FBO | 2,000,000.00 | 1,800,000.00 | 0.00 | 0.00 | 0.00 | 0.00 | 3,800,000.00 |
| | LE737C | ENGINE 27 MAJOR RENOVAT | FBO | 1,000,000.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1,000,000.00 |
| | LF239C | SCHEDULED CAPITAL MAINT | FBO | 4,500,000.00 | 3,500,000.01 | 3,500,000.01 | 3,500,000.01 | 3,500,000.01 | 3,500,000.45 | 22,000,000.49 |
| | LG337C | FIRE TRAINING SIMULATORS | FBO | 0.00 | 0.00 | 1,650,000.00 | 0.00 | 0.00 | 0.00 | 1,650,000.00 |
| LG537C | TRAINING ACADEMY SITE IMP | FBO | 0.00 | 2,500,000.00 | 3,100,000.00 | 3,100,000.00 | 3,240,000.00 | 0.00 | 11,940,000.00 | |
| FBO - FIRE AND EMERGENCY MEDICAL SERVICES Total | | | | 22,296,000.00 | 16,146,000.01 | 12,298,000.01 | 10,648,000.01 | 14,836,000.01 | 3,500,000.45 | 79,724,000.49 |

| Department of Corrections (DOC) | | | | | | | | | | |
|---|------------|--------------------------|-------------|---------------------|---------------------|---------------------|-------------|-------------|-------------|---------------------|
| Mayor's Proposed Fiscal Year 2012-2017 Capital Budget, By Project | | | | | | | | | | |
| Owner Agency | Project No | Project Title | Impl Agency | FY 2012 | FT 2013 | FY 2014 | FY 2015 | FY 2016 | FY 2017 | 6-yr Total |
| FLO - DEPARTMENT OF CORRECTIONS | CR002C | RENOVATION OF CELL DOOR | AMO | 2,000,000.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 2,000,000.00 |
| | CR008C | UPGRADES CENTRAL SECURIT | ELC | 400,000.00 | 1,600,000.00 | 1,500,000.00 | 0.00 | 0.00 | 0.00 | 3,500,000.00 |
| | CR104C | HVAC REPLACEMENT | AMO | 900,000.00 | 700,000.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1,600,000.00 |
| FLO - DEPARTMENT OF CORRECTIONS Total | | | | 3,300,000.00 | 2,300,000.00 | 1,500,000.00 | 0.00 | 0.00 | 0.00 | 7,100,000.00 |

| Office of Unified Communications (OUC) | | | | | | | | | | |
|---|---|----------------------------|-------------|--------------|----------------------|-------------|-------------|-------------|-------------|--------------|
| Mayor's Proposed Fiscal Year 2012-2017 Capital Budget, By Project | | | | | | | | | | |
| Owner Agency | Project No | Project Title | Impl Agency | FY 2012 | FT 2013 | FY 2014 | FY 2015 | FY 2016 | FY 2017 | 6-yr Total |
| UCO - OFFICE OF UNIFIED COMMUNICATIONS | UC201C | PUBLIC SAFETY RADIO SYSTEM | UCO | 5,902,100.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 5,902,100.00 |
| | UC202C | PUBLIC SAFETY RADIO - MEL | ELC | 4,219,000.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 4,219,000.00 |
| | UCO - OFFICE OF UNIFIED COMMUNICATIONS Total | | | | 10,121,100.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |

COMMITTEE TRANSFERS

The following is a summary of transfers into the Committee as part of its recommendation for the fiscal year 2012 budget.

| Description | Funding |
|---|-----------|
| <i><u>Intra-District</u></i> : The Committee accepts the transfer of funding from the Committee on Public Works and Transportation in order to fund Bait Bike, a bicycle theft deterrence program. | \$50,000 |
| <i><u>Local Funds</u></i> : The Committee recognizes increased revenue related to the per diem reimbursement from US Bureau of Prisons that is being renegotiated and increased. The District is currently seeking a \$127 rate, which would increase revenues by \$3.9 million. BOP has offered a \$108 rate, which would increase revenue by \$262,051. | \$260,000 |
| <i><u>Federal Funds</u></i> : The Committee recognizes increased revenue associated with the Office of Administrative Hearings projected Medicaid reimbursable income (not included in the Mayor’s proposal). | \$128,000 |

SUMMARY OF COMMITTEE BUDGET RECOMMENDATIONS

The following is a summary of changes and recommendations made by the Committee to the fiscal year 2012 budget as proposed by the Mayor for each agency under the Committee's purview. This summary lists changes to the operating budget and capital budget, as well as policy recommendations relevant to each agency.

Office of the Attorney General *(CB)*

Operating Budget Recommendations:

- Increase of \$230,000 local funds (PS) to Comptroller Source Group 11 (Regular Pay - Cont Full Time) and an increase of 3.0 FTEs (1 juvenile prosecutor and 2 civil litigators)
- Increase of \$46,000 local funds (PS) to Comptroller Source Group 14 (Fringe Benefits - Current Personnel) per above
- Reduction of \$25,000 local funds (PS) to Comptroller Source Group 11 (Regular Pay - Cont Full Time) to increase salary lapse (attrition rate)
- Increase of \$48,000 local funds (NPS) to Comptroller Source Group 20 (Supplies and Materials)
- Reduction of \$6,000 local funds (NPS) to Comptroller Source Group 31 (Telephone) to reduce use of individual Blackberries and cell phones (leaves \$350,000)
- Shift \$3,000 from Activity 6111 to newly created Activity 5112 per OCFO

Metropolitan Police Department *(FA)*

Operating Budget Recommendations:

- Reduction of \$213,000 local funds (PS) to Comptroller Source Group 11 (Regular Pay - Cont Full Time) to increase salary lapse/vacancy savings (salary lapse remains \$2 million below FY 2011)
- Reduction of \$250,000 local funds (PS) in Comptroller Source Group 15 (Overtime Pay)(gross budget remains higher than FY 2011)
- Reduction of \$134,000 local funds (NPS) in Comptroller Source Group 20 (Supplies and Materials)(leaves budget at FY 2011 level)
- Reduction of \$46,000 local funds (NPS) in Comptroller Source Group 41 (Contractual Services-Other)
- Reduction of \$141,000 local funds (NPS) in Comptroller Source Group 40 (Other Services and Charges)
- Increase of \$50,000 intra-District funds from Committee on Public Works and Transportation for Bait Bike program

- Recommends the Council fund \$10,868,735 and 180 FTEs to achieve 3,900 sworn officers (this will achieve a sworn staffing level of 3,914 on September 30, 2012). The Mayor must hire an additional 60 FTEs in FY 2011 for this to happen

Capital Budget Recommendations:

- Recommend no change to Mayor's FY 2012 - FY 2017 Capital Budget Authority proposal

Policy Recommendations:

- MPD should better manage risk to reduce settlements and judgments
- MPD should reduce number of sworn officers doing work that civilians can do; civilianization has the effect of increasing police presence
- Direct OCFO to prepare a civilianization analysis

Fire & Emergency Medical Services *(FB)*

Operating Budget Recommendations:

- Reduction of \$485,000 local funds (PS) to Comptroller Source Group 11 (Regular Pay - Cont Full Time) to increase salary lapse/vacancy savings (equal to 0.5 percent of PS)
- Reduction of \$1,000,000 local funds (PS) in Comptroller Source Group 15 (Overtime Pay); allow \$108,654 per pay period; actual on each of the previous four pay periods has been less.

Capital Budget Recommendations:

- Recommend no change to Mayor's FY 2012 - FY 2017 Capital Budget Authority proposal

Policy Recommendations:

- Recommend continuation of BSA restriction on overtime pay for fiscal year 2012
- Recommend Executive work with labor leaders if agency is looking at reducing one shift and going to 12 hour shifts agency wide

Police Officers' & Fire Fighters' Retirement System *(FD)*

Operating Budget Recommendations:

- The Committee recommends adoption of the fiscal year 2012 budget as proposed by the Mayor

Department of Corrections *(FL)*

Operating Budget Recommendations:

- Reduction of \$500,000 local funds (NPS) in Comptroller Source Group 41 (Contractual Services – Other)
- Recognize revenue of \$260,000 local funds related to the US BOP per diem reimbursement; Actual reimbursement may exceed this amount

Capital Budget Recommendations:

- Recommend no change to Mayor’s FY 2012 - FY 2017 Capital Budget Authority proposal

Policy Recommendations:

- Recommend continued use of current contractor for DOC healthcare services
- Recommend Executive re-evaluate its defense against pending employee appeals
- Budget requires aggressive efforts to maintain jail population within budget

DC National Guard *(FK)*

Operating Budget Recommendations:

- Increase of \$471,629 (Federal Grant Funds) to Program/Activity 4010 for Youth Challenge program (technical adjustment per OCFO)

Homeland Security & Emergency Management Agency *(FO)*

Operating Budget Recommendations:

- The Committee recommends adoption of the fiscal year 2012 budget as proposed by the Mayor

Commission on Judicial Disabilities & Tenure *(DQ)*

Operating Budget Recommendations:

- The Committee recommends adoption of the fiscal year 2012 budget as proposed by the Mayor

Policy Recommendations:

- The Committee recommends returning the CJDT to a locally funded agency in future budget cycles.

Judicial Nomination Commission (DV)

Operating Budget Recommendations:

- The Committee recommends adoption of the fiscal year 2012 budget as proposed by the Mayor

Policy Recommendations:

- The Committee recommends returning the JNC to a locally funded agency in future budget cycles

Office of Police Complaints (FH)

Operating Budget Recommendations:

- Increase of \$39,000 local funds (PS) to Comptroller Source Group 12 (Regular Pay - Other) and increase 1.0 FTE to support interns and part-time monitors
- Increase of \$63,000 local funds (PS) and an increase of 1.0 FTE to restore an investigator position
- Increase of \$17,000 local funds (NPS) to Comptroller Source Group 40 (Other Services and Charges) for IT services
- Increase of \$74,000 local funds (NPS) Comptroller Source Group 41 (Contractual Services - Other) to restore arbitration, mediation, and translation contracts

DC Sentencing & Criminal Code Revision Commission (FZ)

Operating Budget Recommendations:

- Increase of \$78,000 local funds (PS) to Comptroller Source Group 12 (Regular Pay - Other) and increase 1.0 FTE to retain Project Director for Criminal Code Revision
- Increase of 1.0 FTE (position is vacant but funded) related to Criminal Code Revision
- Increase of \$10,000 (NPS) in Comptroller Source Group 40 (Other Services and Charges) to cover IT costs
- Increase of \$10,000 (NPS) in Comptroller Source Group 70 (Equipment and Equipment Rental)

Policy Recommendations:

- Committee recommends additional funding for FY 2013 in order to complete criminal code revision project

Office of the Chief Medical Examiner (FX)

Operating Budget Recommendations:

- Increase of \$35,000 local funds (NPS) in Comptroller Source Group 41 (Contractual Services - Other) to fully fund the Wendt Center contract
- Increase of \$90,000 local funds (NPS) in Comptroller Source Group 20 (Supplies and Materials) to match FY 2011
- Increase of \$90,000 intra-District funds (NPS) from the Justice Grants Administration

Policy Recommendations:

- OCME must continue progress toward accreditation by eliminating deficiencies

Office of Administrative Hearings (FS)

Operating Budget Recommendations:

- Increase of \$425,000 (PS) to Comptroller Source Group 11 (Regular Pay - Cont Full Time) and an increase of 10.0 FTEs
- Increase of \$81,000 local funds (PS) to Comptroller Source Group 14 (Fringe Benefits - Curr Personnel) for fringe associated with the 10 additional FTEs
- Increase of \$67,000 local funds (NPS) to Comptroller Source Group 20 (Supplies and Materials) to partially restore funding to the FY 2011 level
- Increase of \$158,000 local funds (NPS) to Comptroller Source Group 40 (Other Services and Charges) to partially restore funding to the FY 2011 level
- Increase of \$188,000 local funds (NPS) to Comptroller Source Group 41 (Contractual Services - Other) to partially restore funding to the FY 2011 level

Policy Recommendations:

- Committee recommends continuing to “hardwire” intra-District funds from DOES for UI appeals
- Committee recommends recognizing \$128,000 in Medicaid reimbursements; these will partially fund the NPS needs of the agency
- DRES must end delays in moving OAH to consolidated space

Criminal Justice Coordinating Council (FJ)

Operating Budget Recommendations:

- The Committee recommends adoption of the fiscal year 2012 budget as proposed by the Mayor

Policy Recommendations:

- D.C. Crime Policy Institute project should be managed by CJCC, not the City Administrator’s Office

Forensic Laboratory Technician Training Program (FV)

Operating Budget Recommendations:

- Reduction of \$50,000 local funds (PS) to Comptroller Source Group 11 (Regular Pay - Cont Full Time) to recognize salary lapse/vacancy savings

Policy Recommendations:

- Add funds to the budget and financial plan (\$1,789,371 for FY 2013, and \$2,404,732 for FY 2014) in order to fully fund Bill 19-5, the "Department of Forensic Sciences Establishment Act of 2011"

Office of Unified Communications (OUC)

Operating Budget Recommendations:

- Reduction of \$100,000 local funds (PS) to Comptroller Source Group 11 (Regular Pay - Cont Full Time) to increase salary lapse/vacancy savings
- Reduction of \$50,000 local funds (PS) in Comptroller Source Group 15 (Overtime Pay)

Capital Budget Recommendations:

- Recommend no change to Mayor's FY 2012 - FY 2017 Capital Budget Authority proposal

Policy Recommendations:

- Executive must reduce security costs for OUC, which have increased by 67 percent since FY 2010
- OUC should not budget security and other non-capital costs against the E911 fund
- Executive should look at fringe costs; the rate exceeds the rate for other public safety agencies such as HSEMA, OCME, OAH, OAG, etc.

Deputy Mayor for Public Safety & Justice (FQ)

Operating Budget Recommendations:

- Increase of \$210,000 intra-District funds from HSEMA and an increase of 2.0 FTEs
- Increase of \$200,000 local funds (NPS) to Comptroller Source Group 41 (Contractual Services – Other) to fund analysis of optimal size of MPD
- Increase of \$100,000 local funds (NPS) to Comptroller Source Group 50 (Subsidies and Transfers) for the Access to Justice Initiative (AJ) program; to restore LRAP funding, with remainder for grants
- Increase of \$1,308,000 local funds (NPS) to Comptroller Source Group 50 (Subsidies and Transfers) for the Office of Victim Services (FE) program to partially restore funds for grants
- Increase of \$121,000 local funds (NPS) to Comptroller Source Group 50 (Subsidies and Transfers) for the Justice Grants Administration (FO) program to support organization that assists inmates at the DC Jail or CTF and also recently released inmates

Policy Recommendations:

- Committee urges inclusion of language in Budget Request Act that states funds from federally seized money and assets, excluding that already going to MPD, go to OVS
- Committee urges adoption of proposed BSA subtitle establishing the Office of the Deputy Mayor for Public Safety and Justice

AGENCY FISCAL YEAR 2012 BUDGET RECOMMENDATIONS

The Committee notes that the Mayor’s fiscal year 2012 proposed budget incorporates a vacancy savings for the agencies listed below as presented in the following table:

**TABLE 1-A: Vacancy Savings for Select Public Safety Agencies;
 Mayor’s Fiscal Year 2012 Budget Proposal**

| AGENCY | AMOUNT | PERCENTAGE |
|--------------------------------------|---------------|-------------------|
| Office of the Attorney General | 600 | 1.06 percent |
| Metropolitan Police Department | 27,800 | 7.5 percent |
| Fire & Emergency Medical Services | 285 | 0.02 percent |
| Department of Corrections | 1,200 | 2.5 percent |
| Office of the Chief Medical Examiner | 0 | 0.0 percent |
| Office of Unified Communications | 0 | 0.0 percent |

Source: Office of the Chief Financial Officer (dollars in thousands)

In addition, a number of agencies under the Committee’s purview are, for the current fiscal year, required to absorb increased costs associated with fringe benefits. Testimony at the Committee’s budget hearings from a number of agencies noted a rise in costs, in some cases noting that the previously utilized model for projecting these costs -- based on a three-year average -- did not adequately account for the increase in fringe benefit costs. The increases in fringe for certain agencies are presented in the following table:

**TABLE 1-B: Fiscal Year 2011 Fringe Benefit Calculation for Select Public Safety Agencies;
Budgeted v Actual**

| AGENCY | FY 2011 BUDGETED | FY 2011 ACTUAL | FY 2012 PROJECTED |
|--------------------------------------|---------------------|-------------------|----------------------|
| Office of the Attorney General | 17.96 percent | 19.98 percent | 19.98 percent |
| Metropolitan Police Department | 12.56 percent | 14.86 percent | 15.98 percent |
| Fire & Emergency Medical Services | 13.65 percent | 15.20 percent | 15.18 percent |
| Department of Corrections | 22.64 percent | 25.8 percent | 27.4 percent |
| Office of the Chief Medical Examiner | 19.10 percent | 18.80 percent | 21.24 percent |
| Office of Unified Communications | 23.31 percent | 26.44 percent | 21.67 percent |

Source: Office of the Chief Financial Officer

These unforeseen costs create issues for agencies in both the current fiscal year as well as the upcoming one. For the majority of agencies in the public safety cluster, the Mayor's proposed budget for fiscal year 2012 maintains the agency at the fiscal year 2011 level. The revised fringe benefit figures mean that the agencies will, again, be forced to absorb these increased costs with existing funds.

OFFICE OF THE ATTORNEY GENERAL

Committee Recommendations – See Page 8

I. AGENCY OVERVIEW

The mission of the Office of the Attorney General (OAG) is to enforce the laws of the District of Columbia and to provide legal services to the District government. OAG is charged with conducting the District's legal business. To discharge these duties, OAG is divided into 13 operating divisions.⁵

⁵ The agency's operating divisions are: (1) Solicitor General; (2) Child Support Services; (3) Civil Litigation; (4) Commercial; (5) Family Services; (6) Health and Human Services; (7) Legal Counsel; (8) Public Safety; (9) Personnel, Labor and Employment; (10) Support Services Division; (11) Office of the Attorney General; (12) Agency Management; and (13) Agency Financial Operations.

OAG represents the District in virtually all civil litigation, prosecutes certain criminal offenses on the District’s behalf, and represents the District in a variety of administrative hearings and other proceedings. In addition, OAG is responsible for advising the Executive Office of the Mayor, the D.C. Council, the D.C. Courts, various Boards, and Commissions; for reviewing legislation and regulations; and for supervising lawyers working in the general counsel offices of 28 agencies. In all, the Attorney General supervises the legal work of about 350 attorneys and an additional 350 administrative or professional staff.

II. MAYOR’S PROPOSED BUDGET⁶

Mayor’s Proposed Fiscal Year 2012 Operating Budget:

The Mayor’s fiscal year 2012 budget proposal for the Office of the Attorney General is \$94,239, a decrease of \$712, or -0.7 percent, from the current fiscal year. The proposed budget supports 725.7 FTEs, a decrease of 16.4 FTEs, or -2.2 percent, from the current fiscal year.

**TABLE 2-A: Office of the Attorney General
 Total Operating Funds Budget FY 2006-20012**

| | Actual 2006 | Actual 2007 | Actual 2008 | Actual 2009 | Actual 2010 | Budget 2011 | Mayor 2012 |
|--------------------|----------------|----------------|----------------|----------------|----------------|----------------|---------------|
| Total Funds | 63,492 | 79,042 | 94,270 | 96,395 | 92,616 | 94,951 | 94,239 |
| FTEs | 486.0 | 618.0 | 702.3 | 694.9 | 736.2 | 742.1 | 725.7 |

Source: Budget Books (dollars in thousands)

Local Funds: The Mayor’s proposed budget is \$56,368, an increase of \$6,148, or 12.2 percent, from the fiscal year 2011 approved budget of \$50,220. This funding supports 450.1 FTEs, an increase of 29.9 FTEs, or 7.1 percent, from the FY 2011 approved level.

The policy initiatives within the local funds budget include: shifting \$2,457 in personal services and 19.0 FTEs from special purpose revenue to the local funds budget; shifting \$1,338 in contracts and other services from special purpose revenue to the local fund budget; a one-time funding for fiscal year 2012 of \$1,876 to support 23.5 FTEs; an increase in personal services of \$1,038 to adjust salary and fringe schedules to include step increases in fiscal year 2012; and a reduction of personal services cost by \$2,011 and 33.0 FTEs in multiple programs to align personal services cost with agency operations.

⁶ The Mayor’s proposed budget only provided numbers rounded to dollars in thousands therefore all figures provided are dollars in thousands. Percent change is based on whole dollars.

Special Purpose Revenue Funds: The Mayor's proposed budget is \$1,624, a decrease of \$6,470, or -79.9 percent, from the fiscal year 2011 approved budget of \$8,093. This funding supports 0.4 FTEs, a decrease of 43.1 FTEs, or -99.1 percent, from the fiscal year 2011 approved level.

The policy initiatives within the special purposes revenue budget include a decrease of \$6,470 and 43.1 FTEs to align budget with expected revenue in fiscal year 2012 and because fund balance is not available for use; and a shift of \$1,338 in Contracts and Other Services from special purposes revenue funds to local funds. In all, \$1,863 of special purpose revenue funds are restored as local funds.

Federal Resources: The Mayor's proposed budget is \$19,613, a decrease of \$440, or -2.2 percent, from the fiscal year 2011 approved budget of \$20,053. This funding supports 132.0 FTEs, a decrease of 3.3 FTEs, or -2.4 percent, from the fiscal year 2011 approved level.

The policy initiatives within the federal resources budget include a decrease of \$440 and 3.3 FTEs in federal grant funds to align budget with expected revenue in fiscal year 2012, and an adjustment in the salary and fringe schedule to include step increases.

Private Grant Funds: The Mayor's proposed budget is \$144, an increase of \$5, or 3.9 percent, from the fiscal year 2011 approved budget of \$139. This funding supports 3.0 FTEs, no change from the fiscal year 2011 approved level.

The policy initiatives within the private grant funds budget includes an increase of \$5 to help align the budget with estimated revenue.

Intra-District Funds: The Mayor's proposed budget is \$16,490, an increase of \$43, or 0.3 percent, from the fiscal year 2011 approved budget of \$16,446. This funding supports 140.2 FTEs, an increase of 0.1 FTEs, or 0.1 percent, from the fiscal year 2011 approved level.

The policy initiatives within the intra-District funds budget include a shift of \$350 and 3.0 FTEs to align personal services cost with agency operations.

III. COMMITTEE CONCERNS

Attorney General Independence: The Committee has been repeatedly compelled over the past four years to delineate the role of the Attorney General within District government in reports, oversight hearings, etc. The causal actions for this even prompted legislation to clarify the independence and duties of this position.⁷ Most recently, the Committee has restated the importance and need for an independent Attorney General in the Committee Report confirming

⁷ See Attorney General for the District of Columbia Clarification and Elected Term Amendment Act (D.C. Law 18-160; D.C. Official Code § 1-301.81 *et seq.*).

the current Attorney General for the District of Columbia.⁸ That report states the Committee's position that the current Attorney General understands the importance of this issue -- that the client of the Attorney General is the District of Columbia -- but that the Committee was obligated to reiterate concerns over the independence of the office in confirming him.

What compels the Committee to repeat those same concerns here are lingering sensitivities on this issue from nearly three years of conflation of the role of the Attorney General and the role of the general counsel to the Mayor. As was stated in the above referenced report, the sting from this slight to the office is still relatively fresh in the minds of the public and this Council. Nevertheless, the Committee believes Mr. Nathan, recently confirmed to the position, can repair the damage inflicted to the role of Attorney General as well as restore public confidence. Thus, the Committee is confident that the inclusion of this section within the Committee's fiscal year 2013 budget report will be unnecessary, the need for its inclusion having been negated. While we will continue to be mindful of the need for independence in this agency, going forward it should be seen as axiomatic, and thus unnecessary to remind the Attorney General of his or her role.

Agency Morale: Also discussed in the current Attorney General's confirmation report was the issue of morale within OAG, as well as within District government generally. In contrast to the comments made in the previous budget report, however, in the short tenure of this Administration efforts have been made to remedy soured labor-management relationships and resolve longstanding disputes. Within OAG, the new Attorney General has engaged in an open dialogue with staff and labor representatives and has held several meetings to discuss ways to improve their daily work lives. Attorney General Nathan has stated that he is actively working toward resolving legal disputes with labor that have dragged on for years and shares labor's desire to have a new collective bargaining agreement.

Leaders of the lawyers' union at OAG have testified about their appreciation of management's efforts to resolve pending litigation over the collective bargaining agreement and several other matters before the Public Employees Relations Board.⁹ Indeed, the Attorney General testified on March 11, 2011 that, although he is unwilling to set a timeframe on which to complete negotiations, the agency will do its best to accomplish the shared goal of solidifying a collective bargaining agreement. The Committee also notes that the current Attorney General has been more open to discussion, and has actually engaged in dialogue, with labor and employees about the operations of the agency generally. Testimony, to date, has been positive, as the agency has made work better for employees through relatively minor concessions with regard to work schedules and dress code policies. This is, hopefully, a precursor to broader collaboration on issues affecting the agency and employee morale.

⁸ See PR 19-42, Attorney General for the District of Columbia Irvin B. Nathan Confirmation Resolution of 2011, Report of the Committee on the Judiciary, at 5-7 (May 2, 2011) (see section on "Independence in the Discharge of the District's Law Business").

⁹ See, e.g., *Office of the Attorney General: Budget Oversight Hearing Before the Committee on the Judiciary*, at 2 (May 2, 2011) (written testimony of Robert Debarardinis, Vice President, AFGE Local 1403).

Likewise, the Committee hopes the positive treatment of employees at OAG can be applied more broadly to employees throughout the government. This surely extends from the top down, and the Mayor’s commitment to more equitable treatment of employees and a more open dialogue has already had a more positive impact on agencies under this Committee’s purview. The OAG plays a part in this as well, as the litigation policies and practices of the Office can be respectful of the District’s workforce, or it can exhibit disdain for these individuals. The previous chief legal officer leaned (heavily) toward prolonged litigation tactics rather than resolving disputes quickly and amicably. The Committee has urged in the past, and continues to urge, that the legal direction of the District must be returned to what is right and just, avoiding endless litigation and endless appeals that focus only on winning. This is a more beneficial direction for the District as a whole, and one the Attorney General can help advance.

Attorney Caseload; Actual v. Preferred: The Committee typically requests a breakdown of preferred and actual caseloads for line attorneys, by division, in advance of OAG’s annual performance oversight hearing. A reason for this continued questioning on the issue is that the actual caseload for line attorneys, in many cases, greatly exceeds the preferred caseload. The preferred caseload is drawn from best practices, developed both internally and in consultation with other states’ attorney general’s offices. The high caseload seems particularly problematic in the public safety cluster, where attorneys are handling caseloads over 100 percent over the preferred number.

The Committee has remained concerned about the high caseloads for line-attorneys, particularly in the public safety cluster. OAG previously maintained several vacancies of line-attorneys, adding to the caseloads of existing attorneys.

**TABLE 2-B: Office of the Attorney General;
 Actual v Preferred Caseload for Public Safety Line-Attorneys**

| Public Safety Division | FY 2010 Actual Caseload | FY 2011 Actual Caseload | Preferred Caseload |
|--------------------------------|------------------------------|------------------------------|-----------------------------|
| Neighborhood & Victim Services | 120 – 130 cases per attorney | 120 – 130 cases per attorney | 60 case per attorney |
| Criminal Section | 1,900 cases per attorney | 1,900 cases per attorney | 600 cases per attorney |
| Juvenile Section | 250 cases per attorney | 250 cases per attorney | 75 – 100 cases per attorney |

Source: Office of the Attorney General for the District of Columbia¹⁰

¹⁰ Letter from Peter Nickles, Attorney General for the District of Columbia, to Phil Mendelson, Chairman, Committee on Public Safety and the Judiciary, Re: OAG Responses for Oversight Hearing – March 19, 2010, at 34 (Mar. 17, 2010) (providing fiscal year 2010 data); Letter from Irvin B. Nathan, Attorney General for the District of Columbia, to Phil Mendelson, Chairman, Committee on the Judiciary, Re: OAG Responses to Committee’s Second and Third Set of Questions for Oversight Hearing, at 8 (Mar. 7, 2011) (for fiscal year 2011 data).

As shown in the above table, there has not been a reduction of the burden for public safety line attorneys in recent years. At the May 2, 2011 budget hearing for the agency, the Attorney General gave a bleak prospect for the upcoming fiscal year in saying the caseload is being addressed in that there are no additional cuts.¹¹ The Committee restored funding for two positions for the current fiscal year to help alleviate the strain on Public Safety Division. However, it is unclear if the agency has filled these positions or if any other efforts have been made to divert resources from other, perhaps less strained, divisions to reduce the burden on public safety. The Committee's budget recommendation for fiscal year 2012 includes funding for an additional juvenile prosecutor and two civil litigators. The Committee urges the OAG to find ways to further aid these attorneys to reduce the actual caseload they are required to handle.

Breathalyzer Program: The problem of incorrectly calibrated breathalyzer instruments first became known, publicly, over a year ago. In February 2010, it was first reported that a number of Metropolitan Police Department (MPD) Intoxolyzer instruments, used to calculate the alcohol content of a person's breath, were incorrectly calibrated since at least September 2008. The OAG later reported that results from the breath test machines potentially implicated nearly 400 convictions for driving while intoxicated (DWI). More recently, the OAG has dropped a number of drunk-driving cases, with potentially more to follow, because of ongoing issues with the District's breathalyzer program.

The Committee first held a hearing on this issue in July 2010, and has since followed up with a hearing in February 2011. More hearings will likely follow. The Committee was told at the July 2010 hearing that the issue was being resolved; but nearly a year later and the problem has not been fixed, and each subsequent hearing reveals additional issues that were not previously known to the public but should have already been addressed. Deputy Attorney General Robert Hildum testified at the February 2011 hearing, for example, that during the period when the breath test machines were potentially inaccurate, there were only 11 cases where the defendant pled guilty to DWI where the supporting evidence came from an MPD machine. As a result of questioning by the Committee, Mr. Hildum went back and reviewed the cases and found that, to date, at least 31 defendants are similarly implicated.¹²

The Committee is particularly concerned that, a year later, the District's breathalyzer program has not been fixed, and that attention does not seem to be given to this issue until questions are raised in public. Only within the past few months has progress been made, with experts brought in to resolve issues and develop a program which meets industry standards. This despite more than a year elapsing since the problems became public, much less when they became known. Other testimony from the agency suggested that the delay was due to funding issues, and that the agency needed to wait on federal grant funding to begin addressing the problem. This response is unacceptable. Surely, if funding is the only concern, it is imperative

¹¹ *Office of the Attorney General: Budget Oversight Hearing Before the Committee on the Judiciary* (May 2, 2011) (oral testimony of Irvin B. Nathan, Attorney General for the District of Columbia).

¹² Letter from Robert Hildum, Deputy Attorney General for the OAG, to Phil Mendelson, Chairman, Committee on the Judiciary, at2 (Apr. 9, 2011).

and in the best interest of the District that the government identify funding to fix this issue. Restoring this program is one of the key ways to effectively get drunk-drivers off our streets.

Settlements and Judgments: The Committee has raised the issue of settlement authority under the previous Administration and, just recently, with the current one. The Committee supports the re-institution of the management responsibility of settlements within the OAG. Currently the Office of Risk Management (ORM) is responsible for receiving notices of claims under D.C. Official Code § 12-309, negotiating and settling those claims for un-liquidated damages to persons or property, and managing the Settlements and Judgments Fund (“Fund”). Pursuant to a memorandum of understanding, executed on December 5, 2003, ORM agreed to make timely disbursements and resolve financial matters related to OAG’s settlement of pending matters (up to \$500,000), provide data and information concerning its management of the Fund to the OAG and other agencies, and provide a timely listing of the claims that OAG had submitted to ORM for payment.

While the previous Attorney General was originally supportive of returning authority over the Fund to OAG, that vocal support was later stifled. The current Attorney General has stated that this is a policy area identified for examination, one the OAG plans to review and provide a policy proposal for in the near future.¹³ The Committee believes this to be a positive step forward, and one that can lead to policies that better serve the District. At the very least, if the settlement authority were to remain at ORM, senior attorneys within OAG should assist with making settlement decisions. This could result, in some cases, in earlier settlements that have a better fiscal outcome for the District. Further, an evaluation of the structure of our settlement process is warranted, and such an evaluation is urged by the Committee.

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee notes that the formulation of the Mayor’s proposed fiscal year 2012 operating budget for OAG incorporates a \$600,000 salary lapse, or 1.06 percent of budgeted salaries. The salary lapse was close to \$1.5 million in fiscal year 2011. There are 23 vacancies (local funds), or 57 vacancies (gross funds). Ten (10) of these vacancies are being eliminated. Seven (7) can still be filled. The Committee also notes that fringe for OAG is calculated at 19.98 percent for fiscal year 2012 (it was calculated at 17.96 percent in fiscal year 2011, less in fiscal year 2010).

The Committee recommends adoption of the fiscal year 2012 operating budget for OAG as proposed by the Mayor with the following modifications:

¹³ March 7, 2011 Letter from Irvin B. Nathan Attorney General for the District of Columbia, *supra* note 9, at 25.

1. An increase of \$230,000 local funds (PS) to Comptroller Source Group 11 (Regular Pay - Cont Full Time) and an increase of 3.0 FTEs: 1 juvenile prosecutor in the Public Safety Division (\$70,000), and 2 civil litigators in the Civil Litigation Division (\$160,000).
2. An increase of \$46,000 local funds (PS) to Comptroller Source Group 14 (Fringe Benefits - Current Personnel) to fund fringe associated with the 3.0 FTE increase in number 1 above.
3. A reduction of \$25,000 local funds (PS) to Comptroller Source Group 11 (Regular Pay - Cont Full Time) increase salary lapse (attrition rate) to equal 1 percent of PS costs.
4. An increase of \$48,000 local funds (NPS) to Comptroller Source Group 20 (Supplies and Materials) to restore funding to the FY 2011 level.
5. A reduction of \$6,000 local funds (NPS) to Comptroller Source Group 31 (Telephone, Telegraph, Telegram, Etc.), to reduce individual Blackberries and cell phones.
6. Technical adjustment per OCFO: Shift \$3,000 from Activity 6111 (Alcoholic Beverage Regulatory Counsel) to newly created Activity 5112.

METROPOLITAN POLICE DEPARTMENT

Committee Recommendations – See Page 17

I. AGENCY OVERVIEW

The mission of the Metropolitan Police Department (MPD) is to safeguard the District of Columbia and protect its residents and visitors by providing the highest quality police service with integrity, compassion, and a commitment to innovation that integrates people, technology and progressive business systems.

II. MAYOR'S PROPOSED BUDGET¹⁴

Mayor's Proposed Fiscal Year 2012 Operating Budget:

The Mayor's fiscal year 2012 budget proposal for the MPD is \$469,710, an increase of \$1,058, or 0.2 percent, above the current fiscal year. The proposed budget supports 4,605 FTEs, a decrease of 262 FTEs, or -5.4 percent, from the current fiscal year.

**TABLE 3-A: Metropolitan Police Department
Total Operating Funds Budget FY 2006 – 2012**

| | Actual 2006 | Actual 2007 | Actual 2008 | Actual 2009 | Actual 2010 | Budget 2011 | Mayor 2012 |
|--------------------|----------------|----------------|----------------|----------------|----------------|----------------|---------------|
| Total Funds | 467,992 | 467,418 | 516,455 | 522,093 | 505,059 | 468,652 | 469,710 |
| FTEs | 4,330.0 | 4,510.4 | 4,280.9 | 4,462.0 | 4,800.7 | 4,867.0 | 4,605.0 |

Source: Budget Books (dollars in thousands). Note: \$20,525 of the reduction 2010--2011 was transfer of OFRM and OPC costs out of the agency.

Local Funds: The Mayor's proposed budget is \$433,295, an increase of \$25,879, or 6.4 percent above the fiscal year 2011 approved budget of \$407,416. This funding supports 4,538.2 FTEs, a decrease of 243.5 FTEs, or -5.1 percent, from the fiscal year 2011 approved level.

Policy decisions include the transfer of 226.0 FTEs from the Professional Development Bureau and Agency Management program to other Bureaus, with a net reduction of \$86, and the elimination of 346 unfunded/partially funded FTEs from MPD's fiscal year 2012 budget to more accurately represent staffing in the total FTE amount. Additionally, although yearly attrition totals around 180 separations, MPD's budget includes funding to replace only 120 officers.

Local funds were decreased by \$486 due to a transfer of the local portion of the IT assessment to the Office of the Chief Technology Officer (OCTO).

Special Purpose Revenue Funds: The proposed budget is \$9,452, a decrease of \$22,409, or -70.3 percent, from the fiscal year 2011 approved budget of \$31,861. This funding supports 3.0 FTEs, a decrease of 21.0 FTEs, or -87.5 percent, from the fiscal year 2011 approved level.

¹⁴ The Mayor's proposed budget only provided numbers rounded to dollars in thousands therefore all figures provided are dollars in thousands. Percent change is based on whole dollars.

The reduction is the result of several Special Purpose Revenue funds being shifted to local funds, including for data processing, unclaimed property, narcotics proceeds, gambling proceeds, and automated traffic enforcement.

The net change for MPD in General Fund support is an increase of \$3,470, or 0.8 percent, over the fiscal year 2011 amount. This funding supports 4,541.2 FTEs, a decrease of 264.5, or -5.5 percent, from the fiscal year 2011 approved level.

Federal Resources: The proposed budget is \$5,683, an increase of \$155, or 2.8 percent, above the fiscal year 2011 approved budget of \$5,529. This funding supports 59.5 FTEs, representing no change from the FY 2011 approved level.

Private Grant Funds: The proposed budget is \$0, a decrease of \$20, or -100 percent, from the fiscal year 2011 approved budget of \$20. This funding supports 0 FTEs, representing no change from the fiscal year 2011 approved level.

This decrease occurred because the department’s private grant for a youth summer camp was discontinued for fiscal year 2012.

Intra-District Funds: The proposed budget is \$21,280, a decrease of \$2,547, or -10.7 percent, from the fiscal year 2011 approved budget of \$23,827. This funding supports 4.2 FTEs, an increase of 2.4 FTEs, or 136.1 percent, over the fiscal year 2011 approved level.

The increase is attributable, in part, to sub-grant decreases and a reduction in the school security services contract.

Mayor’s Proposed Fiscal Year 2012 Capital Budget:

The Mayor’s Fiscal Year 2012 capital budget authority proposal for the Metropolitan Police Department makes modifications to the agency’s capital budget as shown in Table 3-B below.

**TABLE 3-B: Metropolitan Police Department
 Mayor’s FY 2012 – FY 2017 Capital Budget Authority Proposal**

| Project No. | Project Description | Mayor’s Proposed Budget | Approved Budget FY 2011 – FY 2016 | Variance in Total Project Authority from FY 2011 – FY 2016 |
|-------------|----------------------|-------------------------|-----------------------------------|--|
| PEQ20 | Specialized Vehicles | 24,049 | 24,000 | 49 |
| PEQ22 | Specialized Vehicles | 6,000 | 0 | 6,000 |

| Project No. | Project Description | Mayor's Proposed Budget | Approved Budget FY 2011 – FY 2016 | Variance in Total Project Authority from FY 2011 – FY 2016 |
|-------------|---------------------------------------|-------------------------|-----------------------------------|--|
| PL110 | MPD Building Renovations/Construction | 18,400 | 16,000 | 2,400 |

III. COMMITTEE CONCERNS

Sworn Staffing: A serious, and highly-publicized, concern at the Metropolitan Police Department is that the sworn staffing number is sharply declining. In 2006, the goal was set to increase sworn staffing to 4,200 by fiscal year 2009. However, in light of budget cuts beginning in 2009 and an overly optimistic estimate of federal funding, that goal has long been set aside by MPD. Sworn staffing peaked in June 2009 at 4,080 members, and there has been a downward trend ever since. As of May 1, 2011, the sworn number was at 3,869.

**TABLE 3-C: Metropolitan Police Department;
Year End Sworn Staffing Numbers FY 2006 - 2011**

| Fiscal Year | Sworn Staffing |
|-------------|----------------|
| 2006 | 3,800 |
| 2007 | 3,910 |
| 2008 | 4,051 |
| 2009 | 4,032 |
| 2010 | 3,961 |
| 2011 | 3,794* |

Source: MPD

*Projected year end figure based on a 3,869 total as of May 1, 2011 and no new hires.

There are several factors that make the decline in sworn staffing a concern. First is the attrition rate for sworn officers, which has averaged 14-15 per month since fiscal year 2006 and is expected to continue into fiscal year 2012. Second, attrition may increase as the Police and Firefighters Retirement Relief Board reduces its case backlog and those sworn officers with cases pending before the Board are included in the sworn count. Third, MPD expects the number of members eligible for retirement to escalate during fiscal year 2012, as the large number of officers hired 20-25 years ago reach retirement age.

Attrition would not be playing such a large role, however, if new recruits were being hired to offset those leaving the Department. During fiscal year 2011, however, MPD suspended recruitment as a result of spending pressures, and there are currently zero recruits. At MPD's performance oversight hearing on March 18, 2011, Chief of Police Cathy Lanier stated that the Department would have trouble if the sworn number were to drop below 3,800. These concerns make it imperative that MPD have adequate funding to maintain an appropriate number of sworn officers. The Committee credits the Chief of Police's professional assertion of an appropriate number of sworn officers for the District, and the Committee believes that a drop below current numbers is not desirable.

MPD has also faced a spending pressure of \$7.9 million in the area of personal services during fiscal year 2011.¹⁵ On April 25, 2011, the Office of the Chief Financial Officer, in follow-up from MPD's budget oversight hearing, categorized the current spending pressure as being the result of under budgeting the fiscal year 2011 fringe benefits rate; lower than expected federal reimbursements through the Emergency Planning and Security Fund (EPSF); and not budgeting base retention differential pay (5% retention pay received by an officer who has been on the force for 20 years). This spending pressure eliminates the agency's ability to hire sworn officers. By the end of fiscal year 2011, assuming an attrition rate of 15 separations per month, the number of sworn officers will be 3,794.

The Mayor's proposed budget for MPD includes funding for 120 new recruits in fiscal year 2012. This number is not sufficient in light of the attrition rate. Even with the additional officers, the number of sworn officers will be only 3,734 by the end of fiscal year 2012, assuming the same attrition rate of 15 separations per month. In light of the Chief's recommendation, the sworn number cannot be permitted to reach a level that low. The Committee recommends staffing at a level of 3,900, and the Council needs to find the additional funding to support that number. Additionally, it must be noted that the concern of an impending escalation in retirement makes it imperative that adequate funding for recruitment is maintained beyond fiscal year 2012.

MPD has indicated that the Academy portion of a new recruit's training is now around 6 months, which has been reduced from the former time period of around 9 months. The Committee appreciates the increased efficiency in the training of new recruits, particularly in light of the current need to get more officers on the street in a shorter timeframe. The Committee trusts that the Department will not sacrifice quality for the sake of expediency, and will ensure that all new recruits are adequately vetted and properly trained. This is crucial to maintaining a positive reputation for the District's police department and ensuring the safety and security of District residents.

Civilianization: In addition to the need for additional numbers of sworn officers at the Department and the need for the Council to find the required funding for fiscal year 2012, the

¹⁵ Letter from Angelique R. Hayes, Associate Chief Financial Officer, Public Safety and Justice Cluster to Councilmember Phil Mendelson (Apr. 26, 2011) (on file with the Comm. on the Judiciary).

recent trend regarding officers filling civilian roles when civilian positions have been eliminated should be reversed. In fiscal year 2007 the Department had a high of 722 civilians; today the number is approximately 517.¹⁶ Most of these positions have been backfilled by sworn officers. The Department should increase civilianization of the force in order to more efficiently utilize sworn officers; the Department should hire civilians to serve in civilian functions. This saves money, because civilian positions are less expensive for the Department and because they do not include long-term defined pension benefits. Moreover, this will allow as many as 200 sworn officers to return to the streets to perform traditional police duties.

**TABLE 3-D: Metropolitan Police Department;
 Civilian Staffing Numbers FY 2006 - 2011**

| Fiscal Year | Date | Civilian Staffing |
|-------------|------------|-------------------|
| 2006 | 09/26/2006 | 680 |
| 2007 | 09/27/2007 | 722 |
| 2008 | 09/27/2008 | 717 |
| 2009 | 04/26/2009 | 619 |
| 2010 | 11/29/2009 | 561 |
| 2011 | 01/09/2011 | 536* |

Source: MPD

**The Civilian number is approximately 517 as of April 8, 2011.*

The high civilian numbers in fiscal year 2006 through fiscal year 2008 are the result of civilianization initiatives from fiscal year 2005 through fiscal year 2007. The Committee urges a return to the civilianization initiative -- to save money in both the short and long term, and to increase police presence on the street.

**TABLE 3-E: Metropolitan Police Department;
 Civilian Staffing Initiatives**

| FY Civilianization Initiative | Number of Positions Civilianized |
|-------------------------------|----------------------------------|
| 2005 | 83 |

¹⁶ See Budget Oversight Hearing on the Metropolitan Police Department Before the District of Columbia Council Committee on the Judiciary, Apr. 8, 2011.

| FY Civilianization Initiative | Number of Positions Civilianized |
|-------------------------------|----------------------------------|
| 2006 | 28 |
| 2007 | 63 |

Source: FY 2007 Budget Report, Committee on Public Safety and the Judiciary. Numbers are those proposed in the respective year's budget.

Labor and Management Relations: The Metropolitan Police Department has a very active union, the Fraternal Order of Police (FOP). However, it has been years since a new collective bargaining agreement has been negotiated between agency management and labor. Indeed, the current contract ended September 30, 2008, and that contract has remained in operation under a holdover since that time. In 2008, the Office of Labor Relations and Collective Bargaining, on behalf of the previous Administration, proposed a contract that was unacceptable to the union. The Fraternal Order of Police challenged the proposal as being unfair and overly burdensome, and the contract has been pending in litigation at the Public Employee Relations Board (PERB) since the spring of 2008. According to MPD, both parties agreed to suspend bargaining while the PERB litigation was pending, and a hearing has now been set for May 24, 2011. Although MPD has stated that the union and management have been meeting regularly to conduct impact and effect negotiations, the union believes there is no relationship at all between labor and management at MPD, and the officers are feeling the brunt of the lack of a current, agreed-upon collective bargaining agreement. The Committee strongly urges both sides to find common ground, and both parties to negotiate a new and revised collective bargaining agreement that is mutually acceptable to all parties.

Enforcement of Pedestrian and Bicycle Safety: On February 4, 2011, the Committee held a hearing on the Enforcement of Pedestrian and Bicycle Safety. At the hearing and afterward, the Committee received statements from many bicyclists, all of who spoke to the same problem -- the mishandling of incident reports by police officers. Witness after witness asserted that after a bicycle crash, the police officer fails to obtain an injured bicyclist's side of the story. Oftentimes, this was because the bicyclist was transported to a hospital, and the officer did not make the necessary effort to track down the bicyclist after that time.¹⁷ Witness testimony also states that after a bicyclist loses the opportunity to give his or her side of the story of an accident, then he or she is more likely to be precluded from insurance recovery for injuries and property damage because the report points to error on the part of the bicyclist.¹⁸ Furthermore, the Washington Area Bicyclists Association has brought to the attention of the Committee the level of difficulty experienced by bicyclists in trying to receive the police reports after an accident. Oftentimes the bicyclist will need the police report in order to justify an injury claim. Police

¹⁷ See *Enforcement of Pedestrian and Bicycle Safety: Hearing Before the Council of the District of Columbia Committee on the Judiciary*, Feb. 7, 2011 (written testimony of Jessica Hall, Douglas Kandt, and Henry Mesias, Jr.).

¹⁸ *Id.* (written testimony of Washington Area Bicyclist's Association).

reports are one component of the problem, but witnesses also testified to the fact that there appears to be uneven enforcement regarding the traffic laws as they relate to bicyclists vis-à-vis motorists, such that the bicyclists disproportionately receive citations even in incidences where it was not their fault. At the hearing, witnesses also testified to instances where a motorist has killed a pedestrian, and no charges were filed against the motorist.¹⁹

**TABLE 3-F: Metropolitan Police Department;
Select Pedestrian, Bicycle, and Traffic Statistics, Calendar Years 2009 and 2010**

| | 2009 | 2010 |
|---|---------------|---------------|
| Bicycle and Personal Mobility Device Violations | | |
| Ride bike so as to obstruct traffic | 4 | 7 |
| Ride bike or PMD as to create a traffic hazard | 7 | 32 |
| Bike or PMD fail to yield right of way to pedestrian or vehicle | 19 | 21 |
| Disobey traffic device or officer while on bike | 56 | 175 |
| Bike or PMD fail to yield right of way to pedestrian or vehicle on sidewalk | 2 | 9 |
| Riding bike or PMD on sidewalk in CBD | 19 | 30 |
| Bike improper equipment | 9 | 16 |
| Bike violation sounding warning device | 3 | 5 |
| Operating PMD with ears covered | 3 | 5 |
| Total | 122 | 300 |
| Pedestrian Violations | | |
| Stop, stand, or park in bike lane (<i>issued to vehicle drivers</i>) | 180 | 729 |
| Walking against a red light signal | 88 | 98 |
| Walking as to create a hazard | 134 | 242 |
| Leaving curb in an unsafe manner | 18 | 32 |
| Crossing an intersection diagonally | 11 | 21 |
| Walking in a roadway where a sidewalk is provided | 33 | 60 |
| Total | 284 | 541 |
| Pedestrian-Safety Vehicle Violations | | |
| Fail to yield pedestrian at a non-signalized site | 15 | 211 |
| Passing stop sign without coming to a full stop | 10,416 | 11,919 |
| Colliding with a pedestrian | 23 | 22 |
| Fail to yield right of way to a pedestrian | 172 | 534 |
| Fail to yield to a pedestrian on sidewalk | 51 | 51 |
| Total | 10,677 | 12,737 |
| Fatalities | | |
| Pedestrian | 16 | 14 |
| Bicyclist | 0 | 2 |
| Total | 33 | 25 |
| Arrests | | |
| Distracted driving violations | 11,952 | 14,570 |
| Reckless Driving Arrests (<i>incidents where this was the top charge</i>) | 127 | 109 |

Source: MPD

¹⁹ *Id.* (written testimony of Ruth Rowan and Sally Schwartz, and oral testimony of Dan Greenstein).

The Committee requests that the Department take a closer look at how accidents between motorists, pedestrians, and bicyclists are handled,²⁰ including how the pertinent laws are enforced. A major component of any comprehensive initiative on the part of the MPD will include training officers on the proper enforcement of the traffic laws as they pertain to bicyclists and pedestrians. At the public oversight hearing on the Enforcement of Pedestrian and Bicycle Safety mentioned above, Assistant Chief Patrick Burke stated that more than 600 officers had received training on pedestrian and bicycle safety and enforcement, and that MPD was working with the District Department of Transportation (DDOT) to create an online training module that would eventually be required for all officers. In response to Committee questions sent in advance of the agency's March 18, 2011 performance oversight hearing MPD stated that the training already provided to the 600 officers is being used to create the on-line training module that will be provided to the remaining members of the Department. The expected completion date for this was listed as April 2011, and all members would be required to complete the training.

The Committee commends the Department's efforts toward training every officer on pedestrian and bicycle safety. In light of the apparently systemic issues surrounding enforcement in this context, the Committee strongly urges MPD to implement the training module currently being developed and ensure that every member is required to, and does, participate in the training. Furthermore, MPD should be receptive to the suggestions or comments of the bicyclist community and pedestrian advocates regarding training, as these communities include those most affected by systemic enforcement problems and they have an important perspective on how to remedy them.

IV. COMMITTEE RECOMMENDATIONS

The Committee notes that the formulation of the Mayor's proposed fiscal year 2012 operating budget for MPD incorporates a \$27.8 million salary lapse, or 7.5 percent of budgeted PS costs excluding overtime. The agency budgeted \$30 million in fiscal year 2011. The Committee notes that fringe for MPD is calculated at 15.98 percent for fiscal year 2012 (it was calculated at 14.86 for fiscal year 2011; FEMS is calculated at 15.2 percent for fiscal year 2012).

The Committee recommends adoption of the fiscal year 2012 operating budget for MPD as proposed by the Mayor with the following modifications:

1. A reduction of \$213,000 local funds (PS) to Comptroller Source Group 11 (Regular Pay - Cont Full Time) to increase salary lapse/vacancy savings to \$28 million (equal to 7.56 percent of all PS costs except overtime). The agency budgeted \$30 million (equal to 8.12 percent) in fiscal year 2011.

²⁰ The Committee also formally requested on March 9, 2011 that the Office of Police Complaints evaluate MPD's policies and practices surrounding traffic accidents involving pedestrians and bicyclists, and make recommendations for MPD management to improve the way that these accidents are handled moving forward.

2. A reduction of \$250,000 local funds (PS) in Comptroller Source Group 15 (Overtime Pay). The gross overtime budget for the agency will still exceed the overtime budget for fiscal year 2011 by \$6 million.
3. A reduction of \$134,000 local funds (NPS) in Comptroller Source Group 20 (Supplies and Materials). This funds the agency at the fiscal year 2011 level.
4. A reduction of \$46,000 local funds (NPS) in Comptroller Source Group 41 (Contractual Services-Other). This represents a reduction of 0.1 percent from the proposed fiscal year 2012 funding level.
5. A reduction of \$141,000 local funds (NPS) in Comptroller Source Group 40 (Other Services and Charges). This represents a reduction of 1.0 percent from the proposed fiscal year 2012 funding level.
6. An increase of \$50,000 intra-District funds (\$40,000 NPS, \$10,000 PS). The Committee accepts the transfer of this funding from the Committee on Public Works and Transportation in order to fund Bait Bike, a bicycle theft deterrence program.
7. The Committee notes that the Mayor's May 9, 2011 errata letter proposes the transfer of MPD facility maintenance and property management to the new Department of General Service (DGS). The proposal is to have DGS absorb this cost while leaving \$1.239 million in MPD to fund 20 recruits. The Committee does not adopt this change.
8. The Committee recommends that the Council fund \$10,868,735 and 180 FTEs to achieve 3,900 sworn officers (this will achieve a sworn staffing level of 3,914 on September 30, 2012).²¹ The Mayor must hire 60 FTEs in fiscal year 2011, additional to the 120 recruits contemplated in fiscal year 2012, for this to happen.²²

²¹ The \$10,868,735 additional funding is needed in FY 2012 to maintain the force at the current size of 3,869 and to exceed 3,900 beginning in September 2012. This funding includes: \$3,390,000 cost in FY 2012 of hiring 60 recruits in FY 2011; \$4,520,000 (PS) for 120 recruits in addition to those proposed by the Mayor for FY 2012; \$446,400 (NPS) for the additional 120 recruits in addition to those proposed by the Mayor; and \$2,512,335 for retention incentives unfunded in the Mayor's proposed budget. The OCFO insists this unfunded retention cost must be funded by the Council if additional hiring is funded, even though the two are unrelated.

²² Assumptions include: a salary of \$56,500 for each recruit, including fringe; a cost of \$141,250 per month for a class of 30; a cost of \$3,720 (NPS) per recruit as a one-time expenditure; and all hiring occurs on the 1st of the month. No salary lapse is included in this calculation. FY 2012 hiring by the Mayor is classes of 30 on the 1st of October, July, August, and September. FY 2012 hiring by the Council would be classes of 30 on the 1st of November, January, March, and May.

Agency Capital Budget:

The Committee recommends adoption of the Mayor's fiscal year 2012 - fiscal year 2017 Capital Budget Authority proposal for MPD without modification.

Policy Recommendations:

The Committee makes the following policy recommendations with regard to MPD:

1. The OCFO has stated that MPD can absorb \$2.512 million in fiscal year 2012 if the Council does not add officers to the Mayor's proposed fiscal year 2012 budget. The recommendation that the Council fund \$10.869 million includes funding for this \$2.512 million.
2. Comptroller Source Group 40 (Other Services and Charges) includes \$315,000 for settlements and judgments. MPD should better manage risk and thereby reduce this cost.
3. MPD ought to reduce the number of sworn officers doing work that civilians can do (e.g., firearms and tool mark examination, research and analytical services, corporate support bureau, agency management program, etc.). If MPD increased civilians by 200, freeing 200 officers, the District would increase police presence without increasing the size of the force. A collateral effect of civilianization is to hold down pension costs.
4. The Committee directs the CFO to prepare a civilianization analysis, in consultation with the Chief, no later than January 1, 2012, that includes, but is not limited to: analysis by Budget Division/Activity of FTEs that are sworn/civilian; historically have been sworn/civilian at any time since 2000; and/or that could be civilianized.

FIRE & EMERGENCY MEDICAL SERVICES

Committee Recommendations – See Page 28

I. AGENCY OVERVIEW

The mission of the Fire and Emergency Medical Services Department (FEMS) is to promote safety and health through excellent pre-hospital medical care, fire suppression, hazardous materials response, technical rescue, homeland security preparedness, and fire prevention and education in the District of Columbia.

The FEMS Department provides fire suppression, emergency medical services (EMS), homeland security and special operations response -- collectively known as all-hazards protection -- for residents and visitors to the District of Columbia from 33 neighborhood fire stations that deploy 39 EMS transport units (ambulances), 33 engine companies, 16 ladder trucks, three heavy-rescue squads, one hazardous materials unit, and one fire boat company. Fourteen of these transport units and 20 of these engine companies are staffed by paramedics providing advanced life support (ALS) care. The department responds to more than 150,000 emergency 911 calls and transports more than 90,000 patients to local hospitals each year. FEMS also provides services for special events unique to the nation's capital, such as demonstrations, public gatherings and presidential inaugurations. Additionally, the department provides fire suppression and emergency medical protection for presidential motorcades and helicopter landings.

Fire and life safety inspection, education, and intervention programs touch more than 10,000 District residents each year through community presentations, smoke alarm installations, health status/disease prevention screenings, car seat installations and CPR instruction.

II. MAYOR'S PROPOSED BUDGET²³

Mayor's Proposed Fiscal Year 2012 Operating Budget:

The Mayor's fiscal year 2012 budget proposal for Fire and Emergency Medical Services is \$196,907, an increase of \$292, or 0.1 percent, from the current fiscal year. The proposed budget supports 2,128.0 FTEs, a decrease of 79.0 FTEs, or -3.6 percent, from the current fiscal year.

**TABLE 4-A: Fire and Emergency Medical Services
 Total Operating Funds Budget FY 2006 – 2012**

| | Actual 2006 | Actual 2007 | Actual 2008 | Actual 2009 | Actual 2010 | Budget 2011 | Mayor 2012 |
|--------------------|----------------|----------------|----------------|----------------|----------------|----------------|---------------|
| Total Funds | 160,911 | 174,790 | 192,379 | 191,979 | 199,533 | 196,615 | 196,907 |
| FTEs | 1,859.0 | 2,070.0 | 2,310.6 | 2,050.0 | 2,201.5 | 2,207.0 | 2,128 |

Source: Budget Books (dollars in thousands)

²³ The Mayor's proposed budget only provided numbers rounded to dollars in thousands therefore all figures provided are dollars in thousands. Percent change is based on whole dollars.

Local Funds: The Mayor’s proposed budget is \$195,387, an increase of \$292, or 0.1 percent, from the fiscal year 2011 approved budget of \$195,095. This funding supports 2,128.0 FTEs, a decrease of 79.0 FTEs, or -3.6 percent, from the fiscal year 2011 approved level.

The policy initiatives within the local funds budget include: the elimination of two Assistant Fire Chief positions, four Deputy Fire Chief positions, and six Battalion Chief positions, creating savings of approximately \$2,400; the elimination of an additional 65 vacant positions in the Agency Management, Fire Prevention and Education, Operations Support, and Field Operation programs, creating savings of approximately \$2,700; a reduction to the non-personal services budget of \$882 for contractual services, supplies, and equipment; and a decrease of \$208 to the budget due to the transfer of the local portion of the IT assessment to the Office of the Chief Technology Officer.

Special Purpose Revenue Funds: The Mayor’s proposed budget is \$1,520, the same level of funding as the fiscal year 2011 approved budget. This funding supports 0.0 FTEs, representing no change from the fiscal year 2011 approved level.

Federal Resources: The Mayor’s proposed budget is \$0, no change from the fiscal year 2011 approved budget. This funding supports 0.0 FTEs, representing no change from the fiscal year 2011 approved level.

Intra-District Funds: The Mayor’s proposed budget is \$0, no change from the fiscal year 2011 approved budget. This funding supports 0.0 FTEs, representing no change from the fiscal year 2011 approved level.

Mayor’s Proposed Fiscal Year 2012 Capital Budget:

The Mayor’s fiscal year 2012 capital budget authority proposal for the Fire and Emergency Medical Services Department makes modifications to the agency’s capital budget as shown in Table 4-B below.

**Table 4-B: Fire and Emergency Medical Services
 Mayor’s FY 2012 – FY 2017 Capital Budget Authority Proposal**

| Project No. | Project Description | Mayor’s Proposed Budget | Approved Budget FY 2011 – FY 2016 | Variance in Total Project Authority from FY 2011 – FY 2016 |
|-------------|----------------------------|-------------------------|-----------------------------------|--|
| 20630 | Fire Apparatus | 32,384 | 40,480 | (8,096) |
| LC437 | E-22 Firehouse Replacement | 4,700 | 5,100 | (400) |
| LD839 | EVOC Course | 2,250 | 0 | 2,250 |

| Project No. | Project Description | Mayor's Proposed Budget | Approved Budget FY 2011 – FY 2016 | Variance in Total Project Authority from FY 2011 – FY 2016 |
|-------------|------------------------------------|-------------------------|-----------------------------------|--|
| LE537 | Engine 14 Major Renovation | 3,800 | 0 | 3,800 |
| LE737 | Engine 27 Major Renovation | 1,000 | 1,534 | (534) |
| LF239 | Scheduled Capital Maintenance | 22,000 | 16,250 | 5,750 |
| LG337 | Fire Training Simulators | 1,650 | 1,920 | (270) |
| LG537 | Training Academy Site Improvements | 11,940 | 12,190 | (250) |

III. COMMITTEE CONCERNS

Medical Director: The Committee has previously voiced the need for strong medical direction in FEMS to help reignite stalled emergency medical services (EMS) reform and help strengthen the role of EMS in the agency. The lack of strong medical direction, unfortunately, remains an issue. While there has been a change in the Administration and in the leadership of the agency, FEMS' March 2011 response to the Committee's inquiry into what is being done to fill the position of Medical Director is virtually the same as that given in June 2010.²⁴

As the Committee noted in the confirmation report for Chief Ellerbe, FEMS is the front-line of risk management and emergency response in the District of Columbia. To assist with EMS, the agency has incorporated a Medical Director into its hierarchy. The role of the Medical Director was elevated and strengthened when the Council, in 2008, made it a statutory position and gave it the rank of Assistant Fire Chief.²⁵ Providing the expertise necessary for the agency to fulfill its medical mission, the Medical Director serves as a critical component to FEMS and a necessary fixture, alongside of the Chief, in the management of the agency. The Committee has previously expressed disappointment in the frequent turnover in the position of Medical Director.²⁶ While the position has been strengthened by legislative action,²⁷ the average length

²⁴ Compare Fire and Emergency Medical Services, Responses to Questions Asked by the Committee for Fiscal Year 2010 and 2011 Performance Oversight, at 7 (Mar. 14, 2011); with Letter from Dennis L. Rubin, Chief, Fire and Emergency Medical Services Department, to Phil Mendelson, Chairman, Committee on Public Safety and the Judiciary (June 4, 2010).

²⁵ See section 3a of D.C. Law 17-147, the Emergency Medical Services Improvement Act of 2008; D.C. OFFICIAL CODE § 5-404.01 (2008 Supp.). The legislation established the rank of the Medical Director as that of Assistant Fire Chief, to be hired and fired by the Mayor with appointment requiring Council approval, and also clarified the role of Medical Director by clearly stating the authority and duties of the position.

²⁶ The position of Medical Director, however, has experienced high turnover, with the agency about to have its fourth Medical Director since enactment of D.C. Law 17-147. As the Committee has repeatedly noted, continuity in this position is important. One of the many reasons for this is the need for the agency to place stronger emphasis on medical direction. The record of service for FEMS Medical Director over the past decade is as follows: Dr.

of service for this position is too short for any individual to get up to speed on the agency, much less implement any meaningful reform.

The Committee believes FEMS must have strong medical direction, and so it is imperative that the position of Medical Director be filled by an individual who will work aggressively to improve the medical direction of the agency. Chief Ellerbe has stated his intent to further strengthen the role of the Medical Director, having that position report directly to the Deputy Mayor for Public Safety and Justice.²⁸ He also stated, in his February 22nd testimony, his intention to permanently build out the Office of the Medical Director “to ensure that our commitment to providing superior emergency medical services becomes permanent.”²⁹ This sounds promising, as it could lead to improved medical direction in the agency. However, the Executive must push forward in recruiting a top Medical Director for the agency so that these benefits can be realized. With regard to the agency’s budget, the Committee supports the Chief’s efforts to provide a professionally staffed office for the Medical Director.

Overtime Spending: Restoring fiscal discipline to FEMS, particularly in the reduction of overtime expenditures, has been a key issue for the Committee. Beginning in November 2009, the Committee began holding nearly monthly public oversight hearings on problems in excessive overtime expenditures as well as pay issues with agency employees. Through these hearings the Committee has been able to identify a number of factors that contribute to the agency’s overtime use and identify tactics that agency management can deploy to reduce it. While the previous administration failed to take fiscal discipline in the agency seriously, there has been a very positive response from the current Administration, including the newly confirmed Chief. The Committee is extremely pleased that sincere efforts have been made to curb overtime abuses and reduce expenditures. The agency has dramatically reduced overtime spending compared to previous years. Indeed, as of March 29th of this year, the agency had reduced overtime expenditures by an impressive 51 percent in comparison to the same period for fiscal year 2010.³⁰

As shown in the table below, FEMS has historically high overtime expenditures. Over the previous decade the agency has overspent its overtime budget by several millions of dollars

Fernando Daniels - August 1999 to August 2004; Dr. Clifford Turen - August 2004 to March 2005; Dr. Amit Wadwha - March 2005 to August 2006; Michael Williams - August 2006 to July 2008; Dr. James Augustine - August 2008 to February 2010; Dr. Geoffrey Mountvarner - February 2010 to present. Dr. Mountvarner is in the process of resigning.

²⁷ D.C. Law 17-147, *supra* note 25.

²⁸ Fire and Emergency Medical Services Department, Response to Questions Asked by the Committee for Fiscal Year 2010 and 2011 Performance Oversight, at 12 (Feb. 10, 2011).

²⁹ PR 19-23, *Chief of the Fire and Emergency Medical Services Department Kenneth Ellerbe Confirmation Resolution of 2011: Hearing Before the Council of the District of Columbia Committee on the Judiciary*, Feb. 22, 2011, at 7 (written testimony of Kenneth Ellerbe, Nominee, Chief of FEMS).

³⁰ *Continuing Overtime and Pay Problems in the Fire and Emergency Medical Services Department: Public Oversight Hearing Before the Committee on the Judiciary*, Mar. 29, 2011, at 1 (written testimony of Kenneth Ellerbe, Chief, Fire and Emergency Medical Services Department).

each year. The resulting multi-million dollar spending pressures impact more than just the agency, as the District must scramble to find funding elsewhere to continue this service.

**TABLE 4-C: Fire and Emergency Medical Services
 Overtime Budget and Expenditures, Ten-year Analysis**

| | FEMS Gross Budget | Total FTEs | Overtime Budgeted | Overtime Actual | Overtime Overspending |
|----------------|------------------------------|----------------------------|----------------------------|------------------------------|----------------------------|
| FY 2003 | 149,837 | 1,798 | 0 | 12,877 | 12,877 |
| FY 2004 | 149,503 | 1,927 | 9,551 | 12,191 | 2,640 |
| FY 2005 | 155,948 | 1,841 | 5,952 | 9,958 | 4,006 |
| FY 2006 | 160,911 | 1,859 | 5,736 | 9,339 | 3,603 |
| FY 2007 | 174,790 | 2,070 | 2,291 | 11,816 | 9,529 |
| FY 2008 | 192,379 | 2,311 | 4,291 | 13,268 | 8,977 |
| FY 2009 | 191,979 | 2,050 | 4,867 | 12,124 | 7,257 |
| FY 2010 | 199,533 | 2,202 | 7,041 | 11,892 | 4,851 |
| FY 2011 | 196,615 <i>(approved)</i> | 2,207 <i>(approved)</i> | 4,002 <i>(approved)</i> | 4,900* <i>(projected)</i> | 898* <i>(projected)</i> |
| FY 2012 | 196,907 <i>(proposed)</i> | 2,128 <i>(proposed)</i> | 3,825 <i>(proposed)</i> | | |

Source: Budget Books (Fiscal Year 2004 Budget Proposal through Fiscal Year 2012 Budget Proposal) (dollars in thousands)

*Projections from the Office of the Chief Financial Officer as of May 9, 2011.

One of the primary contributors to this problem has been the excessive unbudgeted expenditures that are amassed by FEMS. Despite the absence of funds budgeted to support them, the agency has implemented programs and other measures that then must be paid for through the freezing of vacant positions. For example, FEMS’ failure to put in place a program for remedial training associated with the required certification by the National Registry of Emergency Medical Technicians (NREMT) resulted in \$7.3 million in salary costs (including the costs associated with backfilling positions) of *unbudgeted* expenditures for remedial training between 2007 and 2010.³¹ This illustrates that the overtime problem is largely a management, or failure to manage, issue.

³¹ FEMS, Response to Questions Asked by the Committee for “Fiscal Year 2009 and 2010 Performance Oversight,” at 17 (Mar. 8, 2010).

Through monthly hearings on the issue the Committee identified a number of policies and practices that FEMS could implement to reduce overtime. The previous management of the agency, however, failed to do so, and the Committee recommended adding a subtitle in the Fiscal Year 2011 Budget Support Act that would limit, just for fiscal year 2011, what personnel can earn overtime and the amount of overtime that can be earned.³² As noted by the Committee in proposing the subtitle, while a crude method for reducing overtime expenditures, the legislative language seeks to reduce the unchecked overtime abuse that continues to plague the agency.

As the Committee noted in its report confirming the appointment of Kenneth Ellerbe as Chief of FEMS,³³ Chief Ellerbe comes to the department with a track record in reducing overtime. In just a brief period as Chief of the Sarasota County Fire Department in Florida, Chief Ellerbe was able to save the county over \$1 million. Chief Ellerbe has stated that careful planning and management reduced overtime by \$650,000 over the previous fiscal year, and that spending forecasts were reduced without reduction in services provided to the community. He also stated, in coming to his current position, that reducing budgetary obligations and overtime liabilities is a top priority of his at FEMS.³⁴

To date, operating under the restrictions on overtime earnings the Committee proposed in the law for fiscal year 2011, and under the management of Chief Ellerbe, the agency has dramatically reduced overtime expenditures for the current fiscal year. In fact, the agency is – alarmingly -- nearly on budget with regard to overtime for the current fiscal year. As show in the overtime expenditure table above: the agency is budgeted at \$4 million, but is projected to spend \$4.9 million by year end. To put this number in context, the agency is on track to spend in overtime for the entire fiscal year what it *overspent* in overtime for the previous fiscal year.

This astonishing reduction is attributable to management of the problem. Even before Chief Ellerbe took the helm of the agency, the overtime restrictions in the law forced efforts to reduce overtime expenditures. Since coming on board, however, the Chief has employed a number of tactics to reduce overtime. One of the most salient of these was to return operational employees to operational positions, further reducing the need to fill seats with personnel that would be earning overtime.

The Committee applauds these and other efforts to reduce overtime, and credits the Chief for taking spending within the agency's budget seriously, and for his efforts to reduce overtime in FEMS generally. In order to prevent momentum on this issue from stalling, however, the Committee urges re-adoption of the subtitle which places limitations on overtime earnings for fiscal year 2012. As proposed at the end of this report, the recommendation is limited, as was

³² *Continuing Overtime and Pay Problems in the Fire and Emergency Medical Services Department: Public Oversight Hearing Before the Committee on the Judiciary*, at 1 (Mar. 29, 2011) (written testimony of Kenneth Ellerbe, Chief, Fire and Emergency Medical Services Department).

³³ See PR 19-23, Chief of the Fire and Emergency Medical Services Department Kenneth Ellerbe Confirmation Resolution, Report of the Committee on the Judiciary (Mar. 29, 2011).

³⁴ See FEMS Feb. 10, 2011 Responses, *supra* note 28, at 12.

the previous proposal, to just the upcoming fiscal year. The Committee has also made minor amendments at the request of FEMS, to accommodate certain personnel -- namely, fleet mechanics and canine handlers -- that have structured overtime that places them at risk of violating the cap on overtime earnings.

The Committee is very pleased to see the dramatic progress in reducing overtime, and urges the Chief to continue to focus on resolving this problem. The Committee, for its part, will continue to hold hearings on this issue to ensure that District taxpayers are not footing the bill for any lack of fiscal discipline.

Pay Problems: As noted above, the Committee's oversight hearings that began in November 2009 raised not just overtime as an issue within FEMS, but also continuing pay problems. The Committee has been hearing of pay problems within the agency, with personnel not properly or timely paid, for years. While individual problems have been resolved, there appears to be a systemic issue with members of the agency experiencing problems with pay. Indeed, in the over 18 months since the first hearing on the issue, the Committee continues to hear complaints. At a recent hearing, the Committee learned that a member of the Department is still waiting to receive holiday pay from 2006.³⁵ The hearings, however, have enabled greater understanding of two particular issues that appear to be the source of the continuing problems.

First, pay problems appear to be particularly problematic for two recruit classes within the agency. Step compressions for the members of these two classes were, apparently, improperly calculated several years ago. These members, years later, continue to wait for this to be resolved. It is understandably frustrating for these members, and bad for morale, that they have not been made whole. While the issue appears to be one for which the software available does not catch pay issues for these two classes, the class sizes are small enough that a review of these two small groups can be done and a resolution implemented. With overtime seemingly being controlled, the Committee will hold monthly hearings if this problem cannot be addressed by the agency.

The second issue with pay problems appears to fall outside the agency. Specifically, as Ed Smith, President of the District of Columbia Fire Fighters Association, testified at the March 29th hearing on this issue, pay problems that have been processed by human resources at FEMS are processed and submitted to the Office of Pay and Retirement Services (OPRS) for payment. OPRS appears, however, to be a contributing source to the delay in getting these matters resolved.³⁶ It is demeaning that members, who have worked the hours and earned the pay, must resort to fighting with the District government to receive their earned pay. The Committee urges

³⁵ *Continuing Overtime and Pay Problems in the Fire and Emergency Medical Services Department: Public Oversight Hearing Before the Committee on the Judiciary*, (Mar. 29, 2011) (oral testimony of Charles Hottinger, 1st Vice President, Local 36, IAFF).

³⁶ *Continuing Overtime and Pay Problems in the Fire and Emergency Medical Services Department: Public Oversight Hearing Before the Committee on the Judiciary*, at 1 (Mar. 29, 2011) (written testimony of Ed Smith, President, Local 36, IAFF).

FEMS to work with OPRS to make sure that changes due to step compressions, longevity pay, or other pay problems, can be resolved more quickly and, to the extent possible, automatically. The issues of pay are not so complex that, with today's software, they cannot be easily resolved.

NFPA Compliant Uniforms: The Committee was disappointed to learn that funding that the Council included in the fiscal year 2010 budget for National Fire Protection Association compliant uniforms and station wear was almost completely redirected for other purposes. This, obviously, predates the current management of the agency, but the details of this are disappointing enough to warrant mention here. According to FEMS, of the original \$2.5 million provided in the fiscal year 2010 budget for NFPA compliant uniforms, only \$297,031, or just 11.7 percent, was actually spent towards NFPA compliant station wear and personal protective equipment (PPE).³⁷ The remaining funding was diverted to other expenses. The Committee is particularly troubled by this as excessive overspending in areas such as overtime -- spending that could have been better controlled -- likely contributed to funds being converted from important protective wear for personnel.

Labor-Management Relationship: This Committee, as well as other committees and councilmembers, have had cause to comment at length about the poor relationship between labor and management in the District over the past four years. It is, perhaps, too early to determine to what length management in public safety cluster agencies under the new Administration, will go to repair this relationship. However, the Committee feels it necessary to flag the issue, once again, and reiterate the need to make significant efforts to improve relations with the District's workforce. It is of little gain to alienate workers with whom agencies should be developing relationships.

As Chief Ellerbe stated in his February 22nd testimony, morale is a problem in the agency, with employees feeling intimidated and fearful of retaliation. Thus, he has repeatedly stressed the need for transparency, accountability, and fairness. The Committee has seen efforts at bringing greater transparency to the Department, and appreciates the candor with which he has spoken about the problems that exist within FEMS. Chief Ellerbe has also participated in regular meetings with union leaders, a practice long abandoned -- to the detriment of the agency -- by his predecessor.

While there are evident improvements, the treatment of the District's workforce has left deep scars across all District agencies. The Committee urges FEMS management to continue to work with labor, not only because it benefits the employees, but also because information can be gleaned on how to better operate the agency. Working with labor will also help diffuse problems before they get larger, and help to get buy-in from members if a policy or practice the agency seeks to implement is unpopular with employees. In short, there is little to be gained by not working with labor as a partner in the operations of the agency. One need only look at the previous four years as a reference.

³⁷ Fire and Emergency Medical Services, FEMS Answers to Questions from the Budget Hearing on April 8, 2011, at 1 (Apr. 13, 2011).

Collective Bargaining Agreement: Along the same lines as the above, it is important that the agency work toward reaching a collective bargaining agreement with the respective labor unions. Employees have gone too long without a contract, also to the detriment of employee morale. It is promising that Chief Ellerbe has testified to his commitment to moving forward with this, and the Committee urges negotiations to begin sooner rather than later.

Cadet Program: The Committee is pleased that the Mayor's proposed budget chooses to fund the cadet program. This is a valuable program that aids District residents seeking careers in FEMS. This is an important program that introduces District youth to the Fire and Emergency Medical Services Department, and should continue to be a policy priority for the Administration.

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee notes that the formulation of the Mayor's proposed fiscal year 2012 operating budget for FEMS incorporates a \$285,000 salary lapse, or 0.002 percent of budgeted salaries (as a result of the elimination of 79.0 FTEs). The agency currently has 124 vacancies (including 34 cadets, 66 dual role providers, and 19 administrative/civilian EMS). A 1.0 percent salary lapse (of Comptroller Source Group lines 11-14) equals \$1.74 million. The Committee also notes that fringe for FEMS is calculated at 15.2 percent for fiscal year 2012 (it was calculated at 14.6 percent for fiscal year 2010).

The Committee recommends adoption of the fiscal year 2012 operating budget for FEMS as proposed by the Mayor with the following modifications:

1. A reduction of \$485,000 local funds (PS) to Comptroller Source Group 11 (Regular Pay - Cont Full Time) to increase salary lapse/vacancy savings to \$870,000 (equal to a 0.5 percent rate). In the past, the agency budgeted vacancy savings at 1.8 percent (assuming 40 vacancies; as of May 1, 2011 the agency had 124 vacancies).
2. A reduction of \$1,000,000 local funds (PS) to Comptroller Source Group 15 (Overtime Pay). This leaves the agency's overtime budget at \$2,825,000 (equal to \$108,654 per pay period).

Agency Capital Budget:

The Committee recommends adoption of the Mayor's fiscal year 2012 - fiscal year 2017 Capital Budget Authority proposal for FEMS without modification.

Policy Recommendations:

The Committee makes the following policy recommendations with regard to FEMS:

1. The Committee continues the Budget Support Act restriction on overtime pay that is in effect for the current fiscal year for fiscal year 2012 (*see* Fiscal Year 2012 Budget Support Act Recommendations section below). The proposal for fiscal year 2012, however, removes the \$20,000 cap on overtime earnings for canine handlers and fleet mechanics.
2. The Executive has proposed reducing one shift and going to 12 hour shifts. The advantages of this change have been stated to include a reduction in the size of the force (through attrition, not RIFs; in the meantime increasing training); a reduction in long-term pension costs; a reduction to long-term PS costs; a reduction to overtime while force attritions; and the notion that 12-hour shifts are better for EMS. This change requires collective bargaining, and many non-District residents (who have to travel) and others with outside part-time jobs will oppose the proposed change. If the Executive does wish to make this change in work schedule, believing that the above referenced advantages will come to fruition, than it must work with the leadership for the two respective unions in the agency. If this change is what is best for the District, it benefits all to begin discussions early, and gain input from the frontline workforce.
3. The Committee is concerned about looming liability from overtime litigation. The District has paid straight time up to a certain number of hours per pay period, but has lost arbitration over whether pay should be time-and-one-half. Potential liability is estimated at approximately \$37 million.

POLICE OFFICERS' & FIRE FIGHTERS' RETIREMENT SYSTEM

Committee Recommendations – See Page 33

I. AGENCY OVERVIEW

The mission of the Police Officers' and Fire Fighters' Retirement System is to provide the District's required contribution as the employer to these two pension funds, which are administered by the District of Columbia Retirement Board (DCRB).

II. MAYOR’S PROPOSED BUDGET³⁸

Mayor’s Proposed Fiscal Year 2012 Operating Budget:

The Mayor’s fiscal year 2012 budget proposal for the Police Officers’ and Fire Fighters’ Retirement System is \$116,700, a decrease of \$10,500, or -8.3 percent, from the current fiscal year. The proposed budget supports zero FTEs, representing no change from the current fiscal year.

**TABLE 5-A: Police Officers’ and Fire Fighters’ Retirement System
 Total Operating Funds Budget FY 2006 – 2012**

| | Actual 2006 | Actual 2007 | Actual 2008 | Actual 2009 | Actual 2010 | Budget 2011 | Mayor 2012 |
|--------------------|----------------|----------------|----------------|----------------|----------------|----------------|---------------|
| Total Funds | 137,000 | 140,100 | 137,000 | 106,000 | 132,300 | 127,200 | 116,700 |
| FTEs | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Source: Budget Books (dollars in thousands)

Local Funds: The Police Officers’ and Firefighters’ Retirement System is funded solely with local funds. The Mayor’s proposed budget is \$116,700, a decrease of \$10,500, or -8.3 percent, below the fiscal year 2011 approved budget of \$127,200.

This change, resulting in a cost savings, is attributable to a decrease in the pension contribution. The decreased contribution is based on an actuarial report certified by the District of Columbia Retirement Board.

III. COMMITTEE CONCERNS

Fund Contribution Levels: The Committee is concerned about the increase in the District’s contribution to the Fund. While there is a proposed decrease in the District’s contribution to the Fund in the upcoming fiscal year, contributions have, on the whole, been increasing significantly. First, between 2005 and 2011, the actual amount of the Fund ranged from \$121,300,000 to \$154,700,000. This is close to double the contribution range between 1998 and 2004, when the actual amount of the contribution ranged from \$47,600,000 to \$96,200,000. Furthermore, testimony provided by the Office of the Chief Financial Officer at an April 4, 2011 hearing of the Committee on Government Operations and the Environment on Bill

³⁸ The Mayor’s proposed budget only provided numbers rounded to dollars in thousands therefore all figures provided are dollars in thousands. Percent change is based on whole dollars.

19-77, the “Pension Protection and Sustainability Act of 2011,” outlines the projected required District contributions to the fund during fiscal years 2012 - 2015.

**TABLE 5-B: Police Officers’ and Fire Fighters’ Retirement System
 Required Contributions under Current Budget & Financial Plan, FY 2012 – 2015**

| Fiscal Year | FY 2012 | FY 2013 | FY 2014 | FY 2015 | Four-Year Total |
|------------------------|----------|----------|----------|----------|-----------------|
| Required Contributions | \$116.70 | \$149.30 | \$179.70 | \$211.90 | \$657.60 |

Source: Office of the Chief Financial Officer (dollars in millions)

Contributions will continue to increase markedly over the financial period beginning in fiscal year 2013. The consultant for the District of Columbia Retirement Board (DCRB), Cavanaugh MacDonald, explained in a letter provided to the Committee that the reasons for the increases since 1998 included an overall increase in payroll of 55 percent from 1998-2011.³⁹ Thus, contribution dollars had a corresponding increase. Another major reason was poor investment returns experienced by the DCRB, tracking the performance of other U.S. pension plans, from 2000 - 2002 and 2008 - 2009.⁴⁰ As a result, asset smoothing spread the effects of the poor returns over a longer period of time.⁴¹ Other reasons asserted for the increase in contributions were changes in underlying assumptions of the investment rate of return and the expected inflation rate, which increased contributions.⁴² Additionally, changes in benefits and actual demographic experience also resulted in increased contributions during this time period.⁴³

Mr. MacDonald also provided a response to the Committee’s concern about the projected increase in contribution levels during fiscal years 2012 - 2015 as outlined in the recent OCFO testimony discussed above.⁴⁴ The reasons given for these projected increases are the assumed growth in payroll over the period, calculated at a rate of 4.75 percent, and the continued affect of the recent investment losses.⁴⁵ The Committee appreciates the thorough responses provided by the DCRB through its consultant and understands the market forces at work, but the Committee still wishes to flag the increasing contribution level as a concern.

³⁹ Letter from Cavanaugh Macdonald Consulting, LLC to Mr. Eric Stanchfield, Executive Director, District of Columbia Retirement Board, Apr. 14, 2011 (on file with the Committee on the Judiciary).

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ Letter from Cavanaugh Macdonald Consulting, LLC to Mr. Eric Stanchfield, Executive Director, District of Columbia Retirement Board, May 4, 2011 (on file with the Committee on the Judiciary).

⁴⁵ *Id.*

**TABLE 5-C: Police Officers’ and Fire Fighters’ Retirement System
 Breakdown of Contribution Increases, FY 2012 – 2015**

| Fiscal Year Ending 9/30 | Employer Contribution Projection | Prior Fiscal Year Contribution Projection | Total | Increase Payroll Growth | Investment Loss Recognition |
|-------------------------|----------------------------------|---|--------|-------------------------|-----------------------------|
| 2013 | \$149.3 | \$116.7 | \$32.6 | \$5.5 | \$27.1 |
| 2014 | \$179.7 | \$149.3 | \$30.4 | \$7.1 | \$23.3 |
| 2015 | \$211.9 | \$179.7 | \$32.2 | \$8.5 | \$23.7 |

Source: Cavanaugh MacDonald Consulting (dollars in millions, items estimated because sources are interrelated).

Recent Legislative Proposal: The Committee is concerned about the broad-ranging effects of recently introduced legislation regarding the pensions for police officers, firefighters, and teachers.⁴⁶ This legislation has generated a robust discussion regarding pension plans for police officers and firefighters, positions which are vital to public safety in the District. According to the Chief of Police, the city’s current pension system,⁴⁷ which she classifies as “conservative,” has helped the District to avoid pension problems that have plagued other cities.⁴⁸ The Committee would like to note that the government ought to consider that, in negotiating compensation, compensation has been held down to lower levels because of the fixed pension benefits program in place for police officers and firefighters. Changing this structure could have unintended additional consequences on the budget for salaries. First, the Committee is concerned that any retroactive change in the pension benefits that officers and firefighters expect to receive upon their retirement would engender unnecessary criticism and hardship. Second, the Committee is even more concerned regarding how the proposed changes would affect the current rank-and-file, in that it would likely drive up resignations.

Pension plans are a very important part of recruitment, and the District’s existing pension plans have drawn some of the best and brightest to the District’s police force and fire and emergency medical services. Any change to this system might discourage potential recruits from

⁴⁶ See Bill 19-77, the Pension Protection and Sustainability Amendment Act of 2011 (tying cost of living adjustments to 50% of the consumer price index with a 3% cap and 1% floor; disallowing overtime, vacation, and bonus earnings in calculating pension benefits; disallowing time spent on leave without pay in calculating pension benefits and eligibility; and providing that cost of living adjustments shall not apply until a retiree has reached full retirement age)

⁴⁷ See D.C. OFFICIAL CODE § 5-701 *et seq.* (2011).

⁴⁸ See Bill 19-77, *Pension Protection & Sustainability Amendment Act of 2011: Hearing Before the Council of the District of Columbia Committee on Government Operations and the Environment* (Apr. 4, 2011) (written testimony of Cathy L. Lanier, Chief of Police) (citing the underfunded pension system in Chicago; the problem of “spiking” in New York state, where members of the public pension fund work excessive overtime hours in their last years of employment, so that their annual retirement benefits increase above their salary; and in Los Angeles, where police spiked their pensions to up to 90 percent of their base salary).

seeking employment in the District, as they might instead opt for a neighboring jurisdiction with a better pension plan.⁴⁹ Recently-hired recruits with little time invested in the District thus far, who would be affected by this legislation as future retirees, might also leave for a jurisdiction with better pension benefits.⁵⁰ Affecting pensions for these employees as has been proposed not only negatively affects the employees, but is very detrimental to the recruitment and retention capabilities of the District. It is also detrimental to the District's reputation as an employer that the District would consider modifying the benefits package of employees in this way many years after employees signed on to work for, and after many years of service to, the District.

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee recommends adoption of the fiscal year 2012 operating budget for the Police Officers' and Fire Fighters' Retirement System as proposed by the Mayor.

DEPARTMENT OF CORRECTIONS

Committee Recommendations – See Page 39

I. AGENCY OVERVIEW

The mission of the Department of Corrections (DOC) is to provide a safe, secure, orderly, and humane environment for the confinement of pretrial detainees and sentenced inmates, while affording those in custody meaningful rehabilitative opportunities that will assist them to constructively re-integrate into the community.

The DOC operates the Central Detention Facility (CDF) and houses inmates in the Correctional Treatment Facility (CTF) through a contract with the Corrections Corporation of America; both facilities are accredited by the American Correctional Association (ACA). The department has contracts with four private and independently operated halfway houses: Efforts for Ex-Convicts; Extended House, Inc.; Fairview; and Hope Village; these are often used as alternatives to incarceration. Like other municipal jails, 75 to 85 percent of inmates in DOC's custody have one or more outstanding legal matters that require detention, and median lengths of

⁴⁹ *See Id.* (stating that “[t]he proposed changes would [...] make it more difficult for the Department to recruit officers because of other, more favorable systems. As all police officers will tell you, the retirement system is a primary factor for deciding which police department to join.”)

⁵⁰ *Id.* (asserting that for new officers only a few years in, “there would be almost nothing to lose” if they moved to a system with a 20-year retirement plan).

stay for released inmates are 31 days or less. Ninety percent of DOC’s inmates are male. DOC also houses female inmates and a small number of juveniles charged as adults at the CTF.

Each facility offers inmates a number of programs and services that support successful community re-entry. These include: Residential Substance Abuse Treatment (RSAT); Re-entry preparation (Re-Entry); Institutional Work Details and Community Work Squads; Apprenticeship opportunities (Culinary, Industrial Cleaning, Barbering) provided in collaboration with the University of the District of Columbia (UDC); One-Stop post-release employment and human services center operated by the D.C. Department of Employment Services (DOES); special education (through the District of Columbia Public Schools (DCPS)); adult education, and General Educational Development (GED) preparation provided by DOC; Comprehensive health and mental health services provided through Unity Health Care (contractual) and the D.C. Department of Mental Health; and inmate adjustment and support services, such as food services, laundry, visitation, law library, and inmate grievance process is provided by facilities. DOC facilities operate 24 hours a day, 365 days a year.

II. MAYOR’S PROPOSED BUDGET⁵¹

Mayor’s Proposed Fiscal Year 2012 Operating Budget:

The Mayor’s fiscal year 2012 budget proposal for the Department of Corrections is \$136,788, an increase of \$2310, or 1.7 percent, from the current fiscal year. The proposed budget supports 894.0 FTEs, the same amount as the current fiscal year.

**TABLE 6-A: Department of Corrections
 Total Operating Funds Budget FY 2006 – 2012**

| | Actual 2006 | Actual 2007 | Actual 2008 | Actual 2009 | Actual 2010 | Budget 2011 | Mayor 2012 |
|--------------------|----------------|----------------|----------------|----------------|----------------|----------------|---------------|
| Total Funds | 137,919 | 147,374 | 153,385 | 151,179 | 151,775 | 134,478 | 136,788 |
| FTEs | 766.4 | 845.7 | 856.7 | 805.8 | 837.4 | 894.0 | 894.0 |

Source: Budget Books (dollars in thousands)

Local Funds: The Mayor has proposed a budget of \$116,056, representing an increase of \$7,522, or 6.9 percent, from the fiscal year 2011 approved budget. This funding supports 867.6 FTEs, a decrease of 1.7 FTEs, or -0.2 percent, from the fiscal year 2011 approved budget.

⁵¹ The Mayor’s proposed budget only provided numbers rounded to dollars in thousands therefore all figures provided are dollars in thousands. Percent change is based on whole dollars.

The policy initiatives include an increase in the budget for inmate pharmaceuticals of \$1,700 to match the historical spending of \$3,700; and an increase in the budget for the funding of inmate healthcare of \$1,039, bringing the total funding level to \$25,059. Currently, the department is evaluating bids for a healthcare contract that couples healthcare and pharmaceuticals as a cost-saving measure. Additionally, the budget includes an increase of \$1,353 for obligatory needs for inmate housing at the CTF to offset a reduction of approximately \$2,980 in the reduced collections of the U.S. Marshals fund. The capacity of the CTF will be reduced to around 700 beds, which is a 150-bed reduction from FY 2011.

Other policy initiatives include: an increase of \$436 to restore the food services contract to the previous year's level; an increase of \$444 in operational needs to augment the personal services cost for underfunded positions; an increase of \$394 to upgrade the prisoner information database system and to provide security camera maintenance; an increase of \$360 for inmate clothing to recover depleted resources; an increase of \$727 in non-personal services costs for legal services, elevator, and IT software maintenance; and an increase of \$3,007 to fund halfway houses deemed to be essential.

Special Purpose Revenue Funds: The Mayor has proposed a budget of \$20,035, representing a decrease of \$5,506, or -21.6 percent, from the fiscal year 2011 approved budget. This funding supports 20.0 FTEs, an increase of 0.4 FTEs, or 1.9 percent, from the fiscal year 2011 approved budget.

A policy decision was made to shift some special purpose revenue funds to local funds. DOC shifted \$1,000 of funds previously designated as special purpose revenue funds to local funds. These funds will continue to support the mission of the agency and 13.4 FTEs.

Federal Resources: The Mayor has proposed a budget of \$359, representing an increase of \$95, or 35.7 percent, from the fiscal year 2011 approved budget. This funding supports 5.0 FTEs, an increase of 1.8 FTEs, or 53.8 percent, from the fiscal year 2011 approved budget.

Intra-District Funds: The Mayor has proposed a budget of \$337, representing an increase of \$199, or 143.3 percent, from the fiscal year 2011 approved budget. This funding supports 1.4 FTEs, a decrease of 0.4 FTEs, or -22.9 percent, from the fiscal year 2011 approved budget.

Mayor's Proposed Fiscal Year 2012 Capital Budget:

The Mayor's fiscal year 2012 capital budget authority proposal for the Department of Corrections makes modifications to the agency's capital budget as shown in Table 6-B below.

**TABLE 6-B: Department of Corrections
 Mayor's FY 2012 – FY 2017 Capital Budget Authority Proposal**

| Project No. | Project Description | Mayor's Proposed Budget | Approved Budget FY 2011 – FY 2016 | Variance in Total Project Authority from FY 2011 – FY 2016 |
|-------------|-------------------------------------|-------------------------|-----------------------------------|--|
| CR002 | Renovation of Cell Doors and Motors | 2,000 | 5,582 | (3,582) |
| CR008 | Upgrades Central Security Cameras | 3,500 | 0 | 0 |
| CR104 | HVAC Replacement | 1,600 | 0 | 0 |

III. COMMITTEE CONCERNS

Inmate Processing Center: In 2006, the District of Columbia agreed to pay \$12 million in settlement of claims stemming from practices at DOC facilities.⁵² Of that amount, \$3 million is to be placed in a reversion fund to be used toward the construction of an inmate processing center (IPC). The planned, state of the art IPC will provide adequate processing facilities for intakes, releases, and associated records processing. It will also permit greater coordination between the Records Office staff and the Operations staff in the intake and release of inmates.

While some progress has been made on this project, the Committee is concerned with the repeated revisions made to the final completion date for this project. In milestones provided by DOC on April 27, 2007, outlining a timeline for the project's completion, an anticipated opening ceremony and dedication for the IPC was slated for May 2009. Subsequent milestones that were provided did not list a completion date, but culminated with a projected date to begin design. When the Committee inquired of the status of this project in March 2010, a design/build contract had not been signed. At that time the Committee was told that the project would commence in the Fall (2010) with a completion date in the Summer of 2012 -- more than three years later than the initial projected date. More recently, in February 2011 the Committee held a hearing on the status of an array of projects in the public safety cluster. The Department of Real Estate Services, in follow-up from that hearing, informed the Committee that construction on the project would begin in the Fall of 2011 -- a year later than what the Committee was told a year before -- with completion and occupancy of the IPC in the Spring of 2013 -- seven years after the date of the settlement and four years after the original completion date. This continues to be an unacceptable delay.

⁵² *Bynum v. District of Columbia*, 412 F. Supp. 2d 73 (D.D.C. 2006). *Bynum* involved a class action lawsuit against DOC for the over-detention and strip-searching of returning inmates entitled to release by the courts. The final settlement order required \$3 million of the total \$12 million settlement payment to be placed in a "Reversion Fund" that would be used to "build a state of the art Inmate Processing Center (IPC) within the foot print of the DC Jail site." *Id.* at 83-84. The IPC is intended to improve the process for processing inmates for release and reduce incidents of over-detention.

In order to eradicate the dual problems of over-detention and erroneous releases from the D.C. Jail, it is necessary to construct a state-of-the-art inmate processing center; such a center will also provide a greater degree of efficiency and cooperation amongst DOC departments. The Committee has stated previously that the timeline for the IPC should be adhered to, but as the timeline for this project is an ever-shifting target, it seems of little value to repeat that directive here. Instead, the IPC should simply be built. The IPC is undoubtedly a complex project, but the District needs to complete construction of this project to better DOC operations and prevent continued liability to the District.

Retirement and Benefits: An aspect of recruiting and training qualified correctional staff for DOC facilities is the provision of a competitive compensation package. In a June 2006 study of five corrections departments, the DOC compared the salaries and employer-funded pensions for corrections officers in the surrounding region with what is currently offered by the DOC. While third in the salary rankings of these five corrections departments, the DOC was the only department in the study that did not offer new employees a defined benefit pension. The modest salary offered by the DOC and lack of adequate retirement benefits compounds the agency's hiring problem. This contributes to a less qualified applicant pool, greater absenteeism, high staff turnover, and greater overtime costs.

The Committee remains concerned about the lack of competitive retirement benefits for current DOC corrections staff, as well as the encumbrance to recruiting qualified candidates if competitive benefits are not provided. As both labor and management agree on the need for benefits, greater cooperation among these parties should be instituted quickly to address this issue. The solution is best negotiated through the collective bargaining process. The Committee remains committed to working with both parties to produce a solution that permits existing corrections staff the retirement benefits they deserve and offers an incentive for new recruits.

Inmate Health Care Contract: Less than a decade ago the DOC's health and mental services program was under the control of a federal receiver. The D.C. Jail was the subject of a scathing Government Accountability Office (GAO) report regarding the quality of health care offered to its inmates. In June 2005, in response to the GAO report and growing community concerns, the Committee, along with the Committee on Health, held a joint oversight hearing regarding health services at the jail. As a result of the hearing, on October 1, 2006, the Department of Corrections entered into a partnership with Unity Healthcare and adopted a "community oriented" model of health care: the Community-Oriented Correctional Health Services (COCHS) model. Under this model, one entity is responsible for managing District inmates through the full healthcare continuum, including primary care, specialty care, emergency care, and hospital care.⁵³ Access to this healthcare extends, seamlessly, after incarceration as

⁵³ Notably, since 2006, under the COCHS model, there were only seven cases alleging medical malpractice filed against the DOC and Unity Healthcare. Of the seven, six were dismissed. There is currently one pending case. Two notices of intent to sue have been sent to the DOC, but the lawsuits have not yet been filed or served. Compare this to the numerous cases that were filed prior to 2006. This speaks volumes as to the quality of health care

inmates are released to the community (but this post-incarceration treatment is not part of the DOC healthcare contract).

The District processes more than 19,000 individuals through its correctional system each year. Approximately 3,100 are detained daily at the DC Jail and the CTF. Many of these individuals have not consistently sought health care services outside of acute episodes and many are incarcerated with a host of communicable and contagious diseases. Many inmates have hepatitis C, tuberculosis, or HIV.

Under the COCHS model, upon discharge from the jail, inmates can visit any of Unity's 30 community health centers and even schedule appointments with the same doctor they saw while incarcerated. This model of health care aligns the goals of public safety and public health by improving health care services for incarcerated persons while simultaneously improving health outcomes District-wide. In 2008, under the COCHS model, the D.C. Jail received accreditation from the National Commission on Correctional Health Care, as well as the American Correctional Association (ACA). This marked the first time in the jail's history that it was accredited by two national accrediting organizations.

Not coincidentally, the number of lawsuits against the District regarding D.C. Jail healthcare dropped precipitously under this model. So, too, has the District's liability. Only seven suits over healthcare have been filed since 2006, and all but one have been dismissed. The seventh is pending. Before 2007, the District's liability reached into the millions of dollars.

Prior to its collaboration with Unity, the D.C. Jail acted as an incubator for HIV/AIDS. In May 2006, the D.C. Jail changed its HIV/AIDS testing policy from an "opt-in" policy to an "opt-out" policy -- inmates are automatically tested for HIV/AIDS upon intake at the jail unless they "opt-out" of testing. Approximately 90 percent of all inmates are tested upon intake -- the remaining 10 percent have either opted out, were recently tested, or already know their positive status. In 2009, approximately 11 percent of females and 6 percent of males at the jail tested positive upon entry. Since instituting the new policy, over 900 inmates with HIV/AIDS have been identified. These inmates may continue medical and psychological treatment with one of Unity's health clinics upon their release. In September 2009, the ACA selected the District's HIV/AIDS testing and counseling program for its *2010 Exemplary Offender Program Award* -- a highly competitive award given annually to a correctional system that has exhibited excellence in the development and execution of an evidence-based program that fosters constructive growth of incarcerated populations. Additionally, the D.C. Applesseed Center recently gave the D.C. Jail an "A" in its annual HIV/AIDS report card for the third consecutive year.

All of this could not be possible without the DOC's partnership with Unity Healthcare. The current contract, a fixed-fee contract, was formulated when the average daily population was 20 percent higher than the current level. In the Mayor's fiscal year 2010 budget proposal, the

currently being delivered to District inmates and also to the amount of money the health care contract is saving the District by avoiding the costs of litigation and payment of settlements.

Mayor proposed a \$7,000,000 decrease in the cost of the contract by switching to a fee-for-service contract. This reduction was taken without any consultation or negotiation with Unity. In fact, Unity learned of the budget proposal *after* the proposed budget was transmitted to the Council for review. Understanding how public safety and public health are truly intertwined and how important it was to keep the contract with Unity as a fixed-fee contract, the Committee restored \$4,900,000, leaving a \$2,100,000 reduction, or seven percent reduction (compared to the proposed 20 percent reduction).⁵⁴ The Council similarly restored funding for the contract in fiscal year 2011. The Committee believes that the current contractor for DOC healthcare has done remarkably in bringing inmate healthcare to a nationally recognized system. Unity has not only improved the lives and well-being of those it serves within DOC, but has helped the District by drastically curbing liability -- liability that had reached in the millions before their arrival. The Committee urges that the contractor for DOC healthcare not be changed at this time.

Controlling Population at the Jail: The Committee has noted the Department's efforts in the past to control population in the jail. The facilities currently operate under a court mandated cap, limiting population in the facilities for the benefit and safety of the inmates and employees of the DOC. While it might appear that control of the jail population is dependent upon factors outside of the DOC management, there are indeed tools at management's disposal to keep the population in check. As noted above, the median length of stay for inmates -- who serve short sentences for misdemeanors or are temporarily housed at DOC before being transferred to another facility -- is 31 days or less. Delay in the processing and transfer of inmates drives up the population at DOC and the District's costs. The Director of the DOC must be aggressive with US Bureau of Prisons, the U.S. Marshals Service, and the U.S. Parole Commission, in order to reduce the population at its' facilities.

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee notes that the formulation of the Mayor's proposed fiscal year 2012 operating budget for DOC incorporates a \$1.2 million salary lapse, or 2.5 percent of budgeted salaries. The agency currently has 49 vacancies (as of May 1, 2011). The Committee also notes that fringe for DOC is calculated at 27.4 percent for fiscal year 2012 (it was calculated at 22.64 percent for fiscal year 2011).

The Committee recommends adoption of the fiscal year 2012 operating budget for DOC as proposed by the Mayor with the following modifications:

1. A reduction of \$500,000 local funds (NPS) in Comptroller Source Group 41 (Contractual Services - Other). The food service contract is actually \$500,000 below the proposed

⁵⁴ The DOC is projected to spend \$29.7 million for the health care contract in FY 2010.

fiscal year 2012 budget. The Committee also notes that the fiscal year 2012 budget for healthcare is above the amount being renegotiated for fiscal year 2011.

2. (a) The Committee recognizes increased revenue of \$260,000 local funds related to the per diem reimbursement from U.S. Bureau of Prisons (BOP) that is being renegotiated and increased. The District is currently seeking a \$127 rate, which would increase revenues by \$3.9 million. BOP has offered a \$108 rate, which would increase revenue by \$262,051.
- (b) The Committee makes a reduction of \$260,000 local funds associated with the above paragraph. The net effect of this change on DOC's budget is zero.

Agency Capital Budget:

The Committee recommends adoption of the Mayor's fiscal year 2012 – fiscal year 2017 Capital Budget Authority proposal for DOC without modification.

Policy Recommendations:

1. The Committee notes that healthcare has improved remarkably at DOC and must be maintained. The Committee supports the \$25 million budget for this and urges the Executive to not change contractors at this time.
2. The Committee urges the Executive to re-evaluate its defense against pending employee appeals since it has been losing many of them.
3. The budget for DOC requires close management to keep population at the jail and the CTF within budget. The Director of this agency must be aggressive with the BOP, Marshals, and the Parole Commission to reduce the population.

DISTRICT OF COLUMBIA NATIONAL GUARD

Committee Recommendations – See Page 44

I. AGENCY OVERVIEW

The District of Columbia National Guard (DCNG) services both federal and District missions. For federally assigned missions, the DCNG supports the readiness of its units for

missions at home and abroad. District of Columbia personnel provide direct support to federal missions, ensuring that DCNG units can defend the nation and the capital. For District missions the DCNG prepares for and responds to requests for National Guard support from the Mayor, from lead federal agencies within the National Capital Region, and from Joint Force Headquarters, National Capital Region (JFHQ-NCR). In addition, the DCNG supports the citizens of the District of Columbia by maximizing the use of available Department of Defense family and youth programs.

The mission of Joint Force Headquarters - District of Columbia (JFHQ-DC) is to command and control assigned and apportioned Army and Air National Guard forces. JFHQ-DC provides trained and ready units, personnel, and equipment to accomplish federal, District, and community missions. On order of the President, JFHQ-DC executes assigned missions and provides support to federal and local authorities.

II. MAYOR'S PROPOSED BUDGET⁵⁵

Mayor's Proposed Fiscal Year 2012 Operating Budget:

The Mayor's fiscal year 2012 budget proposal for the District of Columbia National Guard is \$7,793, a decrease of \$414, or -5.0 percent, from the current fiscal year. The proposed budget supports 68.2 FTEs, an increase of 1.2 FTEs, or 1.9 percent, over the current fiscal year.

**TABLE 7-A: District of Columbia National Guard
 Total Operating Funds Budget FY 2006 – 2012**

| | Actual 2006 | Actual 2007 | Actual 2008 | Actual 2009 | Actual 2010 | Budget 2011 | Mayor 2012 |
|--------------------|----------------|----------------|----------------|----------------|----------------|----------------|---------------|
| Total Funds | 3,509 | 5,238 | 4,983 | 5,482 | 5,935 | 8,207 | 7,793 |
| FTEs | 43.0 | 59.0 | 54.9 | 53.1 | 65.1 | 67.0 | 68.2 |

Source: Budget Books (dollars in thousands)

⁵⁵ The Mayor's proposed budget only provided numbers rounded to dollars in thousands therefore all figures provided are dollars in thousands. Percent change is based on whole dollars.

**TABLE 7-B: District of Columbia National Guard
Federal Funding Percentage of Total Operating Budget FY 2006 – 2012**

| | Actual 2006 | Actual 2007 | Actual 2008 | Actual 2009 | Actual 2010 | Budget 2011 | Mayor 2012 |
|-----------------------------------|----------------|----------------|----------------|----------------|----------------|----------------|---------------|
| Federal Funds | 878 | 2,074 | 1,994 | 2,480 | 2,617 | 5,929 | 5,523 |
| Percent of Gross Funds | 25.0 | 39.6 | 40.0 | 45.2 | 44.1 | 72.2 | 70.9 |

Source: Budget Books (dollars in thousands)

Local Funds: The Mayor’s proposed budget is \$2,270, a decrease of \$8, or -0.4 percent, from the fiscal year 2011 approved budget of \$2,278. This funding supports 27.5 FTEs, a decrease of 0.1 FTEs, or -0.4 percent, from the fiscal year 2011 approved level.

The policy initiatives within the local funds budget include a shift of 0.9 FTEs and funding from non-personal services to federal grants to help absorb costs related to annual increases in step and fringe amounts.

Federal Resources: The Mayor’s proposed budget is \$5,523, a decrease of \$406, or -6.9 percent, from the fiscal year 2011 approved budget of \$5,929. This funding supports 40.8 FTEs, an increase of 1.2 FTEs, or 2.9 percent, from the fiscal year 2011 approved level.

The policy initiatives within the federal resources budget include a proposed federal funding level of \$2,000 for operational and scholarship use; and an increase of \$400 in the agency’s Facilities Operations and Maintenance Activities (FOMA) grant to enable the agency to move all facility costs to federal funding.

III. COMMITTEE CONCERNS

Youth Programs: Award-winning and nationally recognized as one of the most effective programs targeting at-risk youth, the National Guard Youth ChalleNGe program trains and mentors youth between the ages of 16 and 19 at the greatest risk of substance abuse, teen pregnancy, delinquency, and criminal activity.⁵⁶ As the District struggles to find resources and programs to aid at-risk youth and combat juvenile violence, the Committee recognizes the efforts of the DCNG with regard to this program and applauds its strong commitment to youth programs in general. It is important that the District work with DCNG to find a permanent home for a District ChalleNGe program. The Committee also recommends language be included in the Budget Support Act to allow the Commanding General to authorize the use of unspent funds from the ChalleNGe program to help youth who cannot afford the cost of entering the program.

⁵⁶ National Guard Youth ChalleNGe Program website, The Program, available at <http://www.ngycp.org/site/node/21> (last visited May 11, 2011).

The proposal would allow DCNG to maintain a fund to purchase necessary items for those entering the program, as the economic situation of many participants makes such purchases extremely difficult.

D.C. Armory Fixed Costs: While the DCNG is housed in the Armory, other tenants, such as the Metropolitan Police Department and the District of Columbia Sports and Entertainment Commission, use the facility and frequently host sporting and community events. Neither tenant, however, contributes to the fixed costs assessed against DCNG. The Committee believes that the fixed cost assessment unfairly burdens DCNG, which must cut programs or fund local programs with federal dollars in order to continue to provide services to the District of Columbia. The District should do more to aid in the upkeep of this facility, and not rely on federal dollars to maintain the facility.

Revision of D.C. Code Title 49: As the laws relating to the District's military have gone unadjusted for more than a century, the provisions of the D.C. Official Code governing the National Guard -- presently housed in Title 49 -- are in desperate need of modernization. The majority of that title was enacted in the 19th century, and has not been updated since 1909. As would be expected, many provisions in the law have become functionally obsolete. For example, the law currently provides a per diem for each horse a mounted officer brings when called to duty.⁵⁷ Further, as the last adjustment to the law pre-dated the use of military aircraft, the law makes no mention of the Air National Guard. As such, the law does not reflect the current mission and structure of the DCNG.

In the past year the Committee has sought to rectify some of the gaps in the law that DCNG has identified as urgent. Last June, the Committee moved legislation to provide DCNG with the legal authority to set up associations capable of accepting donations on behalf of members, enabling the DCNG to better undertake charitable activities in the District.⁵⁸ This permitted DCNG to provide a multitude of programs, services, and other benefits that contribute to the well being of those who serve the District as well as the nation. This past January, the Council adopted emergency legislation promulgated by this Committee to enhance the DCNG's recruitment and retention abilities through a modification to the agency's tuition assistance program.⁵⁹

While these changes have helped DCNG in some of its immediate needs, Chairperson Mendelson's introduction of Bill 18-403, the D.C. Official Code Title 49 Enactment Act of 2009, provides the much-needed overhaul to the District's military law. Specifically, Bill 18-403 recognizes the modern structure and mission of the National Guard, codifies a code of military justice, addresses civil affairs such as emergency response in the District, and provides for other

⁵⁷ D.C. OFFICIAL CODE § 49-901 (2009 Repl).

⁵⁸ D.C. Law 18-83, the National Guard Morale Welfare and Recreation Act of 2009,

⁵⁹ D.C. Act 18-285, National Guard Tuition Assistance Clarification Emergency Amendment Act of 2010. The permanent version of this amendment was incorporated as a non-germane amendment in Title III of D.C. Act 18-349, the Newborn Safe Haven Amendment Act of 2010.

programs and benefits to service members. The 124-page introduced version of the Bill 18-403 is a massive reworking of the current military title in the Code, but the changes made in the legislation ensure the DCNG not hampered in fulfilling its important mission. The Committee was unable to move the legislation during Council Period 18, as the U.S. Secretary of the Army sought additional time to review the proposal. That review is currently under way, and the Committee looks forward to reintroducing the legislation this Council Period and working with the DCNG to make this overhaul of the District's militia code a reality.

Credit for this mammoth undertaking belongs to former Commanding General of the D.C. National Guard, David F. Wherley, Jr. General Wherley first brought this project to the Committee's years ago and tasked members of his staff to begin the work of overhauling the code. Tragically, General Wherley and his wife, Ann, were killed in the June 22, 2009 Metrorail accident. Instrumental as he was to this project, it is unfortunate that he will not see it come to fruition. However, his successor to the post of Commanding General, Errol R. Schwartz, has carried this project forward. The Committee looks forward to working with General Schwartz and Lieutenant Colonel Thomas W. Forrest -- who has done extensive research and drafting to make this revision possible -- to enact the Title 49 overhaul this calendar year.

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee recommends adoption of the fiscal year 2012 budget for DCNG as proposed by the Mayor with the following modifications:

- Technical adjustment per OCFO: an increase of \$471,629 (Federal Grant Funds) for Program/Activity 4010 (Challenge).

HOMELAND SECURITY & EMERGENCY MANAGEMENT AGENCY

Committee Recommendations – See Page 49

I. AGENCY OVERVIEW

The mission the District of Columbia's Homeland Security and Emergency Management Agency (HSEMA) is to support and coordinate homeland security and emergency management efforts, ensuring that the District of Columbia's all-hazards emergency operations are prepared to protect against, plan for, respond to, and recover from natural and man-made hazards.

HSEMA coordinates all planning and preparedness efforts, training and exercises, and homeland security grants, and facilitates a common operating picture during events to facilitate good decision-making and response. This common operating picture will achieve situational awareness and, where possible, eliminate or minimize conflicting information received from numerous sources.

II. MAYOR’S PROPOSED BUDGET⁶⁰

Mayor’s Proposed Fiscal Year 2012 Operating Budget:

The Mayor’s fiscal year 2012 budget proposal for the Homeland Security and Emergency Management Agency is \$137,448, a decrease of \$61,397, or -30.9 percent, from the current fiscal year. The proposed budget supports 56.0 FTEs, an increase of 3.0 FTEs, or 5.7 percent, over the current fiscal year.

**TABLE 8-A: Homeland Security and Emergency Management Agency
 Total Operating Funds Budget FY 2006 – 2012**

| | Actual 2006 | Actual 2007 | Actual 2008 | Actual 2009 | Actual 2010 | Budget 2011 | Mayor 2012 |
|--------------------|----------------|----------------|----------------|----------------|----------------|----------------|---------------|
| Total Funds | 7,395 | 6,605 | 47,344 | 68,553 | 95,627 | 198,845 | 137,448 |
| FTEs | 36.0 | 37.0 | 37.8 | 45.6 | 48.8 | 53.0 | 56.0 |

Source: Budget Books (dollars in thousands)

Local Funds: The Mayor has proposed a budget of \$1,829, representing a decrease of \$103, or -5.3 percent, from the fiscal year 2011 approved budget. This funding supports 16.5 FTEs, a decrease of 1.5 FTEs, or -8.3 percent, from the fiscal year 2011 approved level.

The policy initiatives include an overall increase in HSEMA’s personal services of \$105 due to the addition of two 0.5 FTE positions, which have federal matching funds, and annual increases in step and fringe benefits. HSEMA was able to absorb these costs by shifting a total of 2.5 FTEs and additional funding for non-personal services to federal grants.

Federal Resources: The Mayor has proposed a budget of \$135,619, representing a decrease of \$61,294, or -31.1 percent, from the fiscal year 2011 approved budget. This funding supports 39.5 FTEs, an increase of 4.5 FTEs, or 12.9 percent, over the fiscal year 2011 approved level.

⁶⁰ The Mayor’s proposed budget only provided numbers rounded to dollars in thousands therefore all figures provided are dollars in thousands. Percent change is based on whole dollars.

III. COMMITTEE CONCERNS

Emergency Preparedness Council: The Emergency Preparedness Council (EPC) was established pursuant to Mayor's Order 2002-1, dated January 2, 2002, in order to "continually re-examine the overall state of emergency and disaster readiness in the District of Columbia ... [t]o provide a consistent network of District agency expertise to make the District of Columbia Government a national leader in comprehensive emergency management, and [t]o make recommendations on improving District planning for, response to, and recovery from emergency and disaster events as well as emerging threats".⁶¹ The Mayor's Order specifies the composition of the EPC as "the chief executives of those agencies and departments that have a direct or indirect role in planning for, responding to, and/or recovering from a major emergency or disaster affecting the District of Columbia".⁶² The EPC is to be co-chaired by the City Administrator and the Deputy Mayor for Public Safety and Justice, and its membership shall also include the Council Chair and the Chair of the Committee on the Judiciary.⁶³ Further, the EPC is mandated to meet a minimum of once per quarter, to conduct a "minimum of one full-scale and one functional/tabletop disaster exercise each calendar year," and to create four subcommittees, which shall make recommendations to the full EPC.⁶⁴ A second issuance, Mayor's Order 2003-121, dated August 15, 2003, amends the first Mayor's order to add a fifth required subcommittee, whose duties include providing focus on addressing legislative and regulatory revisions as they arise in order to improve the District's emergency management.⁶⁵

In HSEMA's response to questions in advance of its performance oversight hearing on March 11, 2011, the agency stated that the EPC has been inactive since March 2010. This was due in part to the fact that agencies may have been represented, but agency leadership was not in regular attendance at EPC meetings since 2006. However, the agency submitted that the first meeting of fiscal year 2011 was held on March 2, 2011, and at HSEMA's performance oversight hearing, Director Millicent West indicated that agency Directors were present at that meeting and are committed to the EPC's mission moving forward. Director West also stated that moving forward, the EPC plans to meet every quarter as per the legislative requirement, and the next meeting will be held in June 2011. Further, Director West asserted that the agency would review the law regarding the EPC to ensure that the objectives are met, including possible refinement of the legislative mandates. The Committee receives this response favorably, and strongly encourages HSEMA's continued commitment to the revitalization of the EPC. The EPC was created in the wake of homeland security concerns in the aftermath of the September 11, 2001 terrorist attacks on the United States, and the Committee recognizes the importance of its mission to bring together the relevant government leaders to assess the District's readiness. Further, the EPC can serve as a forum for improvement of the coordination among District

⁶¹ Mayor's Order 2002-1; 49 D.C. Reg. 896 (Jan. 2, 2002).

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ Mayor's Order 2003-121; 50 D.C. Reg. 7246 (Aug. 29, 2003).

agencies that has been demonstrated to be lacking when incidents, such as a major snowstorm this past winter, have occurred.

Homeland Security Commission: The Homeland Security, Risk Reduction, and Preparedness Act of 2006 mandated the establishment of a District of Columbia Homeland Security Commission.⁶⁶ The Commission “shall consist of seven persons with expertise in security, transportation, communication, chemical safety, risk assessment, terrorism (including bioterrorism), or occupational safety and health.”⁶⁷ The responsibilities of the Commission include: (1) gathering and evaluating information on the status of homeland security in the District of Columbia; (2) measuring progress and gaps in homeland security preparedness; (3) recommending security improvement priorities in consultation with major public and private entities; and (4) advising the District of Columbia government on the Homeland Security Program.⁶⁸

The mandate for the Commission was included in the legislation creating the Homeland Security and Emergency Management Agency, which became effective on March 14, 2007. However, to date, the Commission has not been established. HSEMA stated in response to questions in advance of its performance oversight hearing on March 11, 2011 that in 2009, seven individuals were nominated to serve on the Commission, including the Chief of MPD, the Chief of FEMS, the Director of the Department of Health, the Director of the Department of Transportation, the Director of the Department of Public Works, a public safety program manager in the Executive Office of the Mayor, and the HSEMA Director. The Council did not accept these nominations, because they contravened the purpose of the Commission.

The Committee points out that the most suitable nominees to the Commission would be individuals outside government, who are experts in the field of homeland security. The law is clear on this. The purpose of the Commission is to tap into the unique human capital available in the District and in the region, outside of the District government. This way, experts in the field can weigh in on the operations of District government and its level of preparedness and security, in light of best practices and evolving methods. The Committee believes that this type of guidance, from those with knowledge in the field, is highly important to the readiness and preparedness of the District. At HSEMA’s performance oversight hearing, Director West stated that the agency is working with the Office of Policy and Legislative affairs and the Office of Boards and Commissions regarding the Homeland Security Commission, and that they are clear on the expectations. She also stated that the Executive is committed to providing a list of good candidates. The Committee appreciates the commitment of the Executive, and expects nominations to the Commission in the immediate future so that the Commission can finally be established.

⁶⁶ D.C. OFFICIAL CODE § 7-2271.02(a) (2011).

⁶⁷ *Id.*

⁶⁸ D.C. OFFICIAL CODE § 7-2271.03(a) (2011).

CCTV Cameras: The Committee's report on the fiscal year 2011 budget discussed, at length, HSEMA's planned implementation of the Video Interoperability for Public Safety (VIPS) program. The VIPS program consolidated the District's Closed Circuit Television Camera system (CCTV) functions within HSEMA, so that each agency has a representative at HSEMA in order to consolidate monitoring operations and coordinate potential response. The agencies included in the project are: MPD, DOC, the Department of Parks and Recreation, the Office of Property Management/Protective Services Division, D.C. Public Schools, the District Department of Transportation, and to a lesser degree the D.C. Housing Authority, Department of Health, and the Department of Public Works.

HSEMA has testified before the Committee in the past that there are CCTV cameras operated in the District by the first seven agencies listed above, and in addition to having representation at HSEMA, each of those primary agencies maintains separate control and monitoring facilities in order to fulfill their operational requirements. HSEMA has asserted that by consolidating the CCTV functions into HSEMA, the District will be equipped with a video monitoring system that will facilitate real-time and after-event video capture and storage. HSEMA also has held that the VIPS program will reduce the cost to monitor the District's CCTV cameras and will greatly enhance the District's capability to fight and prevent crime.

The use of the CCTV system creates obvious privacy concerns, and on December 15, 2009, the Council passed Bill 18-282, the "Homeland Security and Emergency Management Agency Use of Video Surveillance Amendment Act of 2009,"⁶⁹ which amended D.C. Official Code § 7-2231.10 to prohibit the use of cameras maintained or monitored by the Department of Corrections and the Metropolitan Police Department in HSEMA's VIPS system. While these cameras were not a part of VIPS, and were not planned to be, the Committee sought to ensure that these cameras would not be incorporated into the VIPS system.

At HSEMA's performance oversight hearing on March 11, 2011, in response to a question of how the agency would seek to ensure the civil liberties of all individuals while implementing its CCTV program, Director West stated that the agency has taken steps regarding comprehensive written policies and procedures for those monitoring the TVs. She stated that the intent of the program is situational awareness and not the invasion of individual privacy, and the idea is to have the right people in the room at the right time if an incident occurs. At the same hearing, Director West asserted that there is no videotape made or record kept of the cameras, and only some cameras have the capability of being turned in a specific direction if needed.

At HSEMA's budget oversight hearing on May 2, 2011, Director West stated that the program is not called VIPS any longer, and rather is referred to as the use of CCTV in the Joint All Hazards Operations Center (JAHOC) at the HSEMA facility. The law regarding the CCTV program requires HSEMA to draft rules for the use of surveillance cameras in the program that must be submitted for Council review.⁷⁰ When asked about these rules at the agency's recent

⁶⁹ See D.C. Law 18-113 (effective March 5, 2010).

⁷⁰ D.C. OFFICIAL CODE § 7-2231.10 (2011).

budget hearing, Director West stated that while there are standard operating procedures for the JAHOC that staff have been trained on, other policies are still in development. The status of rules regarding the CCTV program specific to HSEMA was unclear, however. The Committee urges the development of HSEMA rules regarding the CCTV program to ensure that staff is operating according to protocol, and that individual civil liberties are preserved.

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee notes that the formulation of the Mayor's proposed fiscal year 2012 operating budget for HSEMA includes zero salary lapse. The agency has one vacancy as of May 1, 2011, and this position is being eliminated in fiscal year 2012. The Committee also notes that fringe for the agency is budgeted in fiscal year 2012 at 22.46 percent. The local funds (PS) budget is about \$1.43 million for fiscal year 2012, and the Community Fund (included in Comptroller Source Group 40 (Other Services and Charges)) is \$120,000. The agency has spent \$50,000 of this fund through April 2011. This leaves \$279 elsewhere in the HSEMA budget for local funds.

The Committee recommends adoption of the fiscal year 2012 operating budget for HSEMA as proposed by the Mayor.

COMMISSION ON JUDICIAL DISABILITIES & TENURE

Committee Recommendations – See Page 51

I. AGENCY OVERVIEW

The mission of the Commission on Judicial Disabilities and Tenure (CJDT) is to preserve an independent and fair judiciary by making determinations concerning discipline, involuntary retirement, reappointment, and fitness of judges of the District of Columbia courts. The CJDT was created by the District of Columbia Court Reorganization Act of 1970. The agency's role was later expanded by the Home Rule Act of 1973 and the Retired Judge Service Act of 1984.

In performing its prescribed duties, the CJDT has jurisdiction over the following areas: (1) removal of a judge from District of Columbia Court for conduct warranting disciplinary action; (2) involuntary retirement of a judge for reasons of health; (3) evaluation of a judge who seeks reappointment at the end of his or her term; and (4) review of a retiring judge who wishes to continue performing judicial duties as a senior judge.

The CJDT consists of seven members: one is appointed by the President of the United States; two are appointed by the Board of Governors of the District of Columbia Bar; two are appointed by the Mayor of the District of Columbia; one is appointed by the City Council of the District of Columbia; and one is appointed by the Chief Judge of the United States District Court for the District of Columbia. The term of office for the President’s appointee is five years; all others serve six-year terms.

II. MAYOR’S PROPOSED BUDGET⁷¹

Mayor’s Proposed Fiscal Year 2012 Operating Budget:

The Mayor’s fiscal year 2012 budget proposal for the CJDT is \$295, representing no change from the current fiscal year. The proposed budget supports 2.0 FTEs, representing no change from the current fiscal year. The budget provides \$212 for personal services and \$83 for non-personal services. The Mayor’s budget proposal provides for full funding of the Commission for fiscal year 2012.

**TABLE 9-A: Commission on Judicial Disabilities & Tenure
 Total Operating Funds Budget FY 2006 – 2012**

| | Actual 2006 | Actual 2007 | Actual 2008 | Actual 2009 | Actual 2010 | Budget 2011 | Mayor 2012 |
|--------------------|----------------|----------------|----------------|----------------|----------------|----------------|---------------|
| Total Funds | 227 | 238 | 249 | 272 | 264 | 295 | 295 |
| FTEs | 2.0 | 2.0 | 2.0 | 2.0 | 2.0 | 2.0 | 2.0 |

Source: Budget Books (dollars in thousands)

Local Funds: The Mayor has proposed a budget of \$0, representing no change from the fiscal year 2011 approved budget. This funding supports 0.0 FTEs, representing no change from the fiscal year 2011 approved budget.

Federal Grant Funds: The Mayor has proposed a budget of \$295, representing no change from the fiscal year 2011 approved budget. This funding supports 2.0 FTEs, representing no change from the fiscal year 2011 approved budget.

⁷¹ The Mayor’s proposed budget only provided numbers rounded to dollars in thousands therefore all figures provided are dollars in thousands. Percent change is based on whole dollars.

III. COMMITTEE CONCERNS

Federalization of Agency: As has been a refrain in the Committee's budget report, the Committee remains concerned with the policy shift toward federalization of the CJDT's budget. This is the third year in a row that local funding for this agency has been discontinued, instead relying on federal funding. The reliance on federal assistance is not only antithetical to Home Rule, but it continues to add financial problems for the agencies. This small agency is only one of two vestiges of Home Rule after the 1997 Revitalization Act removed the judicial branch from local control. The Committee is hopeful of working with the Administration in future budget cycles to return this agency to local funding. If the District desires Home Rule, we cannot continue to federalize agencies, especially when the funding amount is minimal.

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee recommends adoption of the fiscal year 2012 operating budget for CJDT as proposed by the Mayor.

Policy Recommendations:

The Committee makes the following policy recommendations with regard to CJDT:

- Just as it did for fiscal year 2011, the Committee views with disfavor the District's failure to commit local funding for the CJDT, relying instead on federal funding for this agency. The Committee recommends reverting to local funds for this agency in future budget cycles.

JUDICIAL NOMINATION COMMISSION

Committee Recommendations – See Page 53

I. AGENCY OVERVIEW

The mission of the District of Columbia Judicial Nomination Commission (JNC) is to promote justice by screening, selecting, and recommending candidates to the President of the United States for nomination to judicial vacancies on the District of Columbia Superior Court

and the Court of Appeals, and to appoint the chief judges to those courts. The JNC was established by Section 434 of the Home Rule Act of 1973.

The JNC selects and recommends to the President of the United States three candidates qualified to fill any judicial vacancy on the D.C. Court of Appeals or the D.C. Superior Court. The President selects his nominee from these three candidates and submits that individual's name to the United States Senate for confirmation.

The JNC consists of seven members: one is appointed by the President of the United States; two are appointed by the Board of Governors of the District of Columbia Bar; two are appointed by the Mayor of the District of Columbia; one is appointed by the Council of the District of Columbia; and one is appointed by the Chief Judge of the U.S. District Court for the District of Columbia. The term of office for the President's appointee is five years; all others serve six-year terms.

II. MAYOR'S PROPOSED BUDGET⁷²

Mayor's Proposed Fiscal Year 2012 Operating Budget:

The Mayor's fiscal year 2012 budget proposal for the Judicial Nomination Commission is \$205, representing no change from the current fiscal year. The proposed budget supports 2.0 FTEs, representing no change from the current fiscal year.

**TABLE 10-A: Judicial Nomination Commission
 Total Operating Funds Budget FY 2006 – 2012**

| | Actual 2006 | Actual 2007 | Actual 2008 | Actual 2009 | Actual 2010 | Budget 2011 | Mayor 2012 |
|--------------------|----------------|----------------|----------------|----------------|----------------|----------------|---------------|
| Total Funds | 122 | 135 | 103 | 134 | 205 | 205 | 205 |
| FTEs | 1.0 | 1.0 | 1.0 | 1.0 | 1.5 | 2.0 | 2.0 |

Source: Budget Books (dollars in thousands)

Local Funds: The Mayor has proposed a budget of \$0, representing no change from the fiscal year 2011 approved budget. This funding supports 0.0 FTEs, representing no change from the fiscal year 2011 approved budget.

⁷² The Mayor's proposed budget only provided numbers rounded to dollars in thousands therefore all figures provided are dollars in thousands. Percent change is based on whole dollars.

Federal Grant Funds: The Mayor has proposed a budget of \$205, representing no change from the fiscal year 2011 approved budget. This funding supports 2.0 FTEs, representing no change from the fiscal year 2011 approved budget.

III. COMMITTEE CONCERNS

Federalization of Agency: As has been a refrain in the Committee's budget report, the Committee remains concerned with the policy shift toward federalization of the JNC's budget. This is the third year in a row that local funding for this agency has been discontinued, instead relying on federal funding. The reliance on federal assistance is not only antithetical to Home Rule, but it continues to add financial problems for the agencies. This small agency is only one of two vestiges of Home Rule after the 1997 Revitalization Act removed the judicial branch from local control. The Committee is hopeful of working with the Administration in future budget cycles to return this agency to local funding. If the District desires Home Rule, we cannot continue to federalize agencies, especially when the funding amount is minimal.

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee recommends adoption of the fiscal year 2012 operating budget for JNC as proposed by the Mayor.

Policy Recommendations:

The Committee makes the following policy recommendations with regard to JNC:

- Just as it did for fiscal year 2011, the Committee views with disfavor the District's failure to commit local funding for the JNC, relying instead on federal funding for this agency. The Committee recommends reverting to local funds for this agency in future budget cycles.

OFFICE OF POLICE COMPLAINTS
Committee Recommendations – See Page 55

I. AGENCY OVERVIEW

The mission of the Office of Police Complaints (OPC), formerly the Office of Citizen Complaint Review, is to provide the public with independent, fair, and timely investigation and resolution of police misconduct complaints filed by the public against the Metropolitan Police Department (MPD) and D.C. Housing Authority Police Department (DCHAPD) officers.

II. MAYOR’S PROPOSED BUDGET⁷³

Mayor’s Proposed Fiscal Year 2012 Operating Budget:

The Mayor’s fiscal year 2012 budget proposal for the Office of Police Complaints is \$1,859, a decrease of \$199, or -9.7 percent, from the current fiscal year. The proposed budget supports 21.2 FTEs, representing no change from the current fiscal year. OPC’s budget is funded solely with local dollars.

**TABLE 11-A: Office of Police Complaints
 Total Operating Funds Budget FY 2006 – 2012**

| | Actual 2006 | Actual 2007 | Actual 2008 | Actual 2009 | Actual 2010 | Budget 2011 | Mayor 2012 |
|--------------------|----------------|----------------|----------------|----------------|----------------|----------------|---------------|
| Total Funds | 2,082 | 2,191 | 2,283 | 2,434 | 2,618 | 2,057 | 1,859 |
| FTEs | 18.0 | 20.0 | 20.0 | 19.6 | 23.2 | 23.2 | 21.2 |

Source: Budget Books (dollars in thousands)

Local Funds: The Mayor has proposed a budget of \$1,859, representing a decrease of \$199, or -9.7 percent, from the fiscal year 2011 approved budget. This funding supports 21.2 FTEs, representing a decrease of -2.0 FTEs, or -8.6 percent, from the fiscal year 2011 approved level.

⁷³ The Mayor’s proposed budget only provided numbers rounded to dollars in thousands therefore all figures provided are dollars in thousands. Percent change is based on whole dollars.

The policy initiatives within this budget include eliminating 5 vacant positions, or 2.0 FTEs, as well as identifying a savings of \$95 in contractual services, equipment, supplies, and other services.

III. COMMITTEE CONCERNS

Adequate Resources for Police Review: The proposed budget for OPC cuts resources needed to fulfill the agency's core functions in an effective manner. The \$111,263 reduction in personal services contemplated in this budget will make the agency unable to fill the vacant investigator position, negatively impacting the already low ratio of investigators to sworn police officers. This, in turn, could lead to case backlogs. The agency is also unable to hire legal interns during the summer, as it has done in previous years, leaving the agency without the capacity to issue the steady stream of policy recommendations that OPC has historically produced. This results in fewer recommendations to MPD regarding policies and procedures -- recommendations that could have a positive impact on reducing the level of police misconduct. The proposed reduction of \$97,116 in non-personal services will also have a negative impact on the agency's operations. In order to stay within budget, the agency will be required to defer the resolution of dozens of complaint adjudications and mediations into fiscal year 2013. This assumes the budget prospects for the agency at that time will be more favorable.

Delays in completing investigations can affect the public's confidence in a city's independent police review mechanism, as well as sap the morale of officers who have to contend with unresolved complaints pending against them. These are precisely the circumstances that led to the demise of the District's Civilian Complaint Review Board in 1995. In addition, the District is exposed to greater financial liability when there are investigations of alleged police misconduct that are pending. This is because "problem" officers will generally remain on the streets until such time as they are held accountable, which the adjudication of citizen complaints is designed to achieve. Without timely adjudications, the liability risk to the city would be even greater given that these unresolved cases would not aid in deterring police misconduct committed by other officers. The District must look to adequately fund this agency, and ensure the timely and accurate adjudication of complaints against the District's police force.

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee notes that the formulation of the Mayor's proposed fiscal year 2012 operating budget for OPC incorporates no salary lapse. The agency currently has one vacancy. The Committee also notes that fringe for OPC is calculated at 16.0 percent for fiscal year 2012 (it was calculated at 15.0 percent for fiscal year 2010).

The Committee recommends adoption of the fiscal year 2012 budget for OPC as proposed by the Mayor with the following modifications:

1. An increase of \$39,000 local funds (PS) to Comptroller Source Group 12 (Regular Pay - Other) and an increase of 1.0 FTE. This funding supports interns and part-time monitors for the agency.
2. An increase of \$63,000 local funds (PS) and an increase of 1.0 FTE to restore an investigator position. This change increases Comptroller Source Group 11 (Regular Pay - Cont Full Time) by \$54,000, and Comptroller Source Group 14 (Fringe Benefits - Curr Personnel) by \$8,500.
3. An increase of \$17,000 local funds (NPS) to Comptroller Source Group 40 (Other Services and Charges) for IT services.
4. An increase of \$74,000 local funds (NPS) to Comptroller Source Group 41 (Contractual Services - Other) to restore arbitration, mediation, and translation contracts.

The agency will still see a small reduction from fiscal year 2011. The fiscal year 2012 budget, as modified by the Committee, will be approximately 20 percent below actual fiscal year 2010 expenditures.

SENTENCING & CRIMINAL CODE REVISION COMMISSION

Committee Recommendations – See Page 60

I. AGENCY OVERVIEW

The mission of the District of Columbia Sentencing and Criminal Code Revision Commission (SCCRC) is to implement, monitor, and support the District's voluntary sentencing guidelines, to promote fair and consistent sentencing policies, to increase public understanding of sentencing policies and practices, and to evaluate the effectiveness of the guidelines system in order to recommend changes. Additionally, the SCCRC has been charged with preparing comprehensive recommendations for revising the language of criminal statutes, organizing them in logical order, and re-classifying statutes as necessary.

In 1998 the D.C. Council created a pilot program whereby the Commission would be responsible for developing sentencing guidelines.⁷⁴ This pilot program produced a set of

⁷⁴ D.C. Law 12-167, Advisory Commission on Sentencing Establishment Act of 1998 (codified as amended at D.C. OFFICIAL CODE § 3-101 *et seq.* (2008)).

voluntary sentencing guidelines and required the Commission to monitor their success in the courts. In executing its duties regarding sentencing, the Commission collects, reviews, and analyzes data from judges and criminal justice practitioners.

After widespread success under the pilot program, with close to 90 percent judicial compliance with the voluntary guidelines (which is well above average compared with other jurisdictions), the Council passed D.C. Law 17-25, the Sentencing and Criminal Code Revision Commission Amendment Act of 2007.⁷⁵ This law authorized the Commission to continue its important work in promulgating and implementing voluntary guidelines, monitoring the impact of these guidelines, and updating and amending them as needed. This will assure the continued success of these guidelines in reducing unwarranted disparity in sentencing with due regard for public safety and other criminal justice concerns. D.C. Law 17-25 also amended the Advisory Commission on Sentencing Amendment Act⁷⁶ to revise the Commission's mission. In addition to the sentencing guideline function, the Commission is also required to review the current criminal code and make proposals for reform. This legislation also created three new positions on the Commission.⁷⁷ By statutory mandate the Commission is to provide comprehensive recommendations for criminal code reform by September 30, 2010.⁷⁸

The SCCRC is composed of 20 members, 15 voting members and five non-voting members. The membership includes judges, attorneys, criminal justice professionals, and citizens, many of whom have substantial day-to-day experience and expertise with the Code. The 15 voting members include one seat appointed by the Mayor of the District of Columbia, one seat appointed by the Council of the District of Columbia, and one seat appointed by the Chief Judge of the District of Columbia Superior Court. Among the SCCRC's institutional members are the Attorney General for the District of Columbia, the United States Attorney for the District of Columbia, the Public Defender Service of the District of Columbia, and judges of the Superior Court.

II. MAYOR'S PROPOSED BUDGET⁷⁹

Mayor's Proposed Fiscal Year 2012 Operating Budget:

The Mayor's fiscal year 2012 budget proposal for the District of Columbia Sentencing and Criminal Code Revision Commission is \$768, representing no change from the current fiscal

⁷⁵ D.C. Law 17-25 (codified at D.C. OFFICIAL CODE § 3-101 *et seq.* (2008)).

⁷⁶ Advisory Commission on Sentencing Amendment Act of 2006, D.C. Law 16-126 (codified as amended at D.C. OFFICIAL CODE § 3-101 *et seq.* (2008)).

⁷⁷ *Id.* These positions are to be "professionals from established organizations, to include institutions of higher education, devoted to the research and analysis of criminal justice issues". D.C. OFFICIAL CODE § 3-101(a)(1)(J) (2008).

⁷⁸ See D.C. OFFICIAL CODE § 3-101.01 (2008).

⁷⁹ The Mayor's proposed budget only provided numbers rounded to dollars in thousands therefore all figures provided are dollars in thousands. Percent change is based on whole dollars.

year. The proposed budget supports 6.0 FTEs, a decrease of 2.0 FTEs, or -25.0 percent, from the current fiscal year level.

**TABLE 12-A: D.C. Sentencing and Criminal Code Revision Committee
 Total Operating Funds Budget FY 2006 – 2012**

| | Actual 2006 | Actual 2007 | Actual 2008 | Actual 2009 | Actual 2010 | Budget 2011 | Mayor 2012 |
|--------------------|----------------|----------------|----------------|----------------|----------------|----------------|---------------|
| Total Funds | 651 | 643 | 583 | 582 | 794 | 768 | 768 |
| FTEs | 6.0 | 5.0 | 5.0 | 4.1 | 6.4 | 8.0 | 6.0 |

Source: Budget Books (dollars in thousands)

Local Funds: The Mayor’s proposed budget is \$768, no change from the fiscal year 2011 approved budget. This funding supports 6.0 FTEs, a decrease of 2.0 FTEs, or -25.0 percent, from the fiscal year 2011 approved level.

The policy initiatives within the local funds budget include a personal services saving from the elimination of 2.0 FTEs in fiscal year 2012, which better aligns with the agency’s actual needs.

III. COMMITTEE CONCERNS

Resources for Sentencing Guideline Program: The SCCRC first promulgated voluntary sentencing guidelines in 2003 in order to address variability in sentencing practices and reduce unwanted disparity in the sentencing of similarly situated offenders convicted of similar crimes. First implemented in 2004, these guidelines have since been continuously monitored, reviewed, and adjusted as more information becomes available and as issues are identified by experts on the Commission, members of the judiciary, pre-sentence report pre-prepares and other criminal justice professionals. The SCCRC has monitored the implementation of the guidelines during these initial years, giving a crucial base of information to embark on the next phase of this program. That phase contemplates examining the guidelines to ensure that they are doing what they are supposed to do, allowing the SCCRC to look at the overall impact or effect of the guidelines. This analysis is critical for policymakers to make informed, data-driven policies with regard to sentencing.

To enable this analysis, it is imperative that the SCCRC have a workable database. The web-based Sentencing Guideline Application (DC-SGS), developed in cooperation with the Superior Court of the District of Columbia and the Criminal Justice Coordinating Council’s JUSTIS system, captures sentencing data and reports this information back to the Commission.

The DC-SGS is accessed through the secure, private DC JUSTIS database, and has taken years for the SCCRC to develop through work with an independent vendor. However, just as the agency has gained access to sentencing data from the Superior Court's system, modifications are being made to implement a new mechanism called the IJIS Broker system. The new system will allow for the transfer of court related data to the JUSTIS database. Unfortunately, in order for the SCCRC to continue to receive data, and this continue its mission, it must develop a connection to the JUSTIS system. According to SCCRC, the estimated cost is projected at \$115,000 to \$132,000.⁸⁰

The Committee believes it is imperative that the SCCRC be given the resources to fully implement this system and thereby achieve the sentencing information and analysis contemplated in the establishment of the Commission. The Mayor's proposed budget, refreshingly, proposes not cuts to the overall operating budget of the SCCRC, but if the District wants this agency to achieve its core mission it must provide greater resources.

Resources for Criminal Code Reform Program: Similarly, additional resources are required if the District is serious about a revision to the criminal code. The Council acted in 2006 to expand the Commission's mission, requiring the agency to review the District's criminal code and make comprehensive proposals for reform. The criminal code revision function is not a small task, and similar undertakings in other jurisdictions have required greater resources and staff than is currently provided by the District. One of the critical components of this project is adequate staffing, which the Commission has never been provided for this project.

The resource deficiencies for this project have led the Commission to be more imaginative in how this project is to be accomplished. Specifically, the SCCRC has begun a more piecemeal approach, funding being inadequate to conduct a wholesale revision to the criminal code, and has already submitted legislation to the Council. The Fine Proportionality Amendment Act would make fines for criminal offenses, with few exceptions, proportional to the imprisonment term for each offense.⁸¹ Additional submissions to improve the clarity and functionality of the criminal code are forthcoming.

The Committee is confident, even given the agency's lack of resources and personnel, that progress is being made. In order to ensure the overall success of the criminal code reform project, however, the District must remain committed to providing adequate resources to the SCCRC as it undertakes this monumental task. In the interim, the Committee proposes, in the Budget Support Act, extending the timeframe for criminal code reform from 2012 to 2014. The latter may not be obtainable either without adequate resources, but is, in any event, more reasonable than the former.

⁸⁰ Letter from the Honorable Frederick H Weisberg, Chairperson, District of Columbia Sentencing and Criminal Code Revision Commission, to Phil Mendelson, Chairman, Committee on Public Safety and the Judiciary, 7 (Feb. 15, 2011).

⁸¹ Bill 19-214.

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee notes that the formulation of the Mayor's proposed fiscal year 2012 operating budget for the Commission incorporates no salary lapse. There is one, long-time vacant position which the Executive Director wants filled to help with criminal code reform. The criminal code reform project director is part-time (retired) and so without benefits.

The Committee recommends adoption of the fiscal year 2012 budget for the Commission as proposed by the Mayor with the following modifications:

1. An increase of \$78,000 local funds (PS) to Comptroller Source Group 12 (Regular Pay - Other) and an increase of 1.0 FTE to fund the project director (restoring position).
2. An increase of 1.0 FTE to restore a position which is vacant and funded.
3. An increase of \$10,000 local funds (NPS) to Comptroller Source Group 40 (Other Services and Charges) to cover possible IT costs exceeding the Mayor's proposed budget.
4. An increase of \$10,000 local funds (NPS) to Comptroller Source Group 70 (Equipment and Equipment Rental) to provide for equipment. The proposed budget us zero for fiscal year 2012, however the Commission spent \$9,000 in fiscal year 2010.

Policy Recommendations:

- The Committee notes that the Mayor will have to budget more for the Commission in fiscal year 2013 if the criminal code revision project is ever to reach a conclusion. This mission was established over five years ago.

OFFICE OF THE CHIEF MEDICAL EXAMINER

Committee Recommendations – See Page 63

I. AGENCY OVERVIEW

The mission of the Office of Chief Medical Examiner (OCME) is to ensure that justice is served and that the health and safety of the public is improved by conducting quality death

investigations and certification, and providing forensic services for government agencies, health care entities, and grieving families.

OCME provides forensic services to local and federal government agencies, health care providers, institutions of higher learning, and citizens in the District and metropolitan area. Forensic services include: forensic investigation and certification of certain deaths—those occurring as a result of violence (injury), as well as those that occur unexpectedly, without medical attention, in custody, or pose a threat to public health; review of deaths of specific populations; grief counseling; performance of a full range of toxicological examinations; cremation approvals; and public disposition of unclaimed remains.

II. MAYOR’S PROPOSED BUDGET⁸²

Mayor’s Proposed Fiscal Year 2012 Operating Budget:

The Mayor’s fiscal year 2012 budget proposal for the Office of the Chief Medical Examiner is \$7,444, an increase of \$66, or 0.9 percent, over the current fiscal year. The proposed budget supports 68.0 FTEs, a decrease of 2.0 FTEs, or -2.9 percent, from the current fiscal year.

**TABLE 13-A: Office of the Chief Medical Examiner
 Total Operating Funds Budget FY 2006 – 2012**

| | Actual 2006 | Actual 2007 | Actual 2008 | Actual 2009 | Actual 2010 | Budget 2011 | Mayor 2012 |
|--------------------|----------------|----------------|----------------|----------------|----------------|----------------|---------------|
| Total Funds | 8,580 | 8,339 | 9,005 | 9,432 | 8,407 | 7,378 | 7,444 |
| FTEs | 76.2 | 72.0 | 59.4 | 66.5 | 72.2 | 70.0 | 68.0 |

Source: Budget Books (dollars in thousands)

Local Funds: The Mayor has proposed a budget of \$7,444, representing an increase of \$332, or 4.7 percent, from the fiscal year 2011 approved budget. This funding supports 68.0 FTEs, representing no change from the fiscal year 2011 approved budget.

The policy initiatives within the local funds budget include: a reduction of \$48 through the reclassification of the vacant position of medical legal investigator to a pathologist assistant position; and a reduction of \$12 through a transfer of the local portion of OCME’s IT assessment to the Office of the Chief Technology Officer. The Mayor’s budget also increases OCME’s budget by \$129 to fund the movement of the agency’s offices and hardware equipment from

⁸² The Mayor’s proposed budget only provided numbers rounded to dollars in thousands therefore all figures provided are dollars in thousands. Percent change is based on whole dollars.

1910 Massachusetts Avenue, S.E. to the new Consolidated Forensic Laboratory located at 4th and Schools Street, S.W. This is a one-time, non-recurring expense.

Special Purpose Revenue Funds: The Mayor has proposed a budget of \$0, representing a decrease of \$266, or -100 percent, from the fiscal year 2011 approved budget. This funding supports 0.0 FTEs, a decrease of 2.0 FTEs, or -100 percent, from the fiscal year 2011 approved level.

A policy decision was made to review all special purpose revenue funds and a determination was made to shift some special purpose revenue funds to local funds. OCME shifted \$215,000 of funds previously designated as special purpose revenue funds to local funds. Also, special purpose revenue funds decreased by \$75,000 in its supplies and other services and charges.

III. COMMITTEE CONCERNS

National Association of Medical Examiners Accreditation: OCME achieved, for the first time, provisional accreditation by the National Association of Medical Examiner (NAME) in October 15, 2008. Although some deficiencies to full accreditation lingered, the agency was notified by NAME in March 2010 that their provisional accreditation would be further extended through October 15, 2010. OCME testified at its annual performance oversight hearing before the Committee on March 11, 2011 that the letter to NAME requesting renewal of provisional accreditation was sent late, in October of 2011, and at the time of the hearing the agency was awaiting a response from NAME.⁸³ However, at OCME's budget oversight hearing on May 2, 2011, Dr. Marie-Lydie Y. Pierre-Louis, Chief Medical Examiner, stated that the agency was informed that it did not receive renewal of provisional accreditation. Dr. Pierre-Louis also stated that the reason for the denial of accreditation is because she, as Chief Medical Examiner, is not board certified.

Indeed, a February 25, 2011 letter from NAME states that "[t]he deficiency regarding the qualification of the Chief Medical Examiner has not changed nor is there any evidence provided that an attempt to correct this has occurred, hence the committee cannot recommend continued provisional accreditation until this is done. The change in the DC statute⁸⁴ does not negate this checklist item."⁸⁵ OCME appealed NAME's denial of provisional accreditation with a letter on February 25, 2011, emphasizing that the 2009 and 2008 NAME inspection reports pointed out

⁸³ The Committee later received the letter from NAME denying provisional accreditation renewal and OCME's appeal letter, dated February 9, 2011 and February 25, 2011, respectively. It is curious that this correspondence was not brought up at OCME's performance oversight hearing on March 11, 2011.

⁸⁴ See D.C. Law 18-88 (effective Dec. 10, 2009) (amending the Establishment of the Office of the Chief Medical Examiner Act of 2000 to authorize the Mayor to waive, until April 30, 2013, the requirement that the Chief Medical Examiner for the District of Columbia be certified in forensic pathology by the American Board of Pathology or be eligible for such certification).

⁸⁵ Letter from NAME to Marie-Lydie Y. Pierre-Louis, M.D. (Feb. 9, 2011) (on file with the Committee).

the Phase II deficiency of the non-board certification of the Chief Medical Examiner, but recommended that the current Chief remain until the end of her tenure.⁸⁶ OCME's appeal letter also details its efforts in attempting to recruit a board-certified Chief since 2003.⁸⁷ However, NAME responded with a March 16, 2011 letter affirming the denial of extension of provisional accreditation to OCME, stating that "board certification of the Chief Medical Examiner in Forensic Pathology ... is a non-negotiable criterion for full accreditation" and that "[p]rovisional accreditation ... cannot be further extended based solely on the stated long range plan for a leadership transition in 2013," which is not "sufficiently tangible or measurable progress toward resolution of the checklist deficiency."⁸⁸

The Committee understands that NAME inspection criteria require that a Chief Medical Examiner be certified by the American Board in Forensic Pathology, and the absence of a board-certified chief medical examiner is a Phase II deficiency in the accreditation review process that was holding back, and still is holding back, the OCME from full accreditation.⁸⁹ However, as stated, OCME was denied even the option of obtaining provisional accreditation. The Committee believes, as does NAME it appears, that the agency has benefited greatly from Dr. Pierre-Louis's leadership. Nevertheless, the Committee is extremely concerned about the denial of continuing provisional accreditation, and strongly urges OCME to take the steps required to regain provisional status and, ultimately, full accreditation.

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee notes that the formulation of the Mayor's proposed fiscal year 2012 operating budget for OCME includes zero salary lapse. The agency currently has one vacancy. The Committee also notes that the agency's fringe rate is 21.04 percent for fiscal year 2012 (the rate is 19.1 percent for fiscal year 2011).

The Committee recommends adoption of the fiscal year 2012 operating budget for OCME as proposed by the Mayor with the following modifications:

1. An increase of \$35,000 local funds (NPS) in Comptroller Source Group 41 (Contractual Services - Other) to fully fund the Wendt Center contract (\$33,000 is already in the Mayor's proposed fiscal year 2012 budget), for a total of \$68,000.

⁸⁶ Letter from Marie-Lydie Y. Pierre-Louis, M.D. to NAME Inspection and Accreditation Committee (Feb. 25, 2011) (on file with the Committee).

⁸⁷ *Id.*

⁸⁸ Letter from NAME to Marie-Lydie Y. Pierre-Louis, M.D. (March 16, 2011) (on file with the Committee).

⁸⁹ See Letter from Name Inspection and Accreditation Committee to Marie-Lydie Y. Pierre-Louis, M.D. (March 8, 2010) (on file with the Committee).

2. An increase of \$90,000 local funds (NPS) in Comptroller Source Group 20 (Supplies and Materials) to match the agency's fiscal year 2011 budget (which was 7.5 percent below the actual budget for this Comptroller Source Group in fiscal year 2010).
3. An increase of \$90,000 intra-District funds (NPS) from the Justice Grants Administration (the agreement will place \$68,000 in Forensic Toxicology/Forensic Toxicology Lab (4000/4010) and \$22,000 in Agency Management Program/Information Technology (1000/1040), as discussed in the Mayor's May 9, 2011 errata letter).

Policy Recommendations:

The Committee makes the following policy recommendations with regard to OCME:

1. The Committee is very concerned about the loss of provisional accreditation by NAME. The agency must continue to progress and eliminate all deficiencies except the status of the Chief Medical Examiner.

OFFICE OF ADMINISTRATIVE HEARINGS

Committee Recommendations – See Page 67

I. AGENCY OVERVIEW

The mission of the Office of Administrative Hearings (OAH) is to provide the District of Columbia's citizens and government agencies with a fair, efficient and effective forum to manage and resolve administrative disputes.

OAH is an impartial, independent agency which adjudicates cases for over 40 District of Columbia agencies, boards and commissions, including: Department of Health, Department of Human Services, Board of Appeals and Review, Department of Motor Vehicles (public space), Department of Public Works, Department of Employment Services, Taxicab Commission, Department of Consumer and Regulatory Affairs, and the Office of Tax and Revenue. Other cases within OAH's jurisdiction include certain cases brought by the Department of Transportation, Fire and Emergency Medical Services Department, Office of Planning, Department of Mental Health, Child and Family Services Agency, D.C. Office of Energy, and the Department of the Environment. On October 1, 2006, OAH assumed jurisdiction over rental housing administrative cases.

OAH holds hearings, conducts mediations and provides other adjudication services to resolve disputes arising under the District’s laws and regulations.

II. MAYOR’S PROPOSED BUDGET⁹⁰

Mayor’s Proposed Fiscal Year 2012 Operating Budget:

The Mayor’s fiscal year 2012 budget proposal for the Office of Administrative Hearings is \$7,946, a decrease of \$101, or -1.3 percent, from the current fiscal year. The proposed budget supports 64.6 FTEs, a decrease of 0.5 FTEs, or -0.8 percent, from the current fiscal year.

**TABLE 14-A: Office of the Administrative Hearings
Total Operating Funds Budget FY 2006 – 2012**

| | Actual 2006 | Actual 2007 | Actual 2008 | Actual 2009 | Actual 2010 | Budget 2011 | Mayor 2012 |
|--------------------|----------------|----------------|----------------|----------------|----------------|----------------|---------------|
| Total Funds | 5,950 | 6,082 | 7,229 | 7,930 | 8,048 | 8,047 | 7,946 |
| FTEs | 57.0 | 61.4 | 61.2 | 59.9 | 63.3 | 65.1 | 64.6 |

Source: Budget Books (dollars in thousands)

Local Funds: The Mayor’s proposed budget is \$6,846, a decrease of \$74, or -1.1 percent, from the fiscal year 2011 approved budget of \$6,920. This funding supports 56.6 FTEs, a decrease of 0.2 FTEs, or -0.4 percent, from the fiscal year 2011 approved level.

The policy initiatives within the local funds budget include an increase in personal services of \$232 due to an increase in steps and associated fringe benefits funded by local funds and \$74 in Intra-District Funds; and a decrease of \$79 due to the transfer of the local portion of the IT assessment to the Office of the Chief Technology Officer.

Special Purpose Revenue Funds: The Mayor’s proposed budget is \$0, a decrease of \$8, or -100 percent, from the fiscal year 2011 approved budget of \$8. This funding supports 0.0 FTEs, a decrease of 0.2 FTEs, or -100 percent, from the fiscal year 2011 approved level.

Intra-District Funds: The Mayor’s proposed budget is \$1,100, a decrease of \$19, or -1.7 percent, from the fiscal year 2011 approved budget of \$1,119. This funding supports 8.0 FTEs, representing no change from the fiscal year 2011 approved level.

⁹⁰ The Mayor’s proposed budget only provided numbers rounded to dollars in thousands therefore all figures provided are dollars in thousands. Percent change is based on whole dollars.

III. COMMITTEE CONCERNS

Consolidated Space: The moving of the Office of Administrative Hearings from several scattered locations to one, consolidated space has been a policy priority of the District’s since 2005. The Committee has long been concerned about this move, as the inefficiencies of having this adjudicatory body spread across the city creates additional, unnecessary financial strains (the Committee had noted in previous reports that agency had to have a full-time employee deliver mail between the different locations). Further, the scattered locations created difficulty and confusion for litigants. However, it would appear the long-awaited move to consolidated space has finally occurred, as the agency has moved, in its entirety, to One Judiciary Square. Yet, the agency remains in “swing” space, and the delay in the move to the fourth floor continues to experience delay.

In the years, literally, since the Committee first began pressing the Administration about the move of OAH to consolidated space, the timeline for completion of this move has been a sort of moving target.

**TABLE 14-B: Office of Administrative Hearings;
 Completion Dates Provided to Committee for OAH Move to Consolidated Space**

| Date of Executive’s Response | Stated “Move-in” Date |
|------------------------------|-----------------------------------|
| September 2007 | January 2009 |
| January 2008 | December 2009 |
| March 2009 | August 2010 |
| December 2010 | April 2010 |
| March 2011 | “by the end of the calendar year” |

Source: DRES (including responses from predecessor agency: Office of Property Management)

Repeated delays and revisions to the proposed floor plan, and delays caused by other agencies that occupy the new OAH space to move out according to schedule, have considerably extended this timeframe. If the current timeframe is to be believed, however, OAH will finally occupy its permanent location by the end of this year. The effect of multiple locations on the agency was manifold: it is unsafe, affects agency morale, and leads to operating inefficiencies. These will hopefully be rectified by a move to consolidated space.

As the Committee has previously stated, however, both the current swing space and planned permanent space are completely inadequate for the agency's needs. The Committee, in hearings, letters, and reports, has railed against the attempt to force this agency into a floor plan rather than assess what its actual needs are. While the Committee believes the new space is inadequate for the agency's existing needs, this matter is further complicated by any expansion of jurisdiction the agency may take on. The Committee is concerned that there does not appear to be any plan for expansion beyond the 36,000 square feet if additional jurisdictional responsibilities are added to OAH.

Improvements at Agency: In confirming the current Chief Administrative Law Judge for OAH, Mary Oates Walker, to her position, the Committee -- noting a number of deficiencies in the agency that needed urgent attention -- included a list of tasks for OAH with specified timelines. The Committee Report for PR 19-694, the Chief Administrative Law Judge for the Office of Administrative Hearings Confirmation Resolution of 2010, included an array of tasks dealing with a broad range of policies.

According to the OAH's March 14, 2011 responses to questions from this Committee, the agency has been meeting these deadlines, and effectively tackling the issues highlighted by the Committee. Indeed, the Committee believes that there have been many positive developments in OAH over the past year. The Committee is pleased to see the direction the agency is headed, and hopes that this upward trajectory continues. The District, for its part, must ensure adequate resources for this agency in order to ensure this continues.

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee notes that the formulation of the Mayor's proposed fiscal year 2012 operating budget for OAH incorporates no salary lapse. There is one vacant Administrative Law Judge position that is supported by intra-District funding. The Committee also notes that fringe for OAH is calculated at 16.0 percent for fiscal year 2012 (it was calculated at 15.0 percent for fiscal year 2011).

The Committee recommends adoption of the fiscal year 2012 budget for OAH as proposed by the Mayor with the following modifications:

1. An increase of \$425,000 (PS) to Comptroller Source Group 11 (Regular Pay - Cont Full Time) and an increase of 10.0 FTEs. The agency needs 8-10 legal assistants and one receptionist (for the new consolidated space), as well as one resource center coordinator. Each can be paid at about \$45,000. The Committee funding for these positions assumes a 3 percent vacancy savings since all will not be on board as of October 1st.

2. An increase of \$81,000 local funds (PS) to Comptroller Source Group 14 (Fringe Benefits - Curr Personnel) for fringe associated with the 10 additional FTEs above.
3. An increase of \$67,000 local funds (NPS) to Comptroller Source Group 20 (Supplies and Materials) to restore funding to the fiscal year 2011 level (\$40,000 of this from Medicaid reimbursement funds).
4. An increase of \$158,000 local funds (NPS) to Comptroller Source Group 40 (Other Services and Charges) to restore funding to the fiscal year 2011 level.
5. An increase of \$188,000 local funds (NPS) to Comptroller Source Group 41 (Contractual Services – Other) to partially restore funding to the fiscal year 2011 level (\$88,000 of this from Medicaid reimbursement funds).
6. Recognize \$128,000 in Federal Funds as revenue associated with projected Medicaid reimbursable income.

Policy Recommendations:

1. The Committee notes that the Budget Request Act must, once again, “hardwire” the intra-District transfer from DOES to reflect federal funding for Unemployment Insurance appeals which OAH handles.
2. The Department of Real Estate Services has taken too long to enable OAH to finally move into consolidated space, adequate in size, on the fourth floor at One Judiciary Square. Remaining delays must be resolved as soon as possible.

CRIMINAL JUSTICE COORDINATING COUNCIL

Committee Recommendations – See Page 70

I. AGENCY OVERVIEW

The mission of the Criminal Justice Coordinating Council (CJCC) is to serve as the forum for identifying issues and their solutions, proposing actions, and facilitating cooperation that will improve public safety and the criminal and juvenile justice system of the District of Columbia for its residents, visitors, victims, and offenders.

II. MAYOR’S PROPOSED BUDGET⁹¹

Mayor’s Proposed Fiscal Year 2012 Operating Budget:

The Mayor’s fiscal year 2012 budget proposal for the Criminal Justice Coordinating Council is \$2,105, an increase of \$110, or 5.5 percent, from the fiscal year 2011 approved budget of \$1,995. This funding supports 15.0 FTEs, an increase of 1.0 FTE, or 7.1 percent, from the fiscal year 2011 approved level.

**TABLE 15-A: Criminal Justice Coordinating Council
 Total Operating Funds Budget FY 2006 – 2012**

| | Actual 2006 | Actual 2007 | Actual 2008 | Actual 2009 | Actual 2010 | Budget 2011 | Mayor 2012 |
|--------------------|----------------|----------------|----------------|----------------|----------------|----------------|---------------|
| Total Funds | 2,785 | 2,062 | 2,272 | 2,091 | 2,440 | 1,995 | 2,105 |
| FTEs | 9.4 | 9.0 | 7.0 | 9.8 | 12.7 | 14.0 | 15.0 |

Source: Budget Books (dollars in thousands)

Local Funds: The Mayor’s proposed budget is \$195, representing no change from the current fiscal year. This funding supports 1.3 FTEs, a decrease of 0.2, or -15.3 percent, from the fiscal year 2011 approved level.

Federal Resources: The Mayor’s proposed budget is \$1,800, representing no change from the current fiscal year. This funding supports 12.7 FTEs, an increase of 0.2, or 1.8 percent, over the fiscal year 2011 approved level.

Intra-District Funds: The Mayor’s proposed budget is \$110, an increase of \$110 over the fiscal year 2011 approved budget of \$0. This funding supports 1.0 FTE, an increase of 1.0 over the fiscal year 2011 approved level.

In order to provide compliance monitoring in regards to juvenile justice with a focus on combating delinquency and truancy, the CJCC is continuing to partner with JGA through this intra-District agreement to fund one compliance monitor position.

⁹¹ The Mayor’s proposed budget only provided numbers rounded to dollars in thousands therefore all figures provided are dollars in thousands. Percent change is based on whole dollars.

III. COMMITTEE CONCERNS

GunStat: GunStat is a program of the Criminal Justice Coordinating Council that is intended to reduce gun crime by bringing together the principals of various criminal justice agencies at the local and federal level to focus on the most dangerous repeat gun offenders. The idea is to focus law enforcement, supervision, and prosecutorial resources on these individuals, which are tracked and analyzed case by case, at the monthly meetings, as they progress through the stages of the criminal justice system. With the goal of collectively focusing public safety resources on the most dangerous gun offenders, GunStat aims to remove violent offenders from the streets, enhance pre-trial and post-trial supervision of candidates, an increase successful prosecution of pending cases, with the result of an overall decrease in gun and violent crime.⁹²

A stated outcome goal of GunStat is a “[r]eduction in gun and violent crimes committed by candidates.”⁹³ However, the Committee understands that GunStat candidates are still being arrested after being placed on GunStat, so it is necessary to reevaluate whether the program is currently accomplishing its aims. The Committee recommends that the CJCC reevaluate the GunStat program and assess its effectiveness in an effort to reduce repeat offenses by candidates and generally reduce gun violence in the District.

Increased Research: A better picture is needed of cases as they move through the criminal justice system. Specifically, more research is needed in the area of what occurs between an arrest and a court disposition of a given case, as there appears to be a lack of data analysis on charging decisions that are made after an arrest. It would be worthwhile for the CJCC Principals to have a better picture of how a given case plays out through the criminal justice system, in order to see systemic issues or trends. The CJCC has 3 FTEs in its proposed fiscal year 2012 budget for research, analysis, and evaluation. The agency is also now working with the DC Crime Policy Institute (DCPI) to conduct specific research projects. The Committee encourages that CJCC utilize these resources to conduct research that would provide a better, more detailed picture of the criminal justice system for stakeholders.

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee notes that \$195,000 (entirely PS) is the only local funds out of a \$2,105,000 gross budget for the Criminal Justice Coordinating Council.

⁹² Criminal Justice Coordinating Council, FY 2010 Annual Report, Preserving and Promoting Public Safety Through Partnerships at 16, available at <http://cjcc.dc.gov/cjcc/frames.asp?doc=/cjcc/lib/cjcc/Annual-Report-2010-CJCC.pdf> (last visited May 11, 2011).

⁹³ *Id.*

The Committee recommends adoption of the fiscal year 2012 operating budget for CJCC as proposed by the Mayor.

Policy Recommendations:

The Committee makes the following policy recommendations with regard to CJCC:

- The D.C. Crime Policy Institute should be handled by CJCC and not the City Administrator's Office, as was the case prior to calendar year 2011.

FORENSIC LABORATORY TECHNICIAN TRAINING PROGRAM

Committee Recommendations – See Page 73

I. AGENCY OVERVIEW

The mission of the Forensic Laboratory Technician Training Program (FLTTP) is to provide funding to enhance criminal investigations and prosecutions through the establishment of a program to provide specialized training and resources to District investigative personnel. FLTTP is embedded in the desire to increase the District's ability to investigate deaths and crimes, as well as ensure that the District can effectively provide public health services and respond to public health emergencies.

II. MAYOR'S PROPOSED BUDGET⁹⁴

Mayor's Proposed Fiscal Year 2012 Operating Budget:

The Mayor's fiscal year 2012 budget proposal for the Forensic Laboratory Technician Training Program is \$1,602, representing no change from the current funding level. The proposed budget supports 17.0 FTEs, representing no change from the current level.

⁹⁴ The Mayor's proposed budget only provided numbers rounded to dollars in thousands therefore all figures provided are dollars in thousands. Percent change is based on whole dollars.

**TABLE 16-A: Forensic Laboratory Technician Training Program
 Total Operating Funds Budget FY 2006 – 2012**

| | Actual 2006 | Actual 2007 | Actual 2008 | Actual 2009 | Actual 2010 | Budget 2011 | Mayor 2012 |
|--------------------|----------------|----------------|----------------|----------------|----------------|----------------|---------------|
| Total Funds | 516 | 811 | 1,644 | 5,375 | 1,293 | 1,601 | 1,601 |
| FTEs | 43.0 | 59.0 | 54.9 | 18.0 | 14.9 | 17.0 | 17.0 |

Source: Budget Books (dollars in thousands)

Local Funds: The Mayor’s proposed budget is \$1,600, representing no change from the current fiscal year. The proposed budget supports 17.0 FTEs, representing no change from the current fiscal year. The FLTTP is funded solely with local dollars.

III. COMMITTEE CONCERNS

Consolidated Forensic Laboratory: Director William Vosburgh has indicated to the Committee that the Consolidated Forensic Laboratory (CFL) project is on schedule and within budget, scheduled for completion in the summer of 2012 with occupancy in fall of 2012. Accreditation of the various components of the future laboratory, outside of the DNA/trace evidence realm, remains an outstanding issue for the laboratory. While the Committee recognizes that the time required to complete accreditation can be lengthy, all steps should be taken as early as possible to ready the appropriate units for eventual accreditation. This is particularly pertinent in light of the requirement for accreditation included in the Department of Forensic Sciences Establishment Act of 2011 currently under consideration by the Council. That bill is discussed in further detail below.

Dr. Vosburgh has also indicated to the Committee that a top priority of the agency is to implement an agency-wide pay grade series for forensic scientists, on a scale of 1-5 that would start with entry-level up to senior level. The purpose of the program as stated by the agency is to create a career path and increase retention of the human capital of the agency. The Committee supports and encourages this effort, in order to ensure that the CFL can have a well-trained, highly qualified and highly skilled staff to perform the specialized functions that will be required at the laboratory with a high standard of quality.

Department of Forensic Sciences Establishment Act of 2011: Bill 19-5, the Department of Forensic Sciences Establishment Act of 2011, was reported out of the Committee on March 29, 2011. This legislation establishes the Department of Forensic Sciences (“Department”), a subordinate agency in the executive branch of the District of Columbia government. A primary purpose of the legislation is to address the governance of the new CFL. This bill follows an important recommendation of a seminal report produced by the National Academy of Sciences

(NAS) entitled “Strengthening Forensic Science in the United States: A Path Forward.”⁹⁵ The recommendation of the NAS report is to “remov[e] all public forensic laboratories and facilities from the administrative control of law enforcement agencies or prosecutors’ offices.”⁹⁶ Thus, Bill 19-5 establishes an agency independent of other law enforcement agencies to perform forensic science services for the District.⁹⁷ The mission of the proposed Department of Forensic Sciences will be to provide quality, timely, accurate, and reliable forensic laboratory analysis for the District, with a focus on unbiased science.

An important concern of the Committee is ensuring that the new Department of Forensic Sciences will be funded in the District’s financial plan. Many aspects of the new Department are already funded or budgeted for with the construction of the CFL. The new costs are those related to governance of the new proposed agency, and those costs will not be recognized until fiscal year 2013. The fiscal impact statement for Bill 19-5 specifies a cost of \$1,789,371 in fiscal year 2013 and \$2,404,732 for fiscal year 2014, with a four-year total of \$4,194,103.⁹⁸ The fiscal impact of Bill 19-5 has thus far not been included in the Mayor’s fiscal year 2012 proposed budget or financial plan, and the Committee believes it is imperative that these future costs are included in the financial plan so that when Bill 19-5 becomes law, the orderly transfer of forensic science services from MPD to the new Department can occur in a timely manner. Indeed, this must occur before October 1, 2012 (per Bill 19-5), so that the transfer can be completed in time for both the opening of the new CFL and for the start of fiscal year 2013.

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee notes that the formulation of the Mayor’s proposed fiscal year 2012 operating budget for the Forensic Laboratory Technician Training Program (FLTTP) includes zero salary lapse. The agency is on track to under spend by \$100,000 during fiscal year 2011.

⁹⁵ COMMISSION ON IDENTIFYING THE NEEDS OF THE FORENSIC SCIENCE COMMUNITY, NATIONAL RESEARCH COUNCIL OF THE NATIONAL ACADEMIES., STRENGTHENING FORENSIC SCIENCE IN THE UNITED STATES: A PATH FORWARD (2009).

⁹⁶ *Id.* at 190-91.

⁹⁷ Bill 19-5 provides for the transfer of the personnel, records, functions, authority, and property pertaining to forensic science services from the Metropolitan Police Department (“MPD”) to the proposed Department of Forensic Sciences, no later than October 1, 2012. The legislation also creates a Science Advisory Board for review of the scientific aspects of the new Department, and a Stakeholder Council whereby the principals of the agencies who primarily use the services of the Department can discuss its efficacy and responsiveness.

⁹⁸ Memorandum from Natwar M. Gandhi, Chief Financial Officer, to the Honorable Kwame R. Brown, Chairman, Council of the District of Columbia, Fiscal Impact Statement – “Department of Forensic Sciences Establishment Act of 2011” (Mar. 28, 2011) (on file with the Committee).

The Committee recommends adoption of the fiscal year 2012 operating budget for FLTTP as proposed by the Mayor with the following modifications:

- A reduction of \$50,000 local funds (PS) to Comptroller Source Group 11 (Regular Pay - Cont Full Time) to increase salary lapse/vacancy savings.

Policy Recommendations:

The Committee makes the following policy recommendations with regard to the Forensic Laboratory Technician Training Program:

- Funding must be added to the budget and financial plan beginning in fiscal year 2013: \$1,789,371 for fiscal year 2013; and \$2,404,732 for fiscal year 2014. This will fully fund Bill 19-5, the “Department of Forensic Sciences Establishment Act of 2011.” Beginning with the fiscal year 2013 budget, this agency will see a significant increase to its budget as the new Consolidated Forensic Laboratory opens on 4th Street, SW.

OFFICE OF UNIFIED COMMUNICATIONS

Committee Recommendations – See Page 78

I. AGENCY OVERVIEW

The mission of the Office of Unified Communications (OUC) is to provide a fast, professional, and cost-effective response to emergency (911) and non-emergency (311) calls in the District. The OUC also provides centralized, District-wide coordination and management of public safety voice radio technology and other public safety wireless and data communication systems and resources.

II. MAYOR’S PROPOSED BUDGET⁹⁹

Mayor’s Proposed Fiscal Year 2012 Operating Budget:

The Mayor’s fiscal year 2012 budget proposal for the OUC is \$40,240, a decrease of \$5,564, or -12.1 percent, below the current fiscal year. The proposed budget supports 345.0 FTEs, representing no change from the current fiscal year.

⁹⁹ The Mayor’s proposed budget only provided numbers rounded to dollars in thousands therefore all figures provided are dollars in thousands. Percent change is based on whole dollars.

**TABLE 17-A: Office of Unified Communications
 Total Operating Funds Budget FY 2006 – 2012**

| | Actual 2006 | Actual 2007 | Actual 2008 | Actual 2009 | Actual 2010 | Budget 2011 | Mayor 2012 |
|--------------------|----------------|----------------|----------------|----------------|----------------|----------------|---------------|
| Total Funds | 30,994 | 32,063 | 41,165 | 44,245 | 47,742 | 45,804 | 40,240 |
| FTEs | 317.0 | 314.7 | 321.8 | 337.0 | 358.6 | 345.0 | 345.0 |

Source: Budget Books (dollars in thousands)

Local Funds: The Mayor’s proposed budget is \$26,686, representing no change from the current fiscal year. The proposed budget supports 343.0 FTEs, representing no change from the current fiscal year.

Special Purpose Revenue Funds: The Mayor’s proposed budget is \$12,028, a decrease of \$6,844, or -36.3 percent, from the current fiscal year. The proposed budget supports 0 FTEs, representing no change from the current fiscal year.

This decrease is due in part to a reduction in the estimated revenue and fund balance from the Fiscal Year 2011 Supplemental Budget Support Act of 2011.

Private Grant Funds: The Mayor’s proposed budget is \$1,280, an increase of \$1,280 above the current fiscal year. The proposed budget does not support any FTEs.

This increase is the result of a 2006 Federal Trade Commission (FTC) award for the District against Motorola, because the frequencies set up by Motorola interfered with existing police and fire radios in the District’s dual band UHF-800 MHz public wireless safety system. The FTC ordered Motorola to pay for the re-banding of the District’s 800 MHz radio system to fix the problem, and the resulting agreement provides \$1,280 for fiscal year 2012.

Intra-District Funds: The Mayor’s proposed budget is \$246, unchanged from the current fiscal year. The proposed budget supports 2.0 FTEs, representing no change from the current fiscal year.

Mayor’s Proposed Fiscal Year 2012 Capital Budget:

The Mayor’s Fiscal Year 2012 capital budget authority proposal for the Office of Unified Communications makes modifications to the agency’s capital budget as shown in Table 17-B below.

**Table 17-B: Office of Unified Communications
Mayor’s FY 2012 – FY 2017 Capital Budget Authority Proposal**

| Project No. | Project Description | Mayor’s Proposed Budget | Approved Budget FY 2011 – FY 2016 | Variance in Total Project Authority from FY 2011 – FY 2016 |
|-------------|------------------------------------|-------------------------|-----------------------------------|--|
| EQ2UC | City-wide Wireless Communication | 0 | 1,000 | 0 |
| UC201 | Public Safety Radio System Upgrade | 5,902 | 17,500 | (11,598) |
| UC202 | Public Safety Radio – MEL | 4,219 | 0 | 0 |

III. COMMITTEE CONCERNS

E911 Fund: The Fiscal Year 2001 Budget Support Act of 2000 established the Emergency and Non-Emergency Number Telephone Calling Systems Fund, or E-911 Fund (“Fund”).¹⁰⁰ Sources of revenue for the Fund include a tax on all local exchange carriers, including wireline and wireless carriers.¹⁰¹ The Fiscal Year 2011 Budget Support Act of 2010 also added a tax on prepaid wireless telecommunications services as another source of revenue for the Fund.¹⁰² The law regarding the Fund provides that “[t]he Fund shall be used solely to defray personnel and nonpersonnel costs incurred by the District of Columbia and its agencies and instrumentalities in providing a 911 system, and direct costs incurred by wireless carriers in providing wireless E-911 service.”¹⁰³ Importantly, the law also provides that after October 1, 2008, the Fund shall not be used to defray personnel costs, and after October 1, 2010, the fund shall not be used to defray non-personal costs related to overhead, “including energy, rentals, janitorial services, security, or occupancy costs.”¹⁰⁴ Rather, “[t]he Fund shall be used solely to defray technology and equipment costs directly incurred by the District of Columbia and its agencies and instrumentalities in providing a 911 system and direct costs incurred by wireless carriers in providing wireless E-911 service. *The fund shall not be used for any other purpose.*”¹⁰⁵

There is concern that during fiscal year 2010 OUC used the fund to defray fixed costs. As repeatedly noted by the Committee, this is in direct violation of D.C. Code § 34-1802(b-2)’s prohibition against using the fund to defray fixed costs including “rentals, janitorial services, [and] security”.¹⁰⁶ The Committee emphasizes the need for OUC to only spend from the Fund as permitted by law. By spending on other areas not directly related to technology and equipment

¹⁰⁰ Title VI of D.C Law 13-172 (effective Oct. 19, 2000).

¹⁰¹ See D.C. OFFICIAL CODE § 34-1803 (2001).

¹⁰² See D.C. Law 18-223 § 3002(d) (effective date Sept. 24, 2010); D.C. OFFICIAL CODE § 34-1803.02 (2011).

¹⁰³ D.C. OFFICIAL CODE § 34-1802(b) (2011).

¹⁰⁴ D.C. OFFICIAL CODE § 34-1802(b-1); D.C. OFFICIAL CODE § 34-1802(b-2).

¹⁰⁵ D.C. OFFICIAL CODE § 34-1802(b-2) (emphasis added).

¹⁰⁶ *Id.*

costs for providing 911 and E-911 services, OUC is doing a disservice to those critical functions. This is particularly stark in light of the proposed reduction of \$6,005,983 from the E-911 Fund for fiscal year 2012. The Committee also notes that the OUC should revisit its agency spending overall in order to ensure that important public safety initiatives, such as the P25 radio upgrade, can still occur expeditiously in light of the reduction to this Fund. OUC's fiscal year 2012 budget proposal stated that the reduction in the E-911 fund will have an impact on the implementation of the P25 radio system upgrade. At the OUC's budget oversight hearing on May 2, 2011, Interim Director Teddy Kavaleri stated that there is a \$4.7 million deficit for the remainder of the radio upgrade project, and the agency hopes to make up the difference through federal Homeland Security Grants. The Committee encourages taking this route to ensure that the project continues according to schedule.

Fire Liaison Officer: At the Office of Unified Communications there are currently 3 employees of the Fire and Emergency Medical Services Department that assist with Fire and EMS issues per shift. On each shift, there are two Emergency Medical Service Liaison Officers (ELOs), and one Fire Liaison Officer (FLO) stationed at the OUC. At the OUC's budget oversight hearing, Interim Director Kavaleri indicated that the OUC plans to retain the two ELOs per shift, but the status of the FLO was still under discussion.

The Committee strongly recommends that the OUC retain the FLO position as well as the ELO positions on each shift at the agency. When the communications division was removed from the fire department, which ultimately became a part of the Office of Unified Communications, the FLO was created in order to provide consistent communications between FEMS and OUC. The duties of the FLO are many, and include: ensuring the appropriate dispatching or non-dispatching of FEMS resources pursuant to FEMS policies and procedures; the responsibility for facilitating training on FEMS operations for OUC personnel; monitoring OUC applications, including dispatch and fire ground tactical radio channels; suggesting policy changes; and filling out daily reports in order to highlight trends and areas for improvement in the provision of fire and emergency medical services.¹⁰⁷ Furthermore, the FLO is the initial and primary point of contact to the Homeland Security and Emergency Management Agency (HSEMA) on those incidents classified as a "significant." These are only some of the important responsibilities of the FLO.

The Committee believes that the FLO provides the important function of bringing institutional knowledge of FEMS directly into the OUC, to properly and appropriately coordinate FEMS response to emergency calls, including for those more serious fire incidents. The Committee sees no justifiable reason for removing this important public safety function from the OUC, particularly when the FLO and ELO positions are funded by FEMS.

¹⁰⁷ See Letter to Chief of Staff for the Mayor Paul Quander from Ed Smith, President, Local No. 36, International Association of Firefighters (Apr. 27, 2001) (on file with the Committee).

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee notes that the formulation of the Mayor's proposed fiscal year 2012 operating budget for OUC includes zero salary lapse. The agency had 19 vacancies on May 1, 2011. The Committee also notes that fringe is budgeted at 21.67 percent for fiscal year 2012 (actual fringe percentages were 23.93 percent in fiscal year 2009, 25.06 percent in fiscal year 2010, and 26.44 percent in fiscal year 2011). The fringe is budgeted too low for fiscal year 2012, but the zero salary lapse may offset the possible spending pressure.

The Committee recommends adoption of the fiscal year 2012 operating budget for OUC as proposed by the Mayor with the following modifications:

1. A reduction of \$100,000 local funds (PS) to Comptroller Source Group 11 (Regular Pay - Cont Full Time) to increase salary lapse/vacancy savings (zero is budgeted for fiscal year 2012). This equals 0.4 percent of the rate.
2. A reduction of \$50,000 local funds (PS) in Comptroller Source Group 15 (Overtime Pay). This will reduce overtime to \$32,000 per pay period; the agency is currently spending below that amount.

Agency Capital Budget:

The Committee recommends adoption of the Mayor's fiscal year 2012 - fiscal year 2017 Capital Budget Authority proposal for OUC without modification.

Policy Recommendations:

The Committee makes the following policy recommendations with regard to OUC:

1. The Executive must reduce security costs for the OUC. These amounted to \$786,000 in fiscal year 2009 and \$962,000 in fiscal year 2010. These costs have increased by 67.0 percent since fiscal year 2010.
2. The OCFO has a problem in that security is budgeted against the E911 fund, which is reserved exclusively for capital replacement costs. Not only does the Committee recommend against revising the law, but the security costs must be reduced. Not acquiescing to this convenience will actually benefit the Fund, which will otherwise have a negative year-end balance on September 30, 2011.

3. The OCFO must look at controlling fringe costs for OUC. Actual fringe rates exceed the budget for OUC, and exceed the actual rates for other agencies (e.g., HSEMA, OPC, OCME, OAH, and OAG).

DEPUTY MAYOR FOR PUBLIC SAFETY & JUSTICE

Committee Recommendations – See Page 86

I. AGENCY OVERVIEW

The mission of the Deputy Mayor for Public Safety and Justice is to provide direction, guidance, support and coordination to the District's public safety agencies to develop and lead interagency public safety initiatives that improve the quality of life in the District's neighborhoods.

The Deputy Mayor for Public Safety and Justice was created in January 2011 to provide guidance, support, and coordination of public safety and justice agencies of the District. For fiscal year 2012, the role of the agency has been expanded to include oversight of service programs that previously had operated as independent agencies. This new structure will enhance the oversight function and improve service delivery.

The Mayor's proposed fiscal year 2012 budget houses the following agencies as programs under the Deputy Mayor for Public Safety and Justice for budgetary purposes: Access to Justice (ATJ); Office of Victim Services (OVS); Office of Justice Grants Administration (JGA); Corrections Information Council (CIC); and Motor Vehicle Theft Prevention Commission (MVTPC).

II. MAYOR'S PROPOSED BUDGET¹⁰⁸

Mayor's Proposed Fiscal Year 2012 Operating Budget; Agency Level:

The Mayor's fiscal year 2012 budget proposal for the Deputy Mayor for Public Safety and Justice is \$17,894, an increase of \$17,519, or 4,671.7 percent, from the current fiscal year. The proposed budget supports 17.0 FTEs, an increase of 14.0 FTEs, or 467.3 percent, from the current fiscal year. The proposed budget for the Deputy Mayor, in contrast to the current fiscal year, includes the funding and FTEs for five agencies that were previously displayed as separate

¹⁰⁸ The Mayor's proposed budget only provided numbers rounded to dollars in thousands therefore all figures provided are dollars in thousands. Percent change is based on whole dollars.

agencies within the District's budget. The following table shows the historical funding at the agency and programmatic level.

**TABLE 18-A: Deputy Mayor for Public Safety and Justice
Total Operating Funds Budget FY 2006 – 2012**

| | Actual 2006 | Actual 2007 | Actual 2008 | Actual 2009 | Actual 2010 | Budget 2011 | Mayor 2012 |
|--|----------------|----------------|----------------|----------------|----------------|----------------|---------------|
| <i>Deputy Mayor for Public Safety and Justice (FQ)</i> | | | | | | | |
| Total Funds | N/A | N/A | N/A | N/A | N/A | 375 | 17,894 |
| FTEs | N/A | N/A | N/A | N/A | N/A | 3 | 17 |
| <i>Access to Justice Initiative (AJ)*</i> | | | | | | | |
| Total Funds | N/A | 3,200 | 3,200 | 3,600 | 2,860 | 3,172 | 3,152 |
| FTEs | N/A | N/A | N/A | N/A | N/A | N/A | N/A |
| <i>Office of Victim Services (FE)</i> | | | | | | | |
| Total Funds | N/A | N/A | 11,301 | 9,095 | 14,700 | 13,635 | 5,928 |
| FTEs | N/A | N/A | 3.0 | 6.0 | 6.0 | 6.0 | 6.0 |
| <i>Office of Justice Grants Administration (FO)</i> | | | | | | | |
| Total Funds | N/A | N/A | 5,442 | 3,439 | 10,261 | 12,413 | 7,973 |
| FTEs | N/A | N/A | 3.0 | 3.5 | 4.9 | 6.0 | 7.0 |
| <i>Corrections Information Council (FI)</i> | | | | | | | |
| Total Funds | 113 | 118 | 115 | 0 | 25 | 130 | 130 |
| FTEs | 0.0 | 0.0 | 1.0 | 0.0 | 0.0 | 1.0 | 1.0 |
| <i>Motor Vehicle Theft Commission (FW)</i> | | | | | | | |
| Total Funds | N/A | N/A | N/A | N/A | 0 | 250 | 250 |
| FTEs | N/A | N/A | N/A | N/A | 0.0 | 0.0 | 0.0 |

Source: Budget Books (dollars in thousands)

**Figures for the Access to Justice Initiative include both civil legal services funding and the LRAP program.*

Local Funds: The Mayor has proposed a budget of \$6,432, representing an increase of \$6,057, or 1,615.3 percent, from the fiscal year 2011 approved budget. This funding supports 9.4 FTEs, an increase of 6.4 FTEs, or 214.7 percent, from the fiscal year 2011 approved budget.

The policy initiatives include: a reduction in the starting budget of the individual programs transferred to the Deputy Mayor for Public Safety and Justice of \$31, or -6.0 percent; and a reduction in the local funds budget of \$21 due to the transfer of the local portion of the IT assessment to the Office of the Chief Technology Officer.

Special Purpose Revenue Funds: The Mayor has proposed a budget of \$1,000, representing an increase of \$1,000 from the fiscal year 2011 approved budget. This funding supports 0.0 FTEs, representing no change from the current level.

Federal Resources: The Mayor has proposed a budget of \$10,462, representing an increase of \$10,462 from the fiscal year 2011 approved budget. This funding supports 7.6 FTEs, an increase of 7.6 FTEs from the fiscal year 2011 approved budget.

Mayor's Proposed Fiscal Year 2012 Operating Budget; Programmatic Level:

Access to Justice: Local Funds: The Mayor has proposed a budget of \$3,150, representing a decrease of \$21, or -0.7 percent, from the fiscal year 2011 approved budget. The proposed budget funds civil legal services at \$2,951, and funds the Poverty Lawyer Loan Repayment Program at \$199. The funding supports 0.0 FTEs, representing no change from the fiscal year 2011 level.

Office of Victim Services: Local Funds: The Mayor has proposed a budget of \$2,378, representing a decrease of \$265, or -10.0 percent, from the fiscal year 2011 approved budget. This funding supports 4.7 FTEs, an increase of 3.7 FTEs, or 370.0 percent, from the fiscal year 2011 level. **Special Purpose Revenue Funds:** The Mayor has proposed a budget of \$1,000, representing a decrease of \$6,134, or -85.98 percent, from the fiscal year 2011 approved budget. **Federal Resources:** The Mayor has proposed a budget of \$2,555, representing a decrease of \$681, or -21.0 percent, from the fiscal year 2011 approved budget. This funding supports 1.3 FTEs, a decrease of 1.2 FTEs, or -48.0 percent, from the fiscal year 2011 level. **Intra-District Funds:** The Mayor has proposed a budget of \$0, representing a decrease of \$892, or -100 percent, from the fiscal year 2011 approved budget. This funding supports 0.0 FTEs, representing no change from the fiscal year 2011 level.

Justice Grants Administration: Local Funds: The Mayor has proposed a budget of \$66, representing a decrease of \$6, or -8.3 percent, from the fiscal year 2011 approved budget. This funding supports 0.8 FTEs, an increase of 0.1 FTEs, or 14.3 percent, from the fiscal year 2011 level. **Federal Resources:** The Mayor has proposed a budget of \$7,907, representing a decrease

of \$4436, or -35.9 percent, from the fiscal year 2011 approved budget. This funding supports 6.2 FTEs, an increase of 0.9 FTEs, or 17.0 percent, from the fiscal year 2011 level.

Corrections Information Council: Local Funds: The Mayor has proposed a budget of \$130, the same level of funding as the fiscal year 2011 approved budget. This funding supports 1.0 FTEs, representing no change from the fiscal year 2011 level.

Motor Vehicle Theft Prevention Commission: Local Funds: The Mayor has proposed a budget of \$250, representing an increase of \$250 from the fiscal year 2011 approved budget. This funding supports 0.0 FTEs, representing no change from the fiscal year 2011 level. In previous years, the Commission was funded with Special Purpose Revenue from car insurance violation fines; however, the Mayor believes local funding will give the Commission the validity it needs to begin its work in the District. ***Special Purpose Revenue Funds:*** The Mayor has proposed a budget of \$0, representing a decrease of \$250, or -100 percent, from the fiscal year 2011 approved budget. This funding supports 0.0 FTEs, representing no change from the fiscal year 2011 level.

III. COMMITTEE CONCERNS

Agency Management & Oversight: The primary goal in reestablishing the Deputy Mayor for Public Safety and Justice is surely to improve performance, and provide effective resources and guidance, to public safety agencies. The office is being established to provide direction, planning, and coordination of the District's public safety efforts. What is likely the most important of these functions is to improve collaboration among the public safety cluster agencies as well as among local, federal, and judicial partners. Such coordination can ensure that agencies do not take the position that an issue or matter is "not their role." Instead, the Deputy Mayor can, in overseeing the District's public safety efforts, ensure all agencies and programs are partners in these efforts, and that each plays its role. This can also be important for improving the access and flow of information, so that different players in the public safety cluster can have the most accurate and up-to-date information to do their job effectively.

From an operational standpoint, the Committee believes that the Deputy Mayor's office can improve efficiencies. As proposed by the Mayor in the fiscal year 2012 budget, several smaller public safety related programs will be absorbed into the office. This will hopefully allow for the Deputy Mayor's office to provide support for these operations. The Committee believes that additional efficiencies are likely available as the office moves forward, and urges the Deputy Mayor to pursue such efforts.

Access to Justice Initiative: The Committee has long trumpeted its support for increased funding for civil legal services for low-income residents and underserved communities. Equal access to justice, without regard to income, is fundamental to our system of justice and integral to our democratic society. The District government's support for civil legal services comes in

the form of two programs. The first is direct funding for civil legal services by way of a grant to the DC Bar Foundation. The second is the Poverty Lawyer Loan Repayment Program (LRAP), which helps alleviate burdensome law school debt for attorneys providing direct legal services to the District's low-income population. More detailed information on these programs, and the District's historical support for them, can be obtained in the Committee's detailed May 2010 report highlighting these programs.¹⁰⁹

Though the Committee has struggled over the last several years to restore funding cuts to these important programs, the Mayor's proposed fiscal year 2012 budget recognizes the value provided by these programs in choosing to fully fund them. While the Committee has made efforts to reorganize these programs in order to prevent them to be raided by their administering agency, it is right to place these programs under the Deputy Mayor for Public Safety and Justice. The Committee recommends budget support act language (below) to ensure that the funding for these programs is protected in future budget cycles -- by recommending language that prevents the Deputy Mayor's office from reprogramming funding from the two programs -- as well as to spell out the financial and operational reporting requirements for the non-profit entities that administer the programs. In the past, overly burdensome reporting requirements and interrogatories have impacted the delivery of services (as funding was delayed) and placed valuable partnerships in this program at risk.

The District needs these programs. The services they provide to residents help the most unfortunate accomplish the most basic of needs, such as food, housing, and protection. Ronald Flagg, President of the District of Columbia Bar, noted that the District government has a shared obligation to provide access to equal justice for our citizens.¹¹⁰ It is the Committee's hope that, through continued funding and strong partnering with non-profit entities administering the program, the District government can meet or exceed that obligation.

Office of Victim Services: In 2002, Congress enacted legislation that provided the District, beginning in fiscal year 2000, with half of the surplus funds held in the Crime Victim Compensation Program at the DC Superior Court (comprised of unspent court fines and fees). This resulted in annual transfers to expand and increase services to victims of crime. Since that time, over \$38,000,000 has been transferred to the District's Crime Victim Assistance Fund (VAF) and used to protect, house, counsel, and provide case management from anywhere between 15,000 to 30,000 crime victims a year.

OVS has used a portion of the VAF as an Emergency Shelter Fund: funding set aside that can be used if insufficient funding is available through the OVS budget to cover debt services

¹⁰⁹ See Report on the Support of Civil Legal Services for Low-Income Residents and Underserved Communities in the District of Columbia, Committee on Public Safety and the Judiciary (May 13, 2010), available at http://www.dccouncil.us/mendelson/archive_pr/CPSJ%20Report%20on%20Support%20for%20Civil%20Legal%20Services%20-%20%20%205.13.10.pdf (last visited May 6, 2011).

¹¹⁰ Letter from Ronald Flagg, President, District of Columbia Bar, to Phil Mendelson, Councilmember (At-Large), 2 (Apr. 21, 2011).

and operating costs for domestic violence housing commitments. OVS has stated that in addition to the \$1,000,000 in VAF available for use in fiscal year 2012, there is \$2,880,000 of Shelter Funds that it can use for programs. The Committee is concerned, however, that currently the amount available for funding services is in dispute, with OVS believing there to be a much greater amount of funding available than the OCFO is willing to certify.

Additionally, the Committee is concerned with one of the largest overall reductions in funding for this agency. In recent years, OVS grants have had a significant, beneficial impact on resources for victims of crime, particularly victims of domestic violence. The current economic climate has created significant financial stress on both the local and national level, and the government should be mindful of the effect of any reduction of services.

Office of Justice Grants Administration: The Committee has identified two issues of concern with this program. First, at the Committee's April 14th budget oversight hearing on JGA, Interim Director Melissa Hook did not have any information on the progress of the hiring of a new agency Director. It is important that the Executive move quickly to resolve the issue of management over this program to ensure the proper management of public safety grant programs for the remainder of the current fiscal year and beyond. With the organizational structure of this agency within the office of the Deputy Mayor currently in flux, the Executive should move quickly to either hire a new Director or absorb the administration of this program within the newly created Office of the Deputy Mayor for Public Safety and Justice.

The second issue identified by the Committee pertains to specific grants. In its recommendations regarding JGA's fiscal year 2011 budget, the Committee urged the agency to look favorably on grants to: (1) an organization that assists inmates at the DC Jail or CTF and also recently released inmates; (2) an organization that provides diversion services to first-time non-violent youth offenders; (3) an organization that provides a rural camp in the region for District youth; and (4) a community-based, cross-jurisdictional organization whose objectives are to help reduce crime and promote public safety. A review of the grants received by JGA in fiscal year 2010, which according to JGA's responses to Committee oversight questions is the same list of grants JGA is considering applying for during fiscal year 2011, reveals that some of the Committee's recommendations have been followed, but not all. The Committee urges the JGA and the Deputy Mayor to focus more attention in fiscal year 2012 on the categories of grants the Committee has identified.

Corrections Information Council: The 1997 National Capital Revitalization and Self-Government Improvement Act transferred the District's sentenced felon population to the Bureau of Prisons ("BOP"), resulting in a large number of District residents formerly housed at the Lorton Correctional Complex being dispersed to penal institutions throughout the country. The Corrections Information Council (CIC) was created by that same act for the purpose of investigating, generally, the conditions of the District of Columbia sentenced felon population scattered throughout the BOP. The CIC's role was expanded by the Jail Improvement Act of

2003,¹¹¹ which requires the CIC to conduct inspections of the local correctional facilities and mandates that the Department of Corrections (“DOC”) provide access to members of the CIC, its staff, designees, and agents for this purpose, including unmonitored interviews of inmates.

The previous administration had allowed the CIC to lay dormant during the past four years, with its important function going unfulfilled. The Committee attempted to revitalize the agency, pushing the Corrections Information Council Amendment Act of 2010, which amends the law to create a Governing Board to advise the CIC and an Executive Director to operate it.¹¹² However, this newly constituted agency continued to be ignored by the previous Administration, and its funding critically reduced.

The Gray Administration, however, has taken a much keener interest in this agency. Deputy Mayor Quander has testified of his commitment to revitalizing this agency, and he has shown that he appreciates the agency’s importance. It is important that he has reached out to our federal partners, obtaining a commitment from the Director of the Bureau of Prisons to support the CIC, and he has committed that the Mayor will make appointments to the governing board.¹¹³ As the budget proposal for fiscal year 2012 has CIC under his control, Mr. Quander testified at the May 3rd budget hearing that he is very interested in getting this agency up and running, and that he will use the resources of his Office to ensure that the agency is able to efficiently and effectively fulfill its mission.¹¹⁴

The Committee is anxious to see this happen. Having an effective, well-funded mechanism to monitor the treatment of District prisoners is essential to ensuring that this population receives proper treatment and necessary resources and programs.

Motor Vehicle Theft Prevention Commission: It is regrettable that two years have elapsed since the Council first appropriated funding -- \$1.2 million -- to implement the Motor Vehicle Theft Prevention Commission (“Commission”), yet there has not been an effort to utilize this Commission. The closure rate for motor vehicle theft was reported to be 2.6 percent in calendar year 2009.¹¹⁵ This is down from 3.1 percent in calendar year 2008 and 4.5 percent in calendar year 2007. The statistics provided describe the number of motor vehicle thefts per district in calendar year 2009 -- adding these numbers together, citywide there were almost 10,000 instances of motor vehicle theft.

¹¹¹ D.C. Law 15-62; D.C. OFFICIAL CODE § 24-101.

¹¹² D.C. Law 18-233.

¹¹³ *Deputy Mayor for Public Safety and Justice: Performance Oversight Hearing of the Committee on the Judiciary*, at 2 (Mar. 18, 2011) (written testimony of Paul Quander, Deputy Mayor for Public Safety and Justice).

¹¹⁴ *Deputy Mayor for Public Safety and Justice: Budget Oversight Hearing of the Committee on the Judiciary* (May 2, 2011) (oral testimony of Paul Quander, Deputy Mayor for Public Safety and Justice).

¹¹⁵ Letter from Cathy Lanier, Chief, Metropolitan Police Department, to Phil Mendelson, Chairperson, Committee on Public Safety and the Judiciary, Council of the District of Columbia (March 17, 2010) (on file with the Committee).

The Commission was established with the sole purpose of addressing vehicle theft prevention. The Commission is meant to work with MPD, prosecutors, and with other entities, to increase enforcement as well as to improve prevention. The goal is to be one step ahead of offenders. Innovation in prevention, enforcement, investigation, and prosecution are critical to moving forward. Not only should this authority reduce vehicle theft in the District, but this, in turn, should reduce auto insurance premiums in the District. The result will be improved public safety and a lesser burden for District residents and businesses.

The Administration, and, particularly the Deputy Mayor, has shown a real interest in moving this Commission forward. The Committee urges that this be done, and done quickly. The Commission can serve as a valuable resource, and has laid dormant for too long. Adequate funding and the realization of appointments to the Commission, are needed to curb the problem of motor vehicle theft in the District.

IV. COMMITTEE RECOMMENDATIONS

Agency Operating Budget:

The Committee recommends adoption of the fiscal year 2012 budget for the Deputy Mayor for Public Safety & Justice as proposed by the Mayor with the following modifications:

1. Technical Adjustment from OCFO: An increase of \$210,000 intra-District funds and an increase of 2.0 FTEs from HSEMA. This amount is carryover, unspent funds from the FY 2011 HSEMA sub-grant award.
2. An increase of \$200,000 local funds (NPS) to Comptroller Source Group 41 (Contractual Services - Other) to fund an analysis of what is the optimal size of the Metropolitan Police Department -- e.g., 3,900 officers? 4,100 officers? The analysis should include consideration of civilianization, presence of other police agencies, and unique needs of the District.
3. An increase of \$100,000 local funds (NPS) to Comptroller Source Group 50 (Subsidies and Transfers) for the Access to Justice Initiative (AJ) program. This funding restores the \$21,000 cut to the LRAP program, with the remaining \$129,000 supporting the civil legal services grants program.
4. An increase of \$1,308,000 local funds (NPS) to Comptroller Source Group 50 (Subsidies and Transfers) for the Office of Victim Services (FE) program to restore funds for grants. Per the Committee's recommendation to restore funding for the Wendt contract directly within the OCME budget, OVS should not transfer funding for this purpose.

5. An increase of \$121,000 local funds (NPS) to Comptroller Source Group 50 (Subsidies and Transfers) for the Justice Grants Administration (FO) program. This funding is to help fund an organization which assists inmates at the DC Jail or CTF and also recently released inmates. The award of this money in FY 2012 to this organization shall be consistent with the Justice Grants Administration's grant criteria and with the additional criteria:
 - The grantee shall provide a list of its sources of funding for fiscal years 2009 – 2011, and anticipated for 2012.
 - The grantee shall provide a plan for how it is going to utilize their fiscal year 2012 funding.
 - The grantee shall provide a funding sustainability plan, should funding from the Council stop. The sustainability plan should be a concrete plan of action outlining the means for seeking additional funding from other agencies and private sources.
 - The grantee shall provide a quarterly financial report to the JGA. The quarterly report should show the grantee's progress, if any, for seeking additional means of funding.

Policy Recommendations:

1. The Committee urges the inclusion in the Budget Request Act of a section (General Provisions) that states federal seizures of money and assets that are not already being directed to the Metropolitan Police Department are to go to the Office of Victim Services.
2. The Committee recommends the inclusion of the Budget Support Act of a subtitle that establishes the Office of the Deputy Mayor for Public Safety & Justice, includes a section on the Deputy Mayor's confirmation and provides direction on the reprogramming between agencies. Specifically, that reprogramming for this Office shall be treated the same as a reprogramming between agencies (e.g., require Council approval).

* * *

FISCAL YEAR 2012 BUDGET REQUEST ACT APPROPRIATION LANGUAGE RECOMMENDATIONS

On Friday, April 1, 2011, Chairman Kwame R. Brown introduced, at the request of Mayor Vincent C. Gray, Bill 19-202, the Fiscal Year 2012 Budget Request Act of 2011. The Committee recommends the following amendment to Bill 19-202.

Amendment No. 1 - Unemployment Insurance Grant Funding

The Committee includes recommended amendatory language and explains the rationale for the proposed change below:

AMENDMENT NO. 1

Unemployment Insurance Grant Funding

I. AMENDMENT LANGUAGE

Title III--District of Columbia Funds--Division of Expenses, Operating Expenses, Economic Development and Regulation, Paragraph (7), Page 8, is amended by adding the following phrase at the end:

“provided further, that \$1,024,423 shall be transferred to the Office of Administrative Hearings for hearing appeals related to unemployment insurance benefits;”

II. COMMITTEE REASONING

The Committee recommended, and the Council adopted, identical language in the fiscal year 2011 Budget Request Act. The Council has repeatedly adopted a budget which includes the intra-District transfer of funds from the Department of Employment Services (DOES) to the Office of Administrative Hearings (OAH) for the adjudication of unemployment insurance cases.

This funding stems from federal support for the state program. While OAH continues to perform the statutorily prescribed obligation to adjudicate unemployment cases, DOES had, until recently, refused to transfer funding for this service. What funding has been transferred has typically been slow to make its way to OAH. This has the potential of inhibiting OAH in fulfillment of its core mission, as the agency must shift resources to ensure continued compliance with federal guidelines for unemployment insurance cases,¹¹⁶ thereby reducing resources for the adjudication of cases in other jurisdictions.

DOES had previously made the argument that the failure to transfer funds hinged on the need for OAH to improve the timeliness of decisions to meet federal guidelines. However, OAH has made sustained effort, revising how it processed these cases and dedicating more resources toward them, to meet these standards more consistently. The agency has met, or substantially exceeded the most stringent 30-day standard (requiring 60 percent of cases be adjudicated in this timeframe) in 8 of the 12 months of fiscal year 2010. Thus, for fiscal year 2010 the agency has averaged 64 percent of cases within 30 days -- above the federal standard.¹¹⁷

The funding supports five Administrative Law Judges, 2.5 legal assistants, and 0.5 staff attorney. In order to ensure that the OAH has the funding to continue to perform this function, and prevent delay in the transfer of funds that occurred in prior years, the proposed amendment “hardwires” this funding into the Budget Request Act. According to OAH, this has resulted in a more expedient system of getting these funds transferred to the agency to support adjudication of unemployment insurance cases.

* * *

¹¹⁶ The US Department of Labor regulations for unemployment insurance cases require that 60 percent of all cases be decided within 30 days of filing, 80 percent of all cases decided within 45 days of filing, and 95 percent of cases decided within 90 days of filing. In addition, there are Acceptable Levels of Performance for the average and media ages of pending cases.

¹¹⁷ Letter from Mary Oates Walker, Chief Administrative Law Judge, Office of Administrative Hearings, to Phil Mendelson, Chairman, Committee on Public Safety and the Judiciary, Re: Responses to March 3, 2011 Inquiry, at 8 (Mar. 14, 2011).

FISCAL YEAR 2012 BUDGET SUPPORT ACT APPROPRIATION LANGUAGE RECOMMENDATIONS

On Friday, April 1, 2011, Chairman Kwame R. Brown introduced, at the request of Mayor Vincent C. Gray, Bill 19-203, the Fiscal Year 2012 Budget Support Act of 2011. One subtitle within Bill 19-203 was referred to the Committee on the Judiciary:

| | | |
|-----------|------------|------------------------------|
| Title III | Subtitle A | Access to Justice Initiative |
|-----------|------------|------------------------------|

The Committee includes recommended amendatory language to the proposed subtitle, and explains the rationale for the proposed changes below. In addition to the above listed subtitle, the Committee recommends that the following subtitle be included in Bill 19-203:

| | | |
|----------|-------------|--|
| Title -- | Subtitle -- | FEMS Overtime Limitation Amendment Act |
| Title -- | Subtitle -- | Office of the Deputy Mayor for Public Safety and Justice Establishment Act |
| Title -- | Subtitle -- | Criminal Code Reform Extension Amendment Act |
| Title -- | Subtitle -- | DCNG Youth Challenge Participant Support Fund Amendment Act |

The Committee discusses and makes recommendations to the Council for each of these subtitles below:

A. SUBTITLES REFERRED TO THE COMMITTEE:

TITLE III, SUBTITLE A **Access to Justice Initiative**

I. PURPOSE, EFFECT, AND IMPACT ON EXISTING LAW

As introduced, the purpose of this subtitle is, first, to move the Access to Justice Initiative (ATJ) under the Mayor's control. This would make the Mayor, and not the OCFO, responsible for awarding any grants from its funds, including the grant to the District of Columbia Bar Foundation. Second, it would broaden the scope of the ATJ to include providing loan repayment assistance to attorneys participating in the District of Columbia Poverty Lawyer Loan Repayment Assistance Program (LRAP). This would align the LRAP program with the ATJ program under the Mayor, removing the program from OAG. Third, it would allow the administrator of LRAP to use up to 15 percent of the allocated funding for reasonable administrative expenses. Currently, only 5 percent can be used for administrative expenses. Finally, it would allow the District of Columbia Bar Foundation and either the Mayor or the non-profit administrator of the Program to use a portion of their allocated funding for administrative expenses to secure the required annual finance and management audit of each program.

II. COMMITTEE REASONING

The Committee believes that equal access to justice, without regard to income, is fundamental to our system of justice and integral to our democratic society. Access to justice echoes resolutely throughout our nation's history, and, as the seat of the nation's government, the District of Columbia should ensure equal access to the justice system and serve as a model in the provision of legal services. To that end, the Committee released a report in May 2010 highlighting the importance of the District's continued support of funding civil legal services for low-income residents and underserved communities¹¹⁸

The District government's support for civil legal services comes in the form of two programs. The first is direct funding for civil legal services by way of a grant to the DC Bar Foundation. As originally established, District funding to support these services flowed through

¹¹⁸ See Report on the Support of Civil Legal Services for Low-Income Residents and Underserved Communities in the District of Columbia, Committee on Public Safety and the Judiciary (May 13, 2010), available at http://www.dccouncil.us/mendelson/archive_pr/CPSJ%20Report%20on%20Support%20for%20Civil%20Legal%20Services%20-%20%205.13.10.pdf (last visited May 6, 2011).

the Office of the Attorney General (OAG) to the DC Bar Foundation.¹¹⁹ While funding for this purpose had been included in the District's budget since fiscal year 2007, issues continued to arise with the actual transfer of the funds. Specifically, that housing the funding for these critical services within the OAG left the funding at risk of redirection or reprogramming. In addition, OAG had attempted in the past to place limitations or restrictions on the funds without any authority to do so. To protect the funding dedicated by the Council for this purpose, the Committee recommended an amendment to the fiscal year 2011 Budget Request Act to separate out these funds from OAG and place them instead in a "paper agency" managed by the Office of the Chief Financial Officer.¹²⁰

In addition to providing direct funding for civil legal services, the District also funds the Poverty Lawyer Loan Repayment Program (LRAP) to help alleviate burdensome law school debt for attorneys providing direct legal services to the District's low-income population. Established by the Council in 2006, and administered by the OAG, LRAP is a loan assistance repayment program created in recognition of the enormous sacrifices made by poverty lawyers so that they can perform their job. By addressing one of the financial barriers to public interest work -- the burden of educational debt -- this loan repayment program is an important and cost effective way for the District to expand access to justice for its citizens who are poor and indigent. The program not only helps civil legal services attorneys who provide such services to indigent clients, it also attracts more attorneys into the realm of public interest law.

As with the grant funding for civil legal services, the Committee has long been concerned that housing the funding for this program within OAG leaves it open to being redirected for other needs. To protect the funding for these services the program must be housed separately -- both conceptually and physically -- from OAG. The Council attempted to accomplish this for the current fiscal year, requiring the LRAP program to be listed as a separate paper agency, but this directive was ignored by the Fenty Administration.¹²¹ As such, the LRAP program currently continues to be housed in, and is overseen by, the OAG.

While previous attempts at reorganization have sought to remedy issues with the management and funding of these two programs -- the civil legal services funding and the LRAP program -- problems continue to persist. While the administration of the civil legal services funding has benefited from the creation of the paper agency, it is beneficial to treat these programs similarly as well as house them together under one organizational structure. Furthermore, it is preferable to find a permanent home for these programs, so that District agency responsible for administering them can gain expertise in handling the programs and the

¹¹⁹ Subsection (a) of that section provides: "[s]ubject to the availability of appropriations, the [OAG] shall award a grant to the District of Columbia Bar Foundation ... for the purpose of the Bar Foundation providing support to nonprofit organizations that deliver civil legal services to low income and underserved District residents".

¹²⁰ See section 3011 *et seq.* of Bill 18-731, Fiscal Year Budget Support Act of 2010 (D.C. Law 18-223).

¹²¹ Section 3(3)(G) of Resolution 18-337, Fiscal Year 2011 Budget Submission Requirement Resolution of 2009 (directing that the "Poverty Lawyer Assistance Program and Civil Legal Services, which are managed through the D.C. Bar Foundation, shall be listed as separate programs (Organizational Level 2) in a single paper agency (Organizational Level 1), called Access to Justice, that is separate from the Office of the Attorney General.").

actual nonprofit entities administering them are not impacted by new District entities getting up to speed with operation of the programs.

In recognition of these efficiencies, the Mayor's proposed Fiscal Year 2012 Budget Support Act looks to combine these two programs under the guise of the "Access to Justice Initiative."¹²² Additionally, administration of the civil legal services program is moved out of the OAG, and administration of the LRAP program moved out of the OCFO, and both are placed under the Mayor's control.

The Committee has taken guidance from the Mayor's proposal, and made additional modifications that the Committee believes are in keeping with the direction sought by both the executive and legislative branches and that will help to bring about further efficiencies in the operation and administration of these two programs. Among the changes the Committee recommends is that the two programs under the umbrella Access to Justice Initiative be placed under the purview of a specific office: the Office of the Deputy Mayor for Public Safety and Justice. The Mayor makes a similar recommendation for budgetary purposes in the fiscal year 2012 proposed budget. This would specifically house the two programs under the Deputy Mayor, which the Committee recommends be created as a statutory office (*see* proposed subtitle below). The latter proposal also seeks to make sure the funding for these two programs cannot be modified through reprogramming to other budget programs.

The Committee's proposal also makes a number of clarifications, such as enumerating the fiscal and operational reporting requirements to ensure there is no overreaching on the part of the government that makes administration of the programs overly burdensome. With regard to the LRAP program, the Committee agrees with the Mayor's proposal to increase the percentage of funding that can be applied toward reasonable administrative expenses, and makes a number of other clarifying amendments to LRAP statute.

These statutory changes to the program will hopefully ensure their smooth and efficient operation. Further, in housing these programs within the Office of the Deputy Mayor for Public Safety and Justice, it is hoped that adequate attention, and adequate funding, can be applied in future years to the provision of civil legal services to low-income residents and underserved communities in the District.

III. SECTION-BY-SECTION ANALYSIS

Sec. 301. Short title.

Sec. 302. Revises the Access to Justice Initiative Establishment Act, to include the ATJ civil legal grant funding and the LRAP Program, as follows:

¹²² Title III, section A of Bill 19-203.

Title I. Definitions.

Sec. 101. Provides definitions to be used throughout the act. These definitions stem from existing definitions used for the LRAP program. The definitions are placed in the first Title of the act with minor modification.

Title II. Access to Justice Initiative.

Part A.

Sec. 201. Establishes the Access to Justice Initiative (replacing the previously established paper agency housed in the OCFO), to house both the civil legal services grant funding administered by the DC Bar Foundation and the LRAP Program. The program is to be contained in the Office of the Deputy Mayor for Public Safety and Justice, which is created as a statutory office in a separate subtitle recommended in this report. A separate provision under the proposed subtitle for creating the Office of the Deputy Mayor for Public Safety and Justice ensures that no level of funding allocated for these programs by the Council can be diverted or reprogrammed for other purposes without Council approval.

Sec. 202. Enumerates the reporting requirements for both programs with regard to both financial and operation reporting. The impetus for enumerating these requirements is to inhibit overly burdensome reporting that has been required in the past. For instance, with regard to financial reporting, the subtitle provides that an annual audit conducted by a certified public accountant for each program is all that is required under the law. This is to prevent overly burdensome and unnecessary audits conducted by other District agencies such as the Office of the Inspector General (OIG). Under District law, an audit of the program by the OIG can still be conducted if there is suspected fraud or other wrongful conduct. The section also spells out the type of information that can be requested through the administration of these programs. Specifically forbidding inquiries into confidential or privileged information. This is, again, to prevent overreaching on the part of government agencies, permit the administration of the program to comply with applicable law, and adhere to DC Bar Opinion 223: Nondisclosure of Protected Information to Funding Agency.

Part B.

Sec. 301. Provides for the establishment of the ATJ civil legal services grant funding program. This language is similar to that previously adopted by the Council, except that the program is removed from under the OCFO and placed, instead, under the Deputy Mayor.

Part C.

Sec. 401. - Sec. 407. Provides for the establishment of the LRAP program. These provisions are removed from the existing statute and placed, with minor modification under the

Access to Justice Initiative and the control of the Deputy Mayor for Public Safety and Justice. In addition to moving the physical location of the statute, the subtitle also makes a number of clarifying amendments. One of the key changes is to permit loan forgiveness for participants that are involuntarily terminated. As amended in the subtitle below, in the event of involuntary termination, the portion of the loan through the date of eligible employment is forgiven. This prevents a program participant from unfairly being required to repay the full loan immediately upon termination, when termination was the result of budget cuts from the legal services provider.

Sec. 303. Repeals the existing statutory language for the LRAP program, as this language is placed, with minor modification, in the above revised subtitle housed within the Office of the Deputy Mayor for Public Safety and Justice.

IV. LEGISLATIVE RECOMMENDATIONS TO THE COUNCIL

TITLE III, SUBTITLE A. ACCESS TO JUSTICE INITIATIVE.

Sec. 301. Short title.

This subtitle may be cited as the “Access to Justice Initiative Amendment Act of 2011”.

Sec. 302. The Access to Justice Initiative Establishment Act of 2010, effective September 24, 2010 (D.C. Law 18-223; D.C. Official Code § 4-1601), is amended as follows:

(a) Section 3012 (D.C. Official Code § 4-1601) is repealed.

(b) New sections 101 through 407 are added to read as follows:

“TITLE I. DEFINITIONS.

“Sec. 101. Definitions.

“For the purposes of this act, the term:

“(1) “Adequate notice” means written notice of termination from eligible employment provided within 15 days of termination and separate written confirmation by the provider of eligible employment.

“(2) “Adjusted gross income” shall have the same meaning as provided in D.C. Official Code § 47-1803.02(b).

“(3) “Administrator” means the entity designated to administer the LRAP, established pursuant to section 401.

“(4) “Applicant” means an individual who applies for assistance from the LRAP.

“(5) “ATJ” means the Access to Justice Grant Funding for Civil Legal Services.

“(6) “Bar Foundation” means the District of Columbia Bar Foundation.

“(7) “Deputy Mayor” means the Deputy Mayor for Public Safety and Justice or the Office of the Deputy Mayor for Public Safety and Justice, as the context requires.

“(8) “Eligible debt” means outstanding principal, interest, and related expenses from loans obtained for reasonable educational expenses associated with obtaining a law degree made by government and commercial lending institutions or educational institutions, but does not include loans extended by a private individual or group of individuals, including families.

“(9) “Eligible employment” means those areas of legal practice certified by the Administrator to serve the public interest, including employment with legal organizations that qualify for District of Columbia Bar Foundation funding, but does not include employment with the District of Columbia or federal government or with or as the Administrator.

“(10) “Full-time employment” means not less than 35 hours of work per week.

“(11) “Initiative” means the Access to Justice Initiative established by section 201.

“(12) “Involuntary termination” means termination for budgetary or inadequate funding reasons, as confirmed, in writing, by the eligible employer.

“(13) “Lawyer” means a graduate of an accredited law school who is:

“(A) Licensed to practice in the District of Columbia;

“(B) Authorized under the provisions of Rule 49(c)(9) of the District of Columbia Court of Appeals to practice law before that court; or

“(C) A member in good standing of the highest court of any state and who has submitted an application for admission to the District of Columbia Bar.

“(14) “LRAP” means the District of Columbia Poverty Lawyer Loan Repayment Assistance Program.

“(15) “Participant” means an eligible lawyer whose application to the LRAP has been approved.

“(16) “Reasonable educational expenses” means the cost of tuition for law school as well as the costs of education considered to be required by the school’s degree program, such as fees for room, board, transportation and commuting costs, books,

supplies, and educational equipment and materials that are part of the estimated student budget of the school in which the participant was enrolled.

“(17) “Service obligation” means the period of eligible employment necessary to sustain participation in the LRAP, which shall not be less than 45 weeks within the 12 month period for which the participant applied for assistance.

“TITLE II. ACCESS TO JUSTICE INITIATIVE.

“PART A.

“Sec. 201. Access to Justice Initiative; establishment.

“The Office of the Deputy Mayor for Public Safety and Justice shall establish an Access to Justice Initiative program for the purpose of providing support to nonprofit organizations that deliver civil legal services to low-income and under-served District residents and providing loan-repayment assistance to lawyers working in eligible employment. The Initiative shall consist of the following programs:

“(1) ATJ; and

“(2) LRAP.

“Sec. 202. Financial audit and reporting requirements.

“(a)(1) The Bar Foundation shall provide the Deputy Mayor with:

“(A)(i) An annual financial audit of the ATJ program prepared by a certified public accountant licensed in the District of Columbia and carried out in accordance with generally accepted auditing standards.

“(ii) The Bar Foundation may use a portion of funds allocated for reasonable administrative expenses pursuant to section 203(b) to procure an audit of the ATJ program for the current or preceding fiscal year. The audit shall account for and reflect all interest associated with the grant funding.

“(B) Semiannual programmatic reporting on the administration and performance of the ATJ program.

“(2) The Bar Foundation shall not be required to provide access to information on subgrantee matters covered by attorney-client privilege or attorney work product privilege or that includes confidences and secrets of clients assisted by civil legal service providers that receive funds through the ATJ program.

“(b)(1)(A) The Administrator for the LRAP shall provide to the Deputy Mayor (or if the Deputy Mayor is acting as Administrator, shall obtain) an annual financial audit of the LRAP prepared by a certified public accountant licensed in the District of Columbia and carried out in accordance with generally accepted auditing standards.

“(B) The Administrator may use a portion of funds allocated for reasonable administrative expenses pursuant to section 401(c)(3) to procure an audit of the LRAP for the current or preceding fiscal year. The audit shall account for and reflect all interest associated with the grant funding.

“(2) The Administrator shall provide semiannual programmatic reporting on the administration and performance of the LRAP.

“(3) The Administrator shall not be required to provide (or if the Deputy is acting as Administrator, shall not release) information on subgrantee matters covered by attorney-client privilege or attorney work product privilege or any information that includes confidences and secrets of clients assisted by lawyers participating in the LRAP.

“PART B.

“Sec. 301. ATJ; establishment; funding and administration.

“(a) The Deputy Mayor shall award a grant in each fiscal year from the budget of the Access to Justice Initiative to the Bar Foundation for the purpose of the Bar Foundation providing support to nonprofit organizations that deliver civil legal services to low-income and under-served District residents, including funds for a shared legal interpreter bank. Payment of the award shall be submitted by October 15th of each fiscal year in the amount specified in an act of the Council.

“(b) The Deputy Mayor shall permit the Bar Foundation to use up to 5% of the grant awarded in each fiscal year for reasonable administrative expenses associated with the provision of support to the nonprofit organizations.

“PART C.

“Sec. 401. LRAP; establishment.

“(a) The District of Columbia Poverty Lawyer Loan Repayment Assistance Program shall provide loan repayment assistance to lawyers working in eligible employment. The LRAP shall be part of and be funded through the Initiative, established pursuant to section 201.

“(b)(1) Funding for the LRAP shall be allocated to the Deputy Mayor.

“(2) The amount of funding for the LRAP for each fiscal year shall be specified by an act of the Council and shall not be modified except by a subsequent act of the Council.

“(c)(1) The Deputy Mayor may serve as Administrator or may designate a nonprofit entity to serve as the Administrator. If the Deputy Mayor designates a nonprofit entity as the Administrator, the Deputy Mayor shall provide funding for the LRAP by awarding a grant to the nonprofit entity. The grant shall be nonlapsing and interest earned by the nonprofit on grant funds shall remain available for use by the Administrator for the purposes of the LRAP, without fiscal year limitation, subject to authorization by Congress.

“(2) For fiscal year 2012, the Deputy Mayor shall designate the Bar Foundation as the Administrator.

“(3) The Administrator may use up to 15% of the grant funding for reasonable administrative expenses associated with administering the LRAP.

“Sec. 402. LRAP; administration.

“(a) The Administrator shall:

“(1) Establish an application and eligibility review process for the LRAP;

“(2) Conduct a semiannual review of the continued eligibility of participants;

“(3) Certify a list of eligible employment; and

“(4) Determine the levels of participant contribution.

“(b) The Administrator shall provide loans to participants who maintain eligible employment to repay eligible debt for reasonable education expenses associated with obtaining a law degree. The Administrator shall forgive these loans upon a participant’s completion of the required service obligation.

“Sec. 403. LRAP; participation eligibility.

“(a) To be eligible to participate in the LRAP, an applicant shall, at the time of application and throughout participation in the LRAP:

“(1) Hold, or presently plan to secure, eligible employment; provided, that a participant must hold eligible employment before any payments may be disbursed;

“(2) Be a resident of the District of Columbia;

“(3) Be a lawyer;

“(4) Have an adjusted gross annual income of less than \$65,000;

“(5) Exhaust all other available avenues for loan repayment assistance, including through participation in any available undergraduate or law school debt forgiveness programs;

“(6) Have no current service obligation from scholarships;

“(7) Submit a timely and completed application to participate;

“(8) Be in satisfactory repayment status on all eligible debt; and

“(9) Execute a release to allow the Administrator access to records, credit information, and information from lenders necessary to verify eligibility of debt and to determine loan repayments.

“(b) A law student attending the David A. Clarke School of Law at the University of the District of Columbia who is in his or her final year of school may apply and be approved for loan repayment assistance if the applicant demonstrates that he or she will meet all eligibility requirements by the time of the first award disbursement.

“Sec. 404. LRAP; award of loans.

“(a) The Administrator shall award loans to participants during the period of service obligation in accordance with section 406. Subject to the availability of funds and within the limits established by subsection (c) of this section, participants shall be granted loans sufficient to repay all eligible debt.

“(b) If the needs of all participants exceed the financing available in any fiscal year, preference shall be given to participants who:

“(1) Are graduates of accredited public schools of law in the District of Columbia;

“(2) Have completed no less than 2 prior service obligations in the LRAP;

“(3) Have graduated from an accredited school of law within the last 3 years; or

“(4) Have a high debt to adjusted gross income ratio as compared to other participants.

“(c) Participants in the LRAP shall not receive loan repayment assistance under the LRAP in excess of \$60,000, or in excess of \$1000 for a single month; provided, that

the Deputy Mayor may increase the award limits in this subsection to reflect changes in reasonable education expenses.

“Sec. 405. LRAP; participant obligations.

“(a) A participant shall:

“(1) Maintain full-time employment and eligible employment for each year of the service obligation;

“(2) Sign a promissory note setting forth their obligation to the LRAP to repay any assistance loans that are not subsequently forgiven pursuant to section 402(b) because of a failure to sustain eligible employment or other noncompliance with the eligibility requirements set forth in section 403.

“(3) Authorize the Administrator to verify his or her eligible employment and adjusted gross annual income at least semiannually during participation in the LRAP; and

“(4) Timely notify the Administrator of any change in status that would make the participant ineligible for an award; and

“(5) Be responsible for:

“(A) Negotiating with each lending institution the terms and conditions of eligible debt repayments; and

“(B) Any penalties associated with early repayment.

“(b)(1) Except as provided in paragraph (2) of this subsection, participants who fail to fulfill the required service obligation shall repay any loan disbursed, in accordance with the terms of the promissory note required by subsection (a)(2) of this section and regulations promulgated pursuant to section 407.

“(2) For purposes of this act, a participant who provides adequate notice to the Administrator of involuntary termination from eligible employment shall be deemed to have completed the service obligation through the date of the involuntary termination from eligible employment.

“Sec. 406. LRAP; disbursement of loans.

“(a) The Administrator shall begin to disburse loan repayment assistance within 90 days of the Administrator’s receipt of adequate funds.

“(b) Subject to the availability of appropriations, loan repayment assistance payments shall be made not less than semiannually to the participant until the repayment

of the eligible debt is complete or the participant no longer meets the eligibility requirements set forth in section 403.

“Sec. 407. LRAP; rulemaking.

“The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 et seq.), shall issue rules to implement the provisions of this act.”.

Sec. 303. Conforming Amendment.

The District of Columbia Poverty Lawyer Loan Assistance Repayment Program Act of 2007, effective March 2, 2007 (D.C. Law 16-203; D.C. Official Code § 1-308.21 *et seq.*), is repealed.

* * *

B. ADDITIONAL SUBTITLES RECOMMENDED BY THE COMMITTEE:

TITLE - -, SUBTITLE - -

FEMS Overtime Limitation Amendment Act

I. PURPOSE, EFFECT, AND IMPACT ON EXISTING LAW

The purpose of this subtitle is to place limitations, for fiscal year 2012, on the FEMS personnel that can earn overtime, and the amount of overtime that FEMS personnel can earn, during the fiscal year. The subtitle continues limitations placed in the law for fiscal year 2011 with one minor modification. At the request of FEMS, a limited exception for certain essential personnel has been included for some of the overtime earning limitations. Continuation of this subtitle in fiscal year 2012 will help ensure the agency spends within budget and prevent spending pressures in the upcoming fiscal year.

II. COMMITTEE REASONING

This Committee has commented at length on the excessive overtime expenditures of FEMS, and has held nearly monthly hearings, since November 2009, on continuing overtime and pay problems in the Department. Historically high overtime expenditures in FEMS have resulted in the agency exceeding its budgeted authority, often by millions of dollars. This creates spending pressures in the District that are increasingly difficult to deal with in the current economic climate. The monthly hearings initiated by this Committee were, in part, spurred by frustration over the previous Administration's reluctance to identify managerial issues and tactics to reduce the excessively high overtime costs. These hearings helped identify some of the problems and spurred the legislative initiative to limit overtime this Committee proposed for inclusion in the fiscal year 2011 budget. These prohibitions against overtime earning have been in effect since October 1, 2010, but will expire at the end of this fiscal year.

The inclusion of these legal prohibitions against certain overtime earning, coupled with new leadership in the agency -- leadership that has both shown appreciation of the problem and the introduced managerial means to control it -- has led to impressive reductions in overtime expenditures within FEMS. As of April 21, 2011, the OCFO reports that FEMS has spent just \$2.6 million through pay period 15. By way of comparison, the agency spent nearly \$6.3 million over the same period in the previous fiscal year. Just past the halfway point of the fiscal year, and with new Chief having been given less than four months to remedy overtime expenditures, FEMS has reduced overtime by 56.9 percent over the previous fiscal year.

Although this subtitle was introduced as a means to curb certain abuses and reign in agency overtime spending, and while originally envisioned for just the current fiscal year, the Committee believes these overtime limitations should be maintained in the law. The reasons for this are twofold. First, they appear to be working. Not to take away from the efforts instituted by the current Chief, but after overspending the budget by several million dollars in each fiscal year for, at least, the last decade, the agency is finally on track to spend within budget this year. This is incredibly important to the city's overall fiscal outlook, as the District will not be required to raid other agencies or programs to fund the mismanagement of this agency. The second reason for continuing these limitations in the law is the need to ensure sustained progress in mainlining fiscal discipline. While the Committee is elated that efforts to reduce overtime are being made, and made successfully, the current track record of success is too brief to abandon one of the contributors to success. In recognition that these restrictions may one day prove superfluous to overtime reduction efforts, the Committee proposes re-instituting them only for fiscal year 2012.

In confirming the nomination of FEMS Chief Kenneth Ellerbe, the Committee noted that the Chief has shown a keen understanding of the importance of addressing this problem. Specifically, Chief Ellerbe has stated that reducing budgetary obligations and overtime liabilities is one of his top priorities for FEMS.¹²³ Chief Ellerbe had success in reducing overtime while serving as Chief of the Sarasota County Fire Department. Through management and oversight, he was able to save the county over \$1 million during his brief tenure there. To date, under Chief Ellerbe's leadership at FEMS has reduced overtime expenditures by a significant percentage as compared to the previous year. Part of this success is attributable to his returning operational employees to operational positions, further reducing the need for overtime. While the Committee will continue to monitor FEMS' efforts in this area, it is pleased to see that Chief Ellerbe takes spending within the agency's budget seriously, and has made efforts -- successfully -- to reduce overtime in FEMS.

The proposed subtitle would eliminate the ability to earn overtime pay for certain management positions within FEMS. The Committee believes that as managers, personnel at the rank of BFC and above (and, thus, outside the collective bargaining unit) should not be earning overtime pay. The subtitle, as it did for fiscal year 2012, limits overtime earned for all other personnel to \$20,000 in order to prevent overtime abuse. The Committee modifies this provision, however, to exempt from this provision those personnel classified as Heavy Mobile Equipment Mechanics and Fire Arson Investigators Armed (Canine Handler). FEMS has stated that certain structured overtime and requirements for services place personnel in these positions at risk of exceeding the overtime ceiling. These positions perform critical functions for the Department, and limiting their overtime earnings may inhibit the agency's delivery of critical services. As such, they have been exempted from this restriction for fiscal year 2012. The subtitle also limits the number of hours personnel can work over two consecutive pay periods, limits the ability of personnel to earn overtime pay in the same period in which they have utilized

¹²³ See Fire and Emergency Medical Services Department, Response to Questions Asked by the Committee for Fiscal Year 2010 and 2011 Performance Oversight, at 12 (Feb. 10, 2011).

sick leave, and limits the amount of time that personnel can be detailed to the training academy for remedial EMT training. The Committee will continue to monitor overtime use by the agency, and will modify or remove overtime restrictions in future budget cycles as appropriate.

III. SECTION-BY-SECTION ANALYSIS

Sec. --. Short title.

Sec. --. Continues the existing prohibitions against overtime pay earnings for FEMS personnel at the rank of Battalion Fire Chief and above, extending this prohibition through fiscal year 2012. Continues the limitations on the amount of overtime pay earnings FEMS personnel can earn in a fiscal year, extending the prohibition through fiscal year 2012. However, this has been modified from the language adopted by the Council for fiscal year 2011, exempting two classifications of employees (Heavy Mobile Equipment Mechanic or a Fire Arson Investigator Armed (Canine Handler)) from this prohibition. The provisions under this section are limited in application to fiscal year 2012.

Sec. --. Continues the existing prohibitions on the number of hours FEMS personnel can work within two pay periods, extending this prohibition through fiscal year 2012. Continues the existing prohibition against FEMS personnel earning overtime pay in the same pay period in which that individual has already receive sick leave, extending this prohibition through fiscal year 2012. The provisions under this section are limited in application to fiscal year 2012.

Sec. --. Continues the prohibition on the number of days FEMS personnel can be detailed to EMT classes, extending this prohibition through fiscal year. The provision under this section is limited in application to fiscal year 2012.

IV. LEGISLATIVE RECOMMENDATIONS TO THE COUNCIL

SUBTITLE --. FEMS OVERTIME LIMITATION

Sec. --. Short title.

This subtitle may be cited as the “FEMS Overtime Limitation Amendment Act of 2011”.

Sec. --. Section 1103(f) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-611.03(f)), is amended as follows:

(a) Paragraph (2)(B) is amended by striking the phrase “For fiscal year 2011” and inserting the phrase “For fiscal year 2012” in its place

(b) Paragraph (4) is amended to read as follows:

“(4)(A) For fiscal year 2012, and except as provided in subparagraph (B) of this paragraph, no officer or member of the Fire and Emergency Medical Services Department who is authorized to receive overtime compensation under this subsection may earn overtime in excess of \$20,000 in the fiscal year.

“(B) This paragraph shall not apply to a member of the Fire and Emergency Medical Services Department who is classified as a Heavy Mobile Equipment Mechanic or a Fire Arson Investigator Armed (Canine Handler).”.

Sec. - -. Section 2 of An Act To amend the Act entitled “An Act to classify the officers and members of the Fire Department of the District of Columbia, and for other purposes”, approved June 20, 1906, and for other purposes, approved June 19, 1948 (62 Stat. 498; D.C. Official Code § 5-405), is amended as follows:

(a) Subsection (f) is amended by striking the year “2011” and inserting the year “2012” in its place.

(b) Subsection (g) is amended by striking the year “2011” and inserting the year “2012” in its place.

Sec. - -. Section 202(c) of the Omnibus Public Safety Agency Reform Amendment Act of 2004, effective September 30, 2004 (D.C. Law 15-194; D.C. Official Code § 5-441(c)), is amended by striking the year “2011” and inserting the year “2012” in its place.

* * *

TITLE - -, SUBTITLE - -
**Office of the Deputy Mayor for Public Safety and Justice
Establishment Act**

I. PURPOSE, EFFECT, AND IMPACT ON EXISTING LAW

The purpose of this subtitle is to establish, as a statutory office within the District government, the Office of the Deputy Mayor for Public Safety and Justice (“Office”). The Office is to be headed by a Deputy Mayor for Public Safety and Justice (“Deputy Mayor”) nominated by the Mayor and confirmed by the Council. The proposed subtitle provides for the duties and responsibilities of the Office, and codifies the responsibility of the Office over certain programs aligned under the Office within the Mayor’s fiscal year 2012 budget proposal.

II. COMMITTEE REASONING

The Committee believes strongly that the reestablishment of the Deputy Mayor for Public Safety and Justice is an important step toward bringing focus and attention to public safety services, and coordinating efforts to combat crime and increase overall public safety. Under the previous Mayor, this position was eliminated with the role being consumed by the Office of the City Administrator. The myriad functions and responsibilities of the City Administrator meant that public safety did not receive adequate attention and management.

Even before taking office, Mayor Gray announced that he would be appointing a Deputy Mayor, and Paul Quander has served in this role since the beginning of the administration. In this role Mr. Quander is responsible for planning and coordinating public safety services and initiatives, providing oversight and accountability in an area in need of much more of both. The Deputy Mayor will not only coordinate public safety efforts among District government agencies, but also with federal entities, neighboring jurisdictions, and other stakeholders. The position will also work to develop comprehensive public safety initiatives and strategies. Re-establishing this authority in the position of a Deputy Mayor also ensures that a high-level person in the administration, a close advisor to the Mayor, is working toward improved public safety initiatives and reducing crime.

As such, and given the lack of attention to this type of coordinated effort over the past four years, the Committee believes it is important to create this position as a statutory, professional office. This will ensure that this important function is continued in subsequent administrations, and that the Deputy Mayor has adequate resources and support staff to provide focus to the important function his or her office serves. While it is not the case that any Deputy Mayor is, or should be, a subordinate agency head within the District government -- indeed, the Mayor should be free to appoint individuals serving in a purely advisory role -- the Office of the Deputy Mayor for Public Safety and Justice has the capacity to swing beyond this scope, to bring

about positive changes in public safety through the development and implementation of strategies and programs. In establishing this position as a subordinate agency head, the Committee also believes that it places greater emphasis on and raising the stature of this position. This, in turn, can provide greater weight to the actions and directives of the Deputy Mayor, who would be seen as the head of an agency in addition to a policy advisor.

While the Committee believes that establishing this Office will improve the coordinated public safety efforts of the District, it would not be prudent, given that a Deputy Mayor has been appointed and serves in this position currently, to have the confirmation requirements of the subtitle apply retroactively. Indeed, the Council acted similarly, exempting the incumbent from the newly codified qualifications (and a subsequent confirmation) when it enacted legislation pertaining to the Attorney General for the District of Columbia.¹²⁴ As such, the proposed subtitle would exempt the incumbent Deputy Mayor from the Council confirmation requirements.

As noted above, the Mayor's fiscal year 2012 budget proposal seeks to align a number of smaller agencies in the public safety cluster under the Deputy Mayor for budgetary purposes. This serves two advantages. First, as Deputy Mayor Quander has testified, it allows for a greater level of oversight over these agencies. Second, it will also allow for certain efficiencies to be realized in combining these offices administratively. Deputy Mayor Quander has also testified that the Corrections Information Council and the Motor Vehicle Theft Prevention Commission will fall under the control and purview of his office.¹²⁵ This will provide stronger leadership to two important programs that have been previously neglected as he takes the role of administering these previously devised statutory agency and commission. The Committee also, through a separate subtitle, seeks to house the Access to Justice Initiative within the Office.¹²⁶

While the oversight and coordination functions of this Office are essential to a comprehensive effort to improve public safety, the Committee has included in the proposed subtitle language that prohibits the Office from reprogramming or transferring funds to or from the programs under its jurisdiction. The concern is that funds appropriated by the Council for a certain important function, such as the Access to Justice Initiative, could later be redirected to another need. This is not currently the case, nor has it been historically, and the Committee does not believe that housing these programs under this Office means the funds dedicated by the Council for a particular, previously separate, program should be more easily divested from their original purpose.

¹²⁴ See Attorney General for the District of Columbia Clarification and Elected Term Amendment Act (D.C. Law 18-160; D.C. OFFICIAL CODE § 1-301.81 *et seq.*).

¹²⁵ *Deputy Mayor for Public Safety and Justice: Fiscal Year 2012 Budget Oversight Hearing Before the Committee on the Judiciary*, 4 (May 2, 2011) (written testimony of Paul A. Quander, Jr., Deputy Mayor for Public Safety and Justice).

¹²⁶ See proposed Title III, Subtitle A: Access to Justice Initiative Amendment Act of 2011, *supra* page 88.

The Committee believes the Deputy Mayor for Public Safety and Justice, and the associated Office, is important enough to the operations of the District government to warrant raising the stature of the Office to a subordinate agency, but with the qualifications discussed above. The Committee recommends adoption of the proposed subtitle.

III. SECTION-BY-SECTION ANALYSIS

Sec. --. Short title.

Sec. --. Establishment of the Office of the Deputy Mayor for Public Safety and Justice.

(a) Establishes the Office, to be headed by a Deputy Mayor.

(b) Provides that the Deputy Mayor shall be appointed by the Mayor and confirmed by the Council.

(c) Provides for the responsibilities and duties of the Office. This includes that the Office shall serve as a liaison to federal entities and others for the coordination of public safety efforts. Further, the section codifies certain programs under the Office, and prohibits modification of funding appropriated for these programs except by an act of the Council.

(d) Provides that the requirement that the Deputy Mayor be confirmed shall not apply to the incumbent.

IV. LEGISLATIVE RECOMMENDATIONS TO THE COUNCIL

SUBTITLE --. OFFICE OF THE DEPUTY MAYOR FOR PUBLIC SAFETY AND JUSTICE ESTABLISHMENT ACT

Sec. --. Short title.

This subtitle may be cited as the “Office of the Deputy Mayor for Public Safety and Justice Establishment Act of 2011”.

Sec. --. Office of the Deputy Mayor for Public Safety and Justice; establishment; authority.

(a) Pursuant to section 404(b) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat.787; D.C. Official Code § 1-204.04(b)), the Council establishes the Office of the Deputy Mayor for Public Safety and Justice (“Office”), as a separate agency, subordinate to the Mayor, within the executive branch of

the District of Columbia government, which shall be headed by the Deputy Mayor for Public Safety and Justice.

(b) The Deputy Mayor for Public Safety and Justice shall be appointed to head the Office pursuant to section 2(a) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(a)).

(c) The Office shall:

(1) Be responsible for providing guidance, support, and coordination of public safety and of justice agencies within the District of Columbia government;

(2) Ensure accountability through general oversight over public safety and justice agencies, as well as the programs under the jurisdiction of the Office, including those listed in paragraph (5) of this subsection;

(3) Promote, coordinate, and oversee collaborative efforts among District government agencies, and between the District and federal government agencies, to ensure public safety and enhance the delivery of public-safety and justice services;

(4) Serve as a liaison to federal government agencies associated with criminal justice or public-safety issues, in the coordination, planning, and implementation of public-safety and justice matters; and

(5)(A) Oversee and provide administrative support for the:

- (i) Access to Justice Initiative;
- (ii) Motor Vehicle Theft Prevention Commission;
- (iii) Corrections Information Council;
- (iv) Office of Justice Grants Administration; and
- (v) Office of Victim Services.

(B) Funding for the programs listed in subparagraph (A) of this paragraph shall be specified by an act of the Council. The Office shall not modify, reallocate, or reprogram funding for these programs except by a subsequent act of the Council. Nothing in this paragraph shall prevent the Office from contributing administrative and other support to further the purpose of these programs.

(d) Subsection (b) of this act shall not apply to the Deputy Mayor for Public Safety and Justice who is the incumbent head of the Office on the effective date of this act.

* * *

TITLE - -, SUBTITLE - -
Criminal Code Reform Extension Amendment Act

I. PURPOSE, EFFECT, AND IMPACT ON EXISTING LAW

The purpose of this subtitle is to extend the work schedule for completion of the criminal code reform project currently being undertaken by the District of Columbia Sentencing and Criminal Code Revision Commission. The proposed language would extend the deadline for this project from September 30, 2012 to September 30, 2014.

II. COMMITTEE REASONING

This provision would amend D.C. Official Code § 3-101(2a)(b) to extend the deadline for completion of criminal code reform. The Committee had tasked the Sentencing and Criminal Code Revision Commission in 2006 with revising the language of criminal statutes to be clear and consistent, organizing existing criminal statutes, assessing the proportionality of criminal penalties, proposing a system for classifying misdemeanor statutes, identifying common law crimes that should be codified, identifying unconstitutional criminal statutes in the code, and enabling the adoption of Title 22 as an enacted Title of the code.

The criminal code revision function is not a small task, and similar undertakings in other jurisdictions have required greater resources and staff than is currently provided by the District. It is essential that the Commission be adequately staffed to ensure the success of this project. However, the lack of resources committed to this project has left the Commission with the task of finding innovative solutions to accomplishing the mission of this program. The Commission has taken a focused approach to code reform over a comprehensive one, as the latter exceeds the resources currently available to undertake such a project. The Commission established a Criminal Code Reform Committee to try and identify portions of code reform that could be accomplished, and has already proposed legislation to begin this process.¹²⁷ Though not the comprehensive reform originally envisioned, this first step towards criminal code reform will help improve the clarity, consistency, and structure of the District's current criminal code.

Due to a continued lack of resources to complete this project, the Council has previously had to modify the deadline for the code revision project. In 2009, the Council adopted legislation to extend the deadline from the original date of September 30, 2010 to the current

¹²⁷ Bill 19-214, the Fine Proportionality Amendment Act of 2011.

deadline of September 30, 2012.¹²⁸ As the Commission has, since the Council last acted, continued to toil with inadequate resources to meet the needs of this project, it is necessary to once again extend the timeframe for completion.

III. SECTION-BY-SECTION ANALYSIS

Sec. --. Short title.

Sec. --. Amends the deadline for completion of the Sentencing and Criminal Code Revision Commission's work on the criminal code reform project, extending the deadline from September 30, 2012 to September 30, 2014.

IV. LEGISLATIVE RECOMMENDATIONS TO THE COUNCIL

SUBTITLE --. CRIMINAL CODE REFORM EXTENSION AMENDMENT

ACT

Sec. --. Short title.

This subtitle may be cited as the "Criminal Code Reform Extension Amendment Act of 2011".

Sec. --. Section 2a(b) of the Advisory Commission on Sentencing Establishment Act of 1998, effective June 16, 2006 (D.C. Law 16-126; D.C. Official Code § 3-101.01(b)), is amended by striking the year "2012" and inserting the year "2014" in its place.

* * *

¹²⁸ Section 202 of D.C. Law 18-88, the Omnibus Public Safety and Justice Amendment Act of 2009.

TITLE - -, SUBTITLE - -
**DCNG Youth ChalleNGe Participant Support Fund
Establishment Amendment Act**

I. PURPOSE, EFFECT, AND IMPACT ON EXISTING LAW

The purpose of this subtitle is to establish a fund administered by the District of Columbia National Guard for the purpose of assisting in the purchase of materials, supplies, and equipment for participants in the agency's Youth ChalleNGe program.

II. COMMITTEE REASONING

Award-winning and nationally recognized as one of the most effective programs targeting at-risk youth, the National Guard Youth ChalleNGe Program ("Program") trains and mentors youth between the ages of 16 and 19 at the greatest risk of substance abuse, teen pregnancy, delinquency, and criminal activity.¹²⁹ As the District struggles to find resources and programs to aid at-risk youth and combat juvenile violence, the Committee recognizes the efforts of the DCNG with regard to this program and applauds its strong commitment to youth programs in general. As it has noted in the past, the Committee believes there is great potential for the Program. In addition to the District, 28 states have a Youth Challenge program; no other jurisdiction has sought to eliminate the program. In fact, the National Guard is currently seeking to expand the program in a number of other jurisdictions.¹³⁰

While there has been a lack of support for the Program in previous budgets presented to the Council, the Mayor's fiscal year 2012 provides adequately funding. This is essential in order to grow the Program and increase the graduation rates. One hindrance to increasing participation in the program, as identified by the DCNG, is the inability of some participants to take part because they cannot afford the supplies and equipment necessary to participate. Many of the participants to the program come from low-income families, and the cost of the necessary supplies -- estimated at about \$300 per participant -- can be substantial hindrance to participation.

¹²⁹ National Guard Youth ChalleNGe Program website, The Program, available at <http://www.ngycp.org/site/node/21> (last visited April 23, 2009).

¹³⁰ *District of Columbia National Guard FY 2010 Budget: Hearing before the D.C. Council Committee on Public Safety and the Judiciary* (March 24, 2009) (oral testimony of Errol R. Schwartz, Commanding General, D.C. National Guard).

To remedy this, and prevent a youth's economic situation from being the determinate factor to participation, the Committee recommends establishment of the Youth Challenge Participant Support Fund ("Fund") to cover these initial costs associated with the program. Establishment of this Fund will have no negative fiscal impact on the District. Under the proposed language, the Fund can be supported through donations, and the DCNG has indicated that it has already begun seeking private donations to help youth acquire these supplies. Further, District dollars that can be diverted to the Fund are minimal -- a maximum of \$3,000 per year -- and come from unused funding already dedicated to the Youth Challenge program (these funds, if not used for the Program, would revert back to the General Fund at the end of the fiscal year).

Through District funding alone, the Fund would support 100 youth participating in the Program. The Committee believes that this Program has a positive impact on at-risk youth, and that the small cost of entering this program should not prevent these youth from the opportunity to turn their lives around.

III. SECTION-BY-SECTION ANALYSIS

Sec. --. Short title.

Sec. --. Amends National Guard Morale Welfare and Recreation Fund Act of 2009 to create a new fund to support the purchase of materials, supplies, and equipment for participants in the DC National Guard Youth Challenge program.

IV. LEGISLATIVE RECOMMENDATIONS TO THE COUNCIL

**SUBTITLE --. DCNG YOUTH CHALLENGE PARTICIPANT SUPPORT
FUND ESTABLISHMENT AMENDMENT ACT**

Sec. --. Short title.

This subtitle may be cited as the "DCNG Youth Challenge Participant Support Fund Establishment Amendment Act of 2011".

Sec. --. The National Guard Morale Welfare and Recreation Act of 2009, effective December 8, 2009 (D.C. Law 18-83; D.C. Official Code § 49-431 *et seq.*), is amended by adding a new section 4a (to be codified at D.C. Official Code § 49-434) to read as follows:

"Sec. 4a. Youth Challenge Participant Support Fund.

“(a) The Commanding General of the DCNG may establish a Youth Challenge Participant Support Fund (“Challenge Fund”) for the purpose of assisting in the purchase and provision of materials, supplies, and equipment for participants of the DCNG Youth Challenge program. To facilitate the accomplishment of its purpose, the Challenge Fund may accept donations of money or property from any lawful source.

“(b) The Commanding General may authorize that up to \$3,000 of any unused balance from the funds appropriated in a fiscal year for the DCNG Youth Challenge program be retained in the Challenge Fund for use in the current or a subsequent fiscal year; provided, that the balance of the fund shall not exceed \$10,000.”.

* * *

COMMITTEE ACTION

On Wednesday, May 11, 2011, at 2:20 p.m. the Committee on the Judiciary met to consider and vote on the proposed fiscal year 2012 budget for the agencies and programs under its jurisdiction. Chairperson Phil Mendelson called the meeting to order. All members were present (Chairperson Mendelson, and Councilmembers Barry, Bowser, Cheh, and Evans).

Chairperson Mendelson presented the Committee Report and summarized the Committee's primary recommendations and comments. He then moved the draft report as previously circulated except to increase funding for an independent analysis of the optimal size of the Metropolitan Police Department (MPD) offset by a reduction from the Motor Vehicle Theft Prevention Commission (leaving it at the level proposed by the Mayor). After moving the revised report, he called for discussion.

Councilmember Barry raised a number of issues with the staffing levels at MPD, and urged that any additional hiring of officers must be of District residents. Mr. Barry expressed concern that the study of optimal staffing levels for MPD was inadequately funded, arguing that such a study costs upward of \$3.5 million - \$5 million. He also argued that the legislation he had introduced earlier in the year, allowing release of inmates from the Department of Corrections (DOC) with global positioning system devices to monitor their whereabouts, would decrease costs at DOC.

Councilmember Bowser inquired as to why the budgets of certain agencies under the Committee's purview were increasing, citing the Office of Victim Services (OVS), the Office of Police Complaints, the Office of the Chief Medical Examiner (OCME), etc. Chairperson Mendelson responded that most public safety agencies are behind funding levels for previous fiscal years. He noted that OCME, for example, is battling with achieving National Association of Medical Examiner accreditation yet the Committee mark is below actual spending in fiscal year 2010. Councilmember Bowser asked why the OVS received such a large increase of funding under the Committee's proposal. Chairperson Mendelson responded that the funding was needed to restore funding for domestic violence and other, similar, services, and yet is \$6.4 million below the gross budget for fiscal year 2011.

Councilmember Cheh asked for an explanation for increasing the number of FTEs at the Office of the Attorney General (OAG). Chairperson Mendelson explained that line attorneys are carrying caseloads significantly above the recommended or preferred level. This, noted the Chairperson, is particularly important in the Public Safety Division of OAG, where there is a heavy caseload of juvenile prosecutions and civil litigation. These two areas would see these additional attorneys. Councilmember Cheh then asked about language in the report pertaining to the Fire and Emergency Medical Services Department (FEMS) and the potential of moving to a

12-hour shift. Chairperson Mendelson explained that the Committee was not directing such a change, but rather urging the Executive, if they wish to make such a change, to engage in discussions with affected unions as the matter falls under collective bargaining. Councilmember Cheh commented that she did not agree with the Committee's recommendation for the Budget Support Act that the Deputy Mayor for Public Safety and Justice become a Council-confirmed position. She argued that this position is advisory, and should be the prerogative of the Mayor. Chairperson Mendelson responded that the advisory capacity will change, as the Mayor's budget proposal seeks to consolidate several, previously separate agencies within the Deputy Mayor's office. Finally, Councilmember Cheh asked what would be lost if funding was not fully restored to OVS and what the Council should aim at restoring with regard to that agency's cuts. Chairperson Mendelson responded that the affect would be the loss of structure around domestic violence services, and that, while advocates sought a restoration of \$3 million to OVS, the Committee was restoring \$1.3 million.

Councilmember Evans thanked Chairperson Mendelson for his work on the report and expressed appreciation for Chairperson's monitoring of the level of police officers.

After opportunity for further discussion, Chairperson Mendelson moved the report with leave for staff to make technical and editorial changes. The report was approved unanimously (Chairperson Mendelson, and Councilmembers Barry, Bowser, Cheh, and Evans voting aye).

The meeting adjourned at 2:55 p.m.