



General Government Division

B-256261

February 15, 1994

The Honorable Thomas J. Bliley, Jr.  
Ranking Minority Member  
Committee on the District of Columbia  
House of Representatives

Dear Mr. Bliley:

This letter and attachment respond to your request for information about District of Columbia programs currently operating under some degree of court supervision. We requested the information you were interested in from the Office of the Corporation Counsel, which represents the District in responding to legal cases filed against the District.

The Office of the Corporation Counsel officials said they were unable to provide some of the statistical information you requested because their records were not maintained in a manner that permitted the aggregation of specific types of judicial actions over a period of time and over numerous cases. However, at our request, the Office of the Corporation Counsel did identify and describe the judicial actions which currently affect District of Columbia program management. As agreed with your office, we are providing this information in the attachment without interpretation.

The following table shows the District departments affected by the cases listed in the attachment, as well as the number of full time equivalent (FTE) positions in the agencies, and the affected components of the agencies.

AGENCIES AFFECTED BY JUDICIAL ACTIONS

<u>Agency</u>	<u>Full time equivalent positions</u>	<u>Affected component/program</u>
Corrections	4,376	D.C. Jail Maximum Security Facility - Lorton Central Facility - Lorton Adjustment Unit of Youth Center No. 1 - Lorton Occoquan Institutions - Lorton
Fire	2,014	Promotion tests
Human Services	8,191	Foster children Youth offenders Aid to Families with Dependent Children St. Elizabeth's Hospital Mentally retarded persons Food Stamp programs General Public Assistance Emergency Assistance Payments Handicapped children
Education	11,357	Nurses in schools Nurses at school events Special education services
Public Works	1,883	Blue Plains Wastewater Treatment Plant Recycling programs
Public and Assisted Housing	727	Tenant grievances

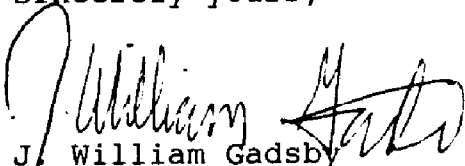
Source: Full time equivalent position data from the Fiscal Year 1993 District of Columbia budget. Data on the judicial cases from the Office of the Corporation Counsel.

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As further agreed with your office, we obtained information about the authority of the "Special Officer", "Court-appointed Monitor", and "Special Master" positions. We were advised by Counsel officials that these terms are often confused. They told us that a "Special Officer" and a "Court-appointed Monitor" do not have the broad powers that a "Special Master" would. For example, they cited three of the consent decrees (Dixon v. Bowen, Jerry M. v. District of Columbia, and Pearson v. Kelly) as having court-appointed "Special Masters", with broad authority over the operations of a District agency. They said special officers and court-appointed monitors have more limited authority, such as reporting the physical conditions of a facility to the court. However, Counsel officials pointed out that these officers of the court can still affect the District's ability to manage operations.

If you have any questions on this letter, please call me on (202) 512-8387.

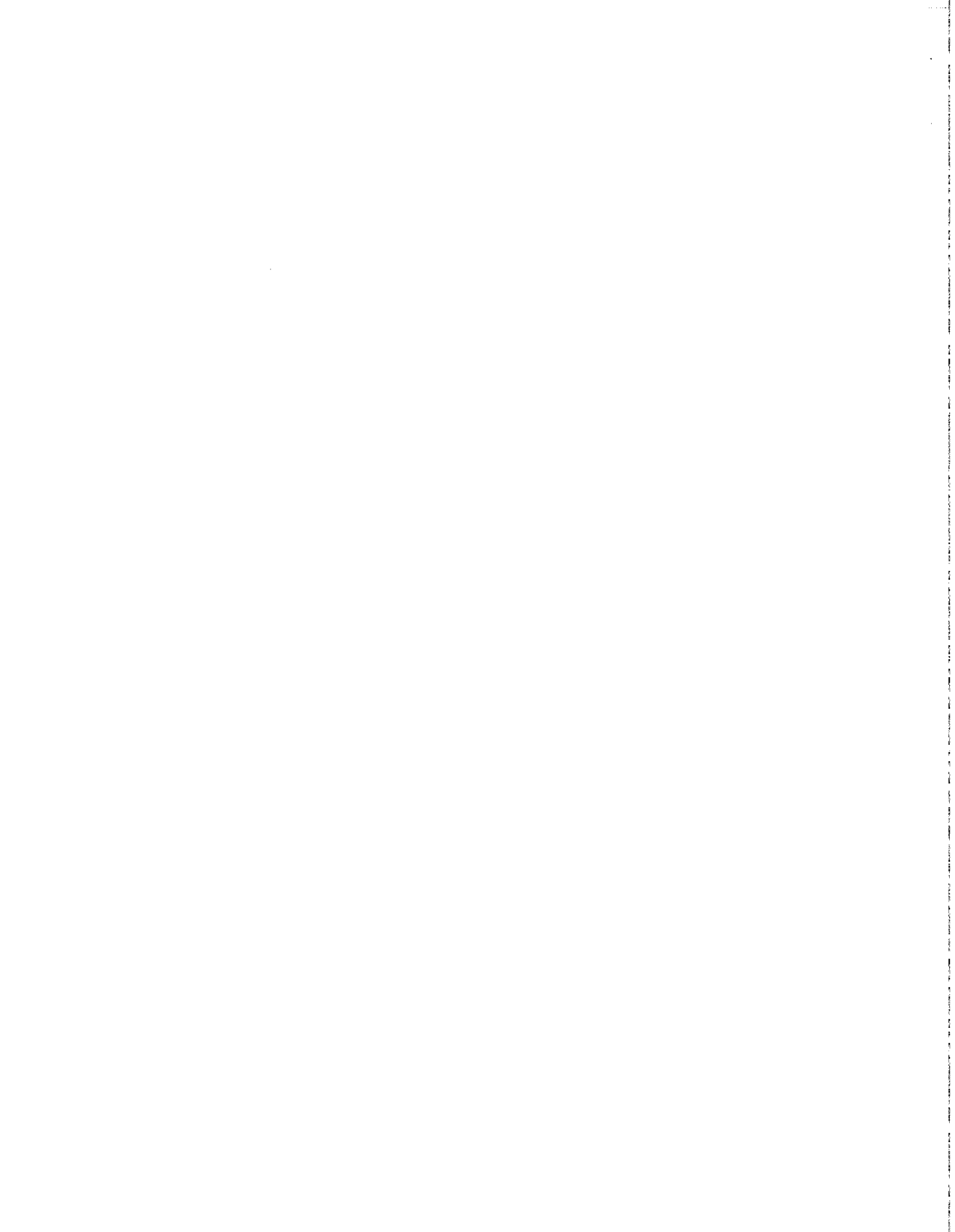
Sincerely yours,



J. William Gadsby  
Director, Government Business  
Operations Issues

Attachment

(240131)



COURT DECREES TO WHICH DISTRICT  
PROGRAMS ARE SUBJECT

Department of Corrections

Campbell v. McGruder, Civil Action No. 71-1462; Inmates v. Jackson, Civil Action No. 75-1668, U.S. District Court. Consent decree entered August 22, 1985, imposed a population cap of 1,694 on the District of Columbia Jail; required initial adult parole determinations to be made no later than 10 days prior to eligibility; required increasing to 736 the number of halfway house spaces by September 30, 1986; and contained several other provisions relating to prison matters. A Special Officer was appointed by the Court. The District is monitoring and reporting on compliance and dealing with the litigation of a motion seeking a contempt citation for failure to comply with medical and mental health treatment provisions of the consent decree and previous orders.

John Doe v. District of Columbia, Civil Action No. 79-1726, U.S. District Court. Consent decree entered in January 1984 governs conditions at the Maximum Security Facility. The decree includes provisions limiting the population of the institution; requires a specified complement of correctional officers; sets environmental standards; and addresses other conditions in the institution. The District is monitoring and reporting on compliance issues while negotiating implementation of the Special Officer's report on security measures and correctional officer staffing related to changes made to the institution.

Twelve John Does v. District of Columbia, Civil Action No. 80-2136, U.S. District Court. Consent decree entered into in April 1982, governs conditions within Lorton's Central Facility. Provisions include a population limit based on a 95 square foot standard; a specified correctional officer complement; environmental standards and inspection schedules; equipment requirements; physical plant renovation schedules; and medical staffing requirements. The decree has been amended several times. A Special Officer was appointed by the Court. The District is reporting on compliance with a June 1992 amendment to the decree related to health care issues.

Ralph Clark v. District of Columbia, Civil Action No. 81-2072, U.S. District Court. Consent decree entered in May 1983, governs conditions at the Adjustment Unit of Youth Center No. 1. Provisions include environmental and operational procedures of the Adjustment Unit, including law library access; medical treatment procedures; and construction of additional facilities. A Special Officer was appointed by the Court. The District is monitoring and reporting on compliance.

Inmates of Occoquan v. Barry, Civil Action No. 86-2128, U.S. District Court. Order entered following trial, in December 1986, set population limit of 1,281 on Occoquan institutions and directed correction of environmental deficiencies. The decision was reversed on appeal and case was retried. The population was subsequently capped at 1,767, pending renovations (which are in progress). Also, three new orders were entered from December 1989 through March 1990, requiring provision of specified services in the areas of medical and mental health care, environmental conditions, security, and fire safety. A Special Officer was appointed by the Court. The District is monitoring compliance. Contempt motions were filed but were resolved by agreements related to health care issues.

Inmates of Modular Facility v. District of Columbia, Civil Action No. 90-0727, U.S. District Court. Consent decree was signed and approved by the court at midtrial in December 1990. The consent decree provides for a population cap, repair of facilities, installation of equipment, and provision of services similar to those required in the Inmates of Occoquan case. A contempt citation for failure to comply with decree provisions related to specialty clinics at D.C. General Hospital resulted in imposition of fines. A Special Officer was appointed by the Court. The District is involved in litigation of a contempt motion on health care issues.

#### Fire Department

Hammon v. Barry, Civil Action No. 84-0903, U.S. District Court. Class action employment discrimination case brought by a group of Afro-American firefighters challenging the D.C. Fire Department's policies regarding affirmative action and hiring and promotion in the Department. The consolidated cases filed by white firefighters and the United States, Byrne v. Coleman, Civil Action No. 85-0782 and United States v. District of Columbia, Civil Action No. 85-0797, involve the same issues. After a long and complex legal history, these cases settled pursuant to an agreement reached in August 1990, and embodied in a court order (consent decree) entered in November 1990, after a "fairness hearing" for the class.

Pursuant to the order, a \$3.5 million payment was made into the custody of a Special Master, who will distribute it to qualifying members of the Hammon Class. Attorneys' fees were also paid into a fund controlled by the Special Master. The Special Master is about to distribute the settlement fund while the negotiation and litigation of attorneys' fees continues.

#### Department of Human Services

LaShawn A. v. Barry, Civil Action No. 89-1754, U.S. District Court. This 1989 class action lawsuit on behalf of foster children asserted claims under federal law, Adoption Assistance and Child Welfare Act of 1980, and the Child Abuse Prevention Act. A consent decree was entered which expressly reserved the District's right to appeal the question of whether there was any liability in federal court. The Court of Appeals elected not to decide the question of whether there was a basis for federal jurisdiction, but rather upheld the lower court on local law theories and sent the case back for further proceedings. Following a decision by the Supreme Court in Artist M. holding that no private right of action could be maintained under the federal law, a motion to set aside the decree was filed. A court monitor was appointed. At present a hearing and ruling on a motion for contempt are pending.

Jerry M. v. District of Columbia, Civil Action No. 85-1519, Superior Court. This is a 1985 class action case in which a consent decree was entered governing the condition of confinement of juvenile offenders. The plaintiff filed several motions for contempt and has been successful in several. Fines have been imposed and paid by the Department of Human Services (DHS). The court appointed a Special Master (limited authority) who also functions as a monitor. At present there is continued litigation of contempt motions and motions seeking court ordered enforcement of the consent decree.

Dixon v. Bowen, Civil Action No. 74-285, U.S. District Court. A decree governs out-placement of patients at St. Elizabeth's Hospital, including establishment of a framework for support services. In 1987 the Court accepted an agreement of the parties which required the District to meet certain objectives by specified dates. The Dixon decree issues were included in the transition and takeover of St. Elizabeth's by the District in 1987, including the comprehensive mental health system

implemented along with that takeover. However, the District's obligation to comply with the Dixon decree remains intact. A Special Master was appointed in June 1993 for one year. The District continues monitoring and reporting on compliance issues. A motion for contempt was denied in May 1993.

Joy Evans v. Walter Washington, Civil Action No. 76-0293, U.S. District Court. A consent decree entered in 1978 provided for out-placement and habilitation of mentally retarded residents of Forest Haven, and imposed requirements on care and treatment of all residents of that institution. It also provided for eventual closing of Forest Haven. Under the decree, the District was required to out-place 100 residents per year. The court found DHS in contempt for failing to make the required community out-placements from Forest Haven, but instead of imposing immediate daily fines as had been requested by plaintiffs, the court set up a schedule for compliance. DHS complied with the schedule and Forest Haven was closed. However, the case is not yet closed because the plaintiffs claim that the class is entitled to relief even while living outside of Forest Haven in community residence facilities.

Motley v. Yeldell, Civil Action No. 74-13, U.S. District Court. This 1974 class action decree governs Aid to Families with Dependent Children benefits. The District was held in contempt. Plaintiffs were awarded attorneys' fees of \$96,000 for prevailing on a contempt motion several years ago. District officials believe that current compliance is good.

Veronica Franklin v. Barry, Civil Action No. 90-3124, U.S. District Court. This class action lawsuit, filed in December 1990, concerns how applications are processed in the food stamp program handled by DHS. A consent agreement has been entered into. Compliance issues arose and the District is currently attempting to resolve contempt allegations by negotiating an extension of the agreement.

Joan Jones v. Barry, Civil Action No. 82-0419, U.S. District Court. This 1982 lawsuit resulted in a court decree governing the Food Stamp and General Public Assistance grants.

Feeling v. District of Columbia, Civil Action No. 82-2994, U.S. District Court. Decree in class action suit governs Emergency Assistance Payments. A consent decree was entered several years ago which established processing requirements, notification to clients of rights, and accuracy of payments. Plaintiffs currently allege there is noncompliance, which is confirmed by a preliminary DHS study of December 1986 cases. On March 2, 1993, the court found DHS in contempt for failing to comply with the 8-day processing requirement.



Bobby D. v. Barry, Civil Action No. 77-16, Superior Court. A consent decree entered in July 1980 contains several provisions governing care and habilitation of handicapped children aged 6-17 who have been committed to the custody of Department of Human Services. District officials believe current compliance is good.

#### Board of Education

Parents United for the D.C. Public Schools v. D.C., Civil Action No. 89-08377, Superior Court. This 1989 case was brought by "Parents United" to compel the District to comply with D.C. Code 31-2421, which requires the District to provide nursing care in each school and at athletic events sponsored by the schools. The case was affected by the D.C. Council's action shifting responsibility to the public schools to provide the required coverage at athletic events, and by the public schools' agreement to do so. Provision of nurses in the schools remains the responsibility of DHS. On August 3, 1990, the court ordered DHS to comply with the statutory requirements. DHS recruited nurses and came into compliance, avoiding fines. The District's appeal is pending as to the court's finding of a constitutional violation. At stake is precedent and a claim for over \$800,000 in attorneys' fees.

Mills v. Board of Education, Civil Action No. 71-1939, U.S. District Court. Class action consent decree in 1972 governs provision of special education services to handicapped children. There are periodic challenges to compliance in individual cases.

#### Department of Public Works

United States v. District of Columbia, Civil Action No. 84-2847, U.S. District Court. A consent decree entered in 1984 with U.S. Environmental Protection Agency(EPA) governing compliance with water quality standards at the Blue Plains Wastewater Treatment Plant. There have been some problems with compliance with several provisions of the decree, and the EPA has sought to impose millions of dollars in fines. Pursuant to the consent decree, the District sought waivers of the penalties. Instead of responding to the formal waiver requests, made over a 2-year period, the EPA filed motions for contempt which are currently pending. The District has argued strongly that no penalties are owed because the incidents of noncompliance were either minimal or due to circumstances beyond the District's control. The

