

THE CONGRESSIONAL WORKPLACE SAFETY: SAFETY CONCERNS AND FUTURE PLANS

(111-141)

HEARING

BEFORE THE

SUBCOMMITTEE ON
ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND
EMERGENCY MANAGEMENT

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE

HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

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U.S. House of Representatives
Committee on Transportation and Infrastructure

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Washington, DC 20515

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September 28, 2010

James W. Coon II, Republican Chief of Staff

SUMMARY OF SUBJECT MATTER

TO: Members of the Subcommittee on Economic Development, Public Buildings, and Emergency Management

FROM: Subcommittee on Economic Development, Public Buildings, and Emergency Management Staff

SUBJECT: Hearing on “The Congressional Workplace: Safety Concerns and Future Plans”

PURPOSE OF THE HEARING

The Subcommittee on Economic Development, Public Buildings, and Emergency Management will meet on Thursday, September 30, 2010, at 2:00 p.m., in room 2167 of the Rayburn House Office Building to examine the Architect of the Capitol’s (AOC) Capitol Complex Master Plan and the role of the Office of Compliance (OOC) in maintaining a safe and accessible workplace.

BACKGROUND

I. The United States Capitol Complex

The United States Capitol Complex (Capitol Complex) consists of the U.S. Capitol, the Cannon, Longworth, Rayburn and Ford House Buildings, the Hart, Dirksen, and Russell Senate Office Buildings, the U.S. Botanic Garden, the Capitol Grounds, the Library of Congress buildings, the U.S. Supreme Court Building, and the Capitol Power Plant. The Capitol Complex is over approximately 450 acres and contains approximately 16.5 million square feet of building space, including surface and below grade parking structures, and special purpose space such as the power plant, storage, and child care centers, housed in historic as well as modern buildings. The replacement value for these facilities is approximately \$9 billion. The AOC is responsible for maintaining the Capitol Complex and providing a safe and healthy workplace.

The OOC was created in the Congressional Accountability Act of 1995 (CAA) (P.L. 104-1), to ensure that Congress and its auxiliary agencies generally follow the same employment, labor,

accessibility, and safety laws, which apply to both the private and public sectors. The CAA covers the employees of the U.S. House of Representatives, the Senate, the Congressional Budget Office, the Office of the AOC, the Office of the Attending Physician, the Office of Congressional Accessibility Services, the U.S. Capitol Police, the Government Accountability Office, and the Library of Congress, covering an estimated 30,000 employees.¹ Section 215(e) of the CAA requires the OOC to inspect the facilities of the agencies under its jurisdiction for compliance with occupational safety and health standards under the Occupational Safety and Health Act (OSHA) (P.L. 91-596), at least once each Congress.² The fiscal year (FY) 2009 Annual Report prepared by the OOC report covers 96 percent of the 17 million square feet of space occupied by Congress and other legislative branch facilities in the metropolitan Washington, D.C. area.³

On Tuesday, July 13, 2010, the OOC released its FY 2009 Annual Report, “State of the Congressional Workplace”. The annual report documents compliance with occupational safety and health standards for the 110th Congress (2007-08) and provides projections for the number of hazards in the 111th Congress.⁴ The report indicates that there were 9,200 hazards in the Congressional workplace during the 110th Congress, which represented a 30 percent reduction from the 109th Congress, during which 13,140 hazards were identified. The Rayburn House Office Building (1,197) had the highest number of safety and health hazards, followed by the James Madison Memorial Building (1,081), and the Longworth House Office Building (903). The OOC projects that the 111th Congress will have 6,300 hazards representing approximately a 50 percent drop from 2006. In the 110th Congress, the report makes three recommendations:

- Provide investigative subpoena authority for OSHA claims;
- Require safety and health record keeping; and
- Allow the OOC to protect employees from retaliation for reporting OSHA violations.

The most frequently cited violations were electrical hazards followed by fire safety-related hazards.⁵ Although the OOC notes that the total number of violations has declined over the five years, 25 percent of the outstanding violations pose a high risk to the safety of Capitol employees and visitors.

II. Architect of the Capitol Fiscal Year 2011 Budget Request

The AOC FY 2011 Budget Request highlights the significant capital needs of the Capitol Complex. Primarily due to limited funding over a period of several years, there exists a significant backlog of both deferred maintenance and capital renewal projects. The AOC’s analysis indicates that it will need a total of \$1.5 billion over the next 10 years to cure the deferred maintenance backlog and fund capital renewal projects as well as provide funds for scheduled revitalizations and new construction. In FY 2011, the AOC requested \$755 million, of which \$262 million is for multi-year capital projects, and \$50 million is being requested to continue funding the House Historic Buildings Revitalization Trust fund. Within the FY 2011 request is \$50.7 million for life-safety projects, which include funds for Utility Tunnels, Capitol Building Compartment Barriers and Horizontal Exits, and the North Egress Stair for the Thomas Jefferson Building. Moreover, since

¹ OOC, *State of the Congressional Workplace*, Office of Compliance FY 2009 Annual Report.

² *Id.* at 8.

³ *Id.* at 3.

⁴ *Id.* at 18.

⁵ *Id.* at 19.

FY 2007, Congress has appropriated over \$200 million to fund more than 50 fire, life, and occupational safety projects within the Capitol Complex.

The AOC and the OOC have worked together to address life and safety citations in the Capitol Complex cited in previous OOC annual reports. Citations are hazards that have not been abated within timeframes established when the hazard finding is first made, pose imminent or systemic risk, or the employing office does not recognize the finding as a hazard. According to the FY 2011 AOC Budget Submission, there are currently 18 open life and safety citations in the Capitol Complex. Five citations are fully funded and scheduled for closure by the end of 2011, leaving 13 open citations, which will require additional funding. Notably, no citations have been issued by the OCC since 2008. The AOC and OCC continue to work closely to prioritize fire and life-safety citations to provide a safe and accessible Congressional workplace.

The remaining open citations include:

- Seven Utility Tunnel citations; and
- Six fire and life-safety citations:
 - Capitol Building unprotected exit stairwells;
 - Cannon House Office Building unprotected exit stairwells;
 - Russell Senate Office Building unprotected exit stairwells;
 - Thomas Jefferson Building, John Adams Building, and James Madison Memorial Building unprotected openings and inadequate fire resistance in conveyor systems;
 - John Adams Building lack of exit stairwell and exit pathways; and
 - Thomas Jefferson Building lack of exit stairwells and exit pathways.

Several open citations are being examined by a Blue Ribbon Panel that was created at the direction of the Senate Rules Committee, which consists of historic architects, fire protection engineers, and legal counsel.

PRIOR LEGISLATIVE AND OVERSIGHT ACTIVITY

On May 11, 2007, the Committee on Transportation and Infrastructure held a hearing on “Administration Proposals on Climate Change and Energy Independence”. Acting AOC Stephen Ayers and Chief Administrative Office Daniel Beard testified at this hearing regarding energy efficiency and climate change mitigation initiatives in the Capitol Complex.

On June 8, 2007, the Subcommittee on Economic Development, Public Buildings, and Emergency Management held a hearing on “What Visitors can expect at the Capitol Visitor Center: Transportation, Access, Security, and Visuals”.

On June 20, 2007, the Committee on Transportation and Infrastructure ordered reported H.R. 2701, the “Transportation Energy Security and Climate Change Mitigation Act of 2007”. H. Rept. 110-904. The bill included several provisions to promote energy efficiency of the U.S. Capitol Complex. These provisions were incorporated into the Energy Independence and Security Act of 2007 (P.L. 110-140).

On April 1, 2008, the Subcommittee on Economic Development, Public Buildings, and Emergency Management held a hearing on "A Growing Capitol Complex and Visitor Center: Needs for Transportation, Security, Greening, Energy, and Maintenance."

WITNESSES

The Honorable Stephen T. Ayers
Architect of the Capitol

Ms. Tamara E. Chrisler
Executive Director
Office of Compliance

Mr. Robert Loversidge, Jr., FAIA
President & CEO
Schooley Caldwell Associates

Mr. Wallace Reed Jr.
President
American Federation of State, County and
Municipal Employees
(AFSCME) - Local 626

Ms. Megan Marie Burger
Member, CVC Employees Union Organizing Committee
AFSCME Local 658, Council 26

THE CONGRESSIONAL WORKPLACE: SAFETY CONCERNS AND FUTURE PLANS

Thursday, September 30, 2010

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC
BUILDINGS AND EMERGENCY MANAGEMENT,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC.

The Subcommittee met, pursuant to call, at 2:09 p.m., in room 2167, Rayburn House Office Building, Hon. Eleanor Holmes Norton [Chairman of the Subcommittee] presiding.

Ms. NORTON. The hearing will come to order. I am very pleased to welcome our witnesses, and I look forward to their testimony. This Subcommittee has jurisdiction over the Architect of the Capitol, the Capital program, and of course, we can engage in oversight generally concerning the AOC. Today, the Subcommittee will examine the fiscal year 2009 State of the Congressional Workplace report produced by the Office of Compliance and its relationship to the AOC's infrastructure plan.

The OCC was created by the Congressional Accountability Act of 1995, which was passed through the Congress, and its auxiliary agencies generally follow the same employment labor accessibility and safety laws that apply to the private and public sectors. The Congressional Accountability Act applies to the employees of the House of Representatives, the Senate, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Congressional Accessibility Services, the United States Capitol Police, the General Accountability Office, and the Library of Congress, covering an estimated 30,000 employees. Section 215(e) of the Congressional Accountability Act requires the OOC to inspect the facilities of the agencies under its jurisdiction for compliance with occupational safety and health standards under the Occupational Safety and Health Act at least once each Congress.

On July 13, 2010, the OOC released its fiscal year 2009 annual report, State of the Congressional Workplace. The fiscal year 2009 annual report covers 96 percent of the 17 million square feet of space occupied by the Congress and other legislative branch facilities in the metropolitan Washington, D.C. area. The United States Capitol Complex has a long and storied history, and includes the House office buildings, the Capitol, the Senate office buildings, the Library of Congress the Supreme Court Building, the Botanical Gardens, the Capitol Power Plant, and other buildings. Construction of the Capitol began in 1793, and extensions, additions and

renovations of the Capitol have continued in the late 18th century until now, when the Capitol Visitor Center, or CVC, the most recent addition to the Capitol, opened in 2008.

Today the Capitol Complex encompasses over 450 acres and houses several important institutions in the American government.

With several of the buildings approaching 100 years of age, the care, condition and safety of the buildings of the Capitol Complex are important concerns for this Subcommittee.

In addition to being symbols of democracy, these buildings also house the working offices of America's elected officials, the House of Representatives and the Senate, the Library of Congress and other public servants. The fiscal year 2009 annual report documents compliance with occupational safety health standards for the 110th Congress, and provides projections for the number of hazards in the 111th Congress.

The report indicates there are 9,200 hazards in the Congressional workplace, there were 9,200 in the Congressional workplace, during the 110th Congress, which represented a 30 percent reduction from 109th Congress during which 13,140 hazards were identified. The Rayburn House Office Building had the highest number of safety and health hazards, followed by the James Madison Memorial Building and the Longworth House Office Building.

The OOC projects that the 111th Congress will have 6,300 hazards representing a 50 percent drop since 2006. We will take a hard look at the long-term plan to maintain the safety and accessibility of the Capitol Complex.

Going forward with long-term capital asset planning, we will examine some of the measures that the AOC and the OCC are taking to ensure that legislative branch employees and the millions of visitors to the Capitol Complex are not exposed to harm unnecessarily, and further, that these offices are conducting or identifying requisite training or establishing safety practices and procedures for Congressional employees and visitors.

Although there has been a significant drop in hazards since the 108th Congress, there are still significant risks to the health and safety of visitors and employees in the Capitol Complex. It is our understanding that a recent Blue Ribbon Panel convened by the AOC produced a final report about some of the more serious hazards on the Senate side, and that will inform how the Architect addresses similar fire issues in the Capitol and in the Cannon Office Building.

The OOC report detailed serious safety violations from open stairwells in the Russell Senate Office Building that could create a dangerous smoke tunnel, perhaps preventing people from escaping if the building caught fire, or sustained explosive attacks going all the way to the Jefferson Building which lacks adequate exit stairwells.

We want to be sure that the AOC has the plans and tools to cope with the challenge of modernizing the Capitol Complex consistent with its status as a national historic landmark.

With the recent completion of the new 580,000 square feet of the Capitol Visitor Center, many issues are presented such as assuring that the Capitol Complex is accessible for Americans with disabil-

ities and that there are sufficient safeguards in place to prevent a fire from becoming a major calamity.

We want to partner with the office of the AOC and OOC, with both of those offices, so that our Subcommittee can draw upon this Subcommittee's own long, collective expertise in construction management and long-term capital asset planning to ensure that the U.S. Capitol Complex remains an iconic masterpiece.

We also are concerned about issues I detailed in a letter dated August 18, 2010, concerning emergency preparedness and response training for CVC or Capitol Visitor Center workers. Their working conditions, employee benefits, including the possible loss of benefits, as well as reports of the CVC forbids employee contact with Members of Congress.

In addition, CVC employees allegedly were instructed to flush the contents of a bag of white powder labeled "anthrax" down a toilet instead of alerting U.S. Capitol Police of its discovery. It is also alleged that CVC employees are subject to harmful working conditions, including uniforms inappropriate for outdoor work in summer and winter months and limitations on water consumption. These allegations are serious, and we expect to hear from both parties about how these issues are being resolved.

I look forward to the testimony of officials from the Architect of the Capitol, the Office of Compliance, the American Institute of Architects and union officials to ensure that the U.S. Capitol Complex remains safe and accessible as a workplace.

We were instructed, Mr. Ranking Member, to go ahead and that you would be here momentarily and, voila, you are, so I am pleased to ask the Ranking Member if he has any opening comments.

Mr. DIAZ-BALART. Thank you, Madam Chairman, and I will be brief and as usual, you and I on issues of this Subcommittee work very closely and I appreciate this wonderful working relationship. I want to thank as you did the distinguished panel for being here today. And really the only thing that I just want to add is obviously when we are talking about the Congressional workplace, the safety of the Congressional workplace, we have to be reminded that there are millions of people that go through this complex and thousands that work here, whether it is members of staff and others and obviously, and those of us Members of Congress, so it is not just us, it is also for the thousands upon thousands upon thousands of visitors.

And I want to thank you, Madam Chairwoman, for putting together this hearing and for bringing together a very distinguished group of panelists. And I look forward to hearing from them on an issue that is obviously of great importance to all of us and to the millions of people who visit this complex. Thank you, Madam Chairwoman.

Ms. NORTON. Thank you very much, Mr. Diaz-Balart. Now let us proceed to the witnesses, and I will simply introduce them as they are called to speak.

STATEMENTS OF HON. STEPHEN T. AYERS, ARCHITECT OF THE CAPITOL; TAMARA E. CHRISLER, EXECUTIVE DIRECTOR, OFFICE OF COMPLIANCE, ACCOMPANIED BY PETER EVELETH, GENERAL COUNSEL, OFFICE OF COMPLIANCE; ROBERT LOVERSIDGE, JR., PRESIDENT & CEO, SCHOOLEY CALDWELL ASSOCIATES; WALLACE REED, JR., PRESIDENT, AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES; MEGAN BURGER, MEMBER, CVC EMPLOYEES UNION ORGANIZING COMMITTEE, AFSCME LOCAL 658

Ms. NORTON. The first witness is the Architect of the Capitol, Stephen T. Ayers, was nominated by President Obama, confirmed by unanimous consent of the Senate in May of this year, and served in the Office of the Architect of the Capitol since 1997, was, prior to that, an architect working with the Voice of America both here and in Greece, licensed as an architect in the State of California. Welcome, Mr. Ayers. We will hear your testimony at this time. Would you summarize it.

Mr. AYERS. Madam Chair and Congressman Diaz-Balart, thank you for inviting me here today to discuss the Architect of the Capitol's commitment to provide a safe and healthy environment for all who work here and the millions of people that visit each year. With Congress' support, very significant investments have been made to improve fire and life-safety systems in the Congressional office buildings. As a result, the buildings on Capitol Hill are safer today than ever, as evidenced by a 60 percent reduction in identified hazards since the 109th Congress.

We are very pleased with this progress, particularly because the amount of square footage of facilities that we maintain significantly increased over the same period of time.

While the Office of Compliance is still conducting its inspections of the 111th Congress, as of last week, they have identified 1,785 findings attributable to the Architect of the Capitol. Of these 1,785 today, we have closed 82 percent of these findings and nearly 18 percent of them were closed during the inspections themselves. Along with these efforts, we have also made substantial physical improvements into the Capitol's infrastructure to enhance safety.

Since 2007, the Congress has invested more than \$200 million in fire, life and occupational safety projects. These improvements include the extensive installation of smoke detection and fire sprinkler systems throughout our buildings. While we have made great progress improving safety at Congressional facilities, we realized that there is still work to do. Of the 1,785 Office of Compliance findings I mentioned earlier, the remaining 8 percent will require substantial time and significant resources to resolve. To address these, between fiscal year 2011 and fiscal year 2015, we plan to request more than \$300 million in citation-related work and an additional \$300 million in additional fire and life-safety projects to include deferred maintenance and capital renewal projects.

Although every project we have identified is prioritized and necessary, we realize not all can be funded nor will be funded in these fiscally challenging times. To assist us in this prioritization effort, we have successfully developed and implemented a robust and balanced process to prioritize projects based on facilities' conditions

and the level of maintenance required to ensure they remain functional and viable working environments for the Congress.

This process uses several tools in the formulation of the project prioritization list, including facility condition assessments, the Capitol Complex Master Plan and its jurisdiction plans.

Over the past year, this process has matured to include a 5-year capital improvements plan which examines phasing opportunities, project sequencing and other factors to best facilitate the timing and execution of major deferred maintenance and capital renewal projects. Tied into this overall planning process is the line item construction process, and during this process projects are scored against six criteria. These include safety and regulatory compliance, security, mission, historic preservation, economics, and energy efficiency and environmental quality. The component that provides us and the Congress with the big picture, the 20-year look ahead to cue up the priorities investments and projects, is the Capitol Complex Master Plan, and we have been working with the Congress to develop this plan and its related jurisdiction plans.

The Master Plan assumes incremental decision making, leaving choices about future renewal and development to be made closer to the anticipated time when these decisions must be made. Essentially, master planning provides the Congress with the wholistic vision, or a blueprint, for facility-related decision making.

The master plan and the other prioritization tools we have developed and refined over the past few years provide Congress with concrete, practical assessments of our infrastructure. And by using these tools, Congress can choose best where to make investments in the Capitol campus.

Madam Chair, the level of safety and accessibility across the campus has never been higher and continues to improve as we work to complete enhancements and repairs to the facilities and grounds. However, work remains to be done, and we know that constant vigilance is required. We know our safety responsibilities are twofold, to provide safe facilities for all occupants and visitors and to provide a safe work environment for our workforce.

And to address this second responsibility specifically, we continue to invest in our employees by providing them with the right tools, equipment and training to ensure they work in a safe and productive environment. With a 76 percent reduction in our injury and illness rate over the last 10 years, this places us among the best in the Federal Government for worker safety.

We will continue to work with our oversight committees to address issues in a planned matter that is fiscally responsible, efficient, effective and protective of those who work and visit our buildings as well as maintain and protects the unique architectural features of these historic and iconic buildings and grounds.

We appreciate this Subcommittee's continued interest and support, and I would be happy to answer any questions you may have.

Ms. NORTON. Thank you, Mr. Ayers.

The next witness is the executive director of the Office of Compliance, Tamara Chrisler, appointed to a 5-year term, January 2008, had served as a labor and employment attorney for the Federal Bureau of Prisons representing the interests of the government as well as administrative agencies in claims brought by employees be-

fore the Federal Court. Prior to this appointment, she was the OOC's general counsel.

Ms. Chrisler.

Ms. CHRISLER. Thank you, Madam Chairman, good afternoon and good afternoon, Congressman Diaz-Balart. Thank you for the opportunity to testify today concerning the Office of Compliance in our role in concerning safety and health, accessibility and workplace rights in the legislative branch. With me at the witness table to your right is Peter Eveleth general counsel of our office. Mr. Eveleth has statutory responsibility over safety, health and accessibility issues in the Office of Compliance, and he has joined me to answer any questions you may have today.

As you mentioned when you opened the hearing, Madam Chair, the Office of Compliance's most recent annual report summarizes the work we do with respect to workplace rights as well as safety and health. Most of our workplace rights efforts are performed quietly as the CAA mandates confidentiality while addressing these issues administratively. Our other areas of focus, however, are typically addressed more openly, like our work in safety and health, which includes conducting biennial inspections and responding to requests for inspection. Although our 111th Congress inspection has not been completed, as you mentioned, our annual report projected a 50 percent reduction in hazards from the 109th Congress inspection which was our original baseline inspection. This reduction is due in part to the commendable efforts of the Architect of the Capitol's Office and other employing offices which are constantly working on the abatement of hazards.

Technical assistance provided by our agency has also played a significant role in improving safety and health on the Hill. For instance, at the request of Congress, we conducted a comprehensive preinspection of the CVC before it opened in December, 2008. Because the facility was not yet occupied, remedying the identified deficiencies was more efficient, and in some instances, less expensive than had we waited until after it opened.

We work closely with the AOC staff throughout this process to ensure that the CVC could open on time, free from safety hazards, and fully accessible to visitors, Members and employees with disabilities.

We are pleased to report that all occupational health and safety hazards identified during this 2008 preinspection have now been abated. Most accessibility barriers to individuals have been removed, and the AOC is continuing to work on resolving the remainder.

Notwithstanding, we believe some of the most significant hazards currently in the community are the most serious and longstanding fire and life safety hazards in most of our historic and iconic buildings on Capitol Hill, including the House and Senate Office Buildings, the Capitol and the Library of Congress buildings. While much progress has been made in increasing the level of fire safety in some buildings, substantial critical work remains to be undertaken. We understand and appreciate that the AOC has limited budgetary resources, and not all hazards can be abated overnight.

Until the hazards can be permanently remedied, the Architect has instituted important interim measures to provide additional

fire safety. The AOC installed new smoke detectors and sprinklers within several legislative branch facilities, and we understand that the AOC intends to provide complete smoke detection capability in all legislative branch facilities.

Separate and apart from the fire hazards, another high risk area is the Capitol Power Plant utility tunnels. As you know, there exists a 5-year plan to abate the hazards entirely. A great deal of progress has been made, thanks to the resources provided by Congress as well as the cooperative efforts of AOC staff and our OOC tunnels liaison. Assuming sufficient funding, that project is on track for complete and timely abatement in 2012.

In the coming Congress, the Office of Compliance is undertaking a new risk-based approach to our biennial inspections to target and devote our inspector resources to potentially high hazard and high accessibility barrier areas across campus.

First we intend to preinspect new or significantly renovated buildings, such as the Cannon building, which will be undergoing major upgrades. As we found with the CVC, we expect that identifying and correcting hazards and barriers to access before the building is occupied will be more efficient and in at least some instances less expensive. Second, we will also target our biennial inspection at the most dangerous workplaces and occupations. We are targeting these activities because now that we have completed three comprehensive inspections of the legislative branch, we believe it appropriate to concentrate on the highest risks.

We intend to review compliance with selected safety and health procedures and programs, like fall protection, hazard communication, and lockout tag-out programs.

During the current Congress, we have offered and provided technical assistance to employing offices in reviewing their program. Third, we intend to concentrate our efforts on ensuring complete and timely abatement by employing offices of high risk hazards, identified in current and previous biennial inspections.

Finally, our cooperative work with the AOC extends to accessibility barriers in the legislative branch.

During our biennial inspection in the next Congress, we look forward to working with the AOC to determine where the most serious barriers are present so that projects can be undertaken in priority order.

Cost effectiveness remains a vital issue for us in our regular biennial inspections during this time of severe budget constraints. We know that by preventing or quickly remedying hazards can save workers' lives and limbs, but it saves money too. Every workplace injury that doesn't happen means thousands of dollars in savings on worker's compensation, medical bills, lost productivity and overtime payments just to name a few.

Indeed, between 2001 and 2007, the Library of Congress achieved an estimated \$11 million in injury cost avoidance through its injury prevention efforts, hence our motto, "safety pays."

On behalf of the Office of Compliance and its board of directors, I would like to thank you for the opportunity to appear before you this afternoon to discuss these very important issues. I, along with Mr. Eveleth, look forward to answering any questions you may have.

Ms. NORTON. Thank you very much, Ms. Chrisler. You hadn't been the general counsel, you simply brought the general counsel with you in case there are questions. We don't think there will be questions for the general counsel. The questions will be for you. If necessary, we will hear questions from someone else.

Ms. CHRISLER. Thank you, Madam Chair.

Ms. NORTON. The next witness is the President and CEO of Schooley Caldwell associates, Robert Loversidge, Jr. He is a practicing architect, an expert in the field of historic preservation, restoration and innovation. Mr. Loversidge has experience working with historic buildings in a number of States. I welcome him to offer his testimony at this time.

Mr. LOVERSIDGE. Chairman Norton, Ranking Member Diaz-Balart, thank you for inviting me to testify today regarding safety, accessibility and historic preservation in our Nation's Capitol. I am here at the behest of the American Institute of Architects, which has been the leading professional membership association for licensed architects since 1857. At my firm, I have had the great fortune to work at four State capitals, the Supreme Court in Ohio and numerous Federal, State and local courthouses, all historic buildings with characteristics and issues similar to those at the national Capitol Complex.

These historic buildings were completed long before modern life safety codes, OSHA regulations, electronic technologies and access for people with disabilities were part of our architectural vocabulary. Many were built before air conditioning, elevators, automobiles, computers, iPods, the internet, and even restrooms. Nevertheless as you mentioned Madam Chair in your opening remarks, these buildings are important, as iconic symbols of the function and permanence of our government, as workplaces for government employees and visitors, and as sources for national, State and local civic pride.

When Ohio's National Historic Landmark Statehouse was designed in 1838, it contained all of State government in 53 rooms. When we began our master plan in 1988, the same space was occupied by 317 rooms. I don't have to show you photographs to show you what the before conditions were like.

Today, after completion of an award winning restoration, renovation and addition project, the Ohio Statehouse serves as a model capitol for the future. It has been sensitively restored. While President Lincoln would recognize the building he visited in 1861 as President-elect, the building is fully sprinklered and life safety code-compliant, it is fully accessible to people with disabilities, it has the most comprehensive closed-circuit television Internet streaming and communication system designed to date by Sony.

It has state-of-the-art energy efficient heating and cooling systems. And it has all of the functionality of a modern State capitol building, hearing rooms, gathering spaces adequate staff workspaces, museum and visitors facilities, security systems and so forth.

From an architectural point of view, the issues that you are studying regarding workplace safety and accessibility boil down to two related topics, life safety code compliance, and access for people with disabilities. Although the code books are very extensive and

complex, the most difficult problems we encountered in monumental buildings are, one, providing adequate and safe means of egress, two, fire separation, and, three, smoke control.

The Americans with Disabilities Act celebrated its 20th anniversary this year. We have always taken the position that all functional spaces in a public building should be made accessible to as many people with as many disabilities as possible. In our 170-year old Statehouse, I set a personal design goal of making all of the spaces accessible, and we made it once we finally figured out how to insert a wheelchair lift into the corner of a small public gallery in the House chamber. One technique we found particularly helpful is to assemble a committee of people with a variety of disabilities to advise us during the design phase and to test the final result afterwards.

The bottom line here is that we do not believe that architectural accessibility, full functionality, and historic preservation are mutually exclusive.

One key to a great project is to make 100-year design decisions. While all of the equipment that we place into our buildings may not last that long, we try to place ductwork, piping, conduit, runs in places where they will seem appropriate decades later. For example, in our State capitol, we have 4- to 6-foot thick solid stone interior walls and brick groin vaulted ceilings, no place to hide ductwork or air handling equipment. Our solution was to carve pathways into the masonry walls for ducts but to place the fans in a basement plinth area where they can be easily replaced when they become obsolete.

All of this works better, of course, if there is a long-range vision or master plan for the facility. A master plan allows stakeholders and designers to collaborate regarding priorities phasing and budget issues and it gives the legislative body a clear path forward to accurately anticipate funding needs. The master plan also provides a basis for communication so the building occupants can stay informed and have realistic expectations.

At the Minnesota capital where we are currently restoring the second largest marble dome in the world, the construction manager issues a weekly electronic update to everyone.

In Utah, we had the great luxury of having the entire building to work on at once. It was a seismic reinforcement project, and we simply couldn't do it in an occupied building, so the State built two new adjacent buildings for expansion space and the occupants had to move there temporarily.

While vacating the entire building rarely works because of lack of equivalent alternate facilities successful phasing of projects by area can work. We did this successfully in Ohio and Kansas. Critical things to consider are phasing to respect life safety requirements and phasing to allow continuous operations of building systems like electricity, heating and air conditioning and fire alarms.

Finally, I would like to address the biggest challenge to the success of these projects, which is, frankly, not architectural engineering designability, but rather creating the political will to succeed. The Capitol is a working essential government building occupied by important people who have issues other than facility modernization on their minds.

I have to tell you the most successful projects to improve the workplace are the direct result of strong consensus-based political will. I don't know exactly how this consensus can be accomplished here in Washington, D.C., but I can tell you that it is important part of all successful historic preservation master plan and renovation projects.

One of our most insightful clients, the late Chief Justice of the Supreme Court of Ohio, Thomas J. Moyer, advised us over and over during the design of the Ohio Judicial Center, to design for the institution, not for its current occupants.

One more quick story about political will. I distinctly remember telling Ohio Governor, now Senator George Voinovich, as he was moving out of his Statehouse office ahead of our renovation that he would have to be reelected in order to move back. He won reelection at the time with 72 percent of the vote.

In conclusion, I would like to thank the Committee for its hard work in addressing these complex issues and I look forward to answering any questions the Committee may have. Thank you.

Ms. NORTON. Thank you Mr. Loversidge.

Wallace Reed, Jr., is President of the American Federation of State County and Municipal Employees, or AFSCME, local 626. Mr. Reed has worked at the Botanic Gardens for 21 years, and is the president of AFSCME 626 since 2005.

Welcome, Mr. Reed.

Mr. REED. Thank you very much Madam Chairwoman, Mr. Ranking Member, for the opportunity to speak today. I want to concentrate on two sections of the Office of Compliance 2009 annual report, the State of Health and Safety and the State of Workplace Rights.

I want to applaud Mr. Ayers. Under his leadership there has been an improvement in the state of health and safety since I started working in 1989. There has been and continues to be an emphasis on workplace safety. The preinspection processes have been very successful and some AOC jurisdictions have very proactive safety committees. In my opinion, the average AOC employee is much more safety conscious than they were 5 years ago.

In the Botanic Garden, for example, safety is discussed on a regular basis and discussed intently. However, recently there have been reports that have funneled to me of employees being discouraged from reporting workplace injuries or accidents because it might jeopardize a group workplace safety award. There have been other reports that employees are being threatened with discipline during safety regulations. I hope these reports are isolated incidents and not a new trend. The union does not want a potential award to be an incentive not to report accidents or health and safety violations.

The 2009 Office of Compliance fiscal year 2009 report points out that approximately 25 percent of the hazards were listed as RAC 1 or RAC 2 hazards, meaning high risk hazards. These hazards left unabated can pose a serious danger for lawmakers, visitors and employees. It is worth pointing out that even though there has been a substantial reduction in the number of hazards found in the Congressional workplace, the high risk hazards continue to be about 25 percent each year. The union would like to work with

AOC management to determine where these high risk hazards continue at such a high percentage rate and explore different ways to reduce these high risk hazards.

I would also like to comment on three recommendations put forth in the December 2008 section 102(b), subsection II, Safety and Health Compliance Tools. Specifically, there are three recommendations, there is recommendation 1, to provide investigative subpoena authority for OSHA claims; recommendation 2 would require safety and health record-keeping; and recommendation 3, allow the Office of Compliance to protect employees from retaliation for reporting OSHA violations.

All three of these recommendations are very important to the union, but I am especially interested in allowing the Office of Compliance to protect employees from retaliation for reporting OSHA violations. AOC employees want the same protections and rights that have been extended to the private sector and the executive branch. We do not want to be treated like second class Federal employees. Without these protections, the lowest graded and the lowest paid AOC employees can be left to shoulder the financial burden of litigating reprisal charges without the support of the general counsel's investigative process.

As president of the local, I have personal experience where many cases stalled in mediation because, in my opinion, the AOC knows the employee bringing the charges will have the financial burden and expense to hire an attorney if they want to investigate and pursue a retaliation claim after mediation ends. This lack of protection has a chilling effect on the number of valid cases of retaliation AOC employees might be able to bring to light and resolve. Most of the employees do not have the resources to pursue their claims after mediation ends.

I also would like under workplace rights to applaud two major employment laws passed by the Congress in fiscal year 2009, the one broadening the Family and Medical Leave Act to extend rights and protection for covered military members. We can never do too much for the brave men and women of the Armed Forces who protect our freedoms. We also applaud the law banning genetic information discrimination that was made applicable to the CAA. We in the Congressional workplace want the same protections as private and other public sector employees enjoy.

The union also urges Congress to approve the regulations adopted by the Office of Compliance board of directors that would grant Congressional employees all the statutory rights of the Veterans Employment Opportunities Act of 1998.

Finally, the union would ask that Congress please review and reconsider all provisions of Federal law, including regulations relating to terms and conditions of employment including hiring, promotion, demotion, termination, salary, wages, overtime, compensation, benefits, work assignments, reassignments, grievance and disciplinary procedures, protection from discrimination in personal actions, occupational health and safety and family and medical and other leave of employees pertaining to the Congressional workplace to determine if the laws and regulations that, at one time, were determined to be inapplicable to the legislative branch can now be made applicable.

In closing, I would like to thank Madam Chairwoman and the Ranking Member, Mr. Diaz-Balart for this opportunity. I would be happy to answer any questions at this time.

Ms. NORTON. Thank you very much, Mr. Reed.

Megan Burger is a member of AFSCME Local 658, Council 26 of the CVC Employees Union Organizing Committee. The employees of the CVC have this month voted to unionize and to join the American Federation of State, County and Municipal Employees, Local 658.

Welcome, Ms. Burger.

Ms. BURGER. Thank you Madam Chairwoman, Mr. Ranking Member, and Members of the Subcommittee. My name is Megan Burger, and I am the president of AFSCME Local 658 on Capitol Hill.

I represent 138 people who work as tour guides and visitor assistants at the Capitol, who, as you say, just voted with a 93 percent voter turnout to allow AFSCME to represent them. On their behalf, I thank you for providing us this opportunity to testify. I would also like to mention that I have a colleague here to help answer questions if needed.

I am here to provide information on issues concerning safety in our workplace, a subject that was raised in the Chairwoman's letter to the Architect in mid August. I have provided a written statement to the Subcommittee that addresses a range of issues in some detail, which I will summarize today.

Before proceeding, I would like to make clear that none of these issues affect the high level of safety and security that the Visitor Center affords to official business and tourists on a daily basis. The safety record of the CVC is outstanding, due to the expert experience and watchfulness of the guides, visitors' assistance and Capitol Police.

Guides and VAs have a close working relationship with the police going all the way back to the first officially appointed guides who were actually a part of the Capitol Police's workforce in 1876. We are proud to be told by the USCP that they rely upon our experience to help them identify potential problems before trouble can begin. Our guides have worked alongside Capitol Police through harrowing events in the past such as the attack on their officers in 1998, the 9/11 evacuation and the anthrax crisis of 2001.

Year after year, each of us shepherds hundreds of guests every day safely through the Capitol adapting to hazards and disrupting as they arise. When we say "visitor safety," we know what we are talking about.

In June of 2010, there was an incident in the CVC Exhibition Hall that I am sure the Members are aware of. One of our VAs discovered a clear plastic bag containing white powder and labeled anthrax. Following the established procedure for discovery of suspicious items, the VA radioed a member of Visitor Services Management asking for a manager to come immediately to his location and suggesting the manager should bring the USCP as well. The manager elected to don gloves and dispose of the bag in a restroom toilet.

As parts of these facts appeared in newspapers, some readers asserted to reporters that the incident revealed a lack of training on

the part of VAs and guides. This frankly stings a little bit, since the VA did his job perfectly, and no guide was involved in the incident at all.

Far more important than our injured pride is the fact that the incident was indeed a symptom of a deeper problem. There have been others, managers not responding to emergency radio calls, managers directing fire doors to be propped open, managers not giving attending physician's teams enough information to find injured persons in the CVC, and groups of seniors left to feel their way off theater stairs in the dark.

On many occasions over the past 22 months, VAs and guides have recognized these and similar hazards, responded to them, and maintained visitor safety. Unfortunately, all the reported conditions to their managers, the conditions went uncorrected. We now believe this was due to a problem with the focus of our new management team.

As background, let me explain that starting in 1970, a board consisting of both Sergeant at Arms and the Architect of the Capitol directed the Capitol Guide Service. Internal management was very simple and focused entirely on being good hosts and leaving the right impressions with visitors. A senior guide at a central radio operations post ran the whole organization, and it was very straightforward and successful.

In November, 2008, to facilitate CVC operation, the guide service and the board were dissolved. The previous head of the guides had retired and a 3-tier visitor services office in the CVC composed of 12 people replaced him. In the CVC direction over the radio was conducted ad hoc by many or all of the 12 managers. Soon thereafter, we began to notice many managers being called off the radio net to attend meetings or training or to take care of administrative and logical tasks.

At times there would be no manager response on the radio at all, even to urgent calls. We also noticed manager follow-up on safety and other concerns became increasingly sporadic and was finally replaced with a barrier of denial.

The managers team focus seemed to shift away from the members need for good hosts to care for their visitors toward something else. I am happy to report that since mid August, we have noticed some positive signs following Mr. Ayers' appointment, and the organizational adjustments within the CVC. With considerable help from AFSCME, we have succeeded in establishing our new local, and we are pleased to see our managers addressing one change after another as days tick down to the locals official certification. We now believe our managers are fully engaged and making progress in these areas.

We hope these steps signal a return to focusing on being good hosts and preserving safety for the Members' guests.

There remains a catalogue of concerns listed in my written statement, which I hope may be considered an unfortunate legacy from a period that has now passed. The guides and VAs as AFSCME 658 stand ready to team with our managers to get this done. We know that we already share with them a love of country and a passion for sharing its story with the Members' constituents and visitors from around the world.

Thank you, again, for the opportunity to testify.

Ms. NORTON. Thank you very much, Ms. Burger. Let me begin with Ms. Chrisler.

Ms. Chrisler, how would you characterize the AOC's performance, let's say, in the last 2 years during this Congress in evading hazards, fair, good, poor, excellent? Choose one of those.

Ms. CHRISLER. Well, given the list that I have been provided by you, I would choose excellent. The work that the Architect of the Capitol and our office have done collaboratively has been, I think, one of the largest, outside of the efforts of the Members' offices and other employing offices, the largest factor in the success of the reduction of the hazards—

Ms. NORTON. What has been the largest factor, please?

Ms. CHRISLER. The collaborative efforts of the Office of Compliance and the Architect of the Capitol's office, so the work that the AOC has done with our cooperative efforts has been the largest factor, I believe, in the reduction of the hazards. I would like to share with you that the—

Ms. NORTON. What kind of work is that? Do you advise the AOC directly after your report is issued or before your report is issued?

Ms. CHRISLER. Right. Let me start by saying, Madam Chairwoman, that the Congressional Accountability Act is very specific in the distinction of work that is done within the Office of Compliance. We have a safety and health component, as you are well aware, and that authority is given with the specification to our general counsel. And that is why Mr. Eveleth sits at the table with me today. As the executive director, of course, I do oversee all of the programs under the Congressional Accountability Act.

However, our general counsel is specifically authorized under the Congressional Accountability Act to address these issues and he works with the Architect of the Capitol's office on a day-to-day basis on these specific issues. And I would welcome the opportunity to allow him to share some of his vast knowledge in this area with you as well.

With your approval—

Ms. NORTON. Mr. Ayers, how often are visitors injured in the Capitol Complex?

Mr. AYERS. I am sorry, Madam Chair could you repeat the question?

Ms. NORTON. Yes, how often are visitors injured in the Capitol Complex?

Mr. AYERS. I think the question is how often are visitors injured in the Capitol Complex. I don't know that we have, anyone has overarching statistics on the number of visitors that are injured. What I do see is a number of tort claims per year. So if someone falls and is injured, they may submit a tort claim.

Ms. NORTON. How many such claims?

Mr. AYERS. I would say there are less than 10 a year.

Ms. NORTON. Now, don't you think that there should be—let me ask the entire panel whether there should be safety and health record-keeping in the Capitol Complex the way we have it in the private sector?

Mr. AYERS. Well, from my perspective, the Architect has been keeping records on injuries and illnesses, near mishaps for over 10

years. We have an extensive, and I would call, OSHA-compliant record keeping program.

Ms. NORTON. You just said you didn't have any record of for example visitors injured in the Capitol Complex. Now you just say you have been keeping a record of injuries in the Capitol Complex.

Mr. AYERS. I am speaking of record-keeping for employees under my supervision, 2,600 employees that are AOC employees we have—

Ms. NORTON. Oh, well, so you know about employees being injured, but if some of my constituents come in here, you don't know anything about their being injured.

Mr. AYERS. I don't. I think the Capitol Police may keep such records if they call the police.

Ms. NORTON. Ms. Chrisler, who should keep such records?

Ms. CHRISLER. Madam Chairwoman, as it has been testified today, one of the recommendations in our annual, I am sorry, our Congressional Report under section 102(b) of the Congressional Accountability Act includes recommendations from our board of directors with respect to record-keeping provisions. That requirement is not a requirement under the Congressional Accountability Act for agencies to keep such records, records of workplace injuries.

Our board of directors has made the recommendation, although there are some agencies that do keep records of these instances. It is not a requirement. All agencies don't, and as the Congressional Accountability Act is written now, none of the agency—

Ms. NORTON. I know that, Ms. Chrisler. You recommend that records be kept of all injuries whether employees, visitors, et cetera, is that right?

Ms. CHRISLER. The recommendation as it has been reported, I believe, is for employees, injuries of employees.

Ms. NORTON. So how is how is the AOC going to comply with the standards of workplace safety and prevent—sorry, prevent the tort claims if we don't even know, have no record of injuries of visitors, but only of our own employees?

How many visitors—Mr. Ayers, how many visitors come to the, let's say the Capitol alone?

Mr. AYERS. I would say approximately 2-1/2 million per year.

Ms. NORTON. So that is 2-1/2 million right there. I am not even talking about the Supreme Court, Library of Congress and the rest of those. So we could have, for all you know, dozens of injuries of visitors, and all you know is whether we get sued whether somebody has the prescience to go and find a lawyer.

What kind of after-the-fact approach to preventing accidents is that?

And Ms. Chrisler, you say you don't even recommend that we keep a record of injuries of visitors as well as employees?

Ms. CHRISLER. That is not part of the recommendation, Madam Chairwoman—

Ms. NORTON. Suppose somebody falls victim of one of the hazards you yourself discovered, but that victim is a visitor, and not an employee? Shouldn't that visitor's hazard or accident be as reportable as if that very same accident had involved an employee?

Ms. CHRISLER. As the Congressional Accountability Act applies the Occupational Safety and Health Act to the legislative branch, the OSHA Act itself does not speak—

Ms. NORTON. Of course, you say apply the OSHA safety—so you said even that doesn't apply.

Ms. CHRISLER. Right. The board of directors of the Office of Compliance can only make recommendations for record-keeping provisions for what the Congressional Accountability Act covers.

Ms. NORTON. I don't agree with you at all.

I had an occasion to look very closely, and was very impressed with the very substantial powers you have. Now, how is Congress going to know that there is an issue if OOC doesn't tell the Congress? Your statute certainly allows you to recommend to Congress that it may want to look at or to consider at least knowing whether or not our own constituents get hurt in the Capitol complex.

Ms. CHRISLER. The OSHA law itself, Madam Chairwoman—

Ms. NORTON. I understand precisely what the OSHA law does. I am myself a lawyer just like you.

Sorry, I conceded that we were talking that you wanted at least OSHA law to be applied.

I am now speaking as a Member of Congress. There are 440 of us in the House and 100 of us in the Senate. I assure you that more people come to this House who are our constituents than are employees of the House or Senate.

I am now trying to imagine what would happen if there were a major accident involving, let us say, a number of visitors. And then the press would run forward to say, well, how many visitors get injured? So I am asking you, and I certainly believe your statute allows you to make recommendations—

Ms. CHRISLER. That is absolutely right.

Ms. NORTON. —whether you would look into, since, apparently, you have confined yourself, I understand that, to OSHA, whether you would consider alerting the Congress to the fact that we do not know how many visitors are injured here every year. And these visitors, I hasten to tell you, are more likely to be constituents of Members of Congress than they are of any other visitors. Yes, visitors come internationally; visitors come from around the world. But you can bet your bottom dollar that most of the visitors who come here are constituents.

Now, if you want to see some Member of Congress get angry, let's let a bunch of visitors from her district get hurt in the Capitol and let her propound a set of questions and hear what—don't ask me about visitors; all I know is about employees.

I am here saying that, if anything, we were very late in applying the laws that apply to everybody else to the Congress; I am suggesting that perhaps the Congress ought to consider going above and beyond when you consider who we are and who the visitors are likely to be.

So I would ask you only, Ms. Chrisler, if you would consider looking into that issue and reporting to us in 30 days what your consideration would be.

Ms. CHRISLER. I would be delighted to raise that with our board of directors.

Ms. NORTON. I very much appreciate it.

Mr. Loversidge, I am an aficionado of historic preservation. After all, I represent the Nation's Capital, which is full of historic buildings. I live in an historic house on Capitol Hill. I can't do a thing to the facade, and I wouldn't want to.

But the whole District is protected. So I have some understanding of the importance of your work. I was interested in the part of your testimony that talked about, as you said, a great project means 100-year design decisions. What in the world is 100-year design? Does that mean that somebody sitting here now, as, for example, I am with respect to a new headquarters for the Department of Homeland Security, while it is going to be a state-of-the-art building; 100 years from now, it might be there, because we are building it as a platinum building. Does that mean I ought to be thinking about that building 100 years hence, or what does that mean, please?

Mr. LOVERSIDGE. Thank you, Madam Chairman.

What I mean by that is that we should be looking at the long view when we select materials, when we design modifications to buildings. When you design a new Homeland Security building, we should be looking at building something that is a public investment over a very long period of time.

But acknowledging that, a lot the things that we put into a building we know aren't going to last a hundred years. We know the lights and some of the electronic equipment and so forth won't last that long. But if we make long-term decisions, when we cut into the building, we are cutting into the building for a purpose and putting that hole in a place where we think we are going to be able to use it for a long time. The example that I used was duct work, for instance. We need large volumes to move large volumes of air around to air condition a space. We know the air conditioning equipment is not going to last a hundred years. But if we put that someplace where we can get to it and easily replace it, the pathway lasts a hundred years. It is that sort of thing. It is really taking care and thinking twice. Measure once, cut twice.

Ms. NORTON. The way we ought to be thinking about energy, for example. What in the long term should we be doing? I don't know whose testimony it was that said that the building that was most in violation was this building, Rayburn, and that second—third was Longworth. What was second? Do you recall?

Mr. AYERS. The Madison Building, Madam Chair.

Ms. NORTON. These are two of the newer buildings, Mr. Loversidge. We haven't been thinking very far ahead when it came to those buildings. You would have expected violations and hazards—at least, I would have, speaking as a lay person—more in the likes of Cannon and the older buildings, the old Library, or yes, Longworth. Can you give me any insights on that?

Mr. LOVERSIDGE. Madam Chair, I think we are coming out of a period of neglect with regards to these sorts of issues, energy to even life safety, and to long-term decisions. I think that after World War II, there was so much demand to build things; we found ways do them quicker and cheaper, and kind of not worry too much about tomorrow, let's get it done for today. And I think that in the last decade or so, we are starting to come out of that. We are realizing our resources are limited. We are realizing that economic re-

sources are very limited, and that we better spend our money well and look for the future.

So I think we are coming out of that. And I think some of these buildings you just mentioned are subject to that period when we didn't have the civic pride and we didn't worry so much about tomorrow.

Ms. NORTON. Fascinating. Absolutely fascinating. So it means, as we all suspect when we look at our older buildings, Library of Congress, Cannon and Longworth, that for a number of reasons, they are better built, were built with greater care. Does that make the upkeep of those buildings any easier, given the fact that these newer buildings are the ones that have the violations?

Mr. LOVERSIDGE. I think if we invest in maintaining buildings, then they don't cost more to maintain. The materials are permanent or more permanent sometimes, but we still have to watch over them; we have to plan for expenditures. And government I think is much better at building things than it is at maintaining them in terms of appropriations and so forth.

Nobody likes to spend money on cleaning the plumbing out. But building a new building is kind of a dramatic thing to do. So it is very important that we look at the long term. Many of these violations, once they are resolved, can be resolved permanently.

Ms. NORTON. Say that again.

Mr. LOVERSIDGE. Many of the violations that we are talking about here, if they are building code violations and that sort of thing, once we have a mind to fix them, we can fix it in a permanent fashion, or at least in a long-range fashion.

Ms. NORTON. Mr. Reed, it was disconcerting to hear about employees being discouraged from reporting workplace accidents on the one hand, and there seemed to be a whistleblower prize for reporting them on the other. Is that a conflict of interest that may—you say—I don't know what the evidence is—but you say workers at least have told you that they are discouraged from reporting these incidents because of the prizes or awards. Are these awards given to individuals or to the workplace itself?

Mr. REED. In some cases, it is both. In some cases, it appears that if there are no reportable accidents in a jurisdiction that a group of employees are given an award. And there are other instances where individual employees are given awards.

Ms. NORTON. I hate to come out against awards, but do you see some inherent conflict because people are trying their best to be as best they can?

Mr. REED. Absolutely. This morning I was talking with two of my stewards about this issue specifically, knowing that I was going to testify here. One of my stewards says, it is absolutely a conflict of interest. What we would like to see is some other program maybe instituted that would reward employees, yes, for safe work practices, but not at the expense of discouraging other employees for reporting workplace accidents that could impact—the point that was brought to me is if this accident isn't reported or this violation isn't reported, then someone else could also be injured because the violation was not reported.

Ms. NORTON. Oh, it is very dangerous.

Mr. REED. Exactly. Exactly. So yes, we do believe there is an inherent conflict of interest in using awards and safety in that kind of a context.

Ms. NORTON. The best kind of whistleblower is the one who just gets up and says what they saw. And we have had great problems in this Congress just protecting those whistleblowers. And I am sure it was with great and good will that encouraged employees to get together and do the best they can, and working together, they will make a safer workplace. But if you measure what is most valuable to the workplace, it is certainly having someone say, "I see a problem here; let's deal with it right away."

Mr. REED. I absolutely agree with you. We think the best program would be for maybe awards not to be used in this manner and employees applauded actually for reporting accidents. And the individual award maybe is more important than a zero-time-lost kind of an approach, or no reportable accidents in this kind of a period. I agree with you; the conflict of interest is apparent there.

Ms. NORTON. Do you know whether is this notion about workplace safety awards throughout the Capitol Complex?

Mr. REED. It happens in certain jurisdictions. In my particular jurisdiction, we do not have them, but I know in other jurisdictions—

Ms. NORTON. Mr. Ayers, which jurisdictions have these awards? Is it at the initiation of particular workplaces or does your, for example, entire workplace have or not have these awards?

Mr. AYERS. Madam Chair, we believe that an effective safety program and injury and illness reduction program requires both the carrot and the stick. And we have both of those in our policies and procedures. And if you look at our injury and illness rate, over 10 years, it has dropped 76 percent.

Ms. NORTON. The what, sir?

Mr. AYERS. That tells me we are doing the right thing.

Ms. NORTON. Your what?

Mr. AYERS. Our injury and illness rate has dropped 76 percent over 10 years.

Ms. NORTON. Mr. Ayers, that doesn't tell me anything.

Mr. AYERS. It is the number of employees that are hurt working on the job that has been reduced 76 percent in 10 years.

Ms. NORTON. And I am pleased at that. But the notion that someone sees and prevents—yes, they are not injured. Few people are injured on the job. Congratulations. That doesn't mean that there are not workplace hazards on the job. I mean, the correlation you assume is anything but exact.

I don't know why there are less reportable injuries. I don't even know why there are less—I have no idea about whether employees would report these workplace hazards.

So let me put my question again. Are these workplace safety awards characteristic of the AOC, the Office of the Architect of the Capitol? Do you have them in your various divisions?

Mr. AYERS. We certainly award employees for safe work practices. Absolutely. Yes.

Ms. NORTON. Individual employees or divisions?

Mr. AYERS. Both.

Ms. NORTON. Ms. Chrisler, I would ask the OOC to look at—and we will give you 6 months to do this—we use time frames in this Committee because, otherwise, you don't get back timely reports. The conflict of interest we see and that some of the workers report through Mr. Reed perhaps does not play out given the fact that the employees get together.

Given the pressure that—now, here is a union president who works for solidarity as his very livelihood, and yet he says that there is a conflict of interest, knowing full well that that may mean that a division among some employees may not get an award. I don't know what it means to get an award. But if the union is willing to presume what I think would be the presumption of most people, then I would think that the issue would at least be worthy of investigation.

We are interested in only one thing: up front reporting, up front vigilance, so that you can prevent accidents. I have never heard before of this whole notion of, as a group, let's prevent them. First blush, I like that, because one worker can help another to know not to do that.

But Mr. Reed testifies that the opposite is also the case; you can get pressure not to report. I don't know if that was supervisors or if it was other workers. I presume it could be either.

Mr. Reed, do you know whether it was either?

Mr. REED. Very good observation. Yes, we believe it works from both sides, whether a comment dropped by a supervisor is meant to be relayed to the rest of the employees, or the employees themselves discouraging the injured employee from reporting because it could jeopardize the group award, per se.

Ms. NORTON. Well, Ms. Chrisler, this testimony has special credibility because he is obviously testifying as a representative for whom, on the one hand, having a group award would be of some benefit. Obviously, it would be of some benefit for the individual worker as well.

But the notion of assuming that something that is apparent throughout the workplace does not have a conflict of interest would bother us. So we will give you 6 months, and staff will write what that period means. You will get a letter within a week so that you can advise us on whether or not you think that these workplace safety awards—I can tell you that the Congress only deals with whistleblowers as individuals. We have just had—not with—when we have everybody else before us with all the agencies, huge discussions about whistleblowing. Never heard of this thing about the whole group.

Just had a hearing on Metro here where the National Transportation Safety Board testified about practices, apparently, not in subways and rapid rail, but in all other forms of transportation where they have nonpunitive reporting. That is the best idea I have ever heard of. Nonpunitive reporting practices, which is a version of whistleblowing that may be at its very best. Where, without punishment, unless there is some deliberate violation, somebody with great malice or intention, you come forward and report the violation, even if it involves yourself. And we do that in common carriers.

As far as I am concerned, we ought to have the same kind of standards for the Capitol as we have for common carriers, because it would be a huge embarrassment to Members of Congress to have reports of mishaps, particularly of visitors here, not to mention our own staff.

Ms. Chrisler, I am very pleased at what you report about the cooperation between your general counsel and Mr. Ayers. And such cooperation has been apparently very, very beneficial in producing this very impressive reduction in violations. Let me ask you about whether or not there is another potential conflict of interest here. Is the Architect of the Capitol the code official for the Capitol who can grant variances for strict codes and compliance in historic buildings and the like? Isn't he his own code official?

Ms. CHRISLER. The way that the Congressional Accountability Act is written, our board of directors acts as the entity who has the authority to grant variances.

Ms. NORTON. Oh, that is very good news. So he isn't his own code official?

Ms. CHRISLER. Not with respect to that.

Ms. NORTON. At least as to granting variances.

Ms. CHRISLER. That is correct.

Ms. NORTON. Have you at the AOC or your board of directors encountered any disagreement or areas of disagreement concerning what constitutes code compliance? Or if you do, how do you work them out?

Ms. CHRISLER. We have monthly meetings at the Office of Compliance with the Office of the Architect of the Capitol to discuss a number—

Ms. NORTON. You have monthly meetings?

Ms. CHRISLER. Have monthly meetings. And we have open discussions. When we find a violation, we notify the employing office of the violation. They have an opportunity to contest that finding. And we provide for open dialogue and communication. We work very collaboratively with the employing offices, including the Architect of the Capitol.

Ms. NORTON. You made three recommendations: provide investigative subpoena authority for OSHA claims; require safety and health—require safety and health record keeping; and allow the OOC to protect employees from retaliation for reporting OSHA violations.

Mr. Ayers, I recognize that you are not the final judge of this, but would you have any disagreement with those recommendations yourself as a professional?

Mr. AYERS. Well, I certainly can't speak to the law. I am not an attorney. But I can speak to, from my perspective, I gather all of the injury and illness records already, have done so for over 10 years. We present those—

Ms. NORTON. So since you gather the safety and health records, you don't have any problem with reporting them.

Mr. AYERS. We briefed the Office of Compliance twice on all these issues.

Ms. NORTON. So this is just a question, Ms. Chrisler, of reporting them, just as we would know about the private workplace or—

Ms. CHRISLER. I am sorry, would you repeat the question, Madam Chair?

Ms. NORTON. You said require safety and health record keeping. That is OSHA record keeping? That is what the private sector does.

Ms. CHRISLER. That is right.

Ms. NORTON. Mr. Ayers just testified that he does it anyway.

Ms. CHRISLER. The requirement under OSHA also is they provide the information on a regular basis. And that is something that—

Ms. NORTON. Do they report it?

Ms. CHRISLER. We have been given that information, as Mr. Ayers testified.

Ms. NORTON. I am sorry, the OSHA records, are they public? In other words, the safety and health records in a given private workplace, are they public? Can somebody find them out?

Ms. CHRISLER. I am not so sure about that.

Ms. NORTON. Mr.— is it Eveleth?

Mr. EVELETH. Eveleth, yes.

Mr. AYERS. Madam Chair, I think I can answer that question.

Ms. NORTON. Mr. Ayers, yes.

Mr. AYERS. Anyone who has a lost-time injury anywhere is reported through the Department of Labor Workers Compensation Program. OSHA is part of the Department of Labor. They talk to each other. It is reported on OSHA's Web site. You can find mine. You can find the House of Representatives'. You can find them all on OSHA's Web site.

Ms. NORTON. So, Ms. Chrisler, he says you can find his reports already on OSHA's Web site.

Mr. AYERS. Our injury and illness rates.

Mr. EVELETH. If I may, there are different kinds of records that are required to be given to OSHA. That is to say, OSHA gets information as to the nature of the injury, the causes, and a lot of other information is required. And that information is given on a regular basis to OSHA. So OSHA is in a position then to see to it, where are these injuries occurring? What are the causes of these things?

And that is what the Office of Compliance is recommending is the very same type of records would be provided to our office, which then enables us to focus upon those areas which are causing the most injuries or illnesses so that we can dedicate our resources to those areas. And that is why we are asking for that.

We do manage to get workers comp stuff because that is published. But that doesn't tell you the kind of information that we think that we need. And that is why our board is recommending that particular measure.

Ms. NORTON. So you see the difference, Mr. Ayers, between what you do and what Mr. Eveleth recommends—or sorry, the board of directors recommends? Do you have any personal or professional—I realize it may not be your decision to be made—but any personal or professional objection to reporting the same way?

Mr. AYERS. No, ma'am.

Ms. NORTON. Just let me say, for the record, we were very sanctimonious here in the Congress when we said we were going to make sure that we use the same laws and rules and regulations here that you use in your lives, American citizens. So I would think that, at the very least, we ought to do that. And yet is it Mr. Reed

who said—Mr. Reed, I was concerned, when you ask Congress to please review and reconsider all of the provisions of Federal laws.

And then you name virtually every provision, some of which, most of which I thought already applied to the legislative branch and its various offices. Terms and conditions of employment, hiring, demotion, da-da da-da da-da. What does this mean, your list?

Mr. REED. My list is included—as union president, I am involved in very many different things, contract negotiations, changes in terms and conditions. Recently, for example, it is in my written testimony, we found out that Congress has allowed the Architect of the Capitol to not follow the same law of the normal schedule for Federal employees should be Monday through Friday at least 8 hours a day. That is an exemption in 5 U.S.C. for the Architect of the Capitol, to not follow that government-wide regulation that applies to just about every other Federal employee under the sun. And that is just one example. I am sure there are others. You know, those are some of the things that we have discovered that they do not. Not every law of the land applies to the employees of the Architect of the Capitol.

Ms. NORTON. Mr. Ayers, that is a breathtaking example. Breathtaking. Many of my colleagues would not hesitate to take to the floor of the House if they discovered such an employer. Lo and behold that employer is us, I guess. Could I ask you whether there are employees of the Capitol working other than the normal 8 hours per day who are being paid straight time?

Mr. AYERS. I can assure you, Madam Chair, that is not the case. If someone works more than 8 and a half hours a day, they are paid overtime. Absolutely.

Ms. NORTON. Mr. Reed?

Mr. REED. What we are talking about is weekend work in particular. All right. Employees are being asked to cover weekends as part of their regular schedule at not overtime pay. And that is a direct—

Ms. NORTON. Would that mean time and half pay for weekends?

Mr. REED. Normally it would be.

Ms. NORTON. Well, what are they—for weekends, it is straight pay?

Mr. REED. Well, in some of the schedules that are being proposed for Architect employees, particularly employees at the Botanic Garden, we are being asked to work regular schedules that include Saturday, for example.

Ms. NORTON. Would that employee be working in other words a 5-day work week, but his 5-day work week included Saturday and Sunday or something?

Mr. REED. His 5-day work week would—at present time, our 5-day work weeks are normally Monday through Friday, all right, which mean Saturday becomes a time and a half day. Proposed schedules that are being proposed to us are saying, your regular schedule now will be Tuesday through Saturday, Saturday being a regular workday, which under the normal circumstance should be an overtime day.

Ms. NORTON. Well, staff informs me that the Fair Labor Standards Act indicates you can't work more than 8 hours on a given day. I am going to have to look into that. So you mean, if your 8

hours included Sunday, that is not considered—you know, there is every incentive to make the workday Wednesday through Sunday.

Mr. REED. Well, can I comment on that?

Ms. NORTON. Please.

Mr. REED. The Architect's policy basically allows the Architect to create almost any work schedule that fits their needs, which is, in my opinion, a direct violation of what the average government employee does. I mean, the law clearly states that employees normally—shall normally work a Monday through Friday work week, at least 8 hours per day. Again we are exempted in 5 U.S.C. from that particular provision. And the Architect's policy literally allows the Architect to create almost any work schedule that is needed to serve the Congress.

Ms. NORTON. Mr. Ayers, would you like to respond?

Mr. AYERS. Well, certainly, Madam Chair.

As you know, we work 24 hours a day, 7 days a week. Our Visitor Center is open on Saturdays. Our Botanic Garden is open on the weekends. We must be able to schedule our employees to include regular weekend work. Every fire department, every police station, every visitor services operation, every restaurant, every employer does that. If we had to pay overtime—and we do pay overtime for anything that is over 8 and a half hours a day—but if we had to pay overtime for every Saturday and every Sunday, we just couldn't sustain that kind of fee. So we stagger our employees' work schedules, fully compliant with the law—

Ms. NORTON. Is the staggering done on a voluntary basis?

Mr. AYERS. Sometimes it is, and sometimes it isn't. We have employees at the power plant, for example, that have to work 12-hour shifts. And they may have 3 days on, 4 days off, just like fire-fighters often do. But in order to work on weekends, we have to have Tuesday through Saturday shifts or Wednesday through Sunday shifts. We also work three shifts per day.

Ms. NORTON. You know what, I could not be more unsympathetic. Don't you think that throughout the private sector, that is also the case?

Mr. AYERS. Absolutely.

Ms. NORTON. The reason I am not particularly sympathetic to management here is that the Congress really beat itself on the breast that it was, in fact, complying in the same ways that the private sector complies. So you are giving me the same kind of argument that is given—or at least that the private sector would love to give. So what I think I am going to ask staff to do, because they do inform me that there may be other Federal agencies that have Saturday shifts. The Federal Government was supposed to be under the same rules. It was only us in the Capitol who left ourselves outside.

I am going to have to look at what—and I am not going to ask the OOC do this, I am going to ask my own staff to do this—look at what State and local governments do. Because what Mr. Ayers said about 3 days on and 4 days off is really a trade-off. That is not the very same thing when you talked about fire departments.

I think the Congress is going—not any of you at this table—going to have to come to grips with whether it wants to hold itself out as living under the same laws as everybody else or not. Because

I don't like these discoveries that make us look like hypocrites when, in fact, we have differences in something as critical to the average employee as pay and overtime and the Fair Labor Standards Act.

Let me go—so I am going to take a look at that before I decide that Congress should look at whether any changes should be made. I understand the expense. Talk to the private sector about the expense.

Or if the private sector talks to the Labor Department about the expense, they will get the Bronx cheer: So? This is a law that is been on the books since the 1930's for egregious, the worst kind of violations. It is one of the things we are the most proud of.

We are told that Americans work themselves to death, by the way. We are told that we work longer hours here than in Europe, for example. If we are going to do it, we are going to get paid for it.

Ms. Burger, what role, if any, did the OOC play in addressing the workplace safety and training issue that you complained of? Did the OOC have any role in that?

Ms. BURGER. Sure. To my understanding, they contacted several of our employees and interviewed them quite extensively on workplace issues, ranging from inappropriate uniforms in all climates, whether outside, shuttle drivers, guides hiking the Capitol Dome, things such as visitors assaulting staff, and various sundry other things.

Ms. NORTON. Mr. Ayers, is there a new director of the Capitol Visitor Center?

Mr. AYERS. We have an interim director in place, Madam Chair.

Ms. NORTON. When will there be a new director?

Mr. AYERS. We expect to begin the recruitment process the month of October. That process will easily take 3 to 6 months to find someone.

Ms. NORTON. You haven't even begun it yet?

Mr. AYERS. No, ma'am.

Ms. NORTON. Why not? Last director left some time ago, several months ago, didn't she?

Mr. AYERS. Yes. So we are working on making some adjustments to the position description and the advertising process to be sure we get the right person.

Ms. NORTON. That is a good thing to do, yes. What are the processes for resolving the complaints of the kind that our Capitol Visitor Center employees or guides brought? What processes are in a place for resolving those?

Mr. AYERS. I think, most importantly, Madam Chair, the key to resolving any dispute, whether it is a workplace dispute or any other kind of dispute, is just good, frank, open communication between employee and supervisor. And there is no doubt in my mind that that kind of open and frank communication is taking place now in the Capitol Visitor Center and will continue to take place in the Capitol Visitor Center.

And, I think, Ms. Burger had mentioned that she has seen some improvements in that arena, and that people are respectful of one another and taking care of problems. I think it is, quite frankly, as simple as that.

Ms. NORTON. Well, Ms. Burger, is it as simple as that? Does open communication work to resolve the kind of complaints that you brought to me and others?

Ms. BURGER. I think it will definitely take a culture shift.

Ms. NORTON. Where did this culture come from? We didn't hear these complaints before. You had guides for a long time. We didn't hear that you had the wrong clothes outdoors and indoors. Is that the first time that occurred was when they got to be the Visitor Center, or were you not outdoors before? How come these things popped up all of a sudden?

Ms. BURGER. Maybe improper planning. That might be one observation.

Ms. NORTON. Did you have the proper uniforms before?

Ms. BURGER. Oh, yes, to answer your first question, yes, yes, we did work outside. We had a handful of outdoor posts that we were required to work in rain, sleet, sun or snow.

Ms. NORTON. So all of a sudden, you couldn't wear the same kinds of uniforms you wore before?

Ms. BURGER. That is correct. The tour guides who were under the Senate, and then when we moved to the AOC, we were told to turn in our winter coats—

Ms. NORTON. Were they winter coats that were uniform coats?

Ms. BURGER. Yes.

Ms. NORTON. Why?

Ms. BURGER. That is a good question.

Ms. NORTON. Didn't someone ask, why, it is cold out here? And surely, if you asked that question, somebody will respond.

Ms. BURGER. I know that visitors assistants who now work outside are given a very light windbreaker. And I know that they are allowed to wear layers of clothing under it. But these windbreakers, they are not waterproof. They are also not warm at all.

Ms. NORTON. So now what do they wear? This complaint has been resolved, has it not?

Ms. BURGER. No.

Ms. NORTON. Why hasn't this complaint been resolved, Mr. Ayers? It is going to get cold again soon.

Mr. AYERS. I believe that employees that work outside are issued winter parkas. I am not familiar with anyone that works outside that doesn't have a winter parka.

Ms. NORTON. Ms. Burger?

Mr. AYERS. I do recognize, Madam Chair, if I could, that the uniforms that were provided, in my opinion, were not of good quality. So we have fixed that problem. We have engaged employees and asked them what are the new uniform pieces and garments and things that you need to be successful in your job? We have listened to them. We have completely revamped the uniform program. And we are in the process today of delivering those new uniforms to employees.

Ms. NORTON. You are going to have brand new warm uniforms, Ms. Burger. Is that your understanding?

Ms. BURGER. We do not have brand new warm uniforms. We have been in the CVC for 2 and half years. And of course, last winter going through one of the biggest winters that we have had in decades, if not almost a century, and I know that—

Ms. NORTON. But no, Mr. Ayers would have to concede that there was a problem then. But he says that he has engaged you for new warm uniforms coming. I take it coming.

Mr. AYERS. Yes, ma'am.

Ms. NORTON. Coming. Are you aware of that?

Ms. BURGER. We have been told that we will get—the visitors assistants will get outdoor gear. I believe this outdoor gear, is it rain-proof? Is it waterproof? I am not sure that it is.

Ms. NORTON. Mr. Ayers, is it waterproof?

Mr. AYERS. Yes, ma'am.

Ms. NORTON. Well, you just said there was good open communication. And I have had to set up a dialogue to make sure this matter was understood with Ms. Burger here.

Perhaps there needs to be more communication with the Architect himself. I do wish there would be communication. That was shocking to hear. I wish there would be communication on this issue. And I wish you would report to us within 2 weeks on what the uniforms are and what the rules are with respect to uniforms in cold weather and in warm weather, and what the requirements are with respect to—this is 14 days—with respect to water. Is it your view that water can now be taken with a guide outdoors, for example?

Ms. BURGER. Yes. Since we have announced that we have been organizing in June 2010, which was also around the confirmation time of Mr. Ayers, we have been allowed to take water outside. Never before that. Water fountains are not—

Ms. NORTON. You were told specifically? Was there written a directive, no water with you on the outside on those 97-degree days or whatever we had?

Ms. BURGER. Upper management specifically told us we were not allowed to take water outside before June 2010. And we would be written up if so, if we were spotted. Now, that doesn't mean visitors assistants didn't sneak water outside for good reason. But that was the case. Additionally, water fountains are not accessible to all posts. We have a post, it is called shuttle. There are three shuttles that drive around the Capitol main complex. And anyway, they are outside all day typically. Some shifts aren't. But there are many that are.

Visitor assistants also—let's see, they have to leave their post to refill their water. I know that the Capitol Police, you know, for example, they have coolers of water that they are allowed to—you know, they don't have to leave their post to go refill their water bottle.

And I think it would be best for our image and also the image of the CVC if we also didn't have to leave our post to go fill our water bottle.

Ms. NORTON. You agree, Mr. Ayers?

Mr. AYERS. I agree completely.

Ms. NORTON. That was pretty Draconian.

Mr. AYERS. Inexplicable, Madam Chair.

Ms. NORTON. Yes, sir. One of the most disturbing of the allegations was the instruction to flush anthrax. Have you engaged, in fact, finding with respect to these allegations?

Mr. AYERS. Yes, ma'am.

Ms. NORTON. What were your findings?

Mr. AYERS. Well, we found that no one was directed to flush the bag of powder. But an employee—a supervisor, quite frankly, took matters into his own hands and did, as you say, actually picked up a bag and flushed it down the toilet. And I think that, too, Madam Chair, is inexplicable.

But I think it is an important wake-up call for me, I think most importantly, because we do so much training and so much training on this issue specifically, that when someone gets under a tense situation and they don't follow their training tells me that that training may not be as effective as we want.

Ms. NORTON. Well, first of all, do you think it was a question of training, Ms. Burger?

Of course, this would have been management training. Didn't we understand this was a management employee?

Mr. AYERS. This was a supervisor, and clearly had been trained not to do that. The process of what to do when you find a suspicious package, this employee was trained specifically on that; did not follow his training and obviously is being held accountable for that.

Ms. NORTON. Is there going to be a written report with respect to the allegations made by the CVC employees, some of them rather serious?

Mr. EVELETH. May I answer that?

Ms. NORTON. Yes, sir.

Mr. EVELETH. As you know, your question initially was initially was, is there an avenue for employees to have these kinds of questions be addressed. And yes, under the Congressional Accountability Act, through the OSHA provisions, the employees have come to our office on all these issues that have been outlined here today. We have conducted an investigation. We are still in that process. We have brought in an occupational doctor to advise us. We have interviewed employees. We have interviewed management. And so we will be issuing—when those investigations are completed, which I hope will not be too far in the distant future—in the near future, we will issue a report.

Ms. NORTON. Thank you very much.

Yes, that was very important for you to say. So I take it, Ms. Burger, that your members have been in touch with the AOC, which is the appropriate body?

Ms. BURGER. I am sorry, what was it? Could you repeat the question?

Ms. NORTON. With respect to the allegations brought to my attention and the attention of other Members of Congress, I assume that your members have been in touch with the AOC—I mean, the OOC?

Ms. BURGER. Oh, yes, very much so.

Ms. NORTON. Now, one of the most serious allegations, and I would like anyone who has any information on this, was that employees were instructed or told that they should not be in touch with their Member of Congress. So, please, any of you who has any information or opinion on that, would you please speak up?

Mr. AYERS. I am happy to start that, Madam Chair. You know, from my perspective, employees are always welcome to speak to their Member of Congress.

But I also think it is important for employees and management to work together collaboratively to communicate with one another, to respect one another. And if an employee has an issue or has a suggestion or has a comment, I think the first line of defense is to bring that to your supervisor and bring that to your manager, bring it to me.

It is interesting that while Ms. Burger is a new union representative, Mr. Reed and I have met quarterly for quite some time. Because it is important to me to stay close and stay in contact with what is going on with the many unions that represent our employees. And he and I—

Ms. NORTON. Well, I couldn't agree with you more. Although, of course, I have got—I couldn't agree with you more. And if someone, let us say from the District of Columbia, and there are employees who work in the AOC, came to me with a complaint, the first thing I would ask them is, have you in fact reported this to the appropriate authority?

But that wasn't my question. I wouldn't say to that constituent, who do you think you are coming to your Congresswoman to let her know about this? First of all, it may be an employee who doesn't know who the employee should go to.

So, as a Member, I am interested in whether or not the very admirable policy of making sure people report in their own workplace is seen as at odds with speaking to your own Member of Congress.

Mr. Reed?

Mr. REED. I would like to comment on that particular statement. AFSCME Local 626 has basically only been in existence 10 years. We have a group of employees that have been here for longer than that. And during my 21-year career here, it was not uncommon for employees to go to their Congresspersons for help in employment matters.

And in a lot of cases, Congresspeople have gotten involved in helping employees. It happens today.

I know we tell employees to go to the union first, but a lot of times, they don't come to the union first. That is not their first avenue.

A lot of employees will take the direct approach, especially the employees, Madam Chair, that work for you all. All right. They feel some bond. If they clean your office or if they work in your office, they feel some bond there.

And in a lot of cases, we don't hear about it until after they have already come to you or another Member asking for their assistance.

Ms. NORTON. Mr. Ayers, has the AOC given the impression that the employee should go to you first and not speak to the Member first?

Mr. AYERS. Certainly not, Madam Chair. That should not be the case. That is not my intention. That is not my management style. And that is not what should be projected throughout this organization.

Ms. NORTON. Let me just say this for the record: It is impossible for employees who see their Member of Congress every day to for-

bear and not want to speak to them. People come to see or call their Member of Congress about every conceivable employer. And all we do, because we don't know the other side, is we make what we call an inquiry.

Now, we would be very, very concerned if there were any notion of retaliation for speaking to your Member. You heard Mr. Reed's testimony. I think it is almost the natural thing to do, to think, oh, my goodness, I know this Member. It could be, in this case, from the region. That is I don't know how many Members in this region, but that could be upwards of 25 different people, and maybe more if you include the Senate.

No, it does no harm to what you desire to have the inquiry made. Members are very sophisticated. They are not going to make a judgment based on the report of a single employee. They are going to ask a question. So it would be very, very important to the Subcommittee that no impression be left about what you are supposed to do. You can go to Mr. Reed. For that matter, you can go to the AOC.

Isn't that true, Ms. Chrisler?

Couldn't they go to the AOC without coming to you, Mr. Reed?

Mr. REED. Absolutely. And that is the case. Like I said, there are a lot of employees that do not come to the union first. We do find out about it after they go to the Office of Compliance.

Ms. NORTON. Don't choose a remedy—if you have, for example, a complaint, let's say a discrimination, Mr. Reed may be able to settle that. But the law is real clear that an employment discrimination case can go straight to the arbiter of employment discrimination cases. You don't have to give him the opportunity. And Mr. Ayers would love the opportunity and is going to be given the opportunity, because the Member is not going to prejudge the case.

No Member of this Congress would ever prejudge. They would simply pass on the concern.

And I have no doubt, Mr. Ayers, that if we pass it on to you that it would be treated with fairness. I would ask that you make it clear to the employees of the AOC that an employee who happens to speak with his Member should be treated no differently because he has a First Amendment right to speak to his Member just like anybody else does.

I wanted to ask you about the Blue Ribbon Panel, which you noted in your—I am sorry, the Blue Ribbon Panel was in Ms. Chrisler's testimony—was it in Ms. Chrisler's testimony—which issued its final report already. What are your initial thoughts on its recommendations? Is it public, by the way?

Ms. CHRISLER. Madam Chair, we are still reviewing the report.

Ms. NORTON. Are you going to make it public?

Ms. CHRISLER. The report is not ours to make public. I don't know if it is a public report or not.

Ms. NORTON. Whose is it? Who appointed the Blue Ribbon Panel?

Ms. CHRISLER. The Senate Rules Committee.

Ms. NORTON. I see. So do you have any initial thoughts on—since we are having a hearing and some of the most egregious problems were in the Senate, do you have any initial thoughts on that?

Ms. CHRISLER. We are actually still in the midst of reviewing the report from the panel.

Ms. NORTON. Ms. Burger, you mentioned the signage. I would tell you, when I go to the Capitol Visitor Center I need a guide. We just had a hearing over there today, CVC, House CVC, Room 210. I know it is us. But since you mentioned that the signage of the new CVC is problematic, maybe it is not just us. Could I ask you what you mean by problematic and whether you have any suggestions as to what might be done in that new mammoth building? I believe it is three times the size of the Capitol.

Ms. BURGER. Sure. It is a beautiful building.

You know, we enjoy answering folks' questions and helping them out if they need directions, whether it is a member of congressional staff, a Member, a visitor.

One area that we see some concern is that there is an area of the Capitol—it is right after the visitors leave the theaters; it is right where the escalators take visitors into the Capitol, guide takes them into the Capitol—there is no signage. When there is not a police officer there, sometimes at the end of the day, it is very easy for visitors to wander in that direction. There are also a couple other places in the Capitol that could use some signage simply stating, you know, Do Not Enter. You know, These are private corridors; Members only, things like that.

Ms. NORTON. Yeah, I think, Mr. Ayers, that the signage would—it is true if you can get to a certain place, there would be a big sign. I think that the CVC would benefit from having interim, maybe movable signs somewhere along the way, "you are headed toward." You have got to pretty much get pretty close to know where you are going. And such a large building, it becomes very difficult. I was in the Ronald Reagan Building today. That is another mammoth building. You have to keep asking which way you are going. And there are not always people there. I just ask anybody who looks like he doesn't have a coat on. Maybe he lives here. But I did note that there were more signs along the way in the Ronald Reagan Building. And I am now speaking as a person who is giving only the impression of one person. But it seems to me that now that we have—what is it, more than a year—let me see, this wonderful center, which is a great favorite of mine, is what, is it 2 years old now?

Mr. AYERS. About a year-and-a-half, Madam Chair.

Ms. NORTON. It would be good to do a survey of people coming and going from the CVC. Do we have such a survey? Do you have suggestions as to how we could make your visit more beneficial? And list a bunch of things that people could just cross off that might be helpful now that we have this new center, and it has been up for enough time to perhaps gather some information. And I would ask you to consider that and to consider making such a survey available to Members as well so that they may offer suggestions. Are Members' offices included in your work, Mr. Ayers, in terms of the rules, the regulations, the requirements? Members' individual offices?

Mr. AYERS. To some degree, yes, ma'am.

Ms. NORTON. But not to every degree? What would be the difference between the requirements for safety and fire prevention in a Member's office and let us say other offices?

Mr. AYERS. There wouldn't be any difference.

Ms. NORTON. Well, I want to thank each and every one of you for what has really been enlightening testimony for me. We very much appreciate that many of the problems that had been documented in the OOC report appear to be being worked out in just the best way, with the kind of communication Mr. Ayers has so marketed here today, just the kind of communication that he and OOC says has brought the kind of results we were after.

We are pleased that Ms. Burger is working closely with you, Mr. Ayers. I believe that when workers are represented, there will be a vehicle, a natural vehicle for that kind of communication that, Mr. Ayers, you say you desire. Because that is what happens when there is somebody who is represented, who represents the workers, who can bring the matter straight to the attention. The worker doesn't have to one by one wonder how management will receive an issue.

So I am pleased to see that the workers have found a way through their own organization to relate to the issues. This doesn't keep them from coming to a Member of Congress or from approaching Mr. Ayers on their own, just as Mr. Reed says occurs in his own years of work as a member of the union. Thank you very much. The hearing is adjourned.

[Whereupon, at 4:04 p.m., the Subcommittee was adjourned.]

**STATEMENT OF STEPHEN T. AYERS, AIA, LEED AP
ARCHITECT OF THE CAPITOL**

Regarding “The Congressional Workplace: Safety Concerns and Future Plans”

**Subcommittee on Economic Development, Public Buildings,
and Emergency Management, Committee on Transportation and Infrastructure
U.S. House of Representatives**

September 30, 2010

Madam Chair, Congressman Diaz-Balart, and members of the Subcommittee, thank you for inviting me here today to discuss the Architect of the Capitol’s commitment to provide a safe and healthy environment for all who work on the Capitol campus and millions of people who visit every year. With Congress’s support, very significant investments have been made to improve fire and life-safety systems in Congressional buildings. As a result, the buildings on Capitol Hill are safer today than ever, as evidenced by a 60 percent reduction in identified hazards since the 109th Congress.

According to the Office of Compliance’s (OOC’s) FY 2009 Annual Report, the “dramatic reduction in the number of safety and health hazards was due in large measure to an increased emphasis on workplace safety by Congressional Members and employing offices. A significant amount of credit for the reduction in workplace hazards must be attributed to Senate and House Employment Counsel, the Architect of the Capitol, and the Chief Administrative Officer of the House. They instituted new pre-inspection processes in their jurisdictions...As a result of such efforts, the OOC found just half the number of hazards in Congressional Member and Committee offices as had been found in the preceding Congress.”

We are very pleased with this progress, particularly because the amount of square footage of facilities that we maintain dramatically increased over that same period of time. Between the 109th Congress and the 110th, we added approximately 10 percent to our physical inventory. During the 111th Congress, another three percent was added.

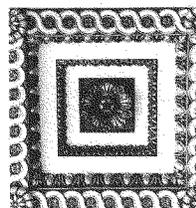
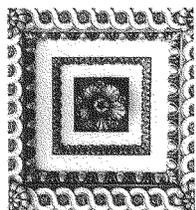
Improving Workplace Safety

As noted above, our pre-inspection program has yielded major results. An important component of the program is our educational outreach efforts. We have collaborated with the House Chief Administrative Officer to produce various office safety and pre-inspection informational brochures, which are distributed to all House offices. The same efforts also are carried out in the Senate in concert with the Sergeant at Arms and the Secretary of the Senate.

As part of the pre-inspection process, we work with Members' Offices, the Sergeants at Arms, the Secretary, and other building occupants in inspecting their offices and correcting any findings. During the OOC's inspections, Architect of the Capitol (AOC) staff members accompany the inspectors and correct a majority of findings immediately or shortly after they're identified.

While the OOC is still conducting its inspections for the 111th Congress, as of May 2010, they have identified 1,785 findings attributable to the AOC. Of those 1,785 reported to date, we have closed 82 percent of those findings. In fact, nearly 18 percent were closed during the inspections. Another 10 percent are straightforward fixes and will be closed soon.

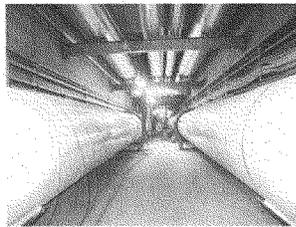
More than 55 percent of the issues identified were in the lowest-risk categories of the Risk Assessment Code (RAC) – either RAC 3 or RAC 4. These categories include issues such as loose electrical outlets or switches, daisy chains (linking multiple extension cords together), missing ceiling tiles, or fire extinguishers that are not mounted properly.



Along with these efforts, we also have made substantial physical improvements to the Capitol's infrastructure to enhance safety. Since FY 2007, Congress has invested more than \$200 million in fire, life, and occupation safety projects. These improvements include the extensive installation of smoke detection and sprinkler systems throughout our buildings. The work of our exceptional maintenance staff, who keep our mechanical and electrical systems running at peak performance, has had a tremendous impact as well.

The AOC has found creative ways to incorporate safety features in historic buildings. The top photo shows a decorative ceiling rosette WITHOUT a sprinkler head. The bottom photo includes a sprinkler head (in the center of the rosette).

Another area where we have made significant progress, while at the same time realized increased efficiencies, is our Utility Tunnel Improvement Program. In June 2007, the AOC and the OOC entered into an agreement to address safety and health issues in the utility tunnels. I am pleased to report that we are on schedule to meet the June 2012 completion date. In addition, we have reduced the program's projected cost to \$176.13 million — down from the original estimated program budget of \$295.46 million — as a result of improved engineering data, scope consolidation, and performance efficiencies realized through lessons learned.

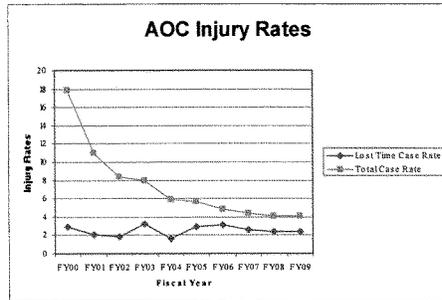


To date we have improved tunnel communication systems and reduced the temperatures in two tunnels with the installation of new ventilation systems. The remaining tunnels' temperatures will be improved by September 2011 when all tunnel ventilation systems are installed. Tunnel emergency evacuation plans have been improved and coordinated with the appropriate response agencies, the removal of friable asbestos insulation is essentially complete in all tunnels, and the installation of 14 new egress points will be completed by spring 2011. Inside two tunnels, known overhead hazards have been mitigated. Concrete repairs have been completed in three tunnels, and will be completed in a fourth by the end of next month. The remaining concrete repairs will be completed by winter 2011.

Because elevating safety in our buildings is one of our top priorities, and because we want to ensure that our staff and every guest who walks through our doors is safe, we are addressing issues proactively. Recently, some Capitol Visitor Center employees raised concerns about workplace safety. We take these matters very seriously and we thoroughly investigated the issues they raised. To help allay their concerns, we initiated a number of actions. For example, we are providing additional training and regular, updated guidance concerning changes in situational awareness. Because communication is essential in every aspect of our jobs, we are adding another layer of communication between supervisors and visitor services staff, starting in October 2010, by providing them with a pager, which will enable them to receive text message notifications as well as radio messages and announcements. We also will be adding a safety specialist to the Capitol Visitor Center staff, and employees will be establishing their own Jurisdiction Occupational Safety and Health Committee.

Employee Safety

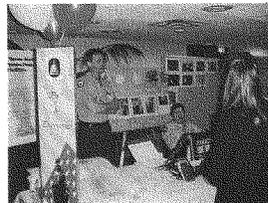
The AOC's Safety Program has had a major impact on our daily operations. In FY 2009, the Injury and Illness (I & I) rate was 4.32 injuries per 100 employees. This represents a 76 percent reduction over the FY 2000 injury rate of 17.9 injuries per 100 employees.



During FY 2009, the AOC provided our employees with 9,336 total hours of safety training. In addition, the staff in our shops start their shifts with a daily safety talk, which focuses on how to avoid hazards likely to be encountered during that day's

planned work. Each month we distribute the Architect's Safety Message to all staff that is posted in AOC shops and offices, and we circulate a monthly safety newsletter.

In addition, we schedule annual Jurisdiction Safety Stand-Down Days and Stand Up for Safety Days where employees are excused from their daily tasks to spend a day focused on safety education and awareness. Our Jurisdictional Occupational Safety and Health (JOSH) Committees meet monthly so our employees can come together to share information and best practices, and to help identify and to solve workplace safety challenges. Our Safety Health and Environmental Council, which is comprised of JOSH representatives and AOC senior leadership, meets quarterly to share lessons learned and discuss safety challenges common across AOC jurisdictions.



Our employees take the lead on getting the word out to AOC and Congressional staff in each of the jurisdictions by hosting Safety Fairs and educational forums each year. They invite safety experts and other guest speakers to Capitol Hill and distribute informational brochures and other materials to encourage people to work safer.

Accessibility

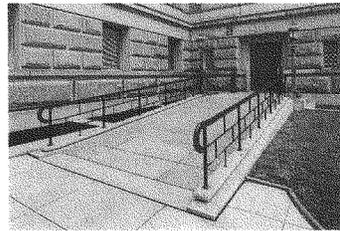
The Capitol campus not only needs to be safe, it needs to be accessible. Over the past several years, we have been working to make the historic buildings here on Capitol Hill accessible to all.

One of our biggest challenges is to implement creative ways to meet the goals of the Americans with Disabilities Act (ADA) as well as maintain and protect the unique architectural features of these buildings and the Capitol Grounds. The OOC recognizes these challenges — stating in its FY 2009 Annual Report, “The Congress is working hard toward ADA compliance and updating its facilities, but these changes cannot happen overnight or all at once.” They also noted, “In addition to the architectural challenges of complying with ADA requirements, cost and coordinating efforts are also major obstacles.”

The AOC is working to minimize the impacts of making these improvements by including ADA projects as part of larger projects to save taxpayer dollars and to reduce the amount of construction occurring across the campus. However, new construction projects, such as the Capitol Visitor Center, are built to be ADA compliant.

The following is a short list of just some of the accessibility projects the Architect of the Capitol has completed or has in progress:

- Installed a lift in the House Chamber rostrum to make it accessible to all Members.
- Is installing a wheel chair lift at the Rayburn House Office Building’s Independence Avenue entrance.
- Is making ADA improvements to the carriage entrance of the Library of Congress’s Jefferson Building.
- Modernized all of the public restrooms in the Capitol Building to ensure they are ADA compliant, as are the public drinking fountains.
- Is modifying the restrooms in all of the House Office Buildings to be ADA compliant, and upgrading one restroom in the Cannon, Longworth, and Rayburn Buildings to be family-friendly.
- Is modernizing all of the public restrooms in the Senate Office Buildings and the Library of Congress Buildings.
- Installed ADA-compliant ramps at the Independence Avenue entrances to the



Longworth and Rayburn Buildings, and at the South Capitol Street entrance to the Longworth Building.

- Installed ADA-compliant ramps at the main building entrances of the U.S. Capitol Building.
- Modernized drinking fountains in the Longworth and Rayburn Buildings.
- Modernized most building elevators campus-wide to meet ADA requirements.
- Installed automatic door operators at building entrances, stairwells, and restrooms in numerous locations in the House and Senate Office Buildings, as well as in the Library of Congress buildings.
- Upgraded ADA assistive listening devices in a majority of the Senate hearing and event rooms.
- Installed visual alarms (strobes) and public address systems throughout the buildings to assist with communications during emergency evacuations, and worked closely with the U.S. Capitol Police and others in creating staging areas used in the evacuation of mobility-impaired individuals.
- Installed two-way communication at primary and secondary emergency evacuation elevators in the U.S. Capitol, and House and Senate Office Buildings.
- Is installing wayfinding and ADA signage that features exit signage in Braille and raised characters throughout the Capitol campus. These signs are located in or near stairwells and exit doors.
- Is modifying House and Senate Committee hearing rooms to make them fully ADA compliant. Works includes upgrading dais accessibility, installing ADA Compliant Loop, signage, ramps, and making door modifications.
- Is repairing sidewalks and making curb cuts across the Capitol campus.
- Installed ADA-compliant ramps at the entrances of the Madison and Jefferson Buildings.
- Providing shuttle service to visitors from the bus drop-off on First Street, NW/SW, to the main entrances of the Capitol Visitor Center and back.
- All the films and videos in the Capitol Visitor Center are open-captioned and audio-description tours are available, allowing everyone to fully experience all the educational opportunities in the Visitor Center.

Planning Ahead

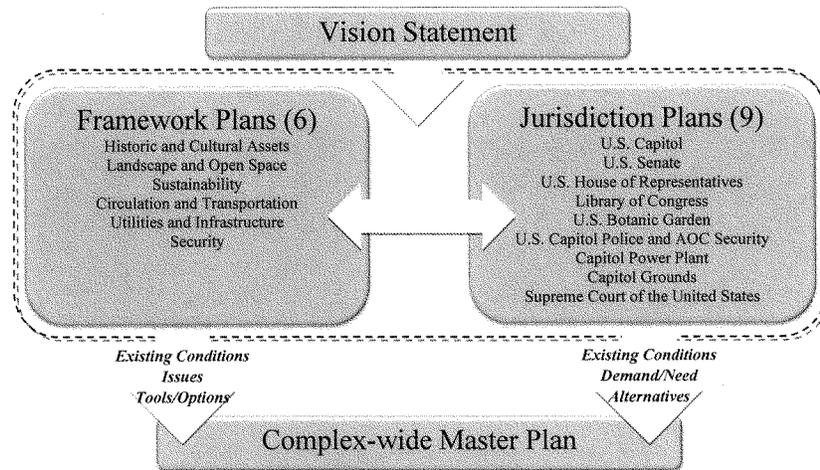
While we have made great progress improving the safety of Congressional facilities across the Capitol campus, we realize there is still work to do. Of the 1,785 OOC findings discussed earlier, the remaining eight percent will require substantial time and resources to resolve.

To address these projects between FY 2011 and FY 2015, the AOC plans to invest more than \$300 million in citation-related work, and \$300 million in additional fire and life-safety projects including deferred maintenance and capital renewal projects. Although every project we've identified, itemized, and prioritized is necessary, we realize that not all can be funded in these fiscally-challenging times.

Capitol Complex Master Plan

To assist us in our efforts, we have successfully developed and implemented a robust and balanced process to prioritize projects based on facilities' conditions and the level of maintenance required to ensure they remain functional and viable working environments for the Congress.

This process uses several tools in the formulation of the project prioritization list including Facility Condition Assessments, the Capitol Complex Master Plan, and Jurisdiction Plans. Over the past year, this process has matured to include a Five-Year Capital Improvements Plan, which examines phasing opportunities, project sequencing, and other factors to better facilitate the timing of the execution of major deferred maintenance and capital renewal projects. Tied into the overall planning process is the Line Item Construction Program. During this process, projects are scored against six criteria: safety and regulatory compliance; security; mission; historic preservation; economics; and energy efficiency and environmental quality. We also take into consideration the challenge of executing required programs efficiently throughout this process.



To further refine the data on which our planning is based, for the past several years we have conducted independent Facility Condition Assessments. These assessments identify the most critical issues in the facilities, and the objective data collected during this process helps us to identify the urgent needs that must be addressed expeditiously. Specifically, the data continues to show that “immediate” and “high” urgency deferred maintenance and capital renewal requirements will increase dramatically over the next several years. If these conditions are not addressed within a reasonable amount of time, they will continue to deteriorate to the point where they can impact Congressional operations.

The component that provides us and the Congress with the “big picture” — the 20-year look ahead to queue up the priorities, investments, and projects — is the Capitol Complex Master Plan. We have been working with Congress to develop the Master Plan, and its related Jurisdiction Plans.

There are nine Jurisdiction Plans that describe the facilities that are occupied by each jurisdiction, detail the current use of space, and identify long-term facility needs of each jurisdiction. These plans help to support future discretionary decisions about facility renewal requirements and new projects. For example, there may be instances where major, whole building renovations should be undertaken rather than a myriad of smaller projects.

The Capitol Complex Master Plan assumes incremental decision making; leaving choices about future renewal and development to be made closer to the anticipated time when those decisions are needed. Essentially, master planning provides Congress with a holistic vision and “blueprint” for facility-related decision-making. It is an important tool in the program development process and ultimately, in project execution because it:

- Establishes stakeholder goals and direction on key decision points;
- Assesses physical condition and capacities of buildings;
- Identifies short- and long-range facility requirements;
- Addresses sequencing issues;
- Guides the Capital Improvements Plan and funding requirements, and
- Manages stakeholder and building occupant expectations.

The Capitol Complex Master Plan and the other prioritization tools we have developed and refined over the past few years provide Congress with concrete and practical assessments of our infrastructure. By using these tools, Congress can choose where best to make investments in the Capitol campus.

Conclusion

Madam Chair, the level of safety and accessibility across the Capitol campus has never been higher and continues to improve as we work to complete enhancements and repairs to the facilities and grounds. However, work remains to be done and constant vigilance is required.

Our safety responsibilities are two-fold: 1) to provide safe facilities for all building occupants and visitors, and 2) to provide a safe work environment for the AOC workforce.

The key to meeting the first responsibility is to continue to identify and manage risks. We are accomplishing this through regular and recurring inspections, such as facility condition assessments, safety and fire inspections, and safety program evaluations, and by prioritizing our projects and taking the appropriate actions to eliminate, reduce, or control hazards.

In order to address the second responsibility, we continue to invest in our most valuable assets – our employees – and I am committed to providing them with the right tools, equipment, and training to ensure they work in a safe and productive environment.

We will continue to work with our Oversight Committees to address these issues in a planned manner that is fiscally responsible, efficient, effective, and protective of those who work in and visit our buildings.

We appreciate this Subcommittee's continued support of our efforts, and I would be happy to answer any questions you may have.

Congressional Testimony of AFSCME Local 658, Council 26

United States House of Representatives

Committee on Transportation and Infrastructure

Subcommittee on Economic Development, Public Buildings and Emergency Management

Rayburn House Office Building 2167

Thursday, September 30, 2010, 2pm

Megan Marie Burger

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Alexandria, Virginia 22303

Cell Phone: (573) 230-280

Madam Chairwoman, Mr. Ranking Member and Members of the Subcommittee, thank you for providing us with this opportunity to testify and present you with our concerns. AFSCME local 658 represents around 138 individuals who work as tour guides and visitor assistants. We are a new organization, having voted for union representation on September 15 and 16, 2010. My co-workers are dedicated to providing the best possible service to Congress and the American people and we wish to use this occasion to present you with their concerns. The following statement is intended to provide information on the health, safety and related issues in the Capitol and the Visitor Center.

The workforce of the Capitol Visitor Center (CVC) consists of some 224 government employees, plus a number of contractors operating the kitchen and cleaning services, as well as a small team of volunteers. The center is also home to personnel from the Attending Physician and both Sergeants at Arms, and is a locus of operations for the US Capitol Police. In all, it would be fair to say that as many as 3 or 4 hundred people are concerned, in one way or another, with meeting the needs of visitors at the center and across the Capitol grounds on any given day.

That represents a substantial investment on Congress' part, but one that should be considered in light of the 2 to 3 million official business and tourist visits to the center each year. To that must be added the very large number of other visitors, perhaps another half million, who are interested in the Capitol's exterior scenery only.

Of the 3 or 4 hundred persons involved in some degree with this enormous flux of people in and around the Capitol, those who work most closely with the visitors are the 138 guides and visitor assistants (or "VAs"). On average, each guide will essentially "teach" five "classes" every day while simultaneously acting as a park ranger leading a quarter-mile hike, capturing and holding the interest of 50 visitors at a time, ranging from preschoolers, to WWII vets, to special guests of Members. Each VA will play a part in the initial reception of visitors, determining their purpose for visiting the Capitol, providing whatever information or assistance they might need, and in moving up to 11,500 tour participants in and out of the historic part of the Capitol, while at the same time personally fielding perhaps 200 requests and inquiries a day on subjects as mundane as bathrooms and as esoteric as "Why do Americans want freedom so much?"

During Cherry Blossom season these numbers can be considerably higher. Over 17,000 visitors can pass through the center each day during the spring months, and each year it seems there are a larger number of visitors with little or no English. Throughout all this, both guides and VAs must continuously maneuver themselves and their guests with the Capitol's security and the continuity of Congress' operations in mind. At the same time they must remain ready to respond to safety hazards, disruptive behavior, facilities failures, or health emergencies. They

must be equally adept at dealing with large groups with special needs, with fire alarms, and with building evacuations.

Certainly the complexity of our job increases as visitor volume increases, but we are happy for the challenge, and pleased to see that visitor interest is so high. On the other hand, the guides and the VAs share a firm conviction that visitation numbers only tell part of the story. The other part, which we think is even more important, has to do with the impression that each visitor gains from the experience. In our view, Congress has chosen to follow the path initially set by President Washington and his contemporaries when they insisted on personally ensuring that the design of the Capitol building was not only functional, but also delivered exactly the right message to all those who saw it.

They understood that citizens and international travelers alike would carry away from the Capitol an indelible impression of Congress, of the federal government as a whole, of democracy, and of the American people themselves. To that end, Congress over the years has continued to dedicate considerable resources to making that impression an accurate one. We believe the Visitor Center and the people who work there are part of those resources, and our job, in actuality, is all about the impression that the Members wish their visitors to take home with them. A high number arriving is good. A high number departing with the right impression is priceless.

We are keenly aware that our role is a critical one. The daily service to the nation by Members and their staff, by Congress' professional offices, by the Architect's technicians and artisans, is often only relayed to a visitor through the people who greet them, who offer them explanation and help, who are - in a word - their hosts. I am proud to be able to say that my colleagues' performance is, and always has been, distinguished more by their painstaking faithfulness to the message Members want their guests to receive, than it is by mere numbers.

Of course, delivering a particular impression is not a simple task. The difficulty of the task increases with the volume of visitors, to be sure, but its true complexity varies with the visitors' culture, language, age, education, health, and emotional state, as it does with the weather and even the political climate of the moment. Other aspects of the challenge are remaining always sensitive, impartial, even-handed, non-partisan, apolitical, yet responsive, informative, and factually accurate. Taken as a whole, the representational aspects of the guide/VA specialty constitute a discipline and an art form - a defining one, which my colleagues take very seriously.

Over the first year and a half of operations in the new Visitor Center, a long pattern of incidents, new work conditions and new policies emerged which suggested to us that our managers did not understand this defining aspect of our job. Washington's original vision, of the message delivered by the visitors' experience, seemed to be taking a back seat to throughput numbers. In particular, our impression was that inadequate attention was given to visitors' experience on their way to and from the center, or to visitor safety. Our attempts to explain the importance of fully assuming our responsibilities as hosts, in order to deliver the impression that Members wish visitors to take home with them, were met with disinterest.

In many different approaches, we spent months trying to convince management that simply providing a movie, a tour, and a brochure does not guarantee success, no matter how many thousands of times you do it. Their continued rejection of this message helped us decide to form a union. We hope that the union will lead to a better appreciation in all quarters of how a host's attention to a guest's needs, interests, and well-being is fundamental to our task of ensuring the visitors leave the Capitol with a favorable impression of Congress and the United States. Hopes for the future aside, we are left at this stage of the process with some concerns, which we hope can be addressed in due course.

Before enumerating these concerns for the Committee, I wish to make clear that the Capitol Visitor Center is, in our judgment, a perfectly safe and very informative, enjoyable venue. We are very pleased that it is available to visitors and we believe it greatly improves visitors' experience, comfort, and safety. The following paragraphs describe areas where we think further improvement might be achieved, and where the improvements would benefit safety and security. The first of these centers on our preparedness for emergencies.

As hosts on the Members' behalf, we have a serious responsibility for our guests' safety. We are not satisfied with progress to date on CVC procedures for events such as: restrictions on movement in emergencies, evacuations from all parts of the Capitol, dangerous weather, loss of power, fire or explosion, a violent incident, or the discovery of potentially dangerous materials, objects or conditions. We believe a series of live exercises may be needed to identify the challenges that would present themselves in a real event, and the procedures that are developed from those exercises should be rehearsed periodically. We recognize that these measure lie far outside the purview of even the entire CVC organization, but feel nonetheless a responsibility to state the need.

In addition to practical preparation for emergencies, we are specifically concerned about coordination, communication and follow-through during emergencies. We believe that our CVC team response to minor emergencies has been confused and haphazard in many cases, indicating a need for standardization. Specifically, there have been instances of no response to a radio report of an emergency, cases in which several managers became involved in an emergency response but no one of them assumed overall responsibility for the successful conclusion of the event, cases in which phone calls to police or medical help were delayed because multiple managers each thought the other was doing it, and cases in which police or medical help took several minutes to arrive at the scene of an incident because managers failed to ensure they were given sufficient location information. We strongly recommend the designation of a specific person-in-charge of emergency response for each shift. We also recommend the development of quick-reference lists of necessary actions the person-in-charge must take for each type of incident, ("checklists"), to guide complete follow-through.

Because CVC communications take place on four different radio frequencies, it is also common for the users of only one frequency to be informed of the initiation or the termination of an emergency situation, despite the potential impact on the overall operation. The management response - adding a fifth communication channel (digital pagers) - will not necessarily fix this

problem, since it stems from inadequate organization and incomplete follow-through rather than a shortage of bandwidth. Again, checklists might prove helpful.

Of the classes of emergencies under discussion here, one of the most common is a visitor health problem. That is why we are particularly concerned with the absence of any on-site emergency medical service on Saturdays and holidays. The Office of the Attending Physician, which provides the CVC nurse-practitioner, is not open on weekends and holidays when the Members are not there. This is despite the fact that the same number of visitors pass through the Capitol each Saturday as on the preceding Friday, and visitor volume often spikes on holidays. There is, of course, a longer response time from the District of Columbia EMS.

Before moving to other considerations, it bears mentioning that emergency situations usually rest most heavily on the shoulders of the US Capitol Police, and our experience has been, almost without exception, that their response is impressive and highly professional. It is an honor to work with USCP. We do feel, however, that our emergency responses and theirs might mutually benefit from minor improvements in information sharing during emergency events.

We recognize that entry control point and entry procedures are strictly within the remit of the police, and we do not think it should be otherwise. Nonetheless, we feel obliged to point out to the Committee that every morning during peak season, from April to June, there are two waiting lines in front of the CVC containing, at times, nearly 800 people. These lines are filled by new arrivals at almost the same rate as people enter the building, so the waiting lines persist for most of the day. From the point of view of a terrorist wishing to inflict numerous casualties at an iconic American site, these lines are attractive targets. Our people who work near these lines are also vulnerable. We are not qualified to offer any further observations on this situation, but we believe it merits further evaluation from an appropriately high level.

On a related note, we are not entirely satisfied with our protection of the continuity of Congress' operations, in that we see evidence that people can, and frequently do, move through the Capitol without authorization badges and without escort. While CVC operations certainly contribute to this problem, we do not believe the CVC team is in a position to investigate or correct this situation unilaterally. USCP controls traffic throughout the Capitol, and there are many reasons for visitors to be in the Capitol, nearly all of which are unrelated to our tours. Again, a higher-level evaluation might be helpful.

Naturally, in any setting where thousands of people move through enclosed spaces each day, there is some potential for spread of disease. Up until recently, conventional wisdom held that simple hand-washing and sneeze-covering was sufficient protection in most situations. News about bedbugs, drug resistant microbes, and H1N1 flu has raised some questions about two features of CVC design: movie theater seats and audio-guide headsets. Bedbug infestations have been reported in New York theater seats where there are perhaps five shows a day. In contrast, a CVC theater seat may have 20 different occupants in a single day, from a decidedly international demographic. The CVC headsets each may be shared by up to five persons in a single day, and have been observed being chewed on by infants. Cleaning the equipment between uses does not seem to be practical and may, in fact, be impossible to do at all. We

recognize that the same concerns exist in many public buildings across the country, and other high volume locations like shopping malls. We do not feel the CVC presents a special case in this regard, but we mention it in view of the Committee's interest in public buildings and emergency management.

Finally, there remain a number of issues concerning visitors to the Capitol grounds, and our outdoor operations. Beyond greeting visitors outside the security check area at the center's front doors, VAs at posts further afield begin the welcoming, assessing and assisting process starting at the very boundaries of the grounds. We assist official business traffic as well as tourists, including groups bound for Members' offices, the Library or the Supreme Court. In addition, the CVC team has been considering and experimenting with leading tours through the grounds themselves. As a result, we consider all visitors to the grounds, even those not bound for the CVC, to be our responsibility to some degree. It appears to us that the US Capitol Police and the Office of the Attending Physician share this view.

From that perspective, we are concerned with severe weather - particularly with summer thunderstorms. These can arrive suddenly, and present several deadly threats to anyone who is exposed on the Capitol grounds. Lightning strikes are certainly a possibility, especially since the grounds are as much as 70 feet higher than the surrounding terrain. But injury from flying or falling debris is far more likely. Several storms over the past two years have been accompanied by wind gusts over 30mph - strong enough to shatter a tree limb or toss a steel crowd barrier like a kite. Thunderstorms also pose some risk to tours to the top of the dome. Wind gusts there can be two or three times the strength of gusts at ground level, and the anxiety level can be excessive among visitors on the catwalks when caught by unexpected lightning or hail storms. Naturally there is also the attendant danger of slipping and falling, including the recently-discovered possibility of falling 20 feet down manholes obscured in the middle of the lawn, after flood waters have blown their covers off.

There are no provisions for warning visitors of a storm's approach or for directing them to shelter. This applies equally to the 800 people waiting in line to enter the CVC. Everyone outside is left to fend for themselves, be they able bodied, children or infirm. In fact, the CVC team has no system to detect an approaching storm, and managers are often unaware when one is occurring.

The question of where 800 people might take shelter is a daunting one. The covered areas in front of the center might accommodate 300, but beyond that the solution is challenging. This dilemma has also presented itself in a different form when it has been necessary to evacuate thousands of visitors into sub-freezing temperatures, without their coats.

As the Committee is already aware, the lack of provisions for extreme heat and humidity, or for cold, wind and rain, is not a concern for visitors alone. The VAs have also had to fend for themselves. There is little shade or cover where they are posted, and there are no water fountains at all on the eastern half of the grounds. The Police at the same locations have access to chilled water bottles.

The long-delayed winter clothing issue included thin, non-water repellent coats, but no hats, gloves or boots. The VAs had to improvise using their own gear to approximate a uniform. There was no summer clothing issue so the VAs reclaimed Guide Service polo shirts and baseball caps from the obsolete clothing piles, and made do with their wool blend indoor uniform slacks. An equivalent situation confronted guides, under a policy that requires full coat-and-tie in the roasting temperatures found on summer dome tours. The result was less than attractive or professional, not very effective, and likely did not foster the favorable impression we sought to leave with visitors.

On the subject of visitor impressions outside the Capitol, the single detractor most often cited to us by visitors is the absence of a consistent, helpful system of signs leading to the center and to their Members' offices. This has become a more urgent issue with the redesign of security perimeters, since that has required the majority of visitors to walk almost a quarter of a mile before even reaching the visitor center's front doors, and to climb a graceful but nonetheless substantial 70-foot vertical rise. A wrong turn at any of the six major pathway intersections can easily double or triple their trek, not to mention the effect on their anxiety level as their tour reservation time approaches. Add to this the challenges of age or infirmity, and of extreme temperatures, then this can become a safety issue and the true value of a well-placed sign becomes evident. Likewise the true impact of the sign's absence on the visitors' impression of Congress also becomes clearer. Requiring a guest to hunt for or ask for something that would normally be readily available often results in resentment. Early attempts to address this with our managers brought no result.

Signage on the Capitol grounds is, of course, an issue that easily engages Members' attention. As hosts, we are well aware that face-to-face attention to a guest's needs usually creates the best impression. Unfortunately, VAs on the grounds are normally occupied with arranging transportation for visitors with mobility issues, and many visitors - particularly those from other countries - can be reluctant to approach police for directions. Once again, we realize that this is an issue that far exceeds the purview of the CVC team, however since it can place the health of infirm visitors at risk, we do feel it is within the scope of the Committee's request.

We are very pleased to observe that, following Mr. Ayers' recent appointment and significant changes in the CVC organization, our managers have had some success in addressing certain longstanding problems. Upcoming changes began to be announced in late August, and new, superior uniform items began to arrive last week. On Friday, September 24, managers announced over the radio which one of them is to be considered "in charge" of operations for a period of time. Some progress has occurred in the area of personnel and pay issues. CVC management appears to be more engaged in addressing our concerns. We are very encouraged by these signs, and are confident that our new union will prove to be a valuable partner in their ongoing efforts. We believe that we form a team with our managers, and this CVC team will only achieve mission success through cooperation.

We define mission success as meeting the expectations of Members of Congress. We believe the Members have invested heavily to ensure Washington's message continues to reach all those who come to see the Capitol, and they expect us to reinforce a favorable impression in all

respects. It is in the interest of meeting that expectation fully that we offer the foregoing list of concerns and insights. We hope, with this Committee's support, the CVC team - management and workers together - will be able in the near future to address this full list, and successfully carry out our mission.

**STATEMENT OF TAMARA E. CHRISLER
EXECUTIVE DIRECTOR, OFFICE OF COMPLIANCE**
on
**“THE CONGRESSIONAL WORKPLACE: SAFETY CONCERNS AND FUTURE
PLANS”**
**Hearing before the U.S. House of Representatives
Committee on Transportation and Infrastructure
Subcommittee on Economic Development, Public Buildings and Emergency Management
September 30, 2010**

Good afternoon, Madam Chairman, Mr. Diaz-Balart and Members of the Subcommittee. Thank you for the opportunity to testify today concerning the Office of Compliance and our role in promoting safety and health, accessibility, and workplace rights in the legislative branch. With me at the witness table is Peter Ames Eveleth, General Counsel of our Office. As the Congressional Accountability Act confers responsibility for occupational safety and health and accessibility issues upon the General Counsel, Mr. Eveleth has joined me to answer any questions you may have on the important issues that are the subject of today’s hearing.

OFFICE OF COMPLIANCE OVERVIEW

I would like to start by giving a brief overview of the mission of the Office of Compliance. In 1995, Congress passed the Congressional Accountability Act (“CAA”), which required Congress and its agencies to follow, for the first time, most of the same employment, labor, accessibility, and safety and health laws that Congress required the private and public sectors to follow.

The CAA also created the Office of Compliance - an independent, non-partisan agency with a five-member Board of Directors - to implement an effective dispute resolution system for the resolution of employment-related claims by Congressional employees; enforce certain provisions of the CAA; and educate Congress, its employing offices, and Congressional employees about their workplace rights and obligations.

We not only educate and inform the Congressional community about the CAA’s requirements, we are also statutorily required to provide Congress with annual statistics about the claims and contacts with the OOC by the Congressional community; biennial inspection reports about compliance with the Occupational Safety and Health Act (better known as OSHA) and the Americans with Disabilities Act (“ADA”); and to advise Congress about whether federal workplace laws that are currently inapplicable to Congress should be made applicable, something our Board of Directors sometimes calls “parity gaps” between Congressional accountability under the law versus private and public sector accountability under the law.

Our FY 2009 annual report – State of the Congressional Workplace – which was released in July 2010, summarized our most recent reports together in one source and provided additional contextual information to the Congressional community. It was our first effort to provide the Congressional community with a holistic view of the work we do and the Congressional

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workplace. It was widely-distributed, well-received by many readers, and I think one of the reasons we all sit here today.

The annual report summarized the work we do with respect to workplace rights, as well as safety and health. Most of our workplace rights efforts are performed quietly, as the CAA mandates confidentiality while addressing these issues administratively. Our other areas of focus, however, are typically addressed more openly. For example, just two weeks ago, the OOC conducted a representation election in which CVC Capitol Guides voted in favor of representation by the American Federation of State, County and Municipal Employees ("AFSCME"). We issued the formal certification of the union as collective bargaining representative of the Guides this Monday, September 27th.

Focusing more on the subject matter of this hearing, our safety and health work includes conducting biennial inspections and responding to requests for inspection -- like the ones we received from CVC employees concerning a number of potential safety and health hazards. We are continuing this investigation and will provide a copy of our final report to the employees and AOC/CVC management once it is finished.

Our inspections identify hazards so that employing offices are aware of them and can abate them. Each hazard is assigned a risk assessment code that is based upon the severity of bodily harm or death that can occur and the probability of occurrence. In the past 6 years we have witnessed a substantial decline in the number of hazards in the Congressional workplace. In the 109th Congress, we found 13,141 hazards. Although our 111th Congress inspection has not been completed, our annual report projected 6,300 hazards -- a 50% reduction from the prior inspection. This number was based in part on inspections that had been completed at the time our annual report went to print. We also noted in our annual report that the final number of hazards for the 111th Congress might be even lower. That is because AOC and other employing offices are constantly working on abatement of hazards -- they are not waiting for our inspections to be completed.

Our agency does more than find hazards and assess their nature. In addition to conducting inspections, we provide technical assistance. For instance, at the request of Congress, we conducted a comprehensive pre-inspection of the CVC before it opened in December 2008. We surveyed the facility from top to bottom and identified hundreds of safety and health hazards and barriers to accessibility. Because the facility was not yet occupied, remedying these deficiencies was more efficient and, in some instances, less expensive than had we waited until after it was open. We worked closely with AOC staff throughout this process to ensure that the CVC could open on time, free from safety hazards and fully accessible to visitors, Members, and employees with disabilities. We are pleased to report that all occupational health and safety hazards identified during the 2008 pre-inspection have now been abated. Most accessibility barriers to individuals have been removed, and the AOC is continuing to work on resolving the remainder.

SAFETY AND ACCESSIBILITY OF THE CONGRESSIONAL WORKPLACE

We believe some of the most significant hazards currently in the community are the most serious and long-standing fire and life safety hazards in most of our historic and iconic buildings on Capitol Hill: the House and Senate Office Buildings, the Capitol, and Library of Congress buildings. In 2000 and 2001, the OGC issued a series of citations regarding open stairwells, lack of properly rated fire doors and other fire safety issues in the three House Office Buildings, the Russell Senate Office Building, the Capitol, and the Adams and Jefferson buildings of the Library of Congress.

While much progress has been made in increasing the level of fire safety in some buildings, substantial critical work remains to be undertaken. Accordingly, our office continues to focus on the abatement of these fire hazards and is working collaboratively with the AOC to that end. For its part, the AOC has worked closely with our office in developing effective abatement measures, and, as detailed below, has developed proposed plans to abate these outstanding hazards as well as correct several other non-citation fire safety deficiencies. The AOC is to be credited for creatively developing plans that would assure adequate protection for Congressional staff and visitors, while at the same time would preserve the architectural integrity of these historic structures.

We understand and appreciate that the AOC has limited budgetary resources and that not all hazards can be abated overnight. Until the hazards can be permanently remedied, the Architect has instituted important interim measures to provide additional fire safety. In addition, the AOC has certified that all exit stairways in the Rayburn House Office Building (Citation 20) have been fitted with code-compliant fire doors, closing mechanisms, and panic hardware from the basement level to the top floor. Construction on stairway enclosures in the Longworth House Office Building is underway, with an estimated completion date of July 2011. A new egress point was completed during the 110th Congress, which adds needed exit capacity to the building.

As to the Cannon House and Russell Senate Office Buildings (Citations 18 and 19, respectively), abatement efforts have been on hold pending review by a Blue Ribbon Panel whose appointment was requested by the Senate Rules Committee. That Panel issued its final report September 17, 2010; we look forward to working closely with the Architect as we evaluate the Report, its recommendations and the Architect's plans to proceed.

In addition to improving measures that permit occupants to escape safely from fire-affected areas and prevent fires from spreading, we continue to emphasize the use of mechanisms to detect fires when they do occur. The AOC installed new smoke detectors and sprinklers within several legislative branch facilities. The Rayburn building is fully covered by smoke detection equipment; the Adams building decks are fully protected; the Longworth and Cannon buildings are almost entirely covered; the Russell building is over 80% covered; 95% of the Jefferson building is covered. The Capitol is at least one-third covered by sprinklers; design work is ongoing to cover the remaining spaces, most of which are historically significant. We understand that the AOC intends to provide complete smoke detection capability in all legislative branch facilities.

Another high-risk target area is the Capitol Power Plant utility tunnels. As you know, the life-threatening hazards present in those tunnels led our General Counsel to file the first-ever complaint under the Congressional Accountability Act to obtain abatement. We signed a settlement with the Architect in 2007 that laid out a 5-year plan to abate the hazards entirely. A great deal of progress has been made, thanks to the resources provided by Congress, as well as the cooperative efforts of AOC staff and our OOC Tunnels Liaison. Assuming sufficient funding, that project is on track for complete and timely abatement in 2012.

FUTURE PLANS

In the 112th Congress, we will target the most dangerous workplaces and activities because private sector experience shows that these occupations result in the highest numbers of workplace injuries and illnesses. Under the Occupational Safety and Health Act, private firms are required to report to the Secretary of Labor injuries and illnesses that take place on the job. For example, according to the Bureau of Labor Statistics, landscapers have the highest injury and illness rate of any occupation. In 2008, the latest data available, the machinery, pesticides, vehicles and other tools used by these workers, especially when combined with working conditions that may include temperature extremes, ice, rain, heights and other factors, resulted in 6 occupational injuries or illnesses per hundred employees. To put it in context, the comparable injury rate for all industries, including state and local government, was 4.2%. Thus landscaping caused 40% more injuries than the all-industry rate, meaning that landscapers suffered on-the-job injuries more frequently than workers in any other type of activity.

We extrapolate from private sector statistics to identify the highest-risk occupations here on the Hill. We believe it makes sense to infer that a landscaper working on the Capitol grounds performs activities that are quite similar to those of a groundskeeper at, for example, a college campus or corporate headquarters.

As our annual report explains, unlike the OSHA Act, the CAA does not require employing offices in the legislative branch to maintain records of illnesses and injuries or make such records available to our office. However, absent access to such data from all legislative branch employing offices, we cannot be certain that we have identified all the worksites where Congressional workers are actually injured. That is why our Board of Directors has recommended that the Congressional Accountability Act be amended to impose the same recordkeeping requirements on legislative branch offices that apply to private sector firms. Again, this would be an effective tool in helping us focus our resources where they are needed most.

In the coming Congress, we are undertaking a new risk-based approach to our biennial inspection to target and devote our inspector resources to potentially high-hazard and high accessibility-barrier areas across campus.

Pre-inspect new facilities

First, we intend to pre-inspect new or significantly renovated buildings – such as the Cannon Building, which will be undergoing major upgrades. As we found with the CVC, we expect that

identifying and correcting hazards and barriers to access before the building is occupied will be more efficient and in at least some instances less expensive. Because ADA requirements are much more comprehensive and stringent in new construction, it is essential that contractors fully adhere to these standards. We intend to work closely with the AOC early in the construction process. We believe substantial savings can be achieved both in time devoted to inspections and in avoiding unnecessary remedial costs by assuring that contractors adhere to recognized OSH and ADA requirements during construction.

Inspect most dangerous workplaces and occupations

Second, we will also target our biennial inspection at the most dangerous workplaces and occupations. We are targeting these activities because, now that we have completed three comprehensive inspections of the legislative branch, we believe it appropriate to concentrate on the highest risks. Like Washington DC, the legislative branch is effectively a city unto itself, with all the activities and services you'd find in any municipality. Some of those activities present higher risks to workers. These include landscaping, workshops and mechanical rooms, the Capitol Power Plant, laboratories and kitchens, among other such worksites.

Confirm abatement of highest-risk hazards

Third, we intend to concentrate our efforts on assuring complete and timely abatement by employing offices of high-risk hazards identified in current and previous biennial inspections. To that end, we have recently reassigned an OSH specialist contractor as Occupational Safety and Health Compliance Manager and appointed a new full time employee as Occupational Safety and Health Program Manager; the latter is charged with responsibility for the development and accomplishment of our risk-based inspection and hazard abatement programs.

Each hazard identified during an inspection is ranked for risk: likelihood of occurrence, severity of harm, and numbers of employees exposed to the hazard. Priorities for abatement are related to the degree of risk. But identification of hazards is only the first step; assuring that the hazards are removed and similar hazards are not created is essential to assure workplace safety.

Identify most serious barriers to accessibility

Fourth, our cooperative work with the AOC extends to accessibility barriers in the legislative branch. During our biennial inspection in the next Congress, we look forward to working with the AOC to determine where the most serious barriers are present, so that projects can be undertaken in priority order. The goal, of course, is to provide unfettered access to constituents, Members and staff with disabilities.

Review compliance with required safety procedures and programs

Finally, we intend to review compliance with selected safety and health procedures and programs that are required by OSHA standards that are applicable to the legislative branch by virtue of the CAA. These programs, such as fall protection, hazard communication, and lockout/tagout were promulgated by OSHA to protect workers from injury and death occurring in the most hazardous

workplace operations. During the current Congress, we have offered and provided technical assistance to employing offices in reviewing their programs. Essential to the effectiveness of these programs is employee and employer knowledge of and adherence to the program requirements. Accordingly, we will be inspecting these programs and interviewing workers to assure their familiarity with their requirements.

Cost-effectiveness remains a vital issue for us in our regular biennial inspections during this time of severe budget constraints. We know that preventing or quickly remedying hazards can save workers' lives and limbs – but it saves money, too. Every workplace injury that doesn't happen means thousands of dollars in savings on workers' compensation, medical bills, lost productivity, overtime payments and a host of other costs. Indeed, between 2001 and 2007, the Library of Congress achieved an estimated \$11 million in injury cost avoidance through its injury prevention efforts. Hence our motto, "Safety Pays."

CONCLUSION

On behalf of the Office of Compliance and its Board of Directors, I would like to thank you for the opportunity to appear before you this afternoon to discuss these very important issues. I, along with Mr. Eveleth, look forward to answering any questions you may have.

Statement of
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Hearing on

THE CONGRESSIONAL WORKPLACE: SAFETY CONCERNS AND FUTURE PLANS

Before the

**Subcommittee on Economic Development, Public Buildings and Emergency
Management**

Committee on Transportation and Infrastructure
U.S. House of Representatives
2167 Rayburn House Office Building

September 30, 2010

Robert D. Loversidge, FAIA¹
 for the American Institute of Architects
 Washington, D.C.
 September 30, 2010

THE CONGRESSIONAL WORKPLACE: SAFETY CONCERNS AND FUTURE PLANS:

SAFETY, HEALTH, ACCESSIBILITY AND WORKPLACE CONDITION ISSUES FOR HISTORIC PROPERTIES, AND
 CHALLENGES AND OPPORTUNITIES IN MASTER PLANNING FOR NATIONAL HISTORIC LANDMARKS

Chairwoman Eleanor Holmes Norton, Ranking Member Mario Diaz Balart, and members of the Committee, I am Bob Loversidge, FAIA, an architect at Schooley Caldwell Associates in Columbus, Ohio. Thank you for inviting me to testify today regarding safety, accessibility and historic preservation at our nation's Capitol. I am here at the behest of the American Institute of Architects. Based in Washington, D.C., the AIA has been the leading professional membership association for licensed architects, emerging professionals, and allied partners since 1857. With 75,000 members and nearly 300 state and local chapters, the AIA serves as the voice of the architecture profession and the resource for our members in service to society. At my firm, I have had the good fortune to work at four state capitols², the Supreme Court of Ohio³, and numerous Federal, State and Local courthouses – all historic buildings with characteristics and issues similar to those at the national Capitol complex.

These historic buildings were completed long before modern life safety codes, OSHA regulations, electronic technologies, or access for people with disabilities were part of our architectural vocabulary. Many were built before air conditioning, elevators, automobiles,

¹ Bob Loversidge is President & CEO of Schooley Caldwell Associates. A Fellow of The American Institute of Architects, Bob is a past chair of AIA's National Historic Resources Committee, a recipient of the AIA Ohio Public Service Award and the AIA Ohio Gold Medal. Bob was principal-in-charge of the \$100 million renovation, restoration and addition project at Ohio's *National Historic Landmark* Statehouse and the Ohio Judicial Center, an \$85 million adaptive use project for the Supreme Court of Ohio. Recent projects include restoration of Frank Lloyd Wright's Westcott House in Springfield, Ohio and work at state capitols in Kansas, Utah, and Minnesota. Bob has served as Ohio's *Architect of the Capitol* since 1989.

² Ohio Statehouse in Columbus, Kansas Statehouse in Topeka, Utah State Capitol in Salt Lake City, Minnesota State Capitol in St. Paul. The Ohio Statehouse is a *National Historic Landmark*. All four buildings are listed in the *National Register of Historic Places*.

³ The Ohio Judicial Center, home to the Supreme Court of Ohio, is an adaptive use of a 1930s Moderne Style state office building. The Center is listed in the *National Register of Historic Places*.

computers, iPods, the Internet, and even rest rooms. Nevertheless, these buildings are important – as iconic symbols of the function and permanence of our government, as workplaces for government employees and visitors, and as sources of national, state and local civic pride. Over time, they have suffered from functional and programmatic evolution, from a lack of cyclical maintenance, from systems obsolescence, from well meaning but ill-conceived renovations, from the insensitive addition of new technologies, from underfunded improvements, and from a lack of caring stewardship.

Before our major restoration of the National Historic Landmark Ohio Statehouse, I once watched – just before a State of the State address to a joint session of the General Assembly – a television technician drilling a two inch diameter hole, using an old-fashioned brace and bit, in the bottom rail of a window in the House Chamber, so he could get a wire to his satellite truck parked unceremoniously in the grass adjacent to the building. Nobody objected. An extreme example? Consider this: when our Statehouse was designed in 1838, it contained all of state government in 53 rooms, each with access to natural light. When we began our master plan in 1988, the same space was occupied by 317 rooms! I don't have to show you photographs for you to imagine the "before" conditions.

Today, after completion of an award-winning restoration, renovation and addition project, the Ohio Statehouse serves as a model capitol for the future. It has been sensitively restored. While President Lincoln would recognize the building he visited in 1861 as President-elect, the building is fully sprinklered and life safety code compliant; it is fully accessible to people with disabilities; it has the most comprehensive closed circuit television, Internet streaming and communications system designed to date by Sony; it has state-of-the-art energy efficient heating and cooling, and it has all the functionality of a modern state capitol building – hearing rooms, gathering spaces, adequate staff work spaces, museum and visitor facilities, security systems, computers, etc.

Some visitors to the restored Statehouse have asked us, "What did you guys do, here, give it a new coat of paint?" We consider this high praise, as the contemporary interventions are not the first things you notice walking through the building.

THE CHALLENGE: LIFE SAFETY CODES

From an architectural point of view, the issues you are studying regarding workplace safety and accessibility boil down to two related topics: life safety code compliance and access for people with disabilities. Different government agencies use different codes⁴, but all modern life safety codes have similar provisions, and all of them acknowledge to some degree existing conditions and historic buildings. Although the code books are very extensive and complex, the most difficult problems we encounter in monumental buildings are (1) providing adequate and safe means of egress (essentially two distinct means of exiting any given space through an enclosed stairway), (2) fire separation (separating a building with fire walls or their equivalent, to reduce potential loss in a fire), and (3) smoke control. One critical technique is to meet early and often with the Code Official, so he or she can take some "ownership" in the package of improvements being proposed.

THE CHALLENGE: ACCESS FOR PEOPLE WITH DISABILITIES (ADA)

The *Americans With Disabilities Act* celebrated its 20th anniversary this year. Clearly all of the buildings germane to this discussion are far older than that, and they were designed and built in an era when accessibility simply was not a consideration. We have always taken the position that all functional spaces in a public building should be made accessible to as many people with as many disabilities as possible⁵. In our one hundred seventy year old Statehouse, I set a personal design goal of making all the spaces accessible, and we made it, once we figured how to insert a wheelchair lift into a corner of the small public gallery in the House Chamber. There are lots of "tricks:" special hardware, door openers, "skip-stop" elevators that connect partial floor levels, etc.

One technique we have found particularly helpful is to assemble a committee of people with a variety of disabilities to advise us during the design phase and to test the final result

⁴ The Architect of the Capitol uses the *International Building Code*. This code is the basis of most state and local codes across the country. The AOC serves as the Code Official, and has the right to grant appropriate variances when conditions warrant.

⁵ In 1977, Bob Loversidge was the principal author of *Access for All: An Illustrated Handbook of Barrier Free Design for Ohio*, the State's guide to architectural accessibility that included a section on historic preservation. The book, currently in its Third Edition, has been updated to include provisions of the *Americans With Disabilities Act*.

afterwards. For the Supreme Court project in Ohio, the Chief Justice appointed such a committee, made up of two people who use wheelchairs (one a small woman who uses an electric scooter, the other a man in a large electric chair), a person who uses crutches, one who is visually-impaired, a person who is hearing impaired, and a state disability advocate. As we progressed through the design phase, the group became just as excited about the restoration as we were, and they helped us immeasurably to find good, practical accessibility solutions that are compatible with the historic preservation goals of the project.

The bottom line, here, is that we do not believe that architectural accessibility, full functionality and historic preservation are mutually exclusive.

SOLUTIONS THAT ARE HISTORICALLY CORRECT: WHAT WORKS, WHAT DOESN'T

If I were asked, "What kinds of projects are most likely to succeed?" I would have to answer that comprehensive projects in historic buildings work better than theme or problem-specific projects. For instance, where we have seen funding made available for a new air conditioning system, but without the scope to re-configure the space, to find adequate areas for equipment, to hide the ductwork, to modernize the controls, etc., we often find chaos.

Consider a project to add fire sprinklers. As a standalone project, it is messy, invasive, intrusive, and usually over budget. If adding sprinklers is part of a project to renovate and restore a wing or section of the building, solving other functional, programmatic and safety issues, routing sprinkler piping and hiding it becomes a relatively simple proposition that is likely to succeed. This approach, however, probably requires the occupants to move out while the work is being done.

MAKE 100-YEAR DECISIONS

One key to a great project is to make 100-year design decisions. While all of the equipment we place into the building may not last that long, we try to place ductwork, piping and conduit runs in places where they will seem appropriate decades later. For example, the Ohio Statehouse has four to six foot thick stone interior walls and brick groin vaulted ceilings – and no place to

conceal ductwork or air handling equipment. Our solution was to carve pathways into the masonry walls for ducts but to place the fans in a basement plinth area where they can easily be replaced when they become obsolete. The permanent air pathway is combined with the shorter-term equipment locations. We also consider how someone will be able to “un-do” our work, later.

So, what are some of the design features we have used with success? High-efficiency heating and air conditioning systems, equivalent to those used in new buildings; adding atrium smoke controls to historic skylights; adding full fire sprinkler systems to very ornate, historic buildings (including all of the examples I have mentioned today); adding new elevators in discrete locations; creating comfortable and accessible rest rooms in “predictable” locations; adding infrared or radio type sound assist systems for hearing impaired people; reproducing ornate, round doorknobs instead of obvious ADA levers (while ensuring appropriate accessibility); and designing building-appropriate and accessible signage, including exit signs and wayfinding systems. This is just a sampling – given enough time I could endlessly bore you with additional examples!

Once again, I don't believe that historic preservation goals are at odds with good practice in implementing modern life safety and accessibility codes.

MASTER PLANNING: HAVING A COMPREHENSIVE VISION AND COMMUNICATING IT

All of this works better, of course, if there is a long-range vision, or master plan, for the building. Assuming that there is not an endless budget and an empty building to work with, a master plan sets forth the goals and objectives for the future of the building. All spaces and systems are involved, allowing phased implementation in a direct line forward, without backtracking or un-doing previous work. The master plan allows stakeholders and designers to collaborate regarding priorities, phasing and budget issues. It gives the legislative body a clear path forward to accurately anticipate funding needs.

The master plan also provides a basis for communication – so the building occupants can stay informed and have realistic expectations. In Ohio we published a monthly newsletter to keep

building occupants up to speed on our project. At the Minnesota Capitol, where we are currently restoring the second largest marble dome in the world⁶, the construction manager issues a weekly electronic update. Communications are another key to the success of Capitol renovation projects.

WORKING IN EXISTING BUILDINGS: WORKING IN OCCUPIED EXISTING BUILDINGS

In Utah, we had the great luxury of having the entire building to work on at once – it was a seismic reinforcement project and we simply couldn't do it in an occupied building, so the State built two new adjacent buildings for expansion space and the occupants had to move there temporarily. While vacating the entire building rarely works because of a lack of equivalent alternate facilities, successful phasing of projects by area can work, like the Architect of the Capitol is currently doing to modernize the Supreme Court here in Washington, D.C. We successfully divided the Ohio and Kansas Capitol projects into phases that allowed the government to continue business. Critical things to consider, in addition to operations of the tenants, are phasing to respect life safety requirements and phasing to allow continuous operations of building systems like electricity, heating and air conditioning, and fire alarms.

THE POLITICAL WILL TO SUCCEED

Finally, I would like to address the biggest challenge to the success of these projects, which is, frankly, not architectural or engineering design ability, but rather creating the political will to succeed. The Capitol is a living, working, essential government building, occupied by important people who have issues other than facility modernization on their minds. But I have to tell you, the most successful projects to improve the workplace are the direct result of strong, consensus-based political will.

In Ohio, for instance, after completion of our master plan for restoration of the Statehouse, a very important meeting took place. The need had been established, a plan was made, budgets and a phasing plan were presented . . . but "how to get it done" was the question. The answer

⁶ St. Peter's Basilica (dome designed by Michelangelo) in Rome; the Minnesota State Capitol (designed by Cass Gilbert) in St. Paul; the Taj Mahal (designed by unknown architects for Emperor Shah Jahan) in Agra, India; and the Rhode Island State Capitol (designed by McKim, Mead and White) in Providence.

was a meeting of, in our case, five people: the Governor (at that time a term-limited Democrat), the President of the Senate (a veteran Republican), the Senate Minority Leader (a feisty guy who had attempted to get a restoration project going when he was Senate President a few years earlier), the Democratic Speaker of the House (who had been speaker about as long as anyone could remember), and the Minority Leader of the House. This group agreed upon the need, the solution, the funding and – most importantly – that this project would not be allowed to become a political football. This consensus led to a whole new form of governance for the capitol facilities⁷, and, for the most part, it is still in place today after 20 years, 5 Governors, 5 House Speakers and 4 Senate Presidents, along with numerous changes in the majority party of all of these offices. The project succeeded.

The Utah State Capitol Restoration enjoyed a similar consensus, and it was completed on-time and on-budget. The Kansas Statehouse project has suffered some as a result of a lack of consensus, but it is still moving along. Our major restoration and addition project for the Minnesota State Capitol “crashed and burned” during a year the state was enjoying a huge budgetary surplus . . . but had no political will to improve the Capitol.

I don’t know exactly how this consensus building can be accomplished here in Washington, D.C., but I can tell you that it is an important element of all successful historic preservation master plans and renovation projects. One of our most insightful clients, the late Chief Justice of the Supreme Court of Ohio Thomas J. Moyer, advised us over and over during design of the Ohio Judicial Center to design for the institution, not for its current occupants. As a result Ohio now has a Judicial Branch facility adapted from a 1930s Moderne style office building, that provides a great working environment that is safe, accessible, and appropriate to the mission of the courts – created on-time and on-budget for considerably less money than new construction.

POLITICAL WILL IS IMPORTANT

One more story about political will . . . I distinctly remember telling Ohio Governor (now Senator) George Voinovich, as he was moving out of his Statehouse office ahead of our

⁷ The Capitol Square Review and Advisory Board is the “landlord” for Ohio’s Capitol Square.

renovation, that he would have to be re-elected in order to move back into the completed building. He won re-election with 72 percent of the vote.

In conclusion, I wish to thank the Committee for its hard work in addressing these complex issues, and I look forward to answering any questions the Committee members may have.

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Congressional Testimony of AFSCME Local 626, Council 26

United States House of Representatives

Committee on Transportation and Infrastructure

Subcommittee on Economic Development, Public Buildings and Emergency
Management

Rayburn House Office Building 2167

Thursday September 30, 2010 2pm

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September 27, 2010

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I am Wallace E. Reed, Jr. I have proudly worked at The United States Botanic Garden for 21 years. In addition, I am a third generation green house grower with over 40 years experience in the field of horticulture and hold a BS degree from Salem College, Salem, West Virginia. I have been an AOC employee since 1989 and have worked for three Architects of the Capitol. I have been involved with Local 626 since its organization and inception and have served as its President since 2005. Local 626 represents 600 Congressional employees including the Laborers and Custodians in all House and Senate Buildings as well as the US Capitol, the Skilled Trades in the Library of Congress and the Gardeners of the United States Botanic Garden. We also represent workers in the Building Service Centers and Elevator Operators.

I would like to thank the Madam Chairwoman, Ranking Member and the Subcommittee for the opportunity to present my testimony on "The Congressional Workplace: Safety Concerns and Future Plans."

I want to concentrate on 2 sections of the Office of Compliance FY 2009 Annual Report, State of Health and Safety and the State of Workplace Rights.

Safety and Health

- There has been an improvement in the state of health and safety since I started working in 1989. There has been and continues to be an emphasis on workplace safety. The pre-inspection process has been very successful and some AOC jurisdictions have very pro-active safety committees. In my opinion, the average AOC employee is much more safety conscience then they were 5 years ago. For example: crews in the US Botanic Garden discuss safety as many as 3 days a week during morning work meetings.
- Recently there have been reports of employee's being discouraged from reporting workplace injuries or accidents because it might jeopardize a group workplace safety award or other reports that employee's are being threatened with discipline during a safety investigation. The good news is these awards have been established for the right reasons and I hope these reports are isolated incidents not a new trend.
- The 2009 American Federation of State, County and Municipal Employees report points out that approximately 25% of the hazards were listed as RAC 1 or RAC 2 or "high risk" hazards. These hazards left unabated pose a serious continuing danger for lawmakers, visitors and employees. It is worth pointing out, that even though there has been a substantial reduction in the number of hazards found in the Congressional workplace the "high risk" hazards continue to be about 25% each year. The Union would like to work with AoC management to determine why these high risk hazards continue at such a high percentage rate and ways to reduce these high risk hazards.
- The Union wholeheartedly supports the 3 recommendations put forth in the December 2008 Section 102(b) Subsection II "Safety and Health Compliance Tools." Specifically:
 1. Recommendation #1: Provide Investigative Subpoena Authority for OSHA Claims

2. Recommendation #2: Require Safety and Health Recording- Keeping
3. Recommendation #3: Allow the Office of Compliance to Protect Employees from Retaliation for Reporting OSHA Violations.

We in the Congressional workplace want the same protections as private and other public sector employees enjoy.

All three of the recommendations are important, but the Union is especially interested in allowing the Office of Compliance to protect employees from retaliation for reporting OSHA violations. AoC employees want the same protections and rights that have been extended to the private sector and the Executive Branch; we do not want to be treated like second class federal employees. With out these protections, the lowest graded and paid AoC employees will be left to shoulder the financial burden of litigating reprisal charges without the support of the General Counsel's investigative process. As President, I have personal experience where many cases stall in mediation because the AoC knows the person bringing the charges will have the financial burden and expense to hire an attorney if they want to investigate and pursue a retaliation claim after mediation ends. This lack of protection has a chilling effect on the number of valid cases of retaliation AoC employees might be able to bring to light and resolve.

Work Place Rights

Local 626 applauds two major employment laws passed by Congress in FY 2009 one broadening the Family Medical Leave Act to extend rights and protections for covered military members. We can never do too much for the brave men and women of the Armed Forces who protect our freedoms. Also, the one law banning genetic information discrimination that was made applicable to the CAA. We in the Congressional workplace want the same protections as private and other public sector employees enjoy.

I find it very hard to understand why the Congress is unwilling in some cases to give its employees the same rights and remedies they are willing to provide to other employers.

The Union urges Congress to approve the regulations promulgated and adopted by the Office of Compliance Board of Directors that would grant Congressional employees all the statutory rights of the Veterans Employment Opportunities Act of 1998 (VEOA).

As I have stated previously Executive Branch legal protections should apply to the Congressional Workplace. In addition, we ask you to approve the Office of Compliance regulations that would provide service members the same employment and reemployment rights and remedies that are available to the private sector and Executive Branch Employees.

Finally, we the Union would ask that Congress please review and reconsider all provisions of Federal laws including regulations relating to terms and conditions of employment including hiring, promotion, demotion, termination, salary, wages, overtime compensation, benefits work assignments or reassignments, grievance and disciplinary procedures, protection from discrimination in personnel actions, occupational health and safety and family and medical and other leave of employees pertaining to the Congressional Workplace to determine if the laws and regulations that at one time were determined to be inapplicable to the Legislative Branch can now be made applicable. For example: I have recently discovered that the Architect of the Capitol is exempt from the government wide regulations that set the normal workweek for federal government employees as Monday thru Friday at least 8 hours per day.

In closing, I would like to thank Congresswoman Norton, the Ranking Member and all members of the Subcommittee on Economic Development, Public Buildings and Emergency Management for the opportunity to share the views of AFSCME Local 626. I would be happy to answer any questions.

Wallace E. Reed Jr.
President AFSCME Local 626

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