

Statement of  
TIMOTHY J. MAY, PRESIDENT,  
and  
SAMUEL F. HARAHAN, EXECUTIVE DIRECTOR,  
of the  
COUNCIL FOR COURT EXCELLENCE  
and  
RICHARD B. HOFFMAN, DIRECTOR,  
of  
THE JUSTICE MANAGEMENT INSTITUTE  
before the  
COMMITTEE ON THE JUDICIARY,  
COUNCIL OF THE DISTRICT OF COLUMBIA  
regarding the  
DISTRICT OF COLUMBIA  
METROPOLITAN POLICE DEPARTMENT  
BUDGET HEARING

March 23, 2001

Good morning, Madam Chair and members of the Committee. My name is Timothy J. May. With me today is Samuel F. Harahan, the Council for Court Excellence's Executive Director, and Richard B. Hoffman, the Director of The Justice Management Institute's Washington office. We are pleased to be here today in response to your invitation to testify regarding some of the findings and recommendations of a recently concluded major research study on police officer overtime for court and prosecutorial hearings. The study was undertaken by the Council for Court Excellence and The Justice Management Institute at the direction of the D.C. Criminal Justice Coordinating Council. A copy of the final report will be provided to the Judiciary Committee at the conclusion of today's hearing.

As you know, the Council for Court Excellence is a District of Columbia-based non-partisan civic organization that works to improve the administration of justice in the local and federal courts and related agencies in the Washington, D.C. area. For nearly 20 years, the Council for Court Excellence has been a unique resource for our community, bringing together members of the civic, legal, judicial, and business communities to work in common purpose to improve the administration of justice. We are honored Mrs. Patterson that you have recently agreed to serve as an ex-officio member of the Council for Court Excellence's Board.

The Council for Court Excellence has worked closely with the D.C. Council in the past on such important areas as the 1994 Probate Reform Act, the 1999 Sentencing Reform Amendment Act, the proposed FY2001 budget for the D.C. Child and Family Services Agency, and, most recently, regarding the unsuccessful 2000 Office of Administrative Trials and Hearings Establishment Act. I appear today as President of the Council for Court Excellence and not on behalf of any client or in any other paid capacity. No judicial member of the Council for Court Excellence participated in or contributed to the formulation of this testimony.

Our testimony today, Madam Chair, will be limited to reporting on a major federal grant-funded research study the Council for Court Excellence undertook over the past 15 months along with The Justice Management Institute. The study examined resource issues in the District's criminal justice system from the point of arrest through the disposition of cases by the D.C. Superior Court. The study focused particularly on D.C. Metropolitan Police Department officer court and prosecutorial proceeding overtime. The final report, completed in March 2001 (A Final Report and Recommendations on Management of District of Columbia Criminal Justice Resources) describes the major findings, and policy issues, and offers a range of specific proposals for reform. It is our understanding that the Metropolitan Police Department, the D.C. Superior Court, the D.C. Office of the Corporation Counsel, the Executive Office of the Mayor, and the other agencies of the D.C. Criminal Justice Coordinating Council, are framing several implementation projects to address certain of the Final Report's recommendations.

You have requested that the testimony of the Council for Court Excellence and The Justice Management Institute in this budget hearing particularly address the recommendations within the Final Report which the D.C. Metropolitan Police Department may be in a position to implement. We are pleased to do that. I would like to ask Mr. Harahan to highlight the some of the Final Report's detailed findings and recommendations. Mr. Harahan, Mr. Hoffman, and I will be happy to answer any questions you might have afterwards.

Thank you, Tim. Good morning, Madam Chair, and members of the Committee. Our study of police overtime found that in a two-week period in September 2000, an average of 670 officers spent nearly 2,000 hours per day appearing for criminal case proceedings either at the United States Attorneys Office, the D.C. Office of the Corporation Counsel, or in the D.C. Superior Court.

The estimated overtime expenditures for this two week period alone were \$823,550. In calendar year 2000, approximately \$10,000,000, (247,200 hours), were spent by D.C. MPD police officers in prosecutorial proceedings such as papering, witness conferences, and grand jury appearances, or in court proceedings, such as for trials. These estimates from our report are within 4% of actual audit data generated by the Metropolitan Police Department regarding police officer time expenditures for the same calendar year.

The amount of time and money expended by the MPD in 2000 for prosecutorial and court-related overtime purposes were not insignificant, in either public safety terms or in the level of public dollars expended. Can public safety be improved, and in turn can police officer overtime costs for these activities be brought under better control? The answer is clearly yes! How can this be accomplished? First, you must realize that in the area of prosecutorial and court-related police overtime, as distinguished from other types of MPD overtime, the Metropolitan Police Department has almost no control over how many of its officers appear for criminal case prosecutions, or for how many hours or days they are off the street or in other law enforcement roles. Police officers must appear at criminal case proceedings when notified by the prosecutor, or face departmental discipline. Incidentally, our research documented that approximately 98% of police officers show up for prosecutorial proceedings and court hearings when summoned.

The practices of the United States Attorney's Office and the D.C. Office of Corporation Counsel in over-summoning police officers for criminal case proceedings, and of the D.C. Superior Court in taking too long to dispose of criminal cases, directly increases the Metropolitan Police Department overtime costs, and appreciably reduces the number of police officers on the street on a daily basis.

Permit me to highlight but one example where prosecutors in D.C. over-summons police officers for criminal case proceedings? In felony trials our research documented that only 25% of, or 2 of 8, officers appearing at felony trials actually testify. In some circumstances, there may be a need to require the presence in court of all police officers directly or indirectly involved in a criminal case. A more common practice in other jurisdictions, such as in King County, Seattle Washington, and in San Francisco, California, is to require the presence of up to two officers, placing all other police officers in a stand-by status. These jurisdictions have found that typically, officers placed on stand-by are not used. It is under the rubrics of increasing public safety and saving money that many communities across the country have worked to better manage their limited law enforcement resources.

When compared to other jurisdictions, MPD overall overtime expenditures are not markedly higher. However, with the proper implementation of some better management practices by the several key criminal justice agencies, the District can do much better. Currently, the District does not have in place many of the more commonly utilized overtime management tools of other jurisdictions, such as stand-by systems, on-call systems, or dedicated trial days for officers.

The question remains as to what can be done to better manage police officer overtime for court and prosecutorial proceedings? The Final Report of the Council for Court Excellence and The Justice Management Institute study recommends several strategies to the CJCC:

1. Promptly strengthening and expanding the MPD Court Liaison Division's oversight role and daily case coordination relationships with the United States Attorney's Office, with the D.C. Office of the Corporation Counsel, and with the D.C. Superior Court.
2. Move the MPD Court Liaison Division back into the D.C. Courthouse to increase the daily oversight of officers at the courthouse.

3. Explore the adoption of a Key Police Officer witness system for each felony and misdemeanor case whereby, for most prosecutorial and judicial proceedings, no more than two police officers would be routinely notified for any proceeding; all other officers would be placed on a stand-by status and not customarily summoned to appear.
4. Institute a pilot criminal case coordinator system in the Superior Court Criminal Division to monitor case management changes on a daily basis, and to update the MPD and others of late-developing judicial case-related actions.
5. The D.C. Criminal Justice Coordinating Council, or alternatively the D.C. Office of Budget and Planning, should establish a program to monitor MPD officer time expended by court, charge, and proceeding type on at least a monthly basis. This initiative should be done using MPD Court Liaison Division's existing monthly appearance reports, the current capabilities of the MPD Research Division to break down officer appearances, and case data generated by the D.C. Superior Court.

In conclusion, Madam Chair, permit me to say that it is our opinion that the Criminal Justice Coordinating Council is the most appropriate vehicle for bringing all of the D.C. criminal justice system agencies to the same table. The recommendations set forth within our year long research study are not self-executing. If properly focused and properly supported the Criminal Justice Coordinating Council is the appropriate inter-governmental forum in the District of Columbia to improve the longstanding police overtime problem in this area. Regrettably, the CJCC is currently in a state of limbo. We would encourage this Committee and the D.C. Council to consider the formal establishment and implementation of the CJCC, perhaps through legislative action by the D.C. Council or the Congress. This concludes our prepared statement. Mr. May, Mr. Hoffman and I would be happy to answer your questions. Thank you.