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STATEMENT OF
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BEFORE THE
SUBCOMMITTEE ON GOVERNMENT INFORMATION,
JUSTICE, AND AGRICULTURE
HOUSE COMMITTEE ON GOVERNMENT OPERATIONS
ON
DISPUTE BETWEEN THE DISTRICT OF
COLUMBIA GOVERNMENT AND THE FEDERAL BUREAU
OF PRISONS OVER PAYMENTS FOR HOUSING D.C. PRISONERS
IN FEDERAL CORRECTIONAL INSTITUTIONS

Mr. Chairman and Members of the subcommittee, we are pleased to be here, at your request, to discuss our report on the longstanding dispute between the District Government and the Federal Bureau of Prisons over payments for housing D.C. prisoners in Federal correctional institutions. Our report was issued yesterday to the Attorney General and the Mayor of the District of Columbia. According to Bureau records, more than \$22 million is involved.



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THE PROBLEM HAS EXISTED FOR
SEVERAL YEARS

The problem first surfaced in late 1976. Before that time the District simply paid the bills from the Bureau without checking their accuracy. However, when the Department of Corrections discovered discrepancies between the Bureau's bills and the Department's records it decided that, from then on, each bill would be analyzed. According to a Department official, two types of problems were found in the Bureau's bills.

--One problem involved arithmetic errors. These occurred when an inmate was reassigned and more than one institution billed for the same person on the same day. In these instances, the Department of Corrections deducted these charges from the bill.

--The second type of problem involved billings for individuals whom the Department of Corrections either (1) could not find records for in its own system or (2) had determined were the responsibility of the Bureau because they were "Federal" prisoners. These problems led to disputed billings.

Such disagreements have arisen in most quarterly bills since the Department of Corrections began checking bills in 1976. As stated in our report, between July 1976 and July 1981, the Bureau housed D.C. offenders for more than 17 quarters but received full payment for only 5 quarters. The District made partial payments for most of the remaining quarters but, made no payments for two quarters. Since July 1981, the District has

made partial payments on debts that have accrued since that date.

ATTEMPTS TO RESOLVE THE PROBLEMS
HAVE NOT BEEN SUCCESSFUL

Several attempts have been made by the Bureau and the Department of Corrections to resolve the outstanding debts, but neither agency has followed through on the initiatives. For example, in 1978, the Bureau attempted to verify a comprehensive list of inmates whose status was in dispute. Its institutional administrators were ordered to search their records to identify the inmates on the billing for the July - September 1976 quarter for whom the Department of Corrections had refused to pay. According to Bureau officials, this information was forwarded to the Department of Corrections in January 1979. We asked officials of both agencies why the balance for this particular quarter was still unresolved over 3 years later. Officials of neither agency gave us a satisfactory response. They also said they had been waiting for the other to do something. In May 1981, officials of both agencies met and agreed on a procedure for ensuring that the Department of Corrections would get monthly billings from all the Bureau's institutions. For one reason or another, this system has not functioned as anticipated. This is unfortunate since the billing procedures agreed upon offer some potential for moving toward a solution to the problem.

The overriding problem appears to be that each agency feels it is the other's responsibility to take steps to make sure the

billing process is sound and records are accurate. The result is that bills remain unpaid and the dispute continues.

This dispute, however, has another aspect involving interest charges on overdue debts. In January 1982, the D.C. Government paid the Bureau \$12.5 million to partially offset the deficit. The Bureau applied part of the \$12.5 million to the payment of interest charges on the past debt. The remainder was applied to the oldest outstanding balances, those from 1976 forward. However, a District official told us that the money was to cover undisputed indebtedness for housing prisoners during the fourth quarter of fiscal year 1980 through the third quarter of 1981. Presently, the two agencies remain at odds with each other concerning the application of the payment. So the dispute is not only about how much is owed, but also about what to do with payments when they are made.

RECOMMENDATIONS FOR SOLVING
THE PROBLEM

In our report, we made several recommendations that should help solve the problems I just mentioned. Specifically, we recommended that the Attorney General require the Director of the Bureau of Prisons to

- enforce the terms of its billings procedures,
- require Bureau institutions to promptly respond to disputed payment lists prepared by the Department of Corrections so that disputed charges in recent billings can be resolved quickly, and

--meet with D.C. Government officials to resolve how the \$12.5 million payment made by D.C. Government should be applied and how future payments will be applied.

We also recommended that the Mayor of the District of Columbia and the Attorney General set a timetable for resolving the disputed charges and outstanding debts.

In addition, we recommended that the Attorney General require the Director of the Bureau of Prisons to formulate legislation to authorize the Bureau to use reimbursements collected from the D.C. Government to offset the Bureau's operating expenses for housing D.C. prisoners. We felt that such legislation, if enacted, would provide the Bureau additional incentive to resolve disputed charges and outstanding debts with the D.C. Government. Under existing law, the Bureau cannot use the funds it collects from the D.C. Government; rather, it must deposit the money in the U.S. Treasury. In contrast, money the Bureau collects for housing prisoners for States is deposited in the Bureau's account and can be used to offset its operating expenses.

We also pointed out that under existing law the Attorney General is authorized to enter into contracts with States for housing non-Federal prisoners but that the Attorney General does not have the authority to enter into such a contractual agreement with the D.C. Government. Nevertheless, written procedures could be developed governing the billing and payment for housing prisoners. If such procedures had been in effect in January

1982, disagreement over how the \$12.5 million payment was to be applied might not have arisen.

AGENCIES' RESPONSES TO OUR
RECOMMENDATIONS

In responding to a draft of our report, both the D.C. Government and the Department of Justice agreed that the dispute over outstanding payments should be resolved and effective procedures for future payments should be established.

Although both agencies stated that they will work to resolve the disputed billings, the tone of their comments caused us some concern. Each agency contended that it has taken initiatives to resolve the disputes, but that the other agency had not responded adequately. Unfortunately, this reflects the same attitude that has been a barrier to solving the problems of disputed billings.

In addition, the Department of Justice offered alternatives to our proposal that legislation be formulated to authorize the Bureau to use reimbursements it collects from the D.C. Government. The Department's proposed approach would involve legislation which would simply reduce the District's appropriation by the estimated cost of housing D.C. prisoners and transfer that amount to the Bureau. According to the Department of Justice, under this approach the cumbersome billing and collection process, which is expensive to both agencies, would be eliminated.

We disagree with Justice's proposal. Under its proposal, the Bureau would receive funds on the basis of its estimate of

the cost of housing D.C. prisoners rather than on actual expenses. We believe this approach would provide the Bureau a unilateral avenue to the purse strings without any verification of the true costs involved.

We do not see this approach as a solution to either the existing or any future disagreements over the cost of housing D.C. prisoners. It is not clear what recourse, if any, would be available to the D.C. Government if it contested the estimates or what would happen if the estimates exceeded actual costs. Further, we believe that Justice's proposal could conceivably escalate the forum for any future disputes from an administrative level between the two agencies to the congressional appropriation process which we believe would be a most undesirable effect. Therefore, we continue to believe our position is sound and Justice should propose legislation allowing the Bureau to use reimbursements from the D.C. Government to offset operating expenses.

Justice also proposed the possibility that the Bureau pursue and exercise the right of offset against the District's appropriation to recover long overdue debts, including interest charges. We disagree with this proposal too. First, a well established fact is that the two agencies disagree over the amount owed. Before any offset could take place, disputes should be resolved. If resolved, we see no need for an offset

because the District has already agreed to pay the amount the agencies agree on.

In summary, the problem has gone unresolved far too long --over 6 years--and now involves over \$22 million. Our point is not to lay blame. Both agencies must share the responsibility. Rather than dwell on who caused the problem, we believe both agencies should put their differences aside and resolve the matter immediately.

Thank you Mr. Chairman. That concludes my statement. We will be glad to respond to questions.